



2017

ANNUAL REPORT
OF THE FINANCIAL
MARKET AUTHORITY

Key figures of the Austrian financial sector 2013–2017

	2013	2014	2015	2016	2017 (prel.)
BANKING SECTOR					
Consolidated own funds¹					
Tier 1 capital (in € billions)	70.6	66.4	69.3	66.1	69.6
Total own funds (in € billions)	89.0	87.6	87.8	80.7	83.2
Common Equity Tier 1 capital ratio (CET 1 ratio, in %)	–	11.7	12.8	14.9	15.1
Tier 1 capital ratio (in %)	11.9	11.8	12.9	14.9	15.4
Solvency ratio (in %)	15.4	15.6	16.3	18.2	18.4
Asset composition and quality²					
Total assets (in € billions)	927.2	896.4	859.2	832.3	815.3
Sectoral distribution of assets (as % of total):					
Sovereign debt and bills eligible for refinancing at central banks	4.2	5.4	5.8	6.1	5.5
Claims on credit institutions	26.6	24.9	22.2	21.5	20.8
Claims on customers (non-banks)	46.7	47.5	50.1	51.5	52.3
Debt securities and other fixed-income securities	7.4	7.1	6.0	5.4	4.9
Shares and other variable-yield securities	1.2	1.1	1.2	1.3	1.3
Holdings	1.3	1.3	1.3	1.0	1.1
Shares in affiliated companies	5.9	4.8	5.0	4.1	4.0
Other assets	6.7	7.9	8.6	9.1	10.2
Deposits (excluding interbank) to loans (in %)	83.7	87.8	89.6	93.8	94.3
Share of foreign currency loans to households (in %)	20.7	18.2	16.8	14.4	10.8
Bad and irrecoverable debt (as % of total loans)	–	4.4	4.3	3.5	3.2
Sectoral distribution of liabilities (as % of total)²					
Liabilities to credit institutions	23.9	22.6	20.9	18.9	20.1
Liabilities to customers (non-banks)	39.1	41.7	44.9	48.3	49.4
Securitised liabilities	20.5	18.6	17.1	16.0	14.4
Other liability items	16.5	17.1	17.1	16.8	16.2
Earnings and profitability (in %)³					
ROA	–0.10	–0.73	0.4	0.5	0.6
Operating expenses to operating income	67.6	69.7	66.2	71.4	66
Personnel expenses to non-interest expenses	50.9	53.1	50.2	49.8	46.9
Balance from allocations to/release of value adjustments for credit risks (in € billions)	3.4	2.1	1.5	0.5	0.7
Sectoral distribution of income (as % of total)³					
Net interest income	46.5	46.7	43.1	49.9	42.1
Income from securities and investments	15.9	17.8	16.5	19	19.4
Balance of business on commission basis	21.5	21.4	21.2	20.5	22.6
Balance of financial business	2.6	1.8	2.5	1.7	1.7

¹ Source: OeNB, secondary research: merging of reporting data of banking groups and unconsolidated data reported by individual institutions. In order to meet the requirement to provide records of "Consolidated Own Funds pursuant to Articles 22 and 23 BWG, based on Consolidated Banking Data (CBD)" consolidated (banking groups) and unconsolidated data (individual institutions) are merged automatically to give a uniform picture of the solvency margin of the entire Austrian banking industry, taking into account the extent to which any groups are interconnected.

² Source: OeNB, including branches from EEA countries in Austria (Article 9 BWG), credit guarantee banks and corporate provision funds.

³ Source: OeNB, based on quarterly reports; income data of individual institutions active in Austria are presented on an unconsolidated basis.

Key figures of the Austrian financial sector 2013–2017

	2013	2014	2015	2016	2017 (prel.)
INSURANCE SECTOR					
<i>Earned premiums (in € millions)</i>	16 608	17 077	17 342	16 915	16 976
<i>Life insurance (increase in %)</i>	-0.2	3.8	0.5	-9.8	-5.1
<i>Non-life/accident insurance (increase in %)</i>	2.6	2.0	1.8	1.6	3.3
<i>Health insurance (increase in %)</i>	3.8	3.3	4.2	4.7	3.8
<i>Technical account balance (in € millions)</i>	623	469	495	560	581
<i>Financial result (in € millions)</i>	3 350	3 149	2 992	3 051	2 815
<i>Result from ordinary activities (in € millions)</i>	1 522	1 351	1 126	1 414	1 244
<i>Combined ratio (non-life/accident insurance, in %)</i>	97.0	94.3	93.2	92.7	94.8
PENSIONS KASSEN					
<i>Assets managed (in € millions, year-end)</i>	17 385	19 011	19 646	20 839	22 323
<i>Performance (in %)</i>	5.1	7.8	2.3	4.2	6.1
<i>Beneficiaries (entitled) (in thousands, year-end)</i>	755	773	791	809	826
<i>Beneficiaries (recipients) (in thousands, year-end)</i>	81	86	89	94	98
CORPORATE PROVISION FUNDS					
<i>Assets managed (in € millions)</i>	6 229	7 327	8 306	9 423	10 610
<i>Performance (in %)</i>	2.8	4.0	1.2	2.2	2.2
INVESTMENT FUNDS					
<i>Assets managed (in € millions, year-end)¹</i>	145 295	157 778	162 681	167 099	175 435
<i>Bond funds (in %)</i>	45.2	44.6	43.5	42.1	40.4
<i>Equity funds (in %)</i>	14.7	14.2	14.6	15.2	16.2
<i>Mixed funds (in %)</i>	39.4	40.7	41.7	42.6	43.2
<i>Other funds (in %)</i>	0.7	0.5	0.3	0.2	0.2
<i>Net inflow of funds (in € millions)</i>	-843	4 170	5 060	-644	3 522
CAPITAL MARKET					
<i>ATX at year-end</i>	2 547	2 160	2 396	2 618	3 420
<i>ATX performance (in %)</i>	6.1	-15.2	11.0	9.2	30.6
<i>Market capitalisation (in € millions, year-end)</i>	82 990	76 120	86 162	93 341	123 789
<i>Market capitalisation / GDP (in %)</i>	25.7	23.0	25.3	26.8	33.5
<i>Sales in equity segment (in € millions, double counting)</i>	38 722	48 415	58 384	55 930	66 709
<i>Number of issuers (equity segment, year-end)</i>	75	79	72	67	61
<i>Average government bond yields weighted by outstanding amounts (in %, year-end)</i>	-	-	0.37	0.08	0.16
<i>Spreads of 10-year govt bonds compared w German Bunds (in basis points)</i>	34	10	27	22	16
<i>CDS spreads (5 years, in basis points)</i>	37	22	22	28	13
<i>Sales in bond segment (in € millions)</i>	222	198	184	319	239

¹ Without funds that were issued exclusively in accordance with the AIFMG or ImmoInvFG.

Key figures FMA 2013–2017¹

	Actual 2013	Actual 2014	Actual 2015	Actual 2016	Prel. act. 2017
INCOME (in € millions)					
Federal contribution (Article 19 para. 4 FMABG)	3.5	3.5	3.5	4.0	4.0
Income from entities liable to pay costs	43.5	46.2	53.1	56.5	57.6
Income from fees, other income	4.0	6.7	4.7	4.1	4.8
Total	51.0	56.4	61.3	64.6	66.4
EXPENSES (in € millions)					
Personnel expenses	31.5	34.9	37.8	39.5	41.3
Material expenses	18.3	20.0	21.7	23.2	23.2
Depreciation and amortisation, other expenses	1.2	1.4	1.7	2.0	1.9
Total	51.0	56.4	61.3	64.6	66.4
Employees at year-end in FTEs	334.68	354.71	373.31	379.79	380.03

¹ Due to the figures summed up in € millions, there might be some rounding differences.
Data not including the special effects of the 2015 asset quality review or reimbursement of costs pursuant to Article 74 para. 5 no. 2 BaSAG.

Supervised companies 2013–2017

	2013	2014	2015	2016	2017
CREDIT INSTITUTIONS					
Joint stock and special-purpose banks	84	77	76	75	72
Savings banks	49	49	49	49	49
Raiffeisen cooperatives	509	498	488	448	419
Volksbank cooperatives	61	53	42	20	14
Mortgage banks	11	11	10	10	9
Building societies	4	4	4	4	4
(Real estate) investment fund management companies	29	29	29	26	23
Corporate provision funds	10	10	9	8	8
Exchange offices / remittance services	3	3	3	4	4
EU branches	30	30	30	28	27
Total	790	764	740	672	629
Representative offices of foreign credit institutions	10	8	8	7	6
INSURANCE UNDERTAKINGS					
Mutual associations (excluding small mutuels)	6	6	6	7	7
Joint stock companies	40	37	35	31	30
Small mutual associations	53	52	52	50	49
Total	99	95	93	88	86
Mutual associations dealing in asset management/private foundations	6	6	6	6	6
Life insurance	30	28	27	23	23
Non-life and accident insurance	38	38	35	33	32
Health insurance	8	9	9	9	9
Reinsurance only	3	3	2	3	2
PENSIONSKASSEN					
Single-employer	8	7	6	6	4
Multi-employer	8	7	7	6	6
Total	16	14	13	12	10
IRG	124	118	113	112	108
INVESTMENT FIRMS, INVESTMENT SERVICE PROVIDERS					
Licence pursuant to Article 3 WAG 2007	82	74	66	60	60
Licence pursuant to Article 4 WAG 2007	70	65	57	51	51
Total	152	139	123	111	111

ANNUAL REPORT OF THE FINANCIAL MARKET AUTHORITY 2017

PURSUANT TO ARTICLE 16 PARA. 3 FMABG

THE FMA

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

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

COMPETENCE

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

CONTROL

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

CONSISTENCY

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

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PREFACE BY THE FEDERAL MINISTER OF FINANCE



2017 was a momentous year, not just for me personally but also for you, my dear colleagues, at the Financial Market Authority. It is your job to maintain an overview of Austria's entire financial market at all times and to provide consistent and efficient supervision in the interests of stability and security.

Thanks to the supervisory reform, Austria's integrated system of supervision has been radically improved and the working relationship between the Federal Ministry of Finance, the OeNB and the FMA improved beyond measure.

The supervisory process has been streamlined, with smaller credit institutions in particular benefiting from an easing of the requirements made of them. Institutions with total assets of no more than five billion euros will no longer be required by law to have a nomination, remuneration or risk committee. Furthermore, the audit committee will only be required to convene once per year. In addition, the requirements relating to the organisational structure of the internal audit unit have been simplified for smaller banks and those that form part of a banking group or sector association.

Another aim of the reform process was to improve transparency and legal security. With effect from 2018, subject-specific inspection focuses for the coming year will be defined and published across all areas of supervision.

The supervisory reform also provides scope for "accelerated proceedings" if the party waives the right to appeal from the outset. Meanwhile, the FMA's discretionary powers have been significantly extended with regard to the risk-based approach, and in terms of refraining from imposing a fine in less serious cases and the principle of cumulation.

Alongside this far-reaching supervisory reform, Austria also made significant progress in combating money laundering and the financing of terrorism during 2017. Austria was the first country to apply for re-ratings in relation to its compliance with FATF recommendations, doing so during the fourth round of mutual evaluations. With a total of ten re-ratings having been granted, the FATF has confirmed the significant and rapid improvements made in our country. These can be attributed to numerous legislative reforms, as well as to the new Financial Markets Anti-Money Laundering Act.

Similarly, the FATF's recommendations resulting from its 2016 Mutual Evaluation Report on Austria have been implemented and the corresponding departments and teams at the FMA strengthened. As a result, the quality of inspections, particularly in relation to supervised companies that present an elevated risk, can be increased and risk-based supervision further expanded.

In its capacity as the resolution authority, the FMA continued to deal with the HETA case last year. In May 2017 the FMA issued an administrative decision raising the quota of HETA's non-subordinated eligible liabilities to 64.40%. This was possible on the basis of the good progress made in the wind-down process to date. Equally, the economic wind-down is now expected to progress more quickly than originally anticipated.

In June 2017 an interim distribution from the sales proceeds was paid to creditors before maturity. Approximately € 5.8 billion was paid out to creditors with eligible liabilities during the second half of July 2017, accounting for 69% of the agreed distribution quota.

Further key developments in 2017 included the new 2018 Stock Exchange and Securities Supervision Acts. The amended Markets in Financial Instruments Directive (MiFID II) was transposed into Austrian law in the form of those Acts, with the accompanying European Regulation (MiFIR) also now applicable. The revised versions of these Austrian laws will regulate the activities of investment service providers by means of improved customer and investor protection rules. In addition, the rules on transparency have also been made considerably more comprehensive.

Your in-depth expert and specialist knowledge is an essential component in the implementation of all of these steps. At this point, my particular thanks therefore go to you, dear colleagues, at the FMA. Much has been achieved in 2017 thanks to your flexibility, commitment and professionalism. You have made a key contribution to a secure and stable financial market, while also helping to create an efficient supervisory structure.

On this note, I am pleased to be able to count on you as my reliable partner by my side as we continue to make consistent progress together. Ultimately, the key to success lies in an open and constructive working relationship.

HARTWIG LÖGER

PREFACE BY THE EXECUTIVE BOARD OF THE FMA



After almost ten years of crisis management, the year 2017 featured a widespread upturn in the global economy again, in turn triggering positive trends on the financial markets. The mood brightened the most obviously on the world's equity markets, and it was not just investors who benefited. Financial companies were again able to raise larger amounts of fresh capital on the stock market. In fact, the Vienna Stock Exchange recorded one of the biggest financial IPOs anywhere in the world in 2017. From the perspective of financial market stability this is a positive trend, with this type of new issue helping to improve the diversification of risk and thus risk-bearing capacity on the market.

Yet the positive overall development was not enough to disguise the remaining risks on the financial markets in 2017. Persistently low interests have been presenting banks and insurance undertakings with a major challenge for some years now. Consequently, the FMA and the European supervisory system continued to keep a close eye on the risks associated with a low interest rate environment and on the measures required to deal with its impact in 2017.

The Single Supervisory Mechanism (SSM) took advantage of the positive basic parameters in 2017 in order to actively target one of the most pressing problems in the euro area, namely the presence of non-performing loans (NPL) in banks' balance sheets. The first measures to reduce the volume of new NPL were implemented in 2017 in order to ease the considerable burden being placed on the stability and earning power of the banking sector in the euro area. In Austria, thanks to our early and proactive approach, we have already been able to slash the proportion of NPL in banks' balance sheets and to shift the focus of our supervisory activity to future measures. Our aim is to avoid a situation in which the excessive expansion of lending sets the banking sector up for high rates of NPL in years to come.

With regard to banking resolution, 2017 was dominated by preparations for the introduction of the MREL concept to banks' balance sheets. This is a subject that is not just relevant from the perspective of European and national financial market stability. In light of some negative examples in the euro area, the FMA has also been focusing on the avoidance of any conflicts of interest or the provision of poor advice during the sale of these new instruments.

The FMA has also been increasingly focusing on the issue of digitalisation on the financial markets. There are several aspects to consider, namely the arrival on the market of new participants and business models, the new opportunities and risks

facing existing companies and, finally, the new opportunities and challenges for the FMA itself. With its FinTech point of contact, the FMA has established a single point of contact for innovative companies that need advice on any legal or regulatory aspects of their projects.

Complex networks, new developments on the market and new, more strongly integrated regulations demonstrate once more how Austria's integrated supervisory model in which the FMA supervises all areas of the financial market, working with its colleagues at the OeNB in some areas, is the most appropriate and efficient supervisory model for a relatively small yet closely interlinked financial market such as ours.

The supervisory reform negotiated in 2017 and introduced in early 2018 is based around this principle. We are also pleased to see greater cooperation with the OeNB in some specific areas and a general improvement in transparency across all sectors. We are very confident that this provides an ideal basis for us to face the challenges of the future together with our European and national partners, while also enabling us to exploit each and every one of the opportunities available to us.

Yet alongside the institutional parameters, it is above all our employees at the FMA that enable us to perform our role as the integrated supervisory authority for the Austrian financial market within a European setting. They contribute their expert knowledge, their high-quality work and their dedication to their role, and for all of this they deserve our special thanks.

HELMUT Ettl, KLAUS Kumpfmüller



DEVELOPMENTS ON THE FINANCIAL MARKETS

19.760

THE ECONOMIC ENVIRONMENT

World economic growth picked up strongly in 2017, creating the broadest upturn in the global economy for seven years. According to the International Monetary Fund (IMF), growth increased in 120 countries, accounting for three quarters of global gross domestic product (GDP), last year. IMF estimates put global growth at around 3.7% in 2017 compared with 3.2% in 2016. Geopolitical uncertainties, not least tension in the Korean peninsula and events in the Middle East, as well as the gradual tightening of US monetary policy were not enough to halt the positive global trend long term.

The upturn was felt in all of the world's economic regions, with the economies of the USA, the EU, Japan and South Korea performing particularly well.

In the USA, the economy is estimated to have expanded by 2.3% in 2017 in real terms, buoyed in particular by strong levels of consumer demand and rising investment activity. Improving economic growth figures coincided with a fall in unemployment, to 4.4%. Based on the tax reform adopted at the end of 2017, the Organisation for Economic Co-operation and Development (OECD) expects to see further growth impetus in 2018, at least in the short term.

Economic growth in Japan rose to 1.5% in 2017, driven in particular by the effect of fiscal policy measures and growing levels of international trade. The rising costs of economic stimulus also saw the budget deficit grow to 4.5% of GDP, however.

Key emerging markets such as Brazil, China and South Africa performed better than anticipated. The Chinese economy recorded growth of 6.9% in 2017 according to the Chinese statistical office, compared with 6.7% the previous year. Like Europe, Japan and the USA, China benefited from the global upturn, which helped its private consumption figures in particular (+10.2%). Industrial output also fared well. However, there was gloomier news in the form of a significant increase in private debt, which the Bank for International Settlements (BIS) now puts at 256% of Chinese GDP. Borrowing by private companies, at 210% of GDP, is an ever growing problem.

EUROPE

Amidst the positivity in the global economy in 2017, the figures for both the EU-28 and for the eurozone showed real growth of +2.5%, far exceeding economic experts' expectations at the start of the year, especially in the case of the eurozone. The upturn, the first signs of which emerged in early 2017, gradually picked up speed.

Chart 1: Real GDP growth rates 2013–2017 (in %; source: Eurostat)

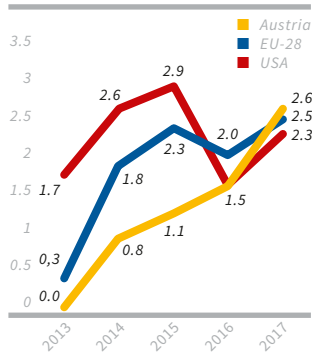
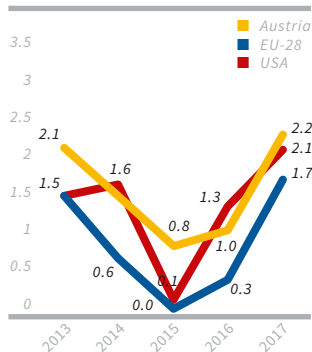


Chart 2: Changes in consumer prices 2013–2017 (in %; source: Eurostat)



Initially based on export activities, it was increasingly supported by consumption levels and investment activity as the year progressed. In Central and Eastern Europe in particular, economic growth was clearly headed upwards, with particularly robust real growth of 5.7% in Romania. Also faring well with real GDP growth of more than 4% were Slovenia (+4.7%), the Czech Republic (+4.3%) and Poland (+4.2%). Germany, Europe’s economic engine, also grew more strongly than the OECD and IMF had expected, at a rate of 2.2%. It is gratifying to note that the economies of southern Europe were also involved in this upturn. For its part, Greece achieved its highest level of annual growth since 2007 with a real increase of 1.6%. Italy also performed considerably better than in previous years, with a growth rate of 1.5%.

As the economy gathered speed, the jobless figures in the EU and eurozone dropped to 7.7% and 9.1% respectively. Yet unemployment remains high in some Member States, with high levels of structural youth unemployment in particular.

The improving economic situation in 2017 also meant that inflation finally started to rise again. The annual inflation figure for 2017 for the eurozone is expected to be 1.5% compared with just 0.2% in 2016. Despite this rise, the figure is still a long way off the ECB’s inflation target of below but close to 2%.

AUSTRIA

According to the Austrian Institute of Economic Research (WIFO), the Austrian economy benefited from the global economic upturn last year, recording real growth of 2.6% (European Commission estimates). The utilisation of production capacity in manufacturing grew substantially during 2017, soaring to new all-time highs in the second half of the year, and forming the basis for subsequent improvements in equipment investment. As well as exports, private consumption was another factor driving this positive development. Unemployment fell to 5.5% while inflation in 2017, at an estimated 2.1%, was well above the inflation rate in the eurozone as a whole. Noticeable price increases in relation to rents, fuel, food and eating out were the main causes of higher inflation.

THE INTERNATIONAL FINANCIAL MARKETS

The international financial markets can look back on an eventful 2017. While there were further specific signs of a turnaround in monetary policy, the markets were able to maintain the upward trend that first emerged in 2016. Geopolitical tensions and changes in US foreign policy had only a limited impact, in terms of both scale and duration, on volatility levels on the global stock markets. The biggest risks to global financial stability in 2017 came from rising levels of household debt in China and the possibility of abrupt revaluations on the international financial markets. Also making headlines in the financial press were the rocketing prices of various cryptocurrencies in 2017, primarily bitcoin, followed by equally dramatic dips in value again.

MONETARY POLICY

Once again in 2017 the European Central Bank (ECB) stuck with its expansionist approach to monetary policy. Based on its decision of December 2016, the ECB extended its asset purchase programme (APP) once more in October 2017 for a minimum term of 9 months until at least September 2018. The volume of monthly purchases was, however, cut from an average of € 60 billion to € 30 billion, with effect from January 2018. As at the 2017 year-end, the ECB had purchased a total volume of € 2 286 billion under its APP, with the public sector purchase programme (PSPP) accounting for the largest share, accounting for the purchase of government bonds worth approximately € 1 889 billion. This was followed by the third covered bond pur-

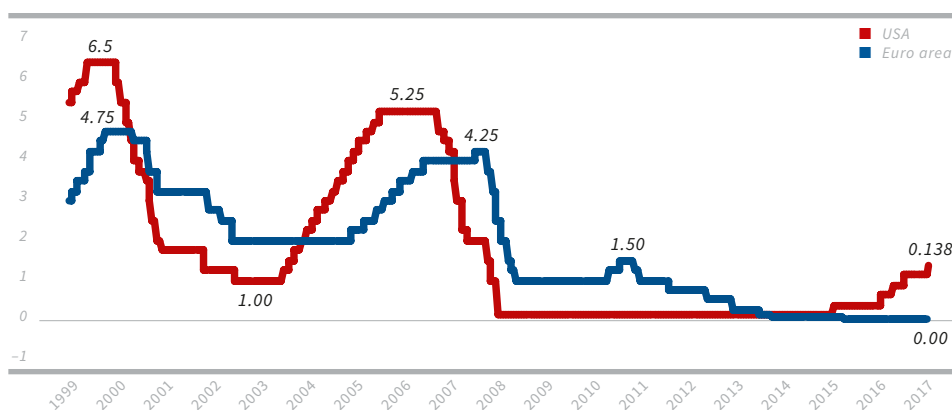


Chart 3: **Key interest rates in the USA and in the euro area 1998–2017** (in %; source: Federal Reserve Bank St. Louis, ECB)

Table 1: **International financial market figures 2013–2017**

(source: OECD, Eurostat, European Commission, ECB, OeNB)

	2013	2014	2015	2016	2017 (prel.)
INTEREST AND CREDIT					
<i>Credit to domestic non-banks (changes in %)</i>	-1.3	0.1	1.8	1.8	0.9
<i>Credit to non-financial enterprises</i>	-0.5	-3.5	0.1	1.4	5.4
<i>Credit to households</i>	0.2	2.1	4.3	3.1	2.7
<i>3-month EURIBOR rate (average)</i>	0.2	0.2	0.0	-0.3	-0.3
<i>10-year reference government bond (average)</i>	2.0	1.5	0.7	0.4	0.6
EXCHANGE RATE					
<i>Nominal effective exchange rate (period average, 2010 = 100)</i>	98.1	98.4	88.8	90.5	93.0
<i>Real effective exchange rate (period average, 2010 = 100)</i>	99.0	98.4	88.9	90.5	92.8
<i>EUR/USD (average)</i>	1.33	1.33	1.10	1.10	1.14
<i>EUR/JPY (average)</i>	129.6	140.4	133.5	120.4	127.4
<i>EUR/CHF (average)</i>	1.23	1.21	1.06	1.09	1.12

chase programme (CBPP3) accounting for around € 241 billion, the corporate sector purchase programme (CSPP) totalling € 132 billion, and the asset-backed securities purchase programme (ABSPP), under which € 25 billion of securities were purchased. In extending the programme and continuing its zero-interest policy, the ECB is signalling its intention to bring eurozone inflation closer to its target of below, but close to, 2% and to continue to support the economy in the euro area.

Meanwhile, the Federal Reserve persevered with its restrictive monetary policy in 2017, gradually raising its federal funds rate from a range of 0.50% to 0.75% to a range of 1.25% to 1.50%. As well as moving away from a zero-interest policy, the Fed began its announced, gradual shrinking of its balance sheet in October, which, at USD 4 448 billion by the 2017 year-end, remained relatively stable. The process of reducing the volume of securities held as a result of the purchase programmes of recent years is to be further stepped up over the coming years.

After the Bank of England had cut interest rates to 0.25% in 2016 in conjunction with a package of stimulus measures in response to Brexit, its Monetary Policy Committee voted by seven votes to two in favour of an interest rate hike in November 2017. This was the first increase in ten years, with rates being raised by 25 basis points. In contrast, no changes were made to the programmes to buy government and corporate bonds, which had resulted in purchases totalling GBP 435 billion and GBP 10 billion respectively by the end of 2017. Brexit, and with it the reaction of households, companies and asset prices to the UK leaving the European Union, remains the main influence on the future of the British economy and inflation, not to mention a source of uncertainty.

In Japan, inflation in 2017 was 0.5% and below the target of 2%, prompting the Bank of Japan to continue with its expansionist monetary policy. Although the gross domestic product of the world's third largest economy has been growing consistently since 2016 and the country is benefiting from a high level of demand from abroad, the central bank opted to keep rates at -0.1% in order to continue supporting lending and to counter any deflationary forces.

EQUITY MARKETS

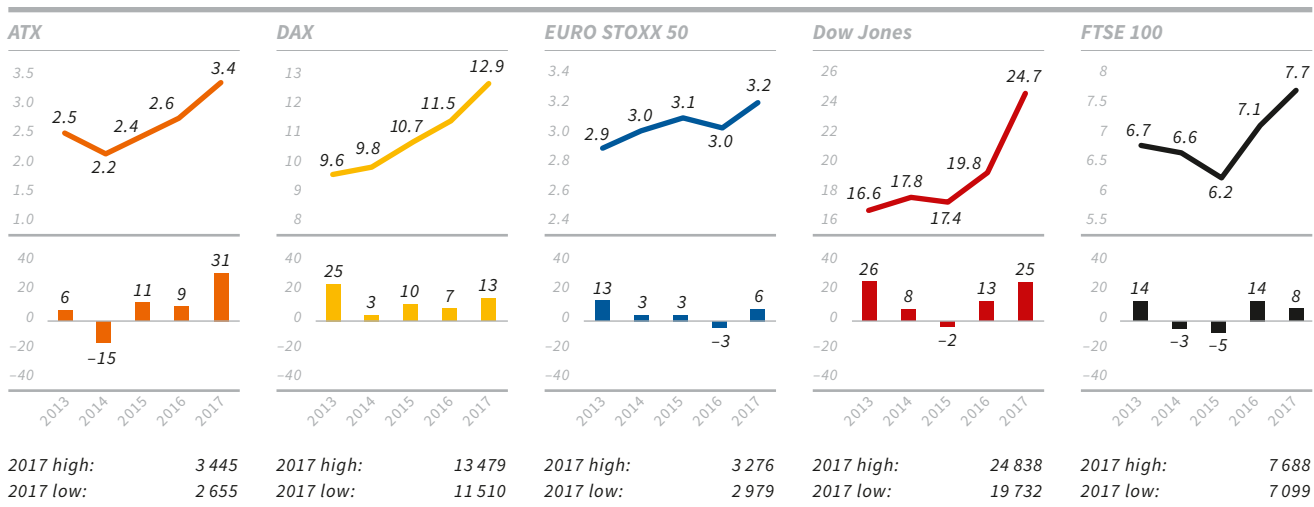
Meanwhile, on the stock markets, 2017 was an altogether positive year. Despite some central banks tightening monetary policy, not least the Fed with a total of three inter-

est rate hikes during the year, the stock markets were able to record gains, and in some cases significant levels of growth. In the USA the Dow Jones Industrial Average put on 25.08%, with the NASDAQ-100 up 31.5%. The S&P 500 also exceeded expectations, growing by 19.4%. Thanks to the positive economic outlook, all three of the leading indices in the USA soared to new all-time highs in the course of the year. Prices were also influenced by the market's expectations regarding the new US administration's tax reform plans, adopted by the House of Representatives in November and by the Senate in December.

For their part, the European stock markets also had a positive year. The ATX ended 2017 up 30.6% compared with the 2016 year-end, and by ending the year on 3 420 points only just missed its all-time record of 3 445.23. The blooming economy in Eastern Europe, as also reflected in the indices in the countries concerned, was one of the factors driving the ATX upwards. The WIG 20 in Warsaw grew by 26.4%, while the BUX in Budapest increased by 23.0%. This puts the ATX just ahead of comparable trading places elsewhere in Europe. Meanwhile, the DAX also performed well, despite some phases of stagnation that resulted in a sideways movement. At 12 917.64 points the German index was up 12.51% on a year-on-year basis. In the eurozone, the EURO STOXX 50 climbed 213.44 points to 3 503.96, an increase of 6.49% compared with the final trading day of 2016. The STOXX Europe 600 also fared well, with growth of 7.68%. In the UK, the FTSE was affected by the uncertainty surrounding the Brexit negotiations. While the index did manage to climb late in the year, its overall performance of +7.63% lagged some way behind the star performers.

As well as the industrial nations, several emerging markets also ranked among the biggest beneficiaries of global economic growth. The MSCI Emerging Markets Index continued on the same path in 2017, recording an increase of 34.4%. In the BRICS countries, Bovespa grew by 28.2% in Brazil, the Indian BSE Sensex was up 27.9%, and the South African FTSE/JSE All-Share put on 17.5%. Not least as a result of geopolitical conditions, the Russian RTS index was considerably more reserved, gaining 0.18%. In Asia, both the Nikkei in Japan and the Hang Seng index in Hong Kong put in a strong performance, growing by 19% and 36% respectively, while the Chinese SEE Composite index increased by 6.6%.

Chart 4: **Index performance 2013–2017** (equity indices in thousands, changes in %, rounded; source: Bloomberg)



The positive developments on the global financial markets can also be attributed in no small measure to the easing of geopolitical uncertainties compared with 2016. This is particularly clear from the historically low level of fluctuations in the volatility indices, which generally serve as an indicator of uncertainty levels on the equity markets. While the VIX, which depicts the implicit volatility of the US S&P 500 on the basis of option prices, varied between 9 and 16, the VSTOXX, which measures the implicit volatility of the EURO STOXX 50, fell compared with the previous year to between 10 and 25. The Chinese market also followed the general trend, with a lower fluctuation margin than in the previous year. Issuing activity on the stock markets was another area boosted by the positive environment. Globally, the number of new offerings peaked at a ten-year high, with issuing volume climbing 40% from USD 176 billion to USD 189 billion.

Banking and insurance stocks were finally able to recover slightly in 2017, having still been avoided by investors in 2016. In terms of sectors, the EURO STOXX Banks stabilised followed a turbulent 2016, recording year-on-year growth of 8.06%. The STOXX insurance sector index posted a similar result. After pausing to catch its breath in August, the index continued its upward trend to end the year up 6.93% on 2016 levels. Despite the positive developments, the banking and insurance equities indices, at -65.9% and -38.7% respectively, are however still a long way off their all-time highs.

BOND MARKETS

The bond markets experienced an eventful 2017. The start of the year was dominated by an anxious wait on the European market for the results of France's presidential elections. Opinion polls helped to push up yields on French government bonds. The risk spread between ten-year French government bonds and the corresponding German Bunds climbed as high as 0.74 percentage points in the spring, with the yield on French government bonds rising as high as 1.1%. Yet as soon as it became clear that Emmanuel Macron would emerge victorious, the uncertainty subsided and the markets returned to normal. The ECB president, Mario Draghi, sparked short-lived excitement with his talk of an economic recovery across the eurozone in early summer, prompting fears that monetary policy would be tightened. The result was falling prices and rising yields on the bond markets. Yields on ten-year government bonds briefly rose to 0.6% in Germany, 0.9% in France and 0.8% in Austria. In contrast, the decision in October to extend the ECB's purchase programme for bonds did not spark any major reaction on the fixed income market.

As in earlier years, the ECB's expansionist monetary policy also kept bond yields in the eurozone in check in 2017. As at the year-end, yields on ten-year German government bonds were sitting at 42 basis points, compared with 58 points for Austrian bonds, 78 for French and 201 for Italian. In a welcome development, Greece's bond markets were also able to profit from the generally positive economic mood in 2017, with the spread between Greek government bonds and the German benchmark narrowing as a result. Greece began its preparations to exit the third European Stability Mechanism (ESM) assistance programme in 2017 and is aiming to be able to independently refinance itself on the capital markets from the summer of 2018 onwards.

COMMODITY MARKETS

Commodity prices generally continued to recover well in 2017. The main drivers of this recovery were the economic upturn, rising demand and the weak dollar. Gold benefited from rising inflation, with prices increasing by 12%. The average gold price (per ounce) was USD 1 258.37. There were two parts to the story as far as oil prices were concerned, despite the agreement reached in January 2017 by OPEC and ten non-OPEC oil-exporting countries, including Russia no less, to cut oil production for a set period of time. During the first six months of the year prices for the US grade West Texas Intermediate (WTI) and for North Sea Brent tumbled, hitting lows of USD 42.31 and USD 44.21 respectively by June. Reports in the media blamed the falling prices on the geopolitical interests of some of the signatories, with observers dubious as to whether the lower production levels were actually being adhered to. After the initial collapse in prices, things turned around in the second half of the year. The further extension of the production cuts agreed in November provided added support. By the year-end, WTI was trading at USD 60.42, while Brent was at USD 66.82.

Prices for other commodities also reflected the positive economic climate in 2017. Metal prices rose significantly on the commodity exchanges, with copper and zinc each up by 30% and aluminium rising by 32%. This meant that metal prices largely returned to their pre-crisis levels.

CURRENCY MARKETS

As far as the euro was concerned, 2017 was a predominantly positive year. Investor confidence in the European currency grew as political and macroeconomic uncertainty waned and as a sustained upturn in economic activity took hold. These factors contributed to the euro gaining in value against most of the world's major currencies. The euro appreciated in value against the weak dollar in particular, gaining 14% over the course of 2017. Several reasons help to explain this development. Firstly, the economy in the eurozone grew more strongly than the US economy, not least due to the economic recovery in the Member States in southern Europe. At the same time, as in earlier years, the eurozone posted an increasing current account surplus, while the USA recorded a negative current account balance and fell further into debt with foreign creditors. Finally, it was in 2017 that the ECB cautiously began moving away from its expansionist monetary policy, although this has yet to have any tangible impact on exchange rates.

Against sterling, the euro was basically stable in 2017. A significant peak was reached in the middle of the year, when a euro was worth 92 pence. This was in the wake of the general election, called early by the Conservative government only for it to lose its absolute majority. The pound had stabilised again by the end of the year, however, and the euro ended 2017 worth GBP 0.88 (compared with 0.85 at the end of 2016). Although Brexit was one of the key issues dominating financial market reporting in 2017, the fall in the value of sterling was kept in check by what remained good economic prospects and by the interest-rate advantage.

The currencies of Central and Eastern Europe also developed dynamically in response to strong economic growth. As a reaction to the removal of the euro/Czech koruna floor, the Czech currency appreciated by 5% and ended the year at a EUR/CZK rate of

25.50 (2016: 27.02). The Polish zloty also appreciated against the euro, ending the year at EUR/PLN 4.18 (2016: 4.40). In Hungary, the forint more or less maintained a consistent level against the euro, ending the year at EUR/HUF 310.79 (2016: 309.41).

THE AUSTRIAN FINANCIAL MARKET

THE VIENNA STOCK EXCHANGE

As far as the Vienna Stock Exchange was concerned, 2017 was a positive year in the main. The Austrian Traded Index (ATX) put on 30.6% over the course of the year to reach 3420 points, with most of the gains being recorded from the second quarter of the year onwards. While the economy gained momentum at home and abroad, pushing up consumer demand in the process, stock market investors also continued to take advantage of low interest rates. Moreover, unlike in previous years, geopolitical events elsewhere in the world had relatively little impact on the Austrian markets.

Despite its strong increase of more than 30% in 2017, the ATX remained well off its all-time high of 4982 points. However, the index did manage to push through the psychological 3000 points barrier in April, doing so for the first time since February 2011 and maintaining its level through until the year-end. Over the year as a whole, 15 shares in the Vienna Stock Exchange’s blue-chip index recorded price gains, while five shares experienced price falls. In line with the Europe-wide trend, the ATX benefited from its relatively strong weighting of banking stocks, which performed well. In terms of individual stocks, the Raiffeisen Bank International AG share put in the strongest performance of the banking stocks, ending the year up 78.14%. Meanwhile, Erste Group Bank AG also recorded a notable gain in its share price, up 29.76% compared with the previous year’s closing price. The reporting year also saw by far the

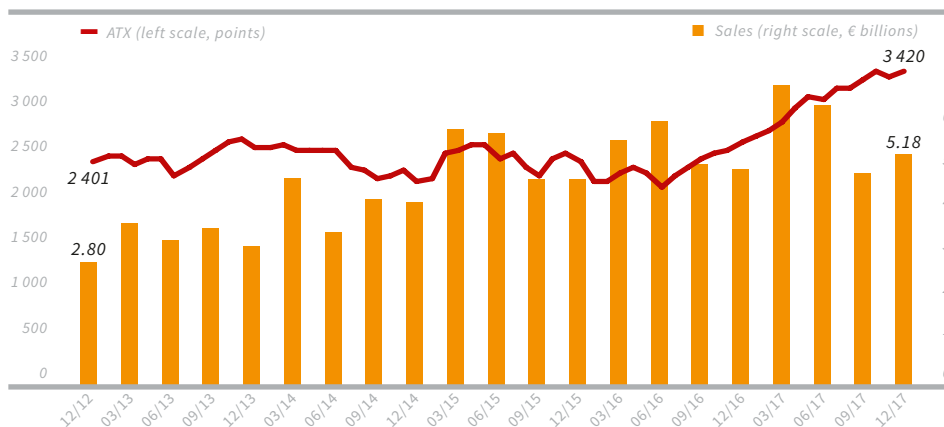


Chart: **Development of the equitymarket.at segment of the Vienna Stock Exchange 2013–2017** (quarter-end results; source: Wiener Börse AG)

	2013	2014	2015	2016	2017
Capitalisation of domestic shares as at last trading day (in € billions)	83	76.1	86.2	93.3	123.8
Annual sales on equitymarket.at (in € billions)	38.7	48.4	58.4	55.9	66.7
Daily average sales (in € millions)	156.1	193.3	235.4	224.6	270.08
ATX at year-end	2 547	2 160	2 396	2 618	3 420
ATX performance (in %)	6.05	-15.18	10.97	9.2	30.62

Table 2: Trade statistics of equitymarket.at segment 2013–2017 (source: Wiener Börse AG)

largest flotation in the banking sector. The IPO of BAWAG Group AG on 25 October 2017 was the biggest stock market launch in the history of the Vienna Stock Exchange, the largest flotation anywhere in the world in the fourth quarter of 2017 and the eighth largest of 2017 as a whole. With an issue volume of € 1.9 billion, the market capitalisation at the time of listing was € 4.7 billion. The share price did experience a fall of 7.4% in its price by the year-end, however. In terms of financial stocks, the two insurance shares Uniqa Insurance Group and Vienna Insurance Group also posted gains, putting on 22.5% and 21.9% respectively. In the energy sector, the OMV AG share also put in a good performance, rising by 57.42% and outperforming Verbund AG in the process (+32.75%). The top performers in the prime market were shares from three companies not included in the ATX: FACC AG (238.7%), AT&S (152.9%) and Warimpex (85.7%). Overall, 27 shares in the prime market recorded a positive performance, with 11 shares from the index contributing a negative result.

Trading volumes (based on double counting) in the equity market and across all market segments increased from € 55.9 billion to € 66.7 billion in 2017, putting them € 10.77 billion (19.2%) up on the previous year. At € 123 billion as at the year-end, capitalisation of the Austrian market corresponded to around 33.5% of GDP and was up by around € 30 billion year-on-year. Some listings were removed from the equity market again in 2017. The number of stocks listed in the prime market fell from 40 to 38 following the departure of conwert Immobilien Invest SE and RHI AG. Four more listings were removed from the regulated market (official market and second regulated market). In contrast, a new market segment was added to the equity market in June 2017 in the form of the global market segment on the third market, on which international shares and depository receipts (shares represented by certificates) can be traded. As at the 2017 year-end this market segment comprised 452 stocks from 444 issuers, with a total trading volume of € 385.8 million.

With regard to the bond segment of the Vienna Stock Exchange, the issue volume over the past year totalled € 70.2 billion, which represents an increase of 30.3% compared with 2016. € 31.3 billion was raised by public-sector issuers (+23.0%), with a further € 22.3 billion originating from the financial sector (+32.7%) and € 13.8 billion from the corporate sector (+65.8%).

However the number of bonds being traded decreased from 1 957 to 1 856, with the trading volume dropped by 24.9% from € 319.34 million to € 239.95 million. The decline was the most marked in the public sector (-73.76%) and in the corporate sector (-42.86%).

With regard to certificates in the regulated market, the number of tradable instruments grew from 4 825 to 5 708, while the trading volume rose by 27.55% to reach € 531.24 million.

BANKS

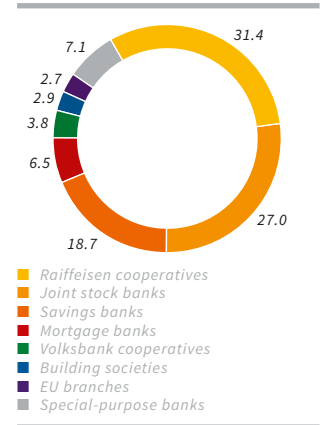
The business volume of Austrian credit institutions totalled € 783 billion by the end of 2017, shrinking by 1.9% compared with the previous year. Building societies (+3.6%) and savings banks (+3.3%) recorded positive growth rates. The biggest decrease by far was recorded by special-purpose banks (-12.2%), followed by mortgage banks (-6.1%) and joint stock banks (-3.4%). In terms of business volume, Raiffeisen cooperatives held on to their leading position on the market, with a share of 32.7%. Joint stock banks continue to hold the second largest market share (28.1%), followed by savings banks (19.5%). The total market shares, including branches from EEA countries in Austria and corporate provision funds, are shown in Chart 6.

Claims on non-banks accounted for the largest item on the asset side of the Austrian banking sector, at 53.5% in 2017. Due to a decrease in total assets, their share actually rose by 0.5 percentage points in relative terms compared with 2016 despite a slight decline in absolute terms. Liabilities to non-banks increased in terms of both volume (+0.1%) and share (+1.0 percentage point), and at 49.6% accounted for the largest item on the liability side. The second-largest entry on the asset side, accounting for 20.1%, was other assets, which were just slightly higher than claims on credit institutions (20.0%). The latter was down 6.6% on a year-on-year basis. On the liability side, the second-largest item was liabilities to credit institutions, accounting for 20.1%. This equates to a rise of one percentage point compared with 2016.

EARNINGS SITUATION

An unconsolidated operating result of € 6.4 billion is expected for Austrian banks as at the end of 2017 (> Chart 8). This represents a 21.4% improvement compared with the previous year. Underlying this positive trend is a reduction in operating expenses (-6.9%), combined with a moderate increase in operating income (+1.1%). Following a 5.2% decrease in 2016, net interest income fell again in 2017, down by a further 5.2%. At 42% of operating income, net interest income nonetheless continues to be very important.

Chart 6: Market shares of banks in 2017 including branches from EEA countries in Austria (Article 9 BWG) and corporate provision funds (included under special-purpose banks) (in %)



MARKET PRESENCE OF AUSTRIA'S MAJOR BANKS IN CESEE

The 51 fully consolidated subsidiary banks in Central, Eastern and South-Eastern Europe (CESEE) reported aggregate total assets of € 205.5 billion at the end of the fourth quarter of 2017. Over half of this figure (64.6%) was accounted for by the Member States that acceded to the EU in 2004 (NMS-2004), followed by the South-Eastern European countries (SEE) at 14.7%, the Member States that joined the EU in 2007 (NMS-2007) at 13.0%, and the countries in the Commonwealth of Independent States (CIS) at 7.7%. Growth levels for the Austrian CESEE subsidiary banks were positive again in 2017, at 11.1%, after the sharp fall in 2016 due to the divestment of the CESEE operations of UniCredit Bank Austria AG.

Chart 7: Share of 2016 total assets by region (in %)

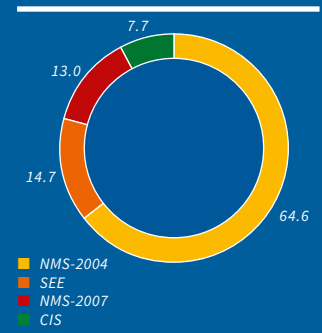


Table 3: Key figures of the Austrian banking sector 2013–2017

(Source: OeNB; 2011–2014 financial statement figures; from 2015 asset, trading and risk statements)

	2013	2014	2015	2016	2017 (<i>prel.</i>)
TOTAL ASSETS IN TERMS OF SECTORS (<i>non-consolidated, in € millions</i>)					
Total assets non-consolidated (<i>sum total</i>) ¹	888 697	847 619	824 399	797 971	783 197
Joint stock banks	236 630	245 952	244 483	228 035	220 315
Savings banks	159 778	150 908	146 150	147 553	152 446
Mortgage banks	78 145	59 775	58 270	56 146	52 726
Raiffeisen cooperatives	281 222	268 462	261 344	257 841	255 996
Volksbank cooperatives	50 554	42 426	33 291	31 985	31 072
Building societies	22 730	23 242	22 757	22 679	23 484
Special-purpose banks ²	59 639	56 854	58 103	53 731	47 156
DEVELOPMENT OF ASSETS AND LIABILITIES (<i>non-consolidated, in € millions</i>)					
Total assets non-consolidated (<i>sum total</i>) ¹	888 697	847 619	824 399	797 971	783 197
Claims on credit institutions	227 909	198 291	179 202	168 026	156 899
Claims on non-banks	429 096	421 707	425 228	422 923	419 193
Debt securities and other fixed-income securities	69 583	65 382	54 154	47 742	39 412
Shares and other variable-yield securities	10 960	10 021	9 948	11 283	10 163
Other assets	151 149	152 217	155 867	147 997	157 529
Liabilities to credit institutions	211 216	188 351	179 391	157 184	157 541
Liabilities to non-banks	352 032	361 926	371 869	387 940	388 321
Securitised liabilities	189 728	164 675	142 971	128 581	117 351
Other liability items	135 721	132 667	130 168	124 267	119 984
NET INCOME IN TERMS OF SECTORS (<i>non-consolidated, in € millions</i>)					
Total assets non-consolidated (<i>sum total</i>) ¹	-1 761	-8 014	3 257	4 219	4 690
Joint stock banks	-1 047	-1 763	713	923	1 053
Savings banks	373	-5 462	1 321	1 462	1 210
Mortgage banks	-2 567	-38	178	324	146
Raiffeisen cooperatives	1 532	-225	681	1 076	1 813
Volksbank cooperatives	-210	-884	41	52	97
Building societies	66	112	69	58	62
Special-purpose banks ²	93	246	254	325	310
EARNINGS SITUATION (<i>non-consolidated¹, in € millions</i>)					
Net interest income	8 657	9 119	8 818	8 361	7 930
Operating income	18 468	19 449	20 352	18 567	18 768
Operating expenses	12 515	14 027	13 478	13 333	12 411
Operating result	5 953	5 422	6 874	5 234	6 357
Cost-income ratio (<i>in %</i>)	67.77	72.12	66.23	71.81	66.13
EXPOSURE TO CESEE (<i>end of period in € millions</i>) ³					
Total assets of CESEE subsidiary banks	264 998	257 728	265 736	184 966	205 532
NMS-2004 ³	130 478	130 538	141 626	114 565	132 757
NMS-2007 ⁴	39 764	40 135	39 894	25 684	26 747
SEE ⁵	50 209	49 493	50 568	29 199	30 303
CIS incl. Ukraine ⁶	44 547	37 562	33 649	15 519	15 724

¹ Excluding branches from EEA countries in Austria (Article 9 BWG), credit guarantee banks and corporate provision funds.² Excluding credit guarantee banks as specified in Article 5 no. 3 KStG.³ NMS-2004: Czech Republic, Hungary, Poland, Slovakia, Slovenia.⁴ NMS-2007: Bulgaria, Romania.⁵ SEE: Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro and Serbia.⁶ CIS: Belarus, Republic of Moldova, Russia, Ukraine.

For the 2016 financial year as a whole, Austrian credit institutions posted net income of € 4.2 billion, which is likely to be followed by another positive figure for 2017. Although the final figures are not yet available, the credit institutions are forecasting net income of approximately € 4.7 billion for the 2017 financial year, with the individual sectors performing consistently positively. After recording net income of € 1.1 billion in 2016, the Raiffeisen cooperatives are expected to achieve the largest share of total net income, at € 1.8 billion, followed by the savings banks and joint stock banks. With regard to provisions for risk (value adjustments), Austrian credit institutions expect the low level to continue for 2017, at € 0.9 billion.

CORPORATE PROVISION FUNDS

Assets under management by corporate provision funds in 2017 grew from € 9.42 billion to € 10.61 billion in 2017, exceeding the € 10 billion mark for the first time. This equates to a year-on-year increase of € 1.19 billion or 12.59% (> Chart 9). The average performance recorded during the reporting year was 2.18% (2016: 2.23%).

The number of membership contracts as at the reporting date of 31 December 2017, measured on the basis of employer account numbers, had increased by 4.56% from 1 292 940 to 1 351 933 (> Table 4). Provision for employees grew by 4.47% during the year under review (from 637 715 to 666 234 contracts), while provision for the self-employed rose by 4.65% (from 655 225 to 685 699 contracts).

Measured in terms of current contributions, the corporate provision funds received a total of € 1.48 billion last year (+7.46%), of which € 1.37 billion (+7.72%) was paid into the fund for employees and € 109.46 million (+4.29%) into self-employed provision. This compares with a total of € 1.37 billion for the previous year (of which € 1.27 billion represented contributions for employees and € 104.96 million contributions for the self-employed).

A total of € 488.12 million was paid out as a capital sum to 455 752 beneficiaries (entitled) in 2017. Over the same period, 36 034 beneficiaries (entitled) transferred

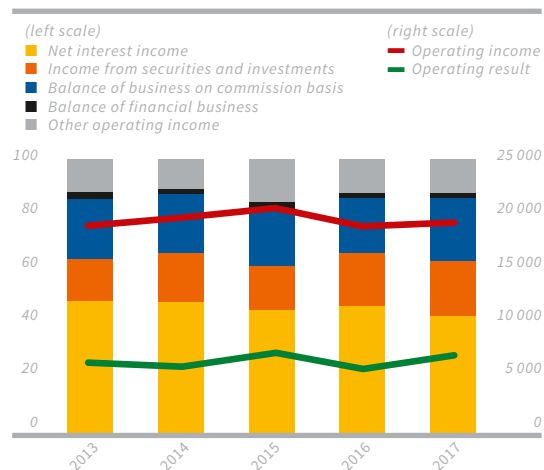


Chart 8: Development of earnings in the Austrian banking sector 2013-2017 (in % and in € millions)

Chart 9: Total assets of corporate provision funds 2013-2017 (in € billions)

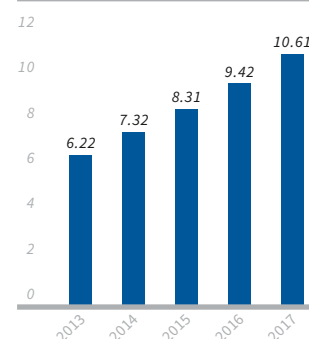
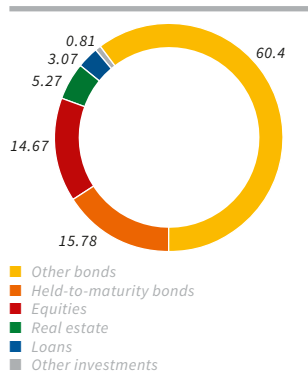


Table 4: Market development of corporate provision funds 2013-2017 (source: Association of Occupational Provision Funds)

	2013	2014	2015	2016	2017
GENERAL DATA					
Number of membership contracts	1 078 551	1 152 870	1 224 952	1 292 940	1 351 933
Provision for employees pursuant to Part 1 BMSVG	542 014	573 631	604 393	637 715	666 234
Provision for the self-employed pursuant to Part 4 BMSVG	523 553	566 068	607 289	642 216	672 620
Provision for the self-employed pursuant to Part 5 BMSVG	12 984	13 171	13 270	13 009	13 079
Assets of corporate provision funds (in € millions)	6 220	7 324	8 306	9 423	10 610
Current contributions (in € millions)	1 123	1 200	1 289	1 374	1 476
Performance of corporate provision funds (in %)	2.82	3.94	1.22	2.23	2.18
DISPOSAL OPTIONS					
Payouts (in € millions)	314.11	351.27	387.88	444.7	488.12
Transfer to another corporate provision fund (in € millions)	15.42	14.59	20.00	21.55	34.92
Remittance to a Pensionskasse, supplementary pension or occupational group insurance scheme (in € millions)	0.47	1.11	1.22	1.78	1.57
Total	330.00	366.97	409.10	468.03	524.61

Chart 10: Investment instruments of corporate provision funds 2017 (in %)



their pension expectancies to another corporate provision fund, moving a total of € 34.92 million. Additionally, 398 individuals remitted a total of € 1.57 million to a *Pensionskasse* or supplementary pension insurance scheme, or to an occupational group insurance scheme. Amounts drawn on the basis of entitlement to severance pay generally took the form of capital sums, as has been the case for the past five years.

Corporate provision funds are required to guarantee their beneficiaries (entitled) a minimum claim. This encompasses the total accrued severance pay funds and any transferred existing severance pay entitlement, as well as any severance pay entitlements transferred from another corporate provision fund. It is also referred to as a capital guarantee. Corporate provision funds are also free to offer a further interest guarantee over and above this capital guarantee. Such an interest guarantee was offered by one fund in 2017.

As a result of this statutory capital guarantee and the prescribed investment rules, the corporate provision funds pursue what tends to be a conservative investment policy. In particular, the funds are required to carry out their business in the interests of the beneficiaries (entitled), focusing on security, profitability and an appropriate diversification of assets. In compliance with statutory provisions, the majority of corporate provision funds invest in bonds either directly or indirectly via investment funds (> Chart 10).

PENSIONSKASSEN

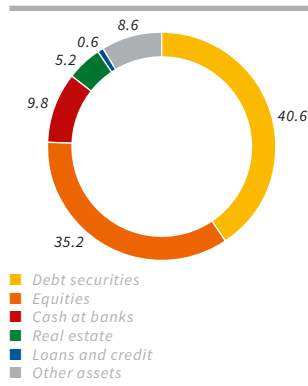
As at 31 December 2017, approximately € 22.3 billion was being managed within the Austrian pension company market (> Table 5). This figure represents an increase of some 7.1% on the previous year. The share of assets managed under the occupational pensions scheme thus amounted to around 6.0% of Austria’s gross domestic product. The change in assets managed can be attributed for the most part to contributions, pension benefits, inflows of funds from first-time pension company contracts and the investment result.

As before, the pension company market remains relatively concentrated. The three largest providers combine to account for a 77.6% share of the market, measured in terms of assets under management. This share is more or less unchanged on the previous year. Measured within the market overall, single-employer *Pensionskassen* account for around 8.42% of the assets under management.

There were about 924 000 beneficiaries at the end of the year, representing a year-on-year increase of approximately 2.3%. This figure covers both those who are entitled to benefits in the future and those who are already receiving benefits. Approximately 10.6% of the beneficiaries referred to above are already drawing a pension. The vast majority of the beneficiaries are therefore still in the savings period for a pension benefit. Around 22% of all employed persons in Austria held an entitlement to a pension from a *Pensionskasse*.

The number of *Pensionskassen* has decreased over the past five years from 16 to 10 companies. This can be attributed to single-employer *Pensionskassen* discontinuing activities, with their investment and risk sharing groups (IRGs) being transferred to existing multi-employer *Pensionskassen*. At the end of 2017 there were 104 IRGs, four security-oriented IRGs and 34 sub-IGs (> Table 5).

Chart 11: Total assets of all Pensionskassen 2017 (in %)



	2013	2014	2015	2016	2017
ASSETS MANAGED IN THE PENSION COMPANY MARKET					
Assets managed by Pensionskassen (total, in € millions)	17 385	19 011	19 646	20 839	22 323
Single-employer	1 953	1 921	1 850	2 020	1 880
Multi-employer	15 431	17 090	17 796	18 819	20 442
Market share of the three largest Pensionskassen (as a % of total)	73.03	76.81	76.68	76.61	77.60
NUMBER OF BENEFICIARIES IN THE PENSION COMPANY SYSTEM					
Number of beneficiaries (total)	835 128	858 433	880 141	902 972	924 107
Single-employer	252 474	256 087	254 122	258 914	255 632
Multi-employer	582 654	602 346	626 019	644 058	668 475
Beneficiaries (entitled)	754 571	772 835	791 124	809 279	825 778
Recipients	80 557	85 598	89 017	93 693	98 329
Beneficiaries (recipients) (as a % of total)	9.65	9.97	10.11	10.38	10.64
Beneficiaries (entitled) (as a % of dependently employed persons in Austria ¹)	20.52	20.96	21.67	21.92	21.97
NUMBER OF PENSIONS KasSEN AND IRGs					
Number of Pensionskassen	16	14	13	12	10
Number of investment and risk sharing groups	124	118	113	112	104
Number of security-oriented IRGs	5	5	5	4	4
Number of sub-IGs	16	23	28	32	34
INVESTMENT PERFORMANCE (in %)²					
Investment performance (total)	5.10	7.82	2.32	4.18	6.13
Single-employer	3.90	8.27	2.53	5.13	4.07
Multi-employer	5.30	7.77	2.30	4.08	6.34

¹ Number of dependently employed persons: Statistics Austria. The annual average was used for the years from 2012 to 2015.

² Source: OeKB

Table 5: Market development of Pensionskassen from 2013 onwards

INSURANCE UNDERTAKINGS

The volume of domestic premiums written (direct gross amount) was up 0.33% in 2017 compared with the previous year (following a decline of 2.43% from 2015 to 2016) and totalled € 16.98 billion (> Table 6).

With regard to the life insurance balance sheet group, premiums were down 5.07% from € 6.04 billion in 2016 to € 5.73 billion in 2017. The proportion of premiums from unit-linked and index-linked life insurance increased, amounting to 25.73% as at the 2017 year-end (2016: 22.29%). Totalling € 7.17 billion, payments for claims were down by 7.54% in 2017. The equivalent figure for 2016 was € 7.75 billion.

The balance sheet group of non-life and accident insurance showed an increase over the previous year, with premiums written rising by 3.27% to total € 9.11 billion. Claims payments rose to € 5.77 billion, representing an increase of 5.87%.

With premiums written of approximately € 2.13 billion in 2017, the health insurance balance sheet group achieved an increase of 3.77% on the previous year. Totalling € 1.45 billion, payments for claims were up by some 8.49% in this group.

The technical account balance across all balance sheet groups totalled € 581 million (2016: € 560 million). The financial result was down on the previous year, at € 2.8 billion (2016: € 3.1 billion). Overall, the result from ordinary activities was € 1.24 billion in 2017, down 12.02% on the previous year (2016: € 1.41 billion).

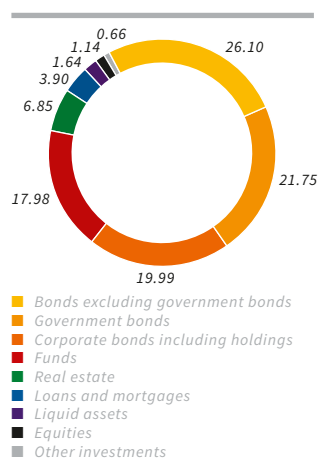
Total investments at market values (excluding investments for unit-linked and index-linked life insurance) amount to € 108.98 billion.

The core share ratio (i.e. listed shares, equity funds, equity risk in mixed funds) lay at

	2013	2014	2015	2016	2017
PREMIUMS WRITTEN IN AUSTRIA (direct gross amount, in € millions)					
Life insurance	6 419	6 663	6 695	6 038	5 732
Unit-linked life insurance	1 638	1 400	1 401	1 250	1 381
Index-linked life insurance	184	129	66	96	93
Health insurance	1 821	1 880	1 959	2 051	2 129
Non-life and accident insurance	8 367	8 534	8 688	8 826	9 115
Total premiums written in Austria	16 607	17 077	17 342	16 915	16 976
PAYMENTS FOR CLAIMS (in € millions)					
Life insurance	6 315	7 081	8 463	7 749	7 165
Health insurance	1 217	1 254	1 297	1 340	1 454
Non-life and accident insurance	5 258	5 131	5 382	5 446	5 765
EARNINGS AND PROFITABILITY					
Technical account balance (in € millions)	592	477	475	560	581
Financial result (in € millions)	3 339	3 211	3 216	3 051	2 815
Result from ordinary activities (in € millions)	1 574	1 421	1 354	1 414	1 244

Table 6: Market development of Austrian insurance undertakings 2013-2017 (source: FMA)

Chart 12: Breakdown of investments at market values (excluding unit and index-linked life insurance, in %)



4.11% as at the 2017 year-end, with an extended share ratio (i.e. with the addition of unlisted shares, including holdings, structured debt securities without capital guarantee, and loans without capital guarantee) of 15.09% (> Chart 12).

AUSTRIA'S INSURANCE INDUSTRY BY INTERNATIONAL STANDARDS

The level of development of a country's insurance sector can be rated using the indicators of insurance density and insurance penetration. Insurance density specifically refers to the ratio of premium revenues to total population. In the life insurance sector, insurance density dropped compared with 2016, from € 700 to € 656. Meanwhile, in the non-life sector, there was an increase of 2.06% to € 1 286. In 2016 premium revenues per person within the EU averaged € 1 159 for life insurance and € 621 for non-life, with health insurance premium revenues averaging € 215.

Insurance penetration is defined as the ratio of premiums to gross domestic product. Insurance penetration in Austria in 2017, at 4.86%, was almost identical to the previous year (5.02%). The European average for insurance penetration was 7.19%.¹

INVESTMENT FUNDS

The 18 Austrian investment fund management companies managed fund assets in Austria totalling € 175.43 billion as at 31 December 2017, excluding the fund assets managed by real estate investment fund management companies. This equates to a year-on-year increase of around € 8.34 billion or of 4.99% in percentage terms. Total fund assets as at 31 December 2013, by way of comparison, amounted to just € 145.29 billion (> Chart 13).

A high inflow of funds was recorded during 2017, totalling € 3.52 billion, with net inflows every month apart from January and July. In contrast, the previous year saw net outflows of € 642.53 million. Broken down by fund category, it was primarily mixed

¹ Source: Insurance Europe: European Insurance in Figures; 2016, p. 12 et seq. Figures for 2017 were not yet available when this report went to press.

Chart 13: Fund assets of investment funds 2013–2017 (in € billions)

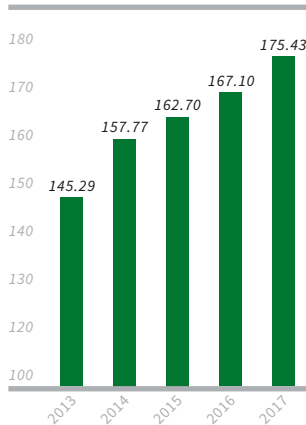


Chart 14: Net growth/outflows by investment category (in € millions)

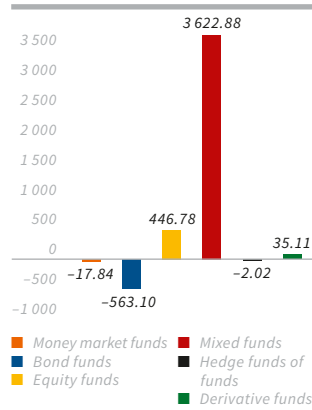


Chart 15: Net assets by fund category (as at 31 Dec. 2017, in %)

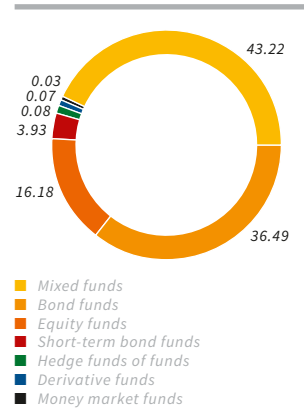
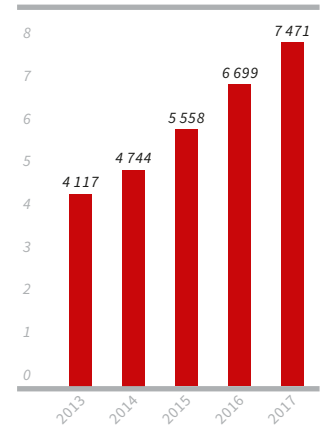


Chart 16: Fund assets of real estate funds 2013–2017 (in € billions)



funds that recorded a considerable increase (€ 3.62 billion), followed by equity funds (€ 446.78 million) and derivative funds (€ 35.11 million). The strongest outflows, as in the previous year, affected bond funds (–€ 563.10 million), followed by money market funds (–€ 17.84 million) and hedge funds of funds (–€ 2.02 million) (> Chart 14).

The dominant position of the mixed funds category is reflected, as in the previous three years, not just in net inflows but also in the overall distribution of fund assets. As at 31 December 2017, € 75.82 billion or 43.22% of the total assets was invested in this category, with bond funds occupying second place with € 64.01 billion or 36.49%. Equity funds were in third place, at € 28.39 billion or 16.18%, followed by short-term bond funds (3.93%), hedge funds of funds (0.08%), derivative funds (0.07%) and money market funds (0.03%) (> Chart 15).

Broken down by target group, 51.37% of investors were invested in retail funds at the 2017 year-end, with 48.63% invested in special funds.

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

Alternative investment fund managers (AIFMs) who are only licensed or registered according to the Alternative Investment Fund Managers Act (AIFMG; *Alternatives Investmentfonds Manager-Gesetz*) managed fund assets of AIFs subject to reporting obligations amounting to € 1.14 billion as at 31 December 2017, with € 0.60 billion accounted for by private equity funds, € 0.21 billion by real estate funds, € 0.22 billion by hedge funds and € 0.13 billion by funds of funds and other funds. It should be noted that the figures quoted were provisional figures available at the time of the Annual Report being prepared.

As at the reporting date of 31 December 2017, the five Austrian real estate investment fund management companies were administering total fund assets of € 7.47 billion, which equates to a year-on-year increase of 11.53% in the assets under management. Fund assets had totalled € 6.70 billion at the 2016 year-end (> Chart 16).

INVESTMENT FIRMS AND INVESTMENT SERVICE PROVIDERS

In the market for investment firms and investment service providers licensed pursu-

ant to the 2007 Securities Supervision Act (WAG 2007; *Wertpapieraufsichtsgesetz*) the ten-year phase of reduction and consolidation in evidence since the outbreak of the financial crisis came to an end in 2017. For the first time since 2007, the number of companies leaving the market was matched by the number of newly licensed operators.

While the development of the economy during the first half of the year was still well down on investment service providers' expectations, the strong recovery on the equity markets in the second half of 2017 not only meant more business for well-established investment firms. It also meant that young, innovative businesses had the opportunity to develop new technology-based business ideas and to implement some of these in practice.

From the FMA's perspective, this meant that its supervision of investment firms and investment service providers was another area requiring a proactive approach to tackle the rapid developments in new business models. The FMA stepped up its efforts to develop the legal situation accordingly while using the transparent exercising of its supervisory powers to create as much legal security as possible for the providers and consumers of investment services. The needs of market participants, as presented to the Authority in the form of numerous legal enquiries, were used by the

Table 7: **Key figures for Austrian investment firms, investment service providers and alternative investment fund managers with additional licence 2013–2017** (source: FMA licence database as specified in Article 92 para. 12 WAG 2007, FMA register pursuant to Article 28 para. 6 WAG 2007, 2017 analysis questionnaire)

	2013	2014	2015	2016	2017
All companies	152	141	126	114	114
<i>Investment firms</i>	82	74	66	60	60
<i>Investment service providers</i>	70	65	57	51	51
<i>AIFMs with additional licence</i>	0	2	3	3	3
LICENCES					
<i>Investment advice</i>	152	141	126	111	111
<i>Portfolio management</i>	51	50	45	41	41
<i>Receipt and transmission of orders</i>	146	136	123	107	108
<i>Multilateral trading facility</i>	0	0	0	0	0
<i>European passport for services</i>	54	46	45	43	44
<i>European passport for branches</i>	6	4	5	6	7
<i>Cooperation with financial services assistants/securities brokers</i>	91	82	73	64	62
LEGAL FORM					
<i>Joint stock companies (AG)</i>	16	14	11	9	7
<i>Limited liability companies (GmbH)</i>	108	103	93	88	90
<i>Partnerships</i>	5	3	3	2	3
<i>Sole proprietorships</i>	23	21	19	15	14
BUSINESS ACTIVITY					
<i>Investment advice</i>	94	79	63	57	57
<i>Portfolio management</i>	42	37	32	31	31
<i>Receipt and transmission of orders</i>	95	89	83	76	72
<i>Investment funds advisory</i>	22	-	-	-	-
– <i>UCITS advisory</i>	-	20	23	23	23
– <i>AIF advisory</i>	-	6	6	6	6
<i>External management of investment funds</i>	29	-	-	-	-
– <i>UCITS management</i>	-	24	23	21	21
– <i>AIF management</i>	-	14	11	11	12
<i>Appointment of tied agents</i>	25	27	26	37	34
<i>Cooperation with securities brokers</i>	31	38	37	30	29
<i>Sale of own products</i>	55	58	50	50	49
<i>Key account customer services</i>	34	33	41	33	34

FMA to engage in deeper dialogue with the investment firms, stakeholders, advisers and auditors of these companies.

This was also prompted by the entry into force in 2018 of a series of new rules and regulations for investment service providers in general and the Markets in Financial Instruments Directive (MiFID II) in particular, implemented in Austria in the form of the new WAG 2018. Together with a large number of directly applicable European regulations, the result is a significant overhaul of the rules of conduct and wider conditions applicable to investment service providers. In order to enable market participants to prepare accordingly, the FMA arranged several events and provided information by means of presentations and publications.

The customer statistics reported by investment firms for 2017 clearly demonstrate the consolidation and greater professionalism in evidence among this group of companies. The fact that the number of licensed companies is unchanged lends itself to reliable comparison with the previous period. While the absolute number of investment firm customers dropped by around 10% to approximately 160 000 customers, the total assets under management increased by almost 10% to in excess of € 50 billion (> *Chart 17*). The positive change in relation to investment advisory with a 23% increase in the total assets is one particularly striking development. In contrast, the volume of assets in the category of receipt and transmission of customer orders has continued to fall.

With regard to collective portfolio management activities outsourced by investment fund companies and alternative investment fund managers (third-party management) and fund advisory activities, the volume of assets under management expanded by 25% in total in 2017 compared with the previous year, bringing this segment back to its high level of 2013.

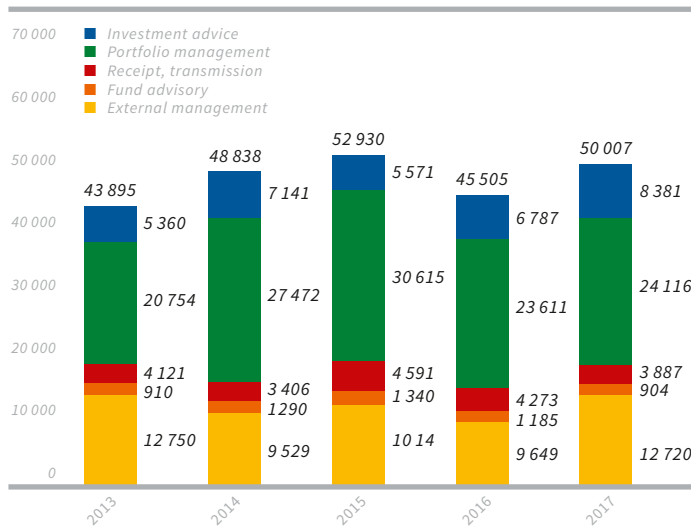


Chart 17: Client assets under management 2013-2017 (in € billions)

A close-up, high-angle photograph of a person's hands resting on a desk. The desk is covered with several documents featuring various data visualizations, including bar charts, line graphs, and pie charts. The charts use a color palette of blue, green, orange, and red. The person's hands are positioned as if they are carefully examining the information. The background is slightly blurred, showing more of the desk and the person's arm. An orange rectangular box is overlaid on the left side of the image, containing the text 'OPERATIONAL SUPERVISION' in white, bold, uppercase letters.

OPERATIONAL SUPERVISION

THE INTEGRATED SUPERVISORY MODEL

The FMA is the independent, autonomous and integrated supervisory authority covering nearly the entire Austrian financial market. In accordance with its statutory remit, it supervises credit institutions, payment institutions, insurance undertakings, *Pensionskassen* (pension companies), corporate provision funds, investment funds, licensed investment service providers, stock exchanges and capital market prospectuses. Since 1 January 2015 the FMA has also been the national resolution authority for banks. In addition, the FMA is responsible for monitoring trading in listed securities to ensure that it is carried out properly and for monitoring the issuers' compliance with information and organisation obligations. Further tasks include combating the unauthorised provision of financial services and taking preventive action to fight money laundering and terrorist financing. Finally, in line with the European Transparency Directive, the FMA is also the authority responsible for financial reporting enforcement in Austria.

In figures, the FMA supervised 892 undertakings with assets totalling around € 1 335.06 billion¹ during the year under review. These included in particular:

- 629 credit institutions (including 27 foreign branches) with total assets of € 815.3 billion;
- 8 corporate provision funds with assets under management of € 10.61 billion;
- 86 insurance undertakings with assets under management of € 129 billion;
- 10 *Pensionskassen* encompassing 108 investment and risk sharing groups and assets under management of € 22.3 billion;
- 60 investment firms and 51 investment service providers with customer assets under management of € 50.01 billion;
- 7 776 foreign funds sold in Austria;
- 2 084 domestic investment funds managed by affiliated companies: 18 investment fund management companies (16 of which as licensed AIFMs) with a managed fund volume of € 175.43 billion, 5 real estate investment fund management companies (that are also AIFMs, generating a volume of € 7.47 billion), a further four companies licensed solely under the terms of the Alternative Investment Fund Managers Act (AIFMG; *Alternatives Investmentfonds Manager-Gesetz*), as well as 24 registered AIFMs (with a fund volume of € 1.14 billion);
- 894 issuers with 12 270 listed securities and 34.31 million reported transactions.

¹ Non-consolidated gross assets.

In its capacity as a cross-sectoral integrated supervisory body, the FMA tackles the major challenges created by very high degree of interweaving within the Austrian financial market due to ownership structures, sales cooperation agreements, financial transactions and the assumption of guarantees. By way of example:

- one financial conglomerate accounts for a market share of 0.75% in the banking sector and of approximately 4% in the insurance sector (measured against total assets);
- investment funds² hold € 5.2 billion in securities issued by Austrian banks;
- Austrian credit institutions hold a stake of more than 25% in 14 out of 18 investment fund management companies;
- Austrian insurance undertakings hold a stake of more than 25% in five out of ten *Pensionskassen*;
- Austrian credit institutions, insurance undertakings and *Pensionkassen* have an interest of more than 25% in five out of eight corporate provision funds;
- the exposure of Austrian insurance undertakings to Austrian banks represents around 10% of all of their assets;
- 25 out of the 64 members of the Vienna Stock Exchange are Austrian banks.³

The FMA's integrated supervisory regime, which spans all sectors of the financial market and brings together prudential supervision and conduct supervision, and integrates both a micro and a macro approach to supervision, enables the Authority to recognise cross-sector risk transfer early on, to incorporate the findings of conduct supervision into prudential supervision, and to apply observations of sector developments at the level of individual institutions. Moreover, this integrated approach helps to achieve:

- a harmonised and rapid form of supervision across all sectors and industries;
- uniform standards across all sectors;
- consistent interpretation of the law across all of its areas;
- uniform administrative practice;
- minimisation of regulatory arbitrage; and
- avoids evasive reactions from the supervised entities such as the relocation of business activities or the shifting of risks to other sectors.

STABILITY

SOLVENCY MARGIN OF BANKS AND INSURANCE UNDERTAKINGS

The solvency margin of companies supervised by the FMA is a key indicator, both in terms of quality and quantity, which financial market supervisors use to assess the capability of those entities and of the market as whole to withstand any crisis. During favourable economic periods it is necessary to give heed to companies' capital bases and to consistently require them to add to these cushions.

Together with the OeNB, the FMA has succeeded in continually improving the level of own funds among banks in recent years. The focus here has been on Common Equity Tier 1 capital, which is especially suited to absorbing losses. Since the onset of the global financial crisis in 2008, it was possible to more than double this critical ratio to

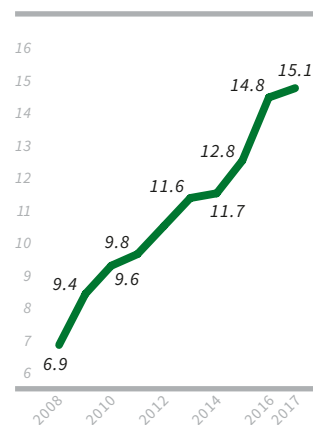
² Not including AIFs that are solely authorised pursuant to the AIFMG.

³ Figures collated in early April 2018.

15.1% by the end of 2017, due on the one hand to new regulations – and here especially the Basel III regime introduced beginning in 2014 – but also thanks to consistent pressure from supervision (> Chart 18).

As part of the Solvency II regime for the insurance sector, a risk-based system for calculating capital was introduced in 2016. It was possible to improve the solvency ratio of Austrian insurance undertakings during the past year, with the unweighted average reaching 278.7% in that year after 260.7% the year before. The FMA examines in particular the quality of the components making up own funds. Insurance undertakings which, as part of the transitional phase prior to full application of Solvency II, take advantage of transitional measures are subject to especially close supervision by the FMA; this ensures that such companies are permanently able to meet their obligations as insurers. As at the end of 2017, all Austrian insurance undertaking complied with the regulatory solvency requirements, even after taking account of the transitional measures.

Chart 18: Changes in CET1 capital ratio (phase-in) of Austrian banks 2008-2017 (consolidated, as a % of risk-weighted assets)



CREDITWORTHINESS

CHANGES IN FX LOANS AND NEW FMA MINIMUM STANDARDS

As in previous years, a main emphasis of the FMA’s supervisory activities with regard to financial market stability in 2017 was to further reduce volumes of foreign currency loans and to limit the risks entailed in such loans. Jointly with the OeNB, the FMA had at an early stage warned against the risks of foreign currency loans for borrowers and for the financial system and had imposed a de facto ban on new loans in 2008. Since late 2008, the outstanding volume of foreign currency loans has been able to be drastically reduced (by € 30.97 billion⁴ to € 16.07 billion as at 31 December 2017) as has the share of such loans in the total volume of outstanding loans (from 31.8% in 2008 to 10.8% as at 31 December 2017) (> Chart 19).

In June 2017 the FMA minimum standards for foreign currency loans, which set out the ban on new loans, were revised and updated to reflect the current situation. The new minimum standards require banks to prepare strategies aimed at reducing the existing volumes of foreign currency loans extended to consumers. They are specifically obliged to actively inform borrowers about options for reducing the risks entailed in existing loans.

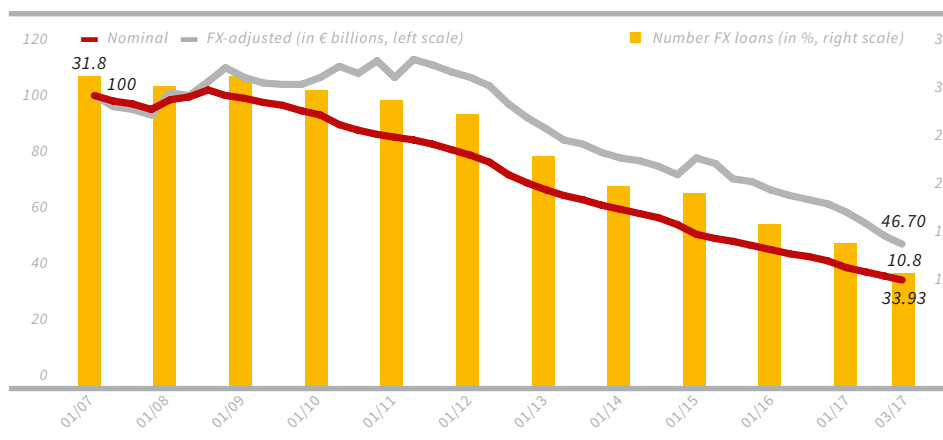


Chart 19: Reduction of the risk arising from FX loans in Austria (in % and in € billions)

⁴ All volume figures given here have been adjusted to allow for exchange rate fluctuations.

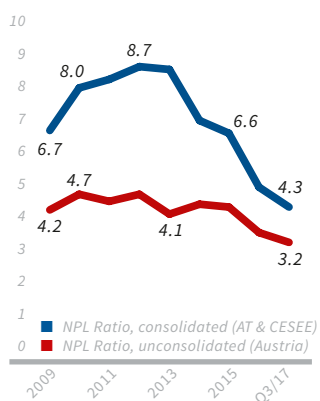
From the perspective of financial stability, but also for the protection of consumers, the FMA regards it as crucial that risks, which continue while existing loans are paid back, are managed by the parties most capable of doing so: by banks and not by households.

NON-PERFORMING LOANS IN AUSTRIA AND EUROPE

With respect to financial market stability, creditworthiness was a significant issue in 2017. The focus here went beyond the situation in Austria and included the entire euro area. Particularly in economically and financially weak member countries of the single currency area, a tremendous stock in non-performing loans (NPLs) accumulated in the aftermath of the global financial crisis in 2007 and the European sovereign debt crisis since 2010. As per the third quarter of 2016, € 920 billion in loans continued to be classified as non-performing; the comparable amount in the third quarter of 2017 was still € 759.1 billion. Consequently, reducing the volume of NPLs was given the highest priority in 2017 within the framework of the euro area's Single Supervisory Mechanism (SSM). In March 2017 the European Central Bank (ECB) issued supervisory guidance aimed at actively reducing NPLs among euro area significant banking groups with high levels of NPLs. This guidance, which was co-adopted by the FMA, will be supplemented in 2018 to include even more specific measures.

During the global financial crisis, the rates of NPLs increased in Austria as well, reaching a record level of 8.7% of the loans reported in consolidated bank balance sheets (including subsidiaries in Central, Eastern and South-Eastern Europe, CESEE) in 2012. When the view is restricted to Austria, the record high reached in that year was 4.7%. With the current rates of 4.3% and 3.2%, Austria ranges below the euro area average of 4.4% (> Chart 20). This significant reduction in NPLs is among other things the result of early action by supervisors, especially by intervening in foreign currency loans and by permanently adjusting the business strategy in the CESEE region.

Chart 20: Non-performing loans in Austria 2009-2017 (as a % of outstanding loans)



SUPERVISORY FOCUS ON MORTGAGE LOANS

Supervisors need to keep a keen eye on the market, particularly in view of the highly positive development of the overall economy and the healthy progression in the rate of non-performing loans. At 4.5% in 2017, the volume of mortgage loans granted to private individuals increased more rapidly than lending in general (3%). In 2016 the Austrian Financial Market Stability Board, of which the FMA is a voting member, pointed out the need to maintain high standards for extending mortgage loans in an environment characterised by low interest rates and rising property prices. One related step taken by legislators in 2017 was to enshrine in law new options allowing macroprudential supervision to define maximums for certain parameters relating to borrowing activities, in the event that a systemic risk accumulates in the mortgage lending market. Examples of such parameters include the loan-to-value (LTV) ratio and the debt-to-income (DTI) ratio.

The FMA regards such an option as a last resort. To avoid from the outset any need to take macroprudential action, beginning in 2017, the FMA focused supervisory activities on the standards applying to Austrian banks when extending mortgage loans. In reviews this is a focus that is to receive even greater attention in 2018, with the goal of taking precautionary measures to prevent any lapse in borrowing standards among individual banks. Institutions that have already loosened their standards are

to be encouraged to change their conduct, to the end of minimising risks for the stability of individual banks and of the financial system as a whole.

CONSISTENCY OF INTERNAL MODELS IN EUROPE – THE TRIM PROJECT

In 2017 the targeted review of internal models (TRIM) was launched within the SSM, with the aim of evaluating and harmonising the internal models of significant institutions (SIs). With this step, the SSM is moving forward the European supervisory system for SIs.

Especially with regard to internal models, a high degree of inequality has been seen within Europe for some time. Internal models allow banks to calculate their statutory minimum capital requirements based on their own data, as opposed to using the standard formulas prescribed by regulators. Prior to introduction of the SSM, such models had been subject to approval and supervision by national supervisory authorities. The approach taken had not always been the same across Europe. Not only were there appreciable differences in the own funds requirements of banks using internal models, models were also used to intentionally keep capital requirements low. Distorted competition and detrimental impact on the stability of the European banking sector were the result.

As part of this project, 108 reviews throughout the SSM were completed or at least started just in 2017. An additional 68 reviews are scheduled for 2018. Six reviews were carried out involving SIs in Austria, while another three are planned for 2018. The FMA, jointly with the OeNB, actively participates in this project as an integral part of the SSM. TRIM is playing a key role towards eliminating supervisory arbitrage in a sensitive area within the SSM as well as towards further strengthening banks' capital positions.

FMA ACTION IN THE LOW INTEREST RATE ENVIRONMENT

Affecting both investors and companies, the persistently low interest rates in industrial countries and within the euro area in particular represent a challenge for the Austrian financial market in the long term. Interest rates that remain low or even negative in the longer term especially impact those business models and products that guarantee investment returns and the fulfilment of obligations and that depend on investment yields. Yet, the low interest rate environment also has obvious impact on shorter-term investments without any capital or yield guarantee, such as funds.

For some time, the FMA has been devoting special attention to the stability of the companies under its supervision and to their long-term ability within the low interest environment to fulfil guarantees. This focus was consistently pursued and strengthened in 2017.

LIFE INSURANCE

The assumed interest rate is used in classic life insurance for calculating the annual minimum interest on the capital accumulated to date. As of 1 January 2017, the maximum permissible assumed interest rate for new life insurance policies was reduced from 1.0% to 0.5% by FMA regulation. The rate was adjusted to reflect the persistently low level of the “average government bond yields weighted by outstanding amounts”

Chart 21: Changes in UDRB, assumed interest rate for life insurance

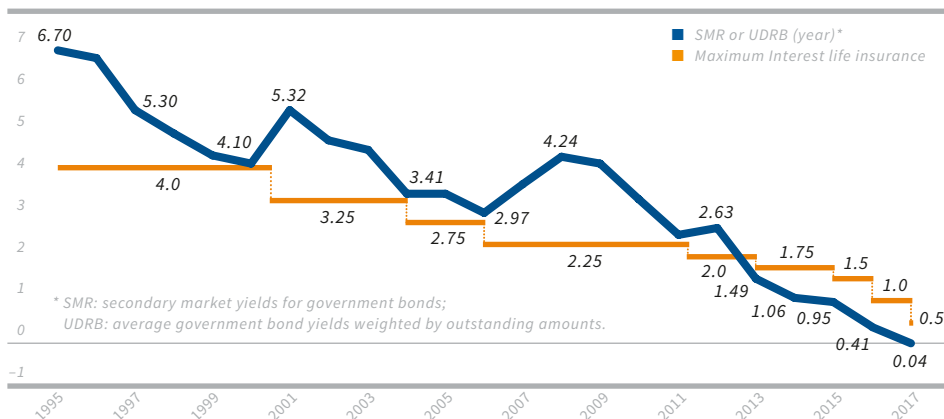
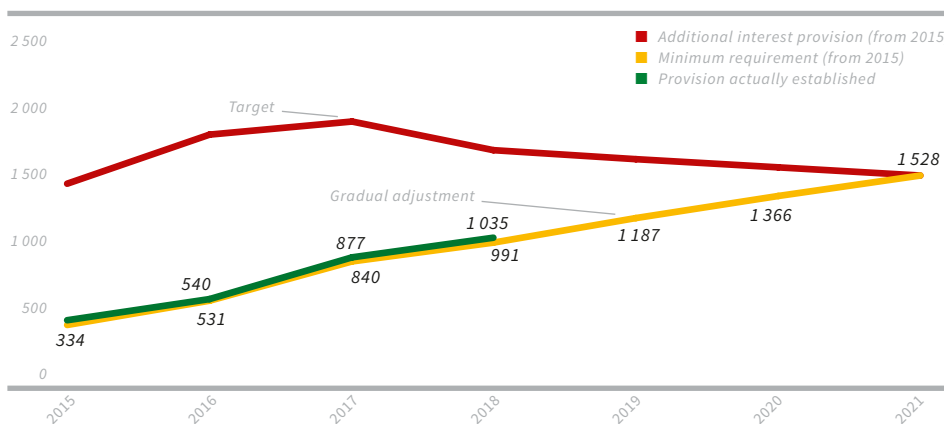


Chart 22: Funds allocated to the additional interest provision (in € millions)



(UDRB), the Austrian benchmark for capital market interest rates. While in 2015 the UDRB was 0.41% on average, the comparable level in 2017 was only 0.04% (> Chart 21). The fact that interest rates have been at an extremely low level for some time again made it necessary in 2017 to expand additional interest provisions for life insurance, simultaneously with adjusting the assumed interest rate. In doing so, the FMA continues its policy of building up a safety cushion for the event of continued low interest rates, to the advantage of both undertakings and policyholders (> Chart 22).

HEALTH INSURANCE

Another activity by the FMA in 2017 was to analyse in detail the sustainability of reserves for increasing age used in health insurance similar to life insurance. Any private health insurance that is taken out in Austria is almost without exception a lifetime policy. Insurance undertakings correspondingly maintain a reserve for increasing age for each policyholder. To absorb the elevated risk of illness in old age, the reserve is accumulated in the early years of the policy while maintaining the premium at the same level as far as possible. The amount of the reserve must be assessed on an ongoing basis with reference to an assumed interest rate. The analysis revealed the need to lower the assumed interest rate in the case of new policies, to ensure the stability of the undertakings and their capacity to meet policy commitments in the long term. In a circular letter published in June 2017, the FMA announced that, as of the beginning of 2018, an assumed interest rate of 1% would be considered appropriate for new health insurance assumed policies, in lieu of the previous 1.75%.

PENSIONS KASSEN

In contrast to life or health insurance, *Pensionskassen* have a benefit phase and are required to ensure their ability to cover the administrative expenses arising from paying out the accumulated total pension at all times. This also requires a provision to be established and assessed based on an assumed interest rate. With a view to sustainability, the FMA issued a regulation, also reducing the assumed interest rate for the administrative provision maintained by *Pensionskassen*, from 3% to 2% as of 1 January 2018.

Pensionskassen are required to be especially prudent in relation to commitments within the framework of security-oriented investment and risk sharing groups (IRGs). The applicable assumed interest rate was adjusted to a level of 1.25% to reflect the especially secure nature of such commitments even on into the future.

CORPORATE PROVISION FUNDS

Corporate provision funds are required to make allocations to a reserve to ensure their ability to fulfil, in the face of low capital market interest rates, the capital guarantee extended to beneficiaries (entitled) paying into the fund. Based on several hypothetical scenarios, the FMA carried out a detailed study in 2017 to examine the extent to which such reserves would be adequate, were capital market interests to remain low or even fall below zero in the medium term. It was subsequently determined that under low interest rates the reserves are sufficient to cover the capital guarantee. An additional decrease towards negative interest levels for an extended period could also be managed but would require additional targeted measures on the part of the fund companies. Supervisory activities in 2018 relating to corporate provision funds will draw on the detailed results of the study as a focus topic.

ASSET MANAGEMENT

Fund units normally do not include a capital or yield guarantee, so that a persistently low interest rate forecast does affect the economic value of a fund from an investor's standpoint but not the capability of meeting any payment obligations agreed by contract. The FMA accordingly carried out another study of the impact of the low interest environment on the funds market, to determine the potential risk both for the market as a whole and especially for individual fund providers. The results are to be incorporated into supervisory activities in 2018.

PROTECTION FOR SAVERS, INVESTORS AND POLICYHOLDERS

FMA CONSUMER INFORMATION

Years ago, the FMA set up a consumer information unit that in the meantime has become well established as a contact point for consumers who have enquiries or complaints about financial products and services but also about fraudulent providers (see the chapter on consumer protection for further details). The FMA views complaints as a vital source of information that reveals potential malpractices among supervised companies as well as trends in the market for financial services and products. In this context, the FMA is committed to the principle of collective consumer protection. In handling complaints, the Authority ensures that the companies

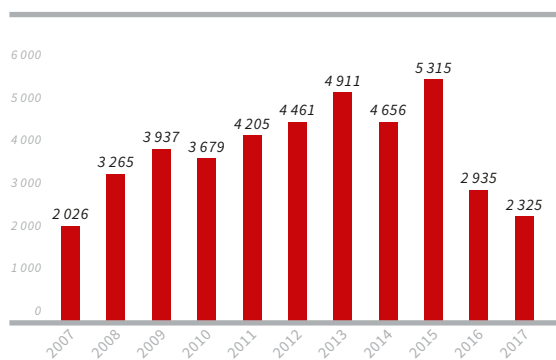
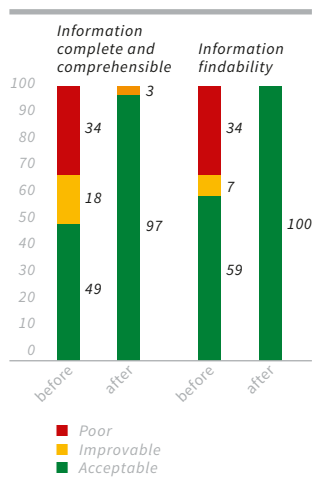


Chart 23: Number of complaints received 2007–2017

Chart 24: Information on complaints-handling provided by banks, before and after the FMA inspection focus (in %)



observe consumers’ rights. However, the FMA cannot assist consumers in enforcing individual claims.

Since the introduction of European guidelines on complaints-handling in 2016, banks and insurance undertakings have been obliged to set up their own systems for handling complaints. At the same time, existing provisions were strengthened that require information relevant to consumers to be easy to understand and easily accessible. Implementing the guidelines on complaints-handling at the FMA fundamentally affected complaint procedures: the initial contact for customers is now the company, which is obliged to process the complaint through its

own system. If no solution is reached in this stage, consumers can then appeal to the FMA. The FMA subsequently examines the case to determine whether the company correctly processed the complaint and whether the specific action taken by the company warrants suspicion of a breach of supervisory laws. If necessary, the FMA can impose measures or initiate administrative penal proceedings. Since 2016 there has been a considerable decline in enquiries and complaints made to the FMA (> Chart 23). Still, the FMA did in fact receive 2 325 complaints in 2017.

In line with the principle of prevention rather than punishment, the FMA initiated a dialogue with banks and banking associations on the subject of complaint processing and resolution in 2017. Investigations by the FMA have revealed that banks do not always fully meet their obligations to provide customers with information and in particular that information cannot always be easily found to a satisfactory extent. The focus here was on the information requirements relating to complaints-handling by banks, which allow consumers to lodge their complaints with supervised companies efficiently and at an early stage. Attention was also given to the information provided on deposit guarantee schemes and on access to a basic payment account.

A check before and after the dialogue showed substantial improvement in information quality for all three areas mentioned, specifically in terms of completeness, comprehensibility and findability (> Chart 24). Regarding the information provided on basic payment accounts and deposit guarantee schemes, it was also possible to achieve significant improvements.

PREVENTION

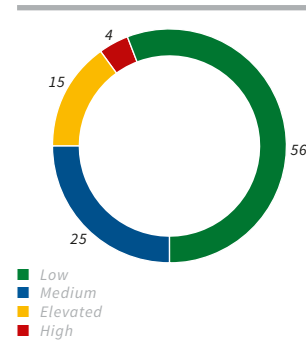
RISK-BASED APPROACH TO PREVENTING MONEY LAUNDERING AND TERRORIST FINANCING

In recent years, the prevention of money laundering and terrorist financing has become a priority field of activity among financial supervisory authorities at national and international levels. Austria has reflected that priority, also in response to the comprehensive country evaluation of Austria by the Financial Action Task Force (FATF) in 2016, by introducing the new Financial Markets Anti-Money Laundering Act (FM-GwG; *Finanzmarkt-Geldwäschegesetz*), which entered into force at the beginning of 2017.

A key aspect of the new FM-GwG is to put more emphasis on what is referred to as the risk-based approach to supervision. The risk-based approach allows the FMA to con-

concentrate preventive supervisory efforts on those institutions – such as banks, insurance undertakings and investment firms – regarded as especially exposed to the risk of abuse for the purpose of money laundering and terrorist financing. This provides the FMA with an option for more efficient operations in line with the principle of proportionality, despite the dauntingly large number of supervised companies (more than 900 of them fell under supervision for the prevention of money laundering and terrorist financing as at the end of 2017). Supervisory measures such as on-site inspections can thus be focused on risk-laden areas. To implement the risk-based approach at the operational level, the FMA has developed a tool for classifying risks, allowing the specific risks borne by individual companies to be identified based on objective criteria. Companies are categorised into risk classes by referring to indicators including business model, geographical area of business, products offered, customer structure and relationships to offshore centres. Companies classified as more risk-laden are inspected more frequently and in greater detail. Here again, the areas to be inspected can be selected based on a company’s specific risk. Through improved supply of resources, the FMA was again able to augment the number of on-site inspections from one year to the next, to 67 in 2017 from 62 the year before. Alongside this quantitative improvement, substantial progress could also be achieved in terms of the quality of inspections and their capacity to target issues.

Chart 25: Risk classification of supervised institutions (in %)



DIGITALISATION, RISKS AND THE OPPORTUNITIES ARISING FROM NEW BUSINESS MODELS

The digitalisation of financial services faces entities in the financial market with exacting requirements. As new providers are pushing into the market with their innovative business models, previously existing providers are also coming to increasingly rely on digital products to meet rising demand on the part of customers. According to data published by European statistics agency Eurostat, 57% of Austrians between the ages of 16 and 74 used online banking services in 2017. The share was 72% for the age group of 16 to 29-year-olds. These findings put Austria above the EU average in both categories (51% and 55% respectively). Digital supply and demand are now a fact of life. The FMA is working towards establishing the conditions that will allow digital financial services to be provided and used in a safe and regulated environment.

FMA ONLINE IDENTIFICATION REGULATION

In early 2017 the FMA issued a regulation dealing with video-based online identification of customers. As a result, participants in the Austrian financial market – such as banks, insurance undertakings and investment firms – are now also permitted to use video to identify customers and verify proof of identity. Establishing identity is a vital step within the framework of preventing money laundering and terrorist financing in the financial market. Based on the FM-GwG, the FMA defined the regulatory prerequisites in this regulation to be met when using video identification. Here it was important to supplement the new option offered by digital technology with appropriate security measures, in order to minimise any risks resulting from establishing and verifying an individual’s identity without that person being physically present. In issuing the Online Identification Regulation (Online-IDV; *Online-Identifikationsverordnung*),

the FMA has responded on the one hand to the growing digitalisation of the financial sector and customers’ desire to enter new business relationships via the Internet, as well as to legal requirements for establishing an individual’s identity beyond doubt.

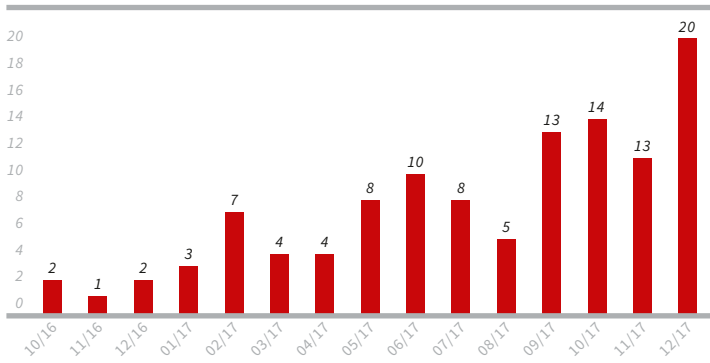
FINTECH CONTACT POINT ONE YEAR OLD

The FMA established its FinTech contact point back in October 2016, to equip the Authority to meet the additional requirements posed by supervision in the context of new digital business models. The FinTech contact point is designed as a “one stop shop” to allow innovative businesspeople to clarify their business concepts with reference to conditions set out in regulatory and supervisory laws. Based on technology neutrality, the contact point provides such businesses, mostly in the start-up stage, with an easy means of getting in touch with representatives of supervision. Just within the first year of operation, between October 2016 and October 2017, the contact point received 81 enquiries from businesses. The business models presented touched on a number of the FMA’s fields of supervision, ranging from mobile payment

service, automated advisory platforms and crowd investing to virtual currencies.

The scope of the contact point’s services entail, on the FMA website, an online contact form and the FinTech Navigator, which provides a succinct summary of the regulatory environment relevant for FinTech businesses. Additionally, staff members from the contact point also attend public events, where they hold presentations on the regulatory framework and the FMA’s approach and are available to respond to individual questions.

Chart 26: Number of enquiries



SUPERVISION OF BANKS

BANKING SUPERVISION AT EUROPEAN AND NATIONAL LEVEL

Since November 2014 the Single Supervisory Mechanism (SSM) has been in place in the euro area countries, ensuring that large multinational banking groups straddling national boundaries can be supervised uniformly and on a supranational basis. Since then, responsibility for supervising banks in the euro area has been shared between the European Central Bank (ECB) and the national competent authorities (NCAs). The NCA for Austria is the Financial Market Authority (FMA).

Now that the SSM is in place, banks in the participating Member States¹ are supervised by means of a decentralised system involving close cooperation between the ECB and the NCAs. When the SSM was launched, eight Austrian banking groups in total were classified as significant institutions (SIs), resulting in around 150 individual credit institutions being placed under the direct supervision of the ECB. At the end of 2017, seven SIs remained². The other credit institutions based in Austria, classified as less significant institutions (LSIs) in accordance with predefined criteria, continue to be supervised directly by the FMA. This means that the FMA, in addition to its role in the supervision of the SIs, also remained directly responsible for around 530 Austrian LSIs. For its part, the ECB only supervises these LSIs indirectly. It goes without saying that, when supervising the LSIs, the FMA also bases its approach on the rules applicable throughout the SSM.

Facts and figures on the FMA's supervisory activities are presented in the following chapter. As well as covering activities in relation to LSIs, the information provided also relates to the direct supervision of SIs given that the ECB, despite being ultimately responsible for supervision of these institutions, makes considerable use of the FMA's resources and services. Overall, within the SSM, by far the main share of the work entailed in banking supervision remains with the NCAs.

This is reflected in the Joint Supervisory Teams (JSTs), which carry out the super-

¹ The SSM basically covers the Member States in the euro area, i.e. those that have adopted the euro as their currency. There are 19 such Member States, although EU countries with a currency other than the euro may participate in the new European banking supervision system on a voluntary basis. To date, no state has opted in to the system on this basis.

² Raiffeisen Bank International AG, Erste Group Bank AG, BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG, Volksbank Wien AG (in the capacity of new head institution of the affiliation of Volksbank cooperatives), Raiffeisen-Holding Niederösterreich-Wien reg. Gen.m.b.H., Raiffeisenlandesbank Oberösterreich AG and Sberbank Europe AG.

visory work for the SIs placed under the direct supervision of the ECB and which are staffed by employees from the NCAs, who account for between 75% and 90% of the team members. In addition, compared with other European states, Austria has a high number of LSIs, and these remain under the direct supervision of the FMA. The common procedures also generate additional work following the launch of the SSM. These relate to cases where the ECB, regardless of whether a credit institution is classified as significant or less significant, still has the final decision on granting or withdrawing a licence, or assessing banks' acquisition of qualifying holdings. These common procedures are, however, predominantly prepared at NCA level.

It is not just in the area of ongoing supervision that cross-border cooperation between authorities has become more complex. The aim is to achieve EU-wide harmonisation of banking regulation, which is why both the NCAs and the ECB as well as the European Banking Authority (EBA) in London³ acting in the capacity of pan-European regulator make a contribution. This requires coordination, liaison and harmonisation at all levels and, consequently, a considerable increase in the workload of the NCAs.

FMA employees are represented on numerous committees, working groups and horizontal networks of the ECB and EBA, contributing to the debate on supervisory, legal and institution-specific issues and participating in the subsequent decision-making processes. This means that matters of concern to the Austrian supervisory authority can be raised efficiently, also thanks to the parallel staffing, where possible, of the working groups dedicated to comparable topics at the ECB and EBA. The synergies achieved by using one and the same expert benefited the issues Austria brought forward, for example in the fields of governance/fit and proper, interpretation of own funds requirements or a common methodology for the Supervisory Review and Evaluation Process (SREP). With regard to the indirect supervision of LSIs, the FMA is also involved in several committees working on the development of Joint Supervisory Standards on key supervisory issues. The aim here is to enshrine supervisory standards in the euro area that are as strict and as harmonised as possible, while at the same time adhering to the principle of proportionality.

PARTICULARLY IMPORTANT IN THE YEAR UNDER REVIEW:

SREP IMPLEMENTATION FOR LSIS

Those institutions that are under direct supervision by the FMA are subject to a comprehensive quantitative and qualitative review process every year, which is called the Supervisory Review and Evaluation Process, or SREP for short. During this process, any relevant risks for the individual bank are identified, as are any precautions taken by the bank to be able to withstand those risks, particularly in relation to governance and capital. Tailored to each bank's individual profile, the supervisor then determines the capital ratio that the bank must hold at the end of the process. For this process, which is referred to as Pillar 2⁴ in the Basel capital framework, the EBA issued Guidelines on common procedures and methodologies for the supervisory review and evaluation process to be applied by both the FMA and the ECB.

³ In a decision adopted on 20 November 2017, Paris was selected as the new seat for the EBA, which needs to be relocated in the context of the UK's withdrawal from the EU in March 2019.

⁴ Pillar 1 prescribes the minimum amount of capital that banks must hold, with the amount being the same for each bank.

The SREP for LSIs is conducted taking account of the principle of proportionality. LSIs are classified according to their size, type of business model and other risk criteria. Depending on the classification, the full SREP is carried out every year or every two to three years. After completion of the full process, an administrative decision is issued prescribing the total capital requirement. In those years where no full SREP is carried out and no decision issued, less comprehensive review measures are being taken instead. If significant changes are identified, however, the full process must be carried out and completed with an administrative decision.

In 2017 the FMA issued a total of 25 SREP decisions on LSIs.

From the FMA's perspective, carrying out this systematic and structured analysis in the context of the SREP, which is harmonised across the EU, provides an important source of added value in the continued supervision of credit institutions. In this context, the FMA is responsible for the governance element of the analysis. This element encompasses a thorough review and evaluation of the credit institutions' governance and risk management structures. The detailed analysis of governance structures provides an in-depth understanding of the processes and workflows within the supervised institutions. The FMA thus complements the predominantly quantitative SREP elements, such as the review of the capital and liquidity situation, by means of an all-encompassing, qualitative and legal view of the respective institution. Findings from other areas of supervision, such as e.g. combating money laundering and the financing of terrorism or supervision of securities compliance, are incorporated into the SREP in the context of the FMA's integrated approach to supervision. The supervisory measures that may potentially be derived by the FMA from the SREP are not limited to the prescription of higher capital or liquidity requirements but may also include rules on risk control and management, adjustments to the business model or early intervention measures pursuant to the Bank Recovery and Resolution Act (BaSAG; *Bankensanierungs- und Abwicklungsgesetz*).

OFFICIAL TASKS

SUPERVISED COMPANIES

As at 31 December 2017 there were 602 credit institutions in Austria, as well as 27 branches of credit institutions that pursue activities in Austria as specified in Article 9 of the Austrian Banking Act (BWG; *Bankwesengesetz*) under the European Union's freedom of establishment. To be categorised as a credit institution within the meaning of the BWG, a legal entity must hold a licence to carry out at least one type of banking transaction pursuant to Article 1 para. 1 BWG. The total number of credit institutions compared with 2016 fell by 43, marking the continuation of a trend in evidence for some years now. As in previous years, further consolidation affected the decentralised sectors (Raiffeisen and Volksbank cooperatives, savings banks) in particular, with a drop in the number of credit institutions from 517 to 482.

PAYMENT INSTITUTIONS

Payment institutions are legal entities that are entitled to provide payment services on a commercial basis. Examples of such services include credit transfers and the issuing of payment instruments. Five payment service providers were licensed in

Table 8: Number of credit institutions 2013–2017

	2013	2014	2015	2016	2017
<i>Joint stock and special-purpose banks</i>	84	77	76	75	72
<i>Savings banks</i>	49	49	49	49	49
<i>Raiffeisen cooperatives</i>	509	498	488	448	419
<i>Volksbank cooperatives</i>	61	53	42	20	14
<i>Mortgage banks</i>	11	11	10	10	9
<i>Building societies</i>	4	4	4	4	4
<i>(Real estate) Investment fund management companies</i>	29	29	29	26	23
<i>Corporate provision funds</i>	10	10	9	8	8
<i>Exchange offices/remittance services</i>	3	3	3	4	4
<i>EU branches</i>	30	30	30	28	27
Total	790	764	740	672	629

Table 9: Number of payment institutions 2013–2017

	2013	2014	2015	2016	2017
<i>Licensed payment institutions</i>	3	3	3	4	5
<i>Licensing processes pending as at 31 December</i>	0	1	1	0	0
<i>Passive notifications</i>	66	100	255	247	183

Austria as at 31 December 2017 (> Table 9). One institution applied for a licence pursuant to the Payment Services Act (ZaDiG; *Zahlungsdienstegesetz*) during the year under review.

In addition, there were four branches of payment institutions active in Austria under the EU's freedom of establishment.

LICENSING PROCESSES

Within the SSM, the decision on granting licences to CRR credit institutions falls exclusively within the competence of the ECB, and is reached in the course of a common procedure. These institutions are SIs or LSIs that are licensed to receive funds from the public and also to issue loans. Although it is the ECB that makes the final decision on whether to award a banking licence in the course of common procedures, applications for the process to be initiated must still be submitted to the FMA. The FMA is responsible for subsequently forwarding the application, along with a draft decision, to the ECB for an official decision.

The FMA is the sole competent authority for the licensing of all credit institutions that are not subject to the CRR and of all payment institutions, i.e. institutions as referred to in Article 1a para. 2 BWG or institutions as defined in the ZaDiG.

One new licence pursuant to the ZaDiG was granted in 2017, and one licensing extension. Overall, five licences awarded in accordance with Articles 6 and 7 BWG and Article 162 para. 3 BaSAG were declared lapsed, were revoked or relinquished during the reporting year. As at the reporting date of 31 December 2017, one licence (extension) process pursuant to the BWG was pending (> Table 10).

No special licence is required by credit institutions and financial institutions that are licensed in another Member State of the European Economic Area (EEA). Such institutions may, on the basis of the fundamental freedoms applicable in the EEA, also offer their services in Austria. This may be done either under the freedom of establishment by setting up a branch or under the freedom to provide services through direct

Table 10: **Licensing processes 2013–2017**

	2013	2014	2015	2016	2017
<i>Valid licences*</i>	760	734	710	650	603
<i>Licences granted (new licences incl. ZaDiG)</i>	0	2	1	4	1
<i>Licences extended</i>	9	0	2	0	1
<i>Licence refused pursuant to Article 5 para. 1 BWG</i>	0	0	0	0	0
<i>Licence revoked or lapsed pursuant to Articles 6 and 7 BWG</i>	18	28	15	6	5
<i>Freedom to provide services and freedom of establishment</i>					
<i>Passive notifications pursuant to Article 9 BWG</i>	33	40	102	111	135
<i>Active notifications pursuant to Article 10 BWG</i>	53	32	76	163	108

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

cross-border service operations. In both cases, the institutions concerned simply need to complete a notification process.⁵

In the period under review, 135 credit institutions and 183 payment institutions from other Member States provided notification of taking up activities in Austria (passive notification). A total of 108 Austrian credit institutions provided notification via the FMA to the supervisory authorities in other Member States of their plans to make use of the freedom of establishment or the freedom to provide services (active notification). These figures include new notifications and changes to existing notifications in 2017.

SOURCES OF INFORMATION FOR SUPERVISION

REPORTING, NOTIFICATION AND INFORMATION OBLIGATIONS OF CREDIT INSTITUTIONS AND PAYMENT INSTITUTIONS

Banking supervision in Austria is based on a system of control bodies at different levels. The first level involves the credit institution itself, and its internal control system. Here, the managing directors, the internal audit unit and the supervisory board function as an internal control body as defined in the BWG. The second level of control is that performed by the external bank auditors. It is only beyond this level that state supervision applies, performed by the FMA in the capacity of competent authority and the OeNB as its partner responsible for data collection, analysis and on-site inspections. In keeping with the hierarchy of this supervisory structure, the primary and most important source of information for supervision purposes is the credit institutions themselves. They must comply with comprehensive reporting, notification and information obligations.

The annual asset, income and risk statement (VERA) contains the figures required to be submitted to the supervisory authority to enable an assessment of the institution's economic situation and of its compliance with risk-specific due diligence obligations. The reports in accordance with the CRR provide an overview on whether the credit institution is complying with essential provisions of supervisory law, particularly with regard to own funds requirements and the limits on large exposures. Further details such as information on any foreign currency risks, any real estate losses, etc. must also be reported.

⁵ The SSM affected the passport regime in some cases since the official notification process is no longer necessary in several Member States where the ECB is the competent authority. Related matters are now discussed in the JSTs.

	2013	2014	2015	2016	2017
Notification of changes in the persons appointed as directors pursuant to Article 73 para. 1 no. 3 BWG	191	198	229	214	168
Notification of changes in the person appointed as supervisory board chairperson pursuant to Article 28a para. 4 BWG	33	168*	99	89	75
Notification by the director of danger to creditors, possible insolvency or over-indebtedness pursuant to Article 73 para. 1 nos. 5 or 6 BWG or Article 11 para. 1 nos. 5 or 6 ZaDiG	2	3	0	3	0
Information obtained from or inspection at credit institution pursuant to Article 70 para. 1 no. 1 BWG	433	401	445	279	310
Information obtained from bank auditor, deposit guarantee scheme or government commissioner pursuant to Article 70 para. 1 no. 2 BWG	19	19	18	12	7
Notification of facts required to be reported by bank auditors pursuant to Article 63 para. 3 BWG	29	14	36	12	19
Bank auditor meetings/early recognition meetings	40	46	41	23	27
Management talks	62	54	50	68	107

Table 11: Sources of information
2013–2017

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

In addition to the standardised and regular forms of reporting, certain events and developments must also be reported to the FMA. In 2017 the FMA received notification of a change in managing director in a total of 168 cases, with changes to the supervisory board chairperson being notified in 75 cases (> Table 11). In each of these cases, the competent authority – the FMA for LSIs and the ECB for SIs – is required to verify that the individual in the new position is personally and professionally qualified (fit and proper) to meet the responsibilities.

Apart from the information received as a result of reporting and notification obligations, the FMA may also actively request information at any time from the supervised credit institutions and payment institutions and inspect their business documents. There were 310 instances of information being obtained or of documentation being inspected in this context in 2017.

The FMA may also request additional information from the respective institutions' bank auditors, auditing associations, deposit guarantee schemes and government commissioners. The FMA issued seven such requests for information in 2017.

BANK AUDITORS AND STATE COMMISSIONERS

The financial statements of each credit institution and payment institution as well as the consolidated financial statements of each group of credit institutions, including the accounting and the management report as well as the consolidated report, where applicable, must be examined by the bank or statutory auditors to verify their compliance with the law. Among other things this involves verifying compliance with the own funds requirements, and the requirements pertaining to liquidity and large exposures, as well as the allocation of items in the trading book and other provisions relevant to supervision, such as those contained in the Securities Supervision Act (WAG; *Wertpapiersaufsichtsgesetz*) and the Investment Fund Act (InvFG; *Investmentfondsgesetz*). The result of this audit is included in an annex to the audit report and represents an assurance from the bank auditor. This annex to the audit report must be submitted to the directors and the supervisory body under company law, together with the audit report on the financial statements, and be submitted to the FMA no later than six months after the balance sheet date. If the auditors detect any relevant facts of particular significance during their audit such as, for example, a threat to the

institution's continued existence, a material deterioration in the risk situation or serious breaches of statutory provisions, they are obliged to report those deficiencies to the FMA without delay.

The FMA holds regular discussions with all the bank auditors of Austrian credit institutions. The FMA holds similar meetings, referred to as early recognition meetings, with representatives of the deposit guarantee schemes for each of the sectors. Leaving aside ad-hoc meetings with the bank auditors, 27 bank auditor and early recognition meetings were held in total in 2017.

For all credit institutions with total assets of € 1 billion upwards, the Federal Minister of Finance must appoint state commissioners. The commissioners are appointed for a term of no more than five years.⁶ The state commissioners act in the capacity of an FMA body, which means that they are subject to instructions issued by the FMA when exercising their duties. By virtue of their function, they are entitled to attend all AGMs or general meetings and supervisory board meetings, and sit on all supervisory board committees that adopt resolutions and have decision-making powers. During these meetings they must be allowed to speak at their request at any time. They should also be provided with copies of the minutes of the meetings. State commissioners must also report to the FMA on their activities.

State commissioners must immediately inform the FMA of any threat to the credit institution that becomes known to them in the course of their activities. State commissioners are obliged to raise objections against any resolution that they consider to violate banking supervision rules. Such objections postpone the effectiveness of the resolution until a decision is issued by the supervisory authority. Where resolutions are made outside of a meeting or abroad, the state commissioner and deputy commissioner must be informed accordingly without delay.

MANAGEMENT TALKS

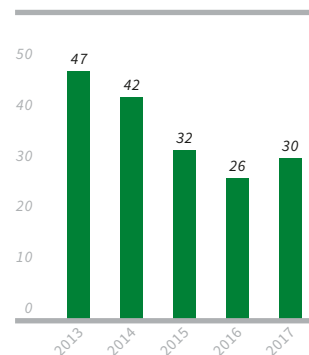
Regular structured talks with the management of the credit institutions represent a valuable source of supplementary information. Management talks held at major banks according to a set schedule play a significant role in routine analysis. One of the purposes of the meetings is to maintain contact with the management of credit institutions and to examine in greater detail their risk assessment and strategy. Depending on the issue being focused on, a distinction is made in this context between management talks and risk talks. During the period under review, 107 such talks were held in total.

ON-SITE INSPECTIONS

The FMA is required to commission the OeNB to carry out on-site inspections in normal circumstances. For this purpose, a risk-based inspection plan is drawn up jointly for the following year, reserving resources that might be needed for any ad-hoc inspections commissioned at short notice.

The OeNB was commissioned to carry out a total of 30 inspections in 2017 (> Chart 27), the main focuses of which were counterparty risk, internal governance and risk management. The fall in the number of inspection mandates compared with earlier years can be attributed to the fact that the ECB is now responsible for planning and man-

Chart 27: Inspection mandates 2013–2017*



* Inspection mandates issued to the OeNB pursuant to Article 70 para. 1 no. 3 BWG and Article 63 para. 1 no. 4 ZaDiG

⁶ They may however be reappointed when their term of office expires.

dating on-site inspections of SIs. For the period from 2015 onwards, Table 27 therefore only includes audits of LSIs.

SUPERVISORY PROCEDURES

GENERAL INFORMATION AND OFFICIAL MEASURES

In accordance with its mandate, the FMA is responsible for monitoring compliance with statutory provisions pertaining to banking, for ascertaining facts in cases involving the endangering of creditors' interests and for introducing appropriate remedial measures.

MEASURES IN THE EVENT OF A RISK TO CREDITORS

If there is a risk of a credit institution or payment institution being unable to fulfil its obligations to creditors and customers, the FMA may prohibit distributions of capital or profits, appoint a government commissioner, relieve directors of their duties or prohibit the further pursuit of business activities. The FMA did not order any such measures in 2017.

MEASURES TO RESTORE COMPLIANCE WITH THE STATUTORY PROVISIONS

One official power held by the FMA that is particularly relevant in practice is that specified in Article 70 para. 4 BWG. In cases where a licensing requirement is no longer met or where a credit institution violates provisions of the BWG or another specific law, the FMA may introduce various measures. Firstly, the credit institution will be issued with a request to restore compliance with the statutory provisions or be subject to a coercive penalty. Should the institution fail to comply with this request, the FMA is required to completely or partially prohibit the directors from managing the business, except where this would be an inappropriate measure given the type and severity of the breach and it is expected that renewed imposition of the first measure will result in compliance with the statutory provisions. In such a case, the FMA is required to enforce the threatened coercive penalty and to re-issue the request under threat of a more severe penalty. If these measures are not sufficient to guarantee the ability of the credit institution to function, its licence is to be revoked as a last resort. On four occasions during the period under review, the FMA ordered credit institutions, under threat of a coercive penalty, to establish compliance with statutory provisions within an appropriate period of time. The orders were issued in the form of administrative decisions.

CAPITAL ADD-ON/RESTRICTION OF DISTRIBUTION OF CAPITAL OR PROFITS

Further supervisory measures are contained in Article 70 paras. 4a to 4c BWG. These serve as a means of effectively addressing any risk situations. For example, where the risks arising from banking transactions and banking operations for a credit institution, affiliation of credit institutions or group of credit institutions are inadequately limited, and where such risks are not expected to become limited in the short term, the FMA must, irrespective of any other measures, impose a minimum capital requirement that is higher than the statutory minimum capital requirement (capital add-on measure). Such a capital add-on was prescribed in 25 cases during the year under review (> Table 12).

	2013	2014	2015	2016	2017
<i>Measures against danger to creditors pursuant to Article 70 para. 2 BWG</i>	2	2	2	0	0
<i>Measures to restore legal compliance pursuant to Article 70 para. 4 nos. 1 to 3 BWG</i>	7	16	9	16	4
<i>Interest imposed pursuant to Article 97 BWG</i>	16	15	23	4	7

Table 12: **Official measures pursuant to Articles 70 and 97 BWG 2013–2017**

PENALTY INTEREST

A further official instrument is defined in Article 97 BWG. Specifically, the FMA is required to impose penalty interest in the event of breaches of the law involving failure to comply with thresholds, either by exceeding or falling below them. This occurs in cases where, for instance, limits for large exposures are exceeded or the minimum capital requirement is not met. The intention here is to offset any competitive advantages that could be gained from failing to observe the law. Interest was imposed in seven such cases in 2017.

OWNERSHIP PROVISIONS AND APPROVALS

Qualifying holdings exist where a party acquires more than 10% of the capital or the voting rights in a credit institution or payment institution. Any person intending to acquire such holdings or to increase an existing holding such that the thresholds of 20%, 30% or 50% of the capital or the voting rights will be exceeded must notify the FMA. This obligation to notify the FMA also applies to persons acting jointly who, when considered together, would be acquiring a qualifying holding or reaching one of the thresholds. Conversely, the same procedure applies in the event of holdings being sold and the total falling below such a threshold.

A transaction of this type may be prohibited by the FMA within 60 working days. This applies for instance where the new owners do not meet the requirements set in the interests of sound and prudent management of a credit institution.

A total of nine notifications of a planned acquisition of holdings in an Austrian credit

Table 13: **Notifications and approvals pursuant to Articles 20 et seq. BWG and ZaDiG 2013–2017**

NOTIFICATIONS AND APPROVALS PURSUANT TO THE BWG	2013	2014	2015	2016	2017
<i>Notification of qualifying holdings in an Austrian credit institution pursuant to Article 20 para. 1 BWG</i>	68	27	11	27	9
<i>Procedure completed with expiry of assessment period (i.e. non-prohibition of acquisition) or non-prohibiting administrative decision prior to expiry of the period pursuant to Article 20a para. 2 BWG</i>	55	8	8	0	8
<i>Procedure completed with prohibition of the acquisition pursuant to Article 20a para. 2 BWG</i>	0	0	1	0	0
<i>Procedure completed through withdrawal of the notification pursuant to Article 20a para. 2 BWG</i>	2	1	0	0	1
<i>Current procedures pursuant to Article 20 para. 1 BWG</i>	11	18	2	0	2
<i>Approval of mergers pursuant to Article 21 para. 1 no. 1 BWG</i>	21	21	10	54	37
<i>Approval of demergers pursuant to Article 21 para. 1 no. 6 BWG</i>	1	1	3	2	0
NOTIFICATIONS AND APPROVALS PURSUANT TO THE ZADIG					
<i>Notification of qualifying holdings in an Austrian payment institution pursuant to Article 11 para. 2 ZaDiG</i>	0	1	0	1	0
<i>Procedure completed with expiry of assessment period (i.e. non-prohibition of acquisition) or non-prohibiting administrative decision prior to expiry of the period pursuant to Article 11 para. 2 ZaDiG</i>	0	1	0	1	0
<i>Procedure completed with prohibition of the acquisition pursuant to Article 11 para. 2 ZaDiG</i>	0	0	0	0	0
<i>Procedure completed through withdrawal of the notification pursuant to Article 11 para. 2 ZaDiG</i>	0	0	0	0	0
<i>Current procedures pursuant to Article 11 para. 2 ZaDiG</i>	0	0	0	0	0

institution or payment institution were submitted to the FMA in 2017. One procedure ended with the notification being withdrawn, and eight resulted in the acquisition not being prohibited. Since the ECB is the responsible authority for owner control procedures in the context of the common procedures, it is also the body that adopts any associated legal acts. However, it relies on the FMA's extensive preparation of those procedures.

In addition, the FMA approved 37 mergers of credit institutions during the reporting period, while there were no demergers (> *Table 13*).

MODEL APPROVALS

Since 2007 credit institutions have had the option of calculating their own funds requirements for credit risk on the basis of the Internal Ratings Based (IRB) Approach. Additionally, they have been able to apply the Advanced Measurement Approach (AMA) for operational risk. Models may also be used to calculate market risk. These models replace the common Standardised Approach used to calculate own funds requirements under Pillar 1 of the Basel capital framework, provided they have received approval from the supervisor. Internal models use internal historical data to measure risk, in contrast to stipulated risk weightings for various asset classes. As SIs, the vast majority of Austrian banks with model approvals are now subject to direct supervision by the ECB. Supervision of the models in these cases is now enforced via the JSTs.

CONSOLIDATED SUPERVISION

COLLEGES AS AN INSTRUMENT OF CONSOLIDATED SUPERVISION

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

Colleges of supervisors are a key instrument for the consolidated supervision of cross-border credit institutions. These colleges are where joint decisions are taken, including during model approval procedures and the annual SREP. They also serve as a forum for discussing issues related to ongoing supervision in the context of overall risk management. The members of the college, specifically the home supervisor and all host supervisors, must arrive at a joint risk assessment for the particular group of credit institutions every year. Based on this assessment, a joint decision is made regarding the capital and liquidity required. This is referred to as the Joint Risk Assessment and Decision (JRAD) process. Based on this decision, the members of the college annually stipulate a supervisory action plan, defining the further procedures of the supervisory authorities in the case of the particular banking group. The ECB coordinates the colleges for Austrian SIs within the SSM, with a large part of the practical work again being carried out by the FMA in cooperation with the involved partner authorities from the CESEE region.

SUPERVISION OF CORPORATE PROVISION FUNDS

The activities of corporate provision funds are regulated by the Company Employee and Self-Employment Provisions Act (BMSVG; *Betriebliches Mitarbeiter- und Selbständigenvorsorgegesetz*), and their supervision falls under the Austrian Financial Market Authority's (FMA) remit. The BMSVG prescribes that corporate provision fund activities, i.e. the acceptance and investment of contributions for severance payments and for self-employment provision, require a licence pursuant to the Austrian Banking Act (BWG; *Bankwesengesetz*). Consequently, as special-purpose credit institutions, corporate provision funds are obliged to adhere to the provisions of the BWG, unless exceptions apply, but are not allowed to exercise any other banking transactions pursuant to the BWG.

SUPERVISED COMPANIES/LICENSING

As at 31 December 2017, eight corporate provision funds held licences in Austria. During the reporting period no corporate provision funds applied for a licence or relinquished their licence.

There are currently two corporate provision funds that manage two collective investment undertakings each. The remaining funds each manage one collective investment undertaking, accounting for a total of ten such undertakings.

SUPERVISORY PROCEDURES

From the time they receive a licence, corporate provision funds are subject to supervision by the FMA. One of the core tasks of the FMA in this regard is to assess the suitability of the corporate provision funds' directors and supervisory board members, which includes conducting "fit and proper" tests where applicable. In addition, any changes to the investment conditions must be approved by the FMA. Furthermore, the FMA also needs to approve any appointment or change of depositary bank. Other areas for which the FMA is responsible include monitoring corporate provision funds' compliance with the own funds requirements and with the investment provisions as referred to in the BMSVG. In carrying out its activities the FMA relies, among other things, on reports which the corporate provision funds must file in accordance with the Regulation on the Quarterly Financial Statements for Corporate Provision Funds (BVQA-V; *Betriebliche Vorsorgekassen-Quartalsverordnung*) and the Reporting of Own

Funds by Special-Purpose Credit Institutions (SK-EMV; *Sonderkreditinstitute-Eigenmittelmeldeverordnung*).

In 2017 six owner control procedures were carried out in relation to corporate provision funds. In addition, the FMA approved eight changes to the investment conditions of corporate provision funds and two changes of depositary bank in the course of its supervisory activities.

Supervisory proceedings for the purposes of restoring compliance with the statutory provisions of the BMSVG were required in one case in 2017. One corporate provision fund applied for the decision to class debt securities as HTM to be reversed. However, the application was rejected.

CONTINUED SUPERVISION

REPORTING AND INFORMATION SOURCES

Corporate provision funds are subject to regulatory reporting obligations. As special-purpose credit institutions, they are required to comply with the notification and reporting provisions contained in the BWG and the SK-EMV. The SK-EMV requires them to submit quarterly reports on own funds to the Oesterreichische Nationalbank (OeNB), while the BVQA-V stipulates that they must submit reports to the OeNB specifying details of net assets for the collective investment undertaking within four weeks of the end of each calendar quarter. In addition, corporate provision funds are obliged to submit their audited financial statements, the annex to the audit report, as well as the audited report on activities of the collective investment undertaking and the audit report on the report on activities to the FMA every year in good time. The state commissioners appointed for the corporate provision funds are also required to report regularly to the FMA.

As well as standard analysis of regulatory reporting, continued supervision also includes spot checks of supervised companies and specific market analysis. The main focuses of off-site analysis work, which are also considered in the context of management talks, are determined in a risk-based manner and take account of the FMA's strategic objectives, the current risks in the financial sector and the findings obtained from ongoing supervision. The FMA factors in the results of this analysis when carrying out its supervisory activities, and derives targeted and company-specific on-site and off-site supervisory measures from them.

In order to gain a better understanding of the impact of the long period of low interest rates, the FMA carried out specific analysis and stress tests in 2017 to gauge the effect on corporate provision funds and their capital base. The priority in this regard is to secure future payments arising from the statutory capital guarantee. The estimated future development of eight corporate provision funds' provision to secure payment of the capital guarantee was tested under stress scenarios. Both asset-side (reduced performance) and liability-side (more disposals) stress scenarios over a period of five years (from 2017 to 2021) were applied. Stress tests help regulators to gather the additional information that they need to evaluate corporate provision funds and to strengthen their awareness of the issue. They aim to recognise any sensitivities early on and to take the necessary steps in response. Where necessary, findings and planned steps are discussed with the corporate provision funds or those already taken observed.

An additional survey carried out as part of management talks alongside the stress tests has shown that the prolonged period of low interest rates has led to some corporate provision funds changing their business and investment policies, or considering such a change.

DISCLOSURE OBLIGATIONS

Corporate provision funds are required to report to their beneficiaries (entitled) every year in the form of an account statement. These statements must include information about the severance pay expectancy acquired as of the last balance sheet date, the contributions made by the employer during that financial year, the cash and administrative expenses charged to them, the investment income allocated to them and the acquired total severance pay expectancy. Minimum Standards published by the FMA detail how this account information is to be presented and ensure that the structure of these account statements is standardised and clear. Upon request, corporate provision funds are also required to send the reports on activities of the collective investment undertakings to the employers who have paid contributions and to the responsible works council members.

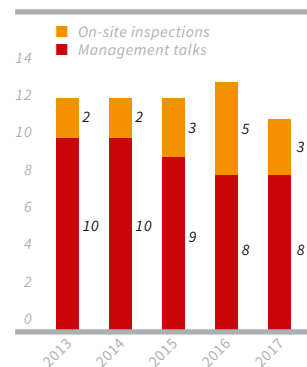
ON-SITE INSPECTIONS AND MANAGEMENT TALKS

The FMA takes a risk-based approach when carrying out on-site inspections of corporate provision funds. In 2017 the FMA conducted on-site inspections at three funds, with two of these concerning the area of portfolio management and one focusing on organisational aspects.

In 2017 management talks were held with each of the eight existing corporate provision funds. These talks focus on supervisory issues, the performance and results of the previous year, investments, organisational changes and deviations from the company’s business plan. An additional priority issue for the 2017 management talks was the impact of the prolonged period of low interest rates on the business and investment policies of corporate provision funds.

Please refer to Chart 28 for an overview of the number of on-site inspections and management talks carried out over the past five years.

Chart 28: **On-site measures 2013–2017**



SUPERVISION OF PENSION COMPANIES

SUPERVISED COMPANIES/LICENSING

With regard to *Pensionskassen*, a distinction is made between two different types of pension company: single-employer and multi-employer *Pensionskassen*. Single-employer *Pensionskassen* are entitled to carry out pension company activities for the beneficiaries of only one employer or company group. They were primarily founded as subsidiaries of international groups. Employees can thus be offered benefits from their “own” *Pensionskasse* while at the same time the parent companies can exert a stronger influence on the type of and conditions for investment. Multi-employer *Pensionskassen* can carry out pension company activities for the beneficiaries of more than one employer. In the 2017 financial year, six companies each held a licence for the provision of single-employer and multi-employer pension company services.

Companies with head offices in Austria that hold the appropriate licence granted by the FMA are entitled to pursue pension company activities in this country. The prerequisites for obtaining a licence are: sufficient capital, submission of an approvable business plan that includes suitable actuarial bases, as well as fit and proper management board members and qualifying owners. In addition, the company must also have the legal form of a joint stock company (*Aktiengesellschaft*).

In 2017 no applications for the granting of a licence were filed. The licence of the single-employer Infineon Technologies Austria Pensionskasse AG expired in the first quarter of the year, and its portfolio was transferred to the multi-employer Allianz Pensionskasse AG. The licence of the single-employer EVN-Pensionskasse AG also expired last year, in the third quarter, and was merged with the multi-employer VBW-Pensionskasse AG. By the end of 2017 there were therefore only ten licensed *Pensionskassen* remaining in Austria.

CONTINUED SUPERVISION

Among the most important tasks making up the FMA’s remit are the ongoing analysis of the development of the pension company market and of individual *Pensionskassen* as well as investment and risk sharing groups (IRGs), the verification of compliance with the provisions stipulated in the *Pensionskassen Act* (PKG; *Pensionskassengesetz*), i.e. concerning investment limits, coverage of the technical provisions and an ad-

equate level of own funds as prescribed, as well as verification of compliance with the Risk Management Regulation for *Pensionskassen* (PK-RIMAV; *Risikomanagementverordnung Pensionskassen*).

SOURCES OF INFORMATION

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

- quarterly reports on investment data;
- quarterly performance figures;
- quarterly reports by the state commissioners on the meetings of the pension company bodies;
- audit reports and reports on activities of the *Pensionskassen* and IRGs;
- each IRG's declaration of investment policy principles.

Apart from the information that originates from these standardised reporting sources, the FMA may also at any time demand information on all business matters from the *Pensionskassen* and inspect all of their books, documents and data media. In addition, *Pensionskassen* are subject to the notification obligations as set out in Article 36 PKG, since any changes in the composition of bodies, major holdings, the establishment of new IRGs or any other circumstances that might endanger the fulfilment of contractual obligations must be notified to the FMA without delay.

ON-SITE INSPECTIONS AND MANAGEMENT TALKS

In the reporting year of 2017 two on-site inspections were performed at *Pensionskassen* with special attention given to investment and risk management issues (> Chart 29). Risk management at *Pensionskassen* has been a main focus of attention over the past few years; all companies in the market have meanwhile been examined with regard to the adequacy of their risk management systems. The topic of investment and investment processes has also been given priority in inspection activities, since they represent a major risk to IRGs.

In addition to the on-site inspections, the FMA held 12 management talks during the reporting year. In these talks, the FMA discusses topical economic and supervisory issues, as well as any current issues with the management board members. One of the main subjects of these talks is the result of the analysis of the financial statements of the *Pensionskassen* and any consequent issues.

In the context of issues that arose on site during inspections, the FMA applied measures pursuant to Article 33 para. 1 no. 1 PKG ordering *Pensionskassen* to restore compliance with the statutory provisions or to address the deficiencies identified (with the FMA monitoring implementation of those measures). Two such proceedings were initiated in 2017 and four completed. The issues concerned related to syndicate business, administrative procedures, control mechanisms and asset management.

STRESS TESTING

To analyse the macroprudential risks and vulnerabilities of the occupational pensions sector, the FMA has been conducting regular stress tests at *Pensionskassen* since 2015. The 2017 pension company stress test applied the scenarios developed by the EIOPA (a “double hit” scenario, i.e. a fall in risk-free interest rates with an abrupt and large drop in the price of assets held by IORPs) combining them with specific

Chart 29: On-site activities 2013–2017

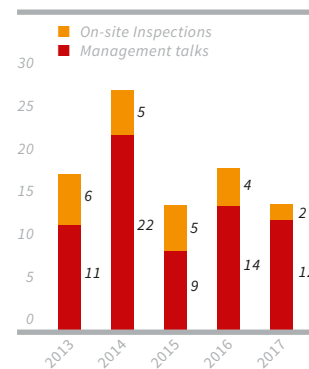
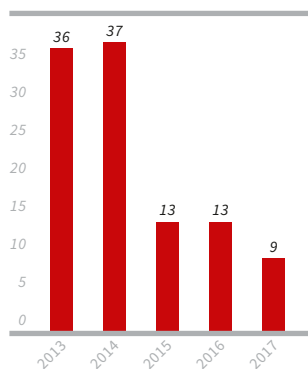


Chart 30: Approval of business plans 2013–2017



shock scenarios (reduction in contributions and persistently low interest rates in conjunction with a hike in performance) in order to better reflect the Austrian IORP system. The FMA uses the data collected during these stress tests to be able to assess any sensitivities and vulnerabilities. Any findings are incorporated into the priorities and analysis efforts for financial market supervision.

APPROVAL OF BUSINESS PLANS

Pursuant to Article 20 PKG, the *Pensionskasse* must draw up a business plan containing all details and actuarial bases required for pension company activities. The business plan, as well as any amendment to the business plan, requires the FMA's approval. The application for approval must include a report of the auditing actuary, who must audit the business plan as well as any amendment to it.

In the 2017 reporting year, nine business plans were submitted for approval (> Chart 30).

SUPERVISION OF INSURANCE UNDERTAKINGS

The primary aim of insurance supervision is to protect policyholders and beneficiaries. Additionally, the FMA must also consider the potential impact of its decisions on financial market stability, not only in Austria but also in other EU Member States, and particularly during crisis situations. In times of exceptional movements on the financial markets, the FMA must also take into account the potential pro-cyclical effects of its actions.

Insurance supervision involves performing the official tasks and exercising the powers which are assigned to the FMA and defined in the 2016 Insurance Supervision Act (VAG 2016; *Versicherungsaufsichtsgesetz*), the 1994 Motor Insurance Act (KHVG 1994; *Kraftfahrzeug-Haftpflichtversicherungsgesetz*), the Act on the Compensation of Road Accident Victims (VOEG; *Verkehrsoffer-Entschädigungsgesetz*), the 1999 Atomic Liability Act (AtomHG 1999; *Atomhaftungsgesetz*), the Financial Conglomerates Act (FKG; *Finanzkonglomeratengesetz*) and the Rating Agencies Enforcement Act (RAVG; *Ratingagenturenvollzugsgesetz*).

The FMA monitors all business activities of insurance and reinsurance undertakings in accordance with the scope of the licence granted pursuant to Article 6 para. 1 VAG 2016. This comprises monitoring compliance with the provisions applicable to contractual insurance activities, particularly the VAG 2016, the Delegated Regulation (EU) 2015/35 and the other European implementing technical standards. To this end, the FMA must ensure an appropriate combination of analysis activities and on-site inspections.

The supervisory activities of the FMA should be prospective and risk-based. In exercising its powers, the FMA should properly consider the nature, scale and complexity of the risks inherent in the business activities of insurance and reinsurance undertakings.

SUPERVISED COMPANIES

As at the 2017 year-end, 86 Austrian insurance undertakings had a licence granted by the FMA and were thus subject to continued supervision by the Authority. The number of insurance companies has therefore fallen by 35 since 2000.

JOINT STOCK COMPANIES AND LARGE MUTUAL ASSOCIATIONS

Excluding 49 small mutual associations, a total of 37 domestic insurance under-

Table 14: Legal forms of domestic insurance undertakings 2013–2017

	2013	2014	2015	2016	2017
<i>Mutual associations (excluding small mutuals)</i>	6	6	6	7	7
<i>Small mutual associations</i>	53	52	52	50	49
<i>Joint stock companies</i>	40	37	35	31	30
<i>Total</i>	99	95	93	88	86
<i>Mutual associations dealing in asset management/ private foundations</i>	6	6	6	6	6

Table 15: Business areas of insurance undertakings 2013–2017 (excluding small mutuals)

	2013	2014	2015	2016	2017
<i>Life insurance</i>	30	28	27	23	23
<i>Non-life and accident insurance</i>	38	38	35	33	32
<i>Health insurance</i>	8	9	9	9	9
<i>Reinsurance only</i>	3	3	2	3	2

takings were pursuing activities in Austria. Seven of these were mutual associations, and 30 joint stock companies (> Table 14).

Since 2010 only one foreign insurance undertaking from a third country outside the EEA has remained licensed in Austria, namely Helvetia Versicherungen AG from Switzerland. All in all, the 38 domestic and foreign insurance undertakings licensed in Austria, excluding small mutual associations, were engaged in 66 areas of business (> Table 15).

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

SMALL MUTUALS

As at the end of December 2017 the FMA was supervising a total of 49 small mutuals, of which around two thirds operate in the form of fire insurers, with the remaining third involved in animal insurance (> Table 16).

EEA AND THIRD-COUNTRY INSURERS

Since the beginning of July 1994, the country of origin principle has applied to the Europe-wide licensing of insurance undertakings within the European internal insurance market, which covers all countries of the EEA. Consequently, Austrian policy-

Table 16: Small mutual associations by field of activity 2013–2017

	2013	2014	2015	2016	2017
<i>Fire insurance associations</i>	35	34	34	34	33
<i>Animal insurance associations</i>	17	17	17	16	16
<i>Reinsurance associations for small mutuals</i>	1	1	1	0	0
<i>Total number of associations</i>	53	52	52	50	49

	2013	2014	2015	2016	2017
<i>Operating through branches</i>	29	30	30	29	29
<i>Providing services directly</i>	903	953	945	982	1 012

Table 17: **EEA insurers in Austria 2013–2017**
(excluding small mutuals)

holders and policyholders from other EEA countries may also take out insurance with insurance undertakings that have their head office in another EEA Member State, rather than being restricted to insurance undertakings based in their own country. The European internal insurance market allows insurance undertakings that have their head office in another EEA Member State as well as a local licence there to operate through a branch and/or under the freedom to provide services without needing to acquire a new licence (single licence principle) from the host authority. In order to take up insurance activities in another EEA country, the insurance undertaking is required to register with the authority of its country of origin and to submit certain documents. The home country authority is the authority in the country where the insurance undertaking has its head office.

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

As at the end of December 2017, 29 insurance undertakings from within the EEA were operating in Austria through a branch. An additional 1 012 companies were registered to provide services here, which is 30 more than in 2016 (> *Table 17*).

CONTINUED SUPERVISION

ANALYSIS

The FMA examines the strategies, processes and reporting procedures that insurance undertakings have put in place to meet supervisory requirements. In this context, the FMA assesses in particular insurance undertakings' implementation of the qualitative requirements relating to the governance system, the risks to which the undertaking concerned is or might be exposed, and the ability of individual undertakings to evaluate those risks in the context of their respective business activities. This supervisory review process concentrates on the following subject areas:

1. the system of governance, including the undertaking's own risk and solvency assessment and the investment rules;
2. technical provisions;
3. the Solvency Capital Requirement and the Minimum Capital Requirement;
4. the quality and quantity of own funds; and
5. ongoing compliance with the requirements for an internal model, where applicable.

The process also assesses the adequacy of the methods and practices of the insurance and reinsurance undertakings designed to identify possible events or future changes in economic conditions that could have adverse effects on the overall financial standing of the undertaking concerned. Moreover, the ability of the insurance undertakings to withstand those possible events or future changes in economic conditions is also analysed.

To reflect the risk-based approach in supervision, these regular review processes should help identify those insurance undertakings that have a higher risk profile due to financial, organisational or other characteristics. Depending on the results of these reviews, appropriate supervisory measures are then taken.

Once every three months, the FMA carries out a risk-oriented analysis of the net assets, financial position and results of operations of the supervised insurance undertakings. In the course of these routine analyses, the FMA has been publishing reports on the performance of the Austrian insurance sector once every quarter since 2010, which are available on the FMA website (in German)¹. The FMA may also make use of its right to information pursuant to Article 272 para. 1 VAG 2016.

DEVELOPMENT OF SUPERVISION AND STRESS TESTING

In accordance with Article 273 VAG 2016, the FMA may develop quantitative tools to assess whether insurance and reinsurance undertakings are able to fulfil their obligations even in times of economic crisis. One of these tools is stress testing, to which undertakings are regularly subjected by the FMA. During a stress test insurance and reinsurance undertakings are required to simulate their business developments in particularly adverse scenarios, which could be sharp falls in the capital markets, (natural) disasters or surging costs. Based on these scenarios, which are defined by the FMA and the European Insurance and Occupational Pensions Authority (EIOPA), the FMA may assess the ability of insurance undertakings to consistently fulfil their obligations even under adverse market developments. Where necessary, the supervisory authority may request that individual undertakings take measures to increase their resilience to shocks.

Following the persistently challenging economic situation and the low interest rate level in particular, the FMA conducted a stress testing exercise for insurance undertakings in 2017. To reflect the principle of proportionality, only insurance undertakings with total assets of more than € 1 billion were included in the exercise, which tested the impact of a rapid increase in the interest rate level, both with and without a simultaneous widening of the credit spread. In addition, in a low interest rate scenario, life insurers' ability to continue to meet their obligations was also tested. The aim of the stress test was to determine insurers' sensitivities and vulnerabilities on the market in good time. The focus was not on whether an insurance undertaking "passed" or "failed" the test.

In summary, from today's perspective the Austrian insurance market would be expected to be able to withstand even a rapid increase in interest rate levels, with some sensitivities existing in relation to a widening of the credit spread. The low interest rate scenario showed that the situation remains challenging, but that it has improved compared with the results of the previous stress tests using the same scenario. These results not only underline the necessity of taking measures but also the effectiveness of the measures already taken by the FMA, such as its repeated reduction of the maximum interest rate in the past few years and the introduction of stricter criteria for establishing the additional interest provision. The findings gained from those stress tests are factored into the overall analysis of insurance under-

¹ <https://www.fma.gv.at/en/insurance/disclosure/quarterly-reports/>

takings, allowing a risk-based decision to be made on how intensively individual undertakings need to be supervised.

Regarding life insurance policies, and consequently also occupational pension group insurance and state-sponsored retirement provision, the FMA determines the maximum interest rate for new policies by means of a regulation. The assumed interest rate is the expected investment return on *Deckungsstock* assets and is used to calculate the technical provision. It was lowered to 0.50% as of 1 January 2017. The FMA regularly reviews whether the rate is still appropriate, with the latest review indicating that no adjustment was required for 2018.

The discount factor applied to the additional provision for the unhedged equity portion of the state-sponsored retirement provision has been 1.75% since 1 January 2016. The latest review in early 2018 concluded that no adjustment was required.

A circular letter dated July 2017 lowered the assumed interest rate for the reserve for increasing age in health insurance similar to life insurance from 1.75% to 1.00%. The reduced rate applies to new health insurance contracts similar to life insurance, as well as to new policyholders added to existing group health insurance policies as of 1 January 2018.

The FMA has been required to meet extensive disclosure obligations since 2016.² This is to ensure that the information is comparable across the whole internal insurance market. In accordance with Article 256 VAG 2016, the FMA must disclose the following information on its website:

- laws, administrative regulations and general guidance;
- supervisory review process;
- aggregate statistical data;
- exercising the options provided for in Directive 2009/138/EC; and
- the objectives, main functions and activities of supervision.

OFFICIAL SUPERVISION

Undertakings with their head office in Austria and foreign insurers with their head office situated outside the EEA (third-country insurers) require a licence from the FMA in order to pursue contractual insurance activities in Austria. According to the single licence principle, the licences granted to Austrian insurance undertakings are valid throughout the entire EEA, while a licence granted to a third-country insurer is only valid within Austria. An undertaking applying for a licence must fulfil a range of conditions before being granted a licence by the FMA. Having the legal form of a joint stock company or mutual association is one such condition. Funding with the required level of own funds must also be ensured. The members of the management board must be personally and professionally qualified for their functions (fit and proper), and shareholders must also meet certain requirements. A business plan must provide precise information on the field and scope of activities, and plans regarding future business activities must also be made. A separate licence is granted for each individual insurance class.

The undertakings that are already licensed must continue to meet all licensing requirements, which will also be monitored by the FMA. Particular emphasis in this

² <https://www.fma.gv.at/en/insurance/disclosure/supervisory-disclosure/>

Table 18: Official tasks
2013–2017

	2013	2014	2015	2016	2017
<i>Licensing issues</i>	0	3	3	3	38
<i>Transfers of portfolio</i>	1	4	3	5	1
<i>Outsourcing</i>	12	24	17	55	40
<i>Amendments to articles of association (insurers and small mutuals)</i>	20	12	15	21	49
<i>Trustee appointments</i>	25	11	15	32	13
<i>Approval of ancillary own funds</i>	–	–	1	3	1
<i>Approval of company-specific parameters</i>	–	–	0	1	0
<i>Approval of (partial) internal models of individual companies</i>	–	–	2	0	3
<i>Approval of (partial) internal models of insurance groups</i>	–	–	1	0	2

Table 19: Business plans/
actuarial bases 2013–2017

	2013	2014	2015	2016	2017
<i>Number of annually submitted premiums</i>	99	104	84	148	87

regard is placed on examining whether newly appointed management board members are fit and proper. Further focal points are shareholder control upon the acquisition or disposal of qualifying holdings in insurance undertakings, as well as reviewing and/or approving significant actions under company law and changes in business operations, such as mergers, transfers of portfolio, amendments to the articles of association and outsourcing.

The FMA's official tasks relating to insurance supervision are listed in Table 18. The major hike in the number of licensing issues, from three licences in 2016 to 38 in 2017, is a result of new licences being granted in insurance class 3 (land vehicles) to small mutuals.

In compliance with the legal requirements set forth in Article 92 VAG 2016, 87 business plans disclosing the actuarial bases were submitted to the supervisory authority in 2017 (> Table 19).

The FMA may conduct procedures requiring insurance undertakings to restore compliance with the statutory provisions, including monitoring that any deficiencies are addressed. During the reporting year these procedures related to a number of issues that emerged from on-site inspections, financial analysis or other sources of information, such as focus activities and information received from external parties. In 2017, 55 procedures were initiated and 90 completed. The most important topics covered were: best estimate in life insurance, governance structure, follow-up procedures after the 2016 stress tests related to the stochastic and deterministic calculation of best estimate and modelling of negative interest, complaints reports, information requirements in life and health insurance, advertising on company websites and in social media, and the status of preparations for the EIOPA Guidelines on product oversight and governance arrangements.

The FMA also examined business continuity management (emergency plans) at all of the 38 domestic insurance undertakings, firstly by means of a questionnaire, and secondly by asking a number of companies to submit their actual emergency plans, with those companies being selected based on a risk-oriented sample. The evaluation revealed that business continuity management at Austrian insurers is adequate, both in terms of organisation and processes.

Furthermore, all insurance undertakings licensed in Austria and offering health insurance products had to complete a questionnaire on their implementation of the information requirements related to health insurance that were introduced by means of a regulation in 2016. The analysis unearthed a few deficiencies, all of which were addressed during the reporting period.

Another questionnaire looked into the advertising activities of insurance undertakings in social media. This focused on which social media, if any, were used by insurers and also looked at how they were using social media to present their aims and if they were reaching their target audience. Minimum requirements and the FMA's expectations in relation to proper handling of social media advertising were re-defined, and the results of the survey communicated to the industry.

In a forward-looking manner, the FMA also carried out an industry-wide survey of the status of insurance undertakings' preparations to secure timely implementation and internal establishment of the product approval process, which will become mandatory following the transposition of the European Insurance Distribution Directive. The responses given in the questionnaire and additional enquiries made with some insurance undertakings have shown that the status of their preparations is adequate.

ON-SITE ACTIVITIES

With regard to on-site activities, the following terminology is used in insurance supervision:

- **On-site inspection:** inspections at the company that refer to specific topics and are concluded with a report. The legal basis is Article 274 VAG 2016 for insurance undertakings and Article 33a PKG for *Pensionskassen*.
- **Examination:** an option granted to the FMA by law, allowing it to visit the company in certain cases in order to examine documents and obtain information. This on-site activity is applied during the pre-application phase and during the application phase for internal models in accordance with Solvency II.

During 2017 on-site inspections were held with regard to such subject areas as risk management and best estimate calculations. The subjects of the loan origination process, reinsurance and appropriateness of the provision under the Corporate Code (UGB; *Unternehmensgesetzbuch*) in non-life insurance were addressed as and when required.

Apart from on-site inspections, several examinations were also conducted at insurance undertakings in 2017. The key focus of these examinations was on checking internal models within the scope of the pre-application phase for permission to use an internal solvency model and also subsequently within the scope of the application

	2013	2014	2015	2016	2017
<i>Inspections</i>	15	19	11	23	19
<i>Brief inspections</i>	6	9	12	3	9
<i>Management talks and company visits</i>	37	61	109	47	55
<i>Scheduled</i>					47
<i>Current issue-related</i>					8

Table 20: **On-site presence 2013–2017**

phase. In addition, some examinations were carried out in relation to applications for changes to internal solvency models that had already been approved.

ACTIVITIES OF AUSTRIAN INSURANCE GROUPS ABROAD

In 2017 Austrian insurance groups pursued insurance activities in 26 countries through subsidiaries or holdings. Whilst the two largest Austrian insurance groups VIG and UNIQA Group have subsidiaries and holdings in Western Europe as well, the other groups are exclusively active in the CESEE region (> Table 21).

UNIQA Group’s share of foreign business in relation to overall premium volume has fallen slightly compared with 2016 due to holdings in Italy having been sold off. The share of foreign premiums in the overall premium volume of all groups, however, is still well above 30%.

In the course of the annual analysis of foreign insurance activities, six foreign markets were defined as key markets. Austrian insurance groups own significant holdings in these markets, meaning that these markets have considerable significance for the results of Austrian groups. These key markets are Croatia, the Czech Republic, Hungary, Poland, Romania and Slovakia. Detailed analysis of the insurance market, as well as of the macroeconomic and regulatory framework, was conducted for these markets.

The foreign activities of Austrian insurance groups involve a number of tasks for the

FMA as the authority responsible for group supervision in order to ensure effective and risk-oriented supervision of insurance groups. The related supervision activities comprise regular analysis of the insurance groups’ foreign activities, monitoring developments in foreign insurance markets and holding talks with the groups’ management. One important pillar in insurance group supervision is the exchange of information among and cooperation with national supervisors. This is achieved either via the colleges of supervisors or at bilateral level.

Colleges of supervisors are set up, similar to banking supervision, for each internationally active insurance group whose parent undertaking has its registered office in Austria and that pursues insurance activities through holdings in more than one country. They are composed of the group supervisor and the relevant national supervisors. With the introduction of the Solvency II regime and the VAG 2016, the colleges were institutionalised to a greater extent and given numerous powers and tasks, such as joint decision-making on the approval of an intra-group model. One primary objective of the colleges of supervisors, by integrating the local supervisor’s knowledge of the market and companies it supervises, is to provide an overview of the business activities and risk profile of an insurance group, and to ensure a common level of knowledge among the relevant national competent authorities. The FMA, as the group supervisor, must enter into coordination arrangements with the other supervisory authorities concerned, specifying the establishment

Table 21: Activities of Austrian insurance groups in Western Europe and CESEE (as at 31 December 2017)

	VIG	UNIQA	GraWe	Merkur	Wüstenrot	Erigo
WESTERN EUROPE						
Germany	■					
Liechtenstein	■	■				
Switzerland		■				
CESEE COUNTRIES						
Albania	■	■				
Belarus	■					
Bosnia and Herzegovina	■	■	■			
Bulgaria	■	■	■			
Croatia	■	■	■	■	■	■
Cyprus			■			
Czech Republic	■	■				■
Estonia	■					
Georgia	■					
Hungary	■	■	■			■
Latvia	■					
Lithuania	■					
Macedonia	■	■	■			
Moldavia	■		■			
Montenegro	■	■	■			
Poland	■	■				
Romania	■	■	■			■
Russia		■				
Serbia	■	■	■	■		
Slovakia	■	■			■	■
Slovenia			■	■		■
Turkey	■					
Ukraine	■	■	■			

and functioning of the college of supervisors, as well as rules on the exchange of information within the colleges. In 2017 the FMA organised college meetings for five Austrian insurance groups with international operations.

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

The management of investment funds pursuant to the 2011 Investment Fund Act (InvFG 2011; *Investmentfondsgesetz*) is deemed to be a banking transaction that requires a licence in accordance with the Austrian Banking Act (BWG; *Bankwesengesetz*). Investment fund management companies should therefore be viewed as special-purpose credit institutions and, as well as complying with the terms of the InvFG 2011, must also adhere to the provisions of the BWG. If they are also licensed to manage alternative investment funds (AIFs), the provisions of the Alternative Investment Fund Managers Act (AIFMG; *Alternatives Investmentfonds Manager-Gesetz*) need to be complied with additionally. Supplementary provisions for the depositaries of investment funds are contained in Commission Delegated Regulation (EU) 2016/438, which entered into force on 13 October 2016.

The licence may be extended to cover the provision of certain financial service transactions, specifically (individual) portfolio management for individual customers, investment advice relating to financial instruments and the holding in custody and technical management of units in undertakings for collective investment. Such an extension of the licence presupposes adherence to selected provisions of the 2018 Securities Supervision Act (WAG 2018; *Wertpapieraufsichtsgesetz*).

Investment fund management companies must comply with the following regulations: Regulation on the Reporting of Own Funds by Special-Purpose Credit Institutions, the Fourth Derivatives Risk Measurement and Reporting Regulation, the Key Investor Information Document Regulation, the Regulation on Information and Determination of Equivalence, the Transmission and Storage Regulation and, if such funds are managed or transactions carried out, the Investment Compartment Regulation, the Money Market Funds Regulation, the Securities Lending and Repurchase Agreements Regulation as well as the Regulation on the Liquidity Risk Management Process for Investment Funds. All of these regulations were issued by the FMA. The provisions of the AIFMG also apply to investment fund management companies if these manage AIFs.

Real estate investment fund management companies that hold a banking licence in accordance with the BWG are subject first and foremost to the provisions of the Real Estate Investment Fund Act (ImmoInvFG; *Immobilien-Investmentfondsgesetz*) including the provisions of the BWG. Additionally, real estate investment fund management companies also hold a licence pursuant to the AIFMG, as real estate funds and special real estate funds are classed as AIFs. The provisions of the AIFMG therefore also apply to real estate investment fund management companies. Furthermore, real estate

investment fund management companies must also comply with the Real Estate Funds and OTC Derivative Counterparty Regulation, the Regulation on the Contents of Prospectuses of Real Estate Funds, the Regulation on the Reporting of Own Funds by Special-Purpose Credit Institutions and the Risk Disclaimer Regulation.

The AIFMG regulates the activities of alternative investment fund managers (AIFMs) and also places them under the supervision of the FMA. Commission Delegated Regulation (EU) No 231/2013 includes rules relating to calculation of the threshold, leverage, operating conditions for AIFMs, including risk and liquidity management, valuation and delegation, requirements detailing the functions and duties of depositaries of AIFs, rules on transparency and specific requirements relating to third countries.

The AIFMG also provides for the possibility of an additional licence being granted for the provision of individual portfolio management for individual customers, the provision of investment advice as an ancillary service, the holding in custody and technical management of units in undertakings for collective investment and also, in contrast to the scope of the InvFG 2011, for the receipt and transmission of orders relating to financial instruments. The additional licence granting entitlement to provide investment services and ancillary services requires adherence to selected provisions of the WAG 2018.

AIFMs also have to comply with the Alternative Investment Fund Managers Reporting Regulation and the AIF Warning Notice Regulation, where applicable.

Regulation (EU) No 345/2013 on European venture capital funds (EuVECA), Regulation (EU) No 346/2013 on European social entrepreneurship funds (EuSEF) and Regulation (EU) 2015/760 on European long-term investment funds (ELTIF) have created EU rules regulating specific AIF fund categories.

Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse (SFT Regulation) has applied since 2016, with the full regulation only entering into force in 2019 due to transitional provisions. The SFT Regulation stipulates transparency provisions for securities or commodities lending or borrowing, for buy-sell back transactions and sell-buy back transactions, repurchase transactions, margin lending transactions and total return swaps, as well as the reuse of financial instruments received under a collateral arrangement. The aim of the Regulation is to enhance the transparency of securities financing markets, placing particular focus on the early recognition and monitoring of risks associated with such financial transactions. Counterparties are required to report the details of any SFT they have concluded, as well as any modification or termination of it, to a registered or recognised trade repository. The reuse of financial instruments received under a collateral arrangement is only allowed under certain conditions. The SFT Regulation applies to counterparties to an SFT, to management companies of UCITS, to AIFMs and to counterparties engaging in reuse.

SUPERVISED COMPANIES/LICENSING

As at 31 December 2017, a total of 18 investment fund management companies held a licence pursuant to the InvFG 2011. Compared with last year, the number of investment fund management companies fell from 21 to 18 companies, 16 of which are additionally licensed as AIFMs. No new licences were issued in accordance with the InvFG 2011 but one licence extension process was conducted.

Table 22: Key figures of the Austrian investment fund market 2013–2017

	2013	2014	2015	2016	2017
<i>Domestic UCITs of investment fund management companies</i>					
Article 2 paras. 1 and 2 InvFG	1 102	1 096	1 071	1 038	995
Article 75 InvFG	3	4	2	2	2
Total	1 105	1 100	1 073	1 040	997
<i>Foreign investment funds*</i>					
Article 181 InvFG and foreign real estate funds	30	16	1	1	1
Article 140 InvFG (UCITS)	5 669	6 094	6 544	6 661	6 971
EU UCITS via management company passport	-	-	-	-	1
Total	5 699	6 110	6 545	6 662	6 973
<i>Domestic AIFs of (real-estate) investment fund management companies as well as of licensed and registered AIFMs</i>					
Article 166 InvFG	220	181	165	154	152
Article 168 et seq. InvFG	22	20	16	12	9
Real estate funds and special real estate funds	8	8	9	11	13
Special funds	831	813	835	844	875
AIFs of registered AIFMs	-	30	29	24	32
EuVECA funds	-	-	3	3	6
Other managed AIFs	-	-	6	6	-
Total	1 081	1 052	1 063	1 054	1 087
<i>Foreign AIFs</i>					
Article 29 AIFMG	-	-	3	3	3
Article 31 AIFMG	-	-	437	565	702
Article 31 + Article 49 AIFMG	-	-	5	9	12
EuSEF	-	-	2	2	2
EuVECA funds	-	-	31	43	57
ELTIF	-	-	-	-	1
Other AIFs	-	-	3	21	26
Total	-	-	481	643	803
<i>Investment fund management companies</i>	24	24	24	21	18
<i>Licensed alternative investment fund managers</i>	-	22	27	26	25
<i>Registered alternative investment fund managers</i>	5	18	21	20	24

* Investment funds that were authorised for sale in Austria pursuant to Article 181 InvFG 2011 did not fall under the UCITS Directive. With the AIFM Directive entering into force, such products (alternative investment funds) became subject to the AIFMG.

Furthermore, the FMA is also in charge of supervising the depositary banks of investment funds in relation to compliance with the provisions on depositary banks as set out in the InvFG 2011 and AIFMG as well as any delegated legal acts. In this context the FMA must determine in advance whether the manager of the depositary bank has sufficient experience in relation to the type of investment fund to be kept in custody. As at 31 December 2017, 16 credit institutions acted as depositary banks for investment funds.

If an AIFM manages assets of less than € 100 million (including leverage) or assets of less than € 500 million (without making use of leverage), and the investors are not permitted to exercise any redemption rights for a period of five years, no FMA licence is required. The AIFM must, however, register with the FMA in accordance with Article 1 para. 5 AIFMG. In 2017 the FMA conducted six registration procedures, five of which were completed and with an additional authorisation as EuVECA manager being granted in two cases. As at 31 December 2017, 24 AIFMs were registered with the FMA, six of which as EuVECA managers. Additionally, two licensing processes pursuant to the AIFMG were conducted, one of which was completed. As at the end of 2017, 25 AIFMs were licensed with the FMA, one fewer than in 2016.

As at 31 December 2017, five real estate investment fund management companies were managing a total of eight retail real estate funds and five special real estate funds, all of which were AIFs. No new licences for real estate investment fund management companies were granted in 2017.

As at the same date, there were 2 084 funds of domestic investment fund management companies and/or AIFMs in Austria (2016 year-end: 2 094). This figure includes 38 AIFs (six of which are EuVECA) which are managed by registered AIFMs in Austria. The changing number of domestic funds over the past five years, including both UCITS and AIFs, is shown in Table 22.

FREEDOM TO PROVIDE SERVICES AND FREEDOM OF ESTABLISHMENT

Investment fund management companies based in the European Economic Area (EEA) that make use of the freedom to provide services or establish a branch in another Member State in accordance with the Undertakings for Collective Investment in Transferable Securities Directive (UCITS Directive) may offer the activities for which they hold a licence in their home state throughout the EEA following notification. This similarly applies to licensed AIFMs who, pursuant to the AIFM Directive, are authorised to manage and/or sell AIFs on a cross-border basis throughout the EU after having completed the notification process.

In total, 7 776 funds of foreign investment fund management companies and/or AIFMs were authorised for sale in Austria in 2017 (2016 year-end: 7 305). Of these, 743 EU AIFs, 57 EuVECA funds, two EuSEFs and one ELTIF from other Member States were also authorised for sale in Austria. Mention should be made of the fact that EU AIFs may, following notification, only be sold to professional investors and qualified retail customers. There are 12 EU AIFs in Austria that hold an additional authorisation for sale to retail customers. The changing number of foreign funds over the past five years, including both UCITS and AIFs, is shown in Table 22.

UCITS

There were three Austrian investment fund management companies operating in the EEA during 2017 and therefore making use of the freedom to provide services in Denmark, Finland, France, Germany, Italy, Liechtenstein, Luxembourg, Malta, the Netherlands, Spain, Sweden and the UK. Conversely, a total of 75 companies from Belgium, Denmark, France, Gibraltar, Germany, Ireland, Italy, Liechtenstein, Luxembourg, the Netherlands, Norway, Sweden, Spain and the UK were represented in Austria under the freedom to provide services as at 31 December 2017. With regard to the freedom of establishment applicable to UCITS, two Austrian investment fund management companies have a branch office abroad. One company has a branch in both Germany and Italy, and another operates a branch in the Czech Republic. Conversely, four foreign companies (three from Luxembourg and one from France) are currently active in Austria under the freedom of establishment.

AIFS

Three Austrian AIFMs availed themselves of the freedom to provide services in the EEA in 2017. These AIFMs operate in Belgium, Cyprus, Finland, Germany, Ireland, Luxembourg, the Netherlands, Norway, Sweden and the UK. Meanwhile, there were

102 EU AIFMs, primarily from the UK but also from Denmark, France, Germany, Ireland, Luxembourg, Malta and the Netherlands, active in Austria through the freedom to provide services, based on the passport regime defined in the AIFM Directive. With regard to the freedom of establishment concerning AIFs, one Austrian AIFM is represented with a branch in the Czech Republic. Two companies from Luxembourg and France took advantage of the freedom of establishment laid down in the AIFMG by setting up a branch in Austria.

SUPERVISORY PROCEDURES

The supervisory procedures relating to supervised companies in Austria encompass both notification and approval processes. The fund-specific notification procedures relate in particular to the submission of reports on activities, half-yearly reports and special fund reports, the submission of notifications regarding any closures of funds and material changes as defined in Article 29 para. 5 AIFMG, as well as the notification of delegations to third parties. Mention should also be made in this regard of the notification procedures (known as the “European passport”), during which the FMA passes documents to the competent authority of the Member State in question. The approval procedures covered by the InvFG 2011 relate, for example, to the issuing of new funds and any changes to existing investment fund regulations, as well as the approval of mergers, management transfers and depositary bank changes. With regard to the AIFMG, the granting of marketing licences is a key area.

In 2017 the number of official notification and approval processes, at 4 344, was slightly down on the previous year (2016: 4 676 processes). As in previous years, there were numerous mergers of investment funds. Three master-feeder structures were also approved.

Two real estate funds had changes to their fund regulations approved, and one fund was newly issued. There was also one instance of a decision imposing the appropriate measures on a company pursuant to Article 70 para. 4 BWG, Article 148 para. 5 InvFG 2011 or Articles 56 et seq. AIFMG.

Owner control procedures relating to investment fund management companies were implemented in 10 cases in 2017; the number of such procedures concluded in relation to real estate investment fund management companies totalled three during the same period. The FMA also carried out one review of changes in the participating interests of an AIFM.

All in all, the FMA approved two mergers related to investment fund management companies in 2017, while two companies relinquished their licence.

Continued supervision of foreign investment funds comprises both notification procedures relating to UCITS and AIFs from the EEA – documents are submitted from the

Table 23: Continued supervision of foreign investment funds 2013–2017

	2013	2014	2015	2016	2017
<i>Procedures with foreign UCITS</i>	6 644	7 377	6 949	6 993	8 901
<i>Notifications</i>	651	953	988	680	881
<i>Procedures with foreign AIFs</i>	20	179	395	489	687
<i>Notifications</i>	11	425	360	329	369
Total	6 664	7 556	7 344	7 482	9 588

competent authority of the home country to the FMA – as well as fund-specific, ongoing notification procedures relating to the submission of reports on activities, half-yearly reports, key investor information documents and prospectuses. The FMA also receives notifications relating to mergers, changes of company names and liquidations of funds. At 9 588, the number of incoming notifications hit a record high in 2017 (2016: 7 482) (> Table 23).

CONTINUED SUPERVISION

REPORTING AND INFORMATION SOURCES

Investment fund management companies and real estate investment fund management companies must comply with comprehensive reporting, notification and information obligations. As special-purpose credit institutions they are also required to comply with the notification and reporting provisions contained in the BWG and the Regulation on the Reporting of Own Funds by Special-Purpose Credit Institutions (SK-EMV; *Sonderkreditinstitute-Eigenmittelmeldeverordnung*). Additionally, they are required to comply with the notification and reporting provisions contained in the InvFG 2011 and must also meet the reporting obligations specified in the Fourth Derivatives Risk Measurement and Reporting Regulation (DeRiMV 4; *Derivate-Risikoberechnungs- und Meldeverordnung*) by reporting the derivatives belonging to the fund assets and the related overall risk using a standardised reporting format. The state commissioners appointed at (real estate) investment fund management companies are obliged to prepare regular reports for submission to the FMA. Investment fund management companies, real estate investment fund management companies and licensed AIFMs are also required to submit their annual audited financial statements to the FMA in good time, with the fund management companies also being required to submit the annex to the audit report.

The reporting process for licensed AIFMs is defined in Article 22 AIFMG, while the related provisions for registered AIFMs are laid down in Article 1 para. 5 no. 4 AIFMG. These are fleshed out in the AIFM Reporting Regulation (AIFM-MV; *Alternative Investmentfonds Manager-Meldeverordnung*) with regard to the reporting obligations of AIFMs and the reporting type, format and systems applicable to the data being reported. AIFMs must inform the FMA regularly of the main markets and instruments in or with which they are trading for the account of the AIFs that they manage. They must also submit information on matters such as the greatest risks and concentrations of each of the AIFs being managed. So that systemic risks can be effectively monitored, the FMA must forward the data that it collects to the OeNB for the purposes of macroprudential analysis. The OeNB, in turn, must communicate the results of its analysis to the FMA without delay if any systemic risks are detected. In this case, the FMA must, where necessary to perform the required tasks, make all of the above information available to the competent authorities in other affected Member States, to ESMA and to the ESRB. To enable an improved assessment and monitoring of systemic risks facing Austrian AIFMs pursuant to Article 23 AIFMG, securities supervision has therefore been extended to include macroprudential supervision.

As well as standard analysis of regulatory reporting, continued supervision also includes spot checks of supervised companies and specific market analysis. The main focuses of off-site analysis work, which are also considered in the context of manage-

ment talks, are determined in a risk-based manner and take account of the FMA's strategic objectives, the current risks in the financial sector and the findings obtained from ongoing supervision. Possible measures to support the market are then derived from this analysis, and targeted on-site and off-site supervisory measures taken.

Given the prolonged period of low interest rates, the FMA specifically analysed the Austrian fund market including stress tests in 2017. The aim of those stress tests is to obtain additional information for an analysis of investment fund management companies and AIFMs so that any sensitivities can be identified at an early stage and appropriate steps introduced. Furthermore, the FMA also collected data on fund fees charged by investment fund management companies and AIFMs for Austrian retail funds, and published them in an aggregate form by fund category to improve market transparency for investors.

DISCLOSURE OBLIGATIONS

The disclosure obligations applicable to investment fund management companies are defined in the InvFG 2011, which specifies that the companies must publish a current prospectus, a half-yearly report and a report on activities for each investment fund in addition to the current annual financial statements of the company itself. Where other special funds, pension investment funds and special funds representing AIFs are concerned, information pursuant to Article 21 AIFMG must be provided instead of a prospectus.

The obligations also encompass the requirement that the investment fund management company itself or its depositary, where one has been appointed, must publish the issue and repurchase price of units on every occasion on which units are issued or repurchased, but no less frequently than twice per month. Any major changes to the prospectus must also be published by the companies, and their customers must be provided with a Key Investor Information Document (KIID).

The disclosure obligations applicable to real estate investment fund management companies are defined in the ImmoInvFG using almost exactly the same wording as in the InvFG 2011.

An AIFM managing an AIF that falls under Directive 2004/109/EC (Transparency Directive) is required to publish the audited annual reports for the AIF. The AIFM may also be obliged pursuant to Directive 2003/71/EC (Prospectus Directive) and/or pursuant to the Capital Market Act (KMG; *Kapitalmarktgesetz*) to publish a prospectus for that AIF. An AIFM selling an AIF to retail customers is required to publish the AIF's net asset value either once a month (in the case of AIFs in real estate, managed futures funds) or twice a month (for private equity funds of funds and AIFs in company holdings). In the case of AIFs that have been authorised for sale to retail customers, a half-yearly report and a KIID must also be prepared. An AIFM must at any rate always prepare an information document pursuant to Article 21 AIFMG for each AIF managed.

ON-SITE INSPECTIONS AND MANAGEMENT TALKS

In accordance with Federal Law Gazette I No. 72/2010 of 18 August 2010, the FMA is responsible for on-site inspections of (real estate) investment fund management companies. The FMA is also responsible for carrying out on-site inspections pursuant to the AIFMG, as well as being charged with the task of on-site inspections of depositary banks pursuant to the InvFG 2011 and depositaries as defined in the AIFMG.

Table 24: **On-site measures
2013–2017**

	2013	2014	2015	2016	2017
<i>On-site inspections</i>					
<i>Investment fund management companies/AIFMs</i>	10	10	11	11	11
<i>Real estate investment fund management companies</i>	1	1	3	3	3
<i>Depository banks/depositaries</i>	1	3	5	5	6
<i>Total</i>	12	14	19	19	20
<i>Management talks</i>					
<i>Investment fund management companies/AIFMs</i>	23	24	26	27	25
<i>Real estate investment fund management companies</i>	5	5	5	5	5
<i>Total</i>	28	29	31	32	30

During the reporting year there were eight on-site inspections of investment fund management companies, three at real estate investment fund management companies, six at depository banks/depositaries and three at AIFMs. Portfolio and risk management were the key topics of those inspections. Eleven of the inspections took the form of follow-up inspections.

Management talks were conducted in 2017 with all 18 investment fund management companies that held a licence as at the end of the year and all five real estate investment fund management companies. In addition, the FMA also invited representatives of seven AIFMs that are licensed or registered exclusively according to the AIFMG to management talks. One priority issue for the 2017 management talks was the impact of the prolonged period of low interest rates on the business and investment policies of investment fund management companies and AIFMs. The talks always cover supervisory issues, the performance and results of the previous year, investments, organisational changes and deviations from the business plan. Any other relevant issues may also be raised and discussed.

Please refer to Table 24 for an overview of the number of on-site inspections and management talks carried out over the past five years.

SUPERVISION OF INVESTMENT FIRMS AND INVESTMENT SERVICE PROVIDERS

In accordance with the 2007 Securities Supervision Act (WAG 2007; *Wertpapieraufsichtsgesetz*), the following investment services may only be provided with the relevant licence granted by the FMA: investment advice relating to financial instruments; portfolio management by managing portfolios for individual customers who authorise a certain degree of management discretion, provided that the customer portfolio contains one or more financial instruments; receipt and transmission of orders, provided that such activity involves one or more financial instruments; operation of a multilateral trading facility.

According to the WAG 2007, financial instruments take the form of transferable securities, money market instruments, units in undertakings for collective investment in securities (UCITS) and in open-ended alternative investment funds (AIF), derivative contracts (particularly options, futures, forwards, swaps) relating to securities, currencies, interest rates, interest income, financial indices, derivative contracts relating to goods, derivatives designed to transfer credit risk, financial margin trading and derivative contracts relating to climate variables, freight rates, emission allowances, inflation rates and official economic statistics.

OFFICIAL TASKS

SUPERVISED COMPANIES

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

The authorisation of an investment firm to provide one or more investment services can be without limitation, thus including all financial instruments stipulated in the WAG 2007.

The Markets in Financial Instruments Directive (including MiFID II since 2018) provides the basis on which investment firms from the European Economic Area may operate throughout the entire EEA either through branches or under the freedom to provide services. To make use of this freedom of establishment and freedom to provide services, investment firms, having obtained the corresponding licence, must pro-

vide notification of their operations in the respective country through their home supervisory authority. Having this “European passport” means that investment firms are entitled, pursuant to MiFID, to provide any investment services that they are licensed to provide in their home Member State also in other Member States, without the need for any further licensing processes. Accordingly, Austrian investment firms are eligible for the European passport and may offer their services throughout the entire EEA.

In 2017 there were 2 755 investment firms with their head offices situated in another EEA Member State that were authorised to provide investment services in Austria under the freedom to provide services by way of a branch or notification through the passport regime, which corresponds to a year-on-year increase of 5%. As at the end of 2017, 21 branches of EEA investment firms were operating in Austria on the basis of such notification. Of those firms that had provided notification of their operations in Austria, 1 967 (71.4%) came from the UK, followed by 197 (7.1%) from Germany and 195 (7.1%) from Cyprus.

In contrast, investment service providers only hold national licences. Compared with investment firms, their investment service activities are restricted to providing investment advice, as well as receiving and transmitting orders relating to financial instruments. They may only pursue these activities within Austria and cannot obtain a European passport. In return, various relaxed licensing requirements apply to investment service providers. For instance, the appointment of a single managing director, who may also have another full-time occupation outside the banking, insurance or pension company sector, is sufficient. Also permitted is a free choice in the legal form of the company: in addition to corporations, partnerships and sole proprietorships may also offer investment services as investment service providers that require a licence. The capital requirements may be substituted with a professional liability insurance policy, and there are relaxations concerning accounting and auditing.

The 2014 amendment of the WAG 2007 changed the legal framework for investment service providers such that companies may now be licensed as investment service providers up to a threshold of € 2 million of sales revenues generated by providing investment services; providers with sales revenues exceeding that figure may be exclusively licensed as investment firms. Previously, the threshold had been € 730 000 of total sales revenues.

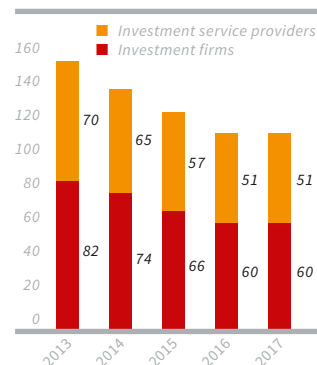
Pursuant to Article 4 para. 4 of the Alternative Investment Fund Managers Act (AIFMG; *Alternatives Investmentfonds Manager-Gesetz*), the FMA may grant an AFIM an additional licence to provide investment services. This encompasses the individual management of individual portfolios and, as ancillary services,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

As at the reporting date of 31 December 2017, there were 111 companies in possession of a valid licence from the FMA entitling them to provide services as investment firms (60) or investment service providers (51) (> *Chart 31*).

The number of licences held in 2017 remained unchanged compared with 2016, signalling the absence of any further fall for the first time in many years.

All of the 111 companies were entitled to provide investment advice relating to financial instruments, with 41 investment firms authorised to manage client portfolios. In all, 108 investment firms and investment service providers were authorised to receive

Chart 31: Number of valid licences pursuant to the WAG 2013–2017



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

In terms of the geographical distribution of the licensed investment firms and investment service providers within Austria, a total of 61 companies or nearly 54.95% of all licensed companies had their registered office in Vienna as at the reporting date of 31 December 2017. Upper Austria was the next federal province in the list, with eleven companies, followed by Salzburg with ten licensed companies.

NEW LICENCES GRANTED TO INVESTMENT FIRMS AND INVESTMENT SERVICE PROVIDERS

In 2017 five new licence applications were submitted to the FMA pursuant to the WAG 2007, two being filed by management companies relinquishing their licence as investment fund management companies and to be continued as investment firms, one by an investment firm to be continued as an investment service provider, as well as three new applications for an investment firm licence. Two new licences were awarded to investment firms, and one to an investment service provider.

With the implementation of MiFID II, the WAG 2007 expired as of 2 January 2018 to be replaced by the new WAG 2018 as of the following day, 3 January. Any licences effective at the time of the WAG 2018 entering into force continue to be valid pursuant to Article 112 para. 1 WAG 2018 as before; no separate applications for a new licence are required.

AGENTS OF INVESTMENT FIRMS AND INVESTMENT SERVICE PROVIDERS

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

Tied agents may be natural or legal persons. They are bound by the principle of exclusivity, which means that a tied agent may only work for one single investment firm, credit institution, insurance undertaking or branch of an investment firm or credit institution. With the entry into force of the WAG 2018 on 3 January 2018, a tied agent may now also act for an investment service provider. Tied agents may be appointed for the purposes of promoting the services of the investment firm, soliciting new business or receiving orders from clients and transmitting them, and for providing investment advice with regard to financial instruments and services offered by the legal entity.

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

(GewO; *Gewerbeordnung*) and must be entered in the public Securities Brokers and Tied Agents register kept by the FMA.

As at the reporting date of 31 December 2017, a total of 1 411 individuals were registered as tied agents with the FMA and working for 26 Austrian investment firms; 11 tied agents were registered at eight investment firms from the EEA based in Austria, and 435 natural persons and 26 legal persons were registered as tied agents at seven Austrian credit institutions. Regarding companies, there were 245 companies in the form of a legal entity registered with the FMA as tied agents in 2017.

Unlike the remit of tied agents, the scope of activities to be performed by a **securities broker** is limited. Only natural persons may serve as securities brokers. The securities broker may only provide services in Austria and requires a trade licence pursuant to Article 136a or 136b GewO. The profession of securities broker is a regulated trade, which means that a certificate of qualification is required to obtain the authorisation to exercise the profession. Unlike the activity of tied agents, that of the securities broker is limited to investment advice and the receipt and transmission of orders in relation to certain financial instruments, specifically transferable securities and units in open-ended investment funds and AIFs. The securities broker may act on behalf and for the account of a maximum of three investment firms/investment service providers, but not for credit institutions or insurance undertakings.

Securities brokers provide their services for investment firms and investment service providers in the capacity of vicarious agents and their actions are attributed to the respective legal entity. This is why the investment firm or investment service provider is liable for their vicarious agent pursuant to Article 1313a ABGB regardless of whether the securities broker discloses the respective principal or not. The provisions of Article 136d GewO on the joint and several liability of all investment firms and investment service providers apply if they have entered the same securities broker in the FMA's intermediaries register. This joint and several liability applies where the securities broker has not clearly disclosed the identity of the principal under the terms of the contract.

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

As at 31 December 2017, 62 Austrian investment firms and investment service providers were entitled to provide services through securities brokers. Of these, only 29 actually exercised the right granted to them. As at 31 December 2017, 559 individuals acting as securities brokers for investment firms or investment service providers had been registered with the FMA.

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

The FMA supervises all licensed investment firms and investment service providers, as well as AIFMs with additional licence, in terms of their compliance with the obligations set forth in the WAG 2007. These obligations include, in particular, adherence to extensive organisational requirements, such as for example the obligation to establish

an independent compliance function, a risk management function and an internal audit function, as well as observance of recording duties. A central aspect is the supervision of compliance with the codes of conduct based on classification of the respective institution's clients as retail customers, professional clients or eligible counterparties. Further obligations of the WAG 2007 covered by securities supervision include adherence to the licensing requirements, the scope of the licence granted, the notification and reporting obligations and the duties of presentation, as well as the provisions on accounting and the annual audit.

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

The preparation, verification and analysis of the financial statements, audit reports and reporting data provide decisive indicators with regard to implementation of and compliance with statutory standards governing the provision of investment services; they also provide a starting point for supervisory measures.

A further important supervision tool is the electronic analysis questionnaire for investment firms and investment service providers, which must be completed every year online. The questionnaire consists of ten modules and contains 54 questions. These are grouped into the following topics: company information, own funds and insurance cover, corporate structure – branches and staff, organisational structure pursuant to the WAG 2007, business activities and customer structure, digitalisation of business units, virtual currencies, bail-in financial instruments and (a specific topic for 2017) preparations for the WAG 2018. The evaluation of the analysis questionnaires gives the FMA valuable insights into the activities of the supervised companies as well as into the market of investment service providers, and also provides every evaluated company with information and tips that can be used to review and optimise their internal processes.

ON-SITE INSPECTIONS AND MANAGEMENT TALKS

During the year under review, on-site inspections were carried out with regard to 30 investment firms and investment service providers, four of which were conducted in response to current issues. By way of comparison, 32 on-site inspections were carried out in 2016, six of which tackling a current issue (> *Table 25*).

Within the scope of an on-site inspection, the FMA is entitled to request information from the companies and their bodies concerning any business matter, and examine all books, documents and data media of the companies under inspection. In addition, the audited companies' statutory auditors may be asked to provide supplementary audit reports and information. On-site inspections focus on verifying compliance with organisational obligations and the rules of conduct, and on compliance with the scope of the licence pursuant to the WAG 2007 as well as any conditions or limitations prescribed by administrative decision.

In 2017 the FMA made twelve company visits to investment firms and investment service providers, one of which in response to a current issue. By way of comparison,

	2013	2014	2015	2016	2017
<i>On-site inspections</i>	30	30	34	32	30
<i>Scheduled</i>	22	23	32	26	26
<i>Current issue-related</i>	8	7	2	6	4
<i>Management talks</i>	118	92	67	71	74
<i>Company visits</i>	-	-	13	15	12
<i>Scheduled</i>	-	-	11	9	11
<i>Current issue-related</i>	-	-	2	6	1

Table 25: **On-site activities 2013-2017**

	2013	2014	2015	2016	2017
<i>Suspensions</i>	1	13	9	1	3
<i>Admonition orders</i>	2	1	3	0	2
<i>Penal decisions</i>	21	8	7	13	4
<i>Penal orders</i>	15	4	11	2	0
<i>Admonitions</i>	0	0	0	0	3
<i>Total</i>	39	26	30	16	12

Table 26: **Administrative penal proceedings concluded in relation to the WAG – investment firms incl. unauthorised business 2013-2017**

15 company visits were carried out in 2016, six of which tackled a current issue. Company visits are usually conducted on site at the licensed companies and primarily focus on obtaining site-related information from the supervised companies. Where critical operational functions of a licensed company are outsourced to third parties (service providers), the FMA is also entitled to make use of its right to obtain access and to demand information from the service provider.

A total of 74 management talks were held with investment firms and investment service providers in the reporting year. These talks with the management of supervised companies usually take place at the offices of the FMA and are particularly used to discuss mutual issues and to exchange information between the supervisor and management in a direct and swift manner. They are also used within the context of official processes as a means of observing the obligation to hear the parties involved, as well as within the framework of “fit and proper” tests of prospective directors of supervised companies.

COMPLIANCE SUPERVISION

Compliance and good conduct contribute significantly towards strengthening the confidence of market participants in the Austrian capital market. The concept generally denotes adherence to laws, guidelines, rules of conduct, regulations and established practices in the distribution of financial products, particularly to retail investors. Appropriate compliance has the purpose of avoiding administrative sanctions as well as penalties defined by criminal or civil law. As a management responsibility, compliance is specifically a means of controlling business and reputational risks.

The Austrian financial market is closely interwoven. As the integrated supervisory authority with responsibility for all sectors, the Financial Market Authority (FMA) ensures a level playing field for the sale of all types of financial products. Today, compliance is an issue that affects the supervision of all sectors, and one on which both companies and the supervisory authority have focused strongly over the last few years. High-profile court cases dealing with investors who have suffered losses due to insufficient advice on securities, inappropriate commissions or a lack of transparency and resulting in banks being sentenced to high fines have highlighted how infringements of compliance rules can weaken a company's once strong economic position. On the other side of the coin, regulatory developments are leading to interactions between solvency aspects of supervision and compliance-related aspects. Banks, for example, will be required in future to issue certain capital market instruments that, in the event of a resolution, are to be considered for conversion into equity or reduction of liabilities – the minimum requirement for own funds and eligible liabilities (MREL). Due to regulatory requirements, banks may also be keener to place such instruments. Since the risks involved with such instruments can be hard to understand for retail investors, banks must ensure that they adhere to compliance rules and, in particular, deal with conflicts of interest in an appropriate manner when selling such products. The pivotal point is to ensure that there is no mis-selling. These instruments should not be used to replace savings accounts and should not be sold to customers without informing them of all of the risks involved.

Supervisory legislation includes some highly concrete and detailed requirements for a company's compliance plan and for establishing a compliance function. In the context of its compliance supervision duties, the FMA monitors adherence by credit institutions, investment fund management companies, issuers, insurance undertakings and Pensionskassen to the compliance-related provisions contained in the relevant

supervisory laws such as the 2007 Securities Supervision Act (WAG 2007; *Wertpapieraufsichtsgesetz*), the Stock Exchange Act (BörseG; *Börsegesetz*) and the 2011 Investment Fund Act (InvFG 2011; *Investmentfondsgesetz*).

SUPERVISED COMPANIES

As at the reporting date of 31 December 2017, the following entities were subject to compliance supervision by the FMA (comparable figures for 2016 given in brackets)¹:

- 590 credit institutions licensed in Austria (633), including 18 investment fund management companies (21);
- 37 insurance undertakings established and licensed in Austria (38);
- 10 Austrian *Pensionskassen* (12), including four single-employer and six multi-employer; and
- 444² issuers (436), including 72 subject to the provisions of the 2007 Issuer Compliance Regulation (ECV 2007; *Emittenten-Compliance-Verordnung*).

CONTINUED SUPERVISION

ON-SITE INSPECTIONS, COMPANY VISITS AND MANAGEMENT TALKS

On-site inspections are a particular means of verifying adherence to compliance-related provisions of law in a targeted way. The FMA reviews the extent to which the compliance mechanisms in place at individual companies meet the statutory requirements and whether the rules of conduct are actually being upheld in practice.

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

In total, 79 on-site measures (on-site inspections and company visits) and management talks were conducted in 2017 (> *Chart 32*).

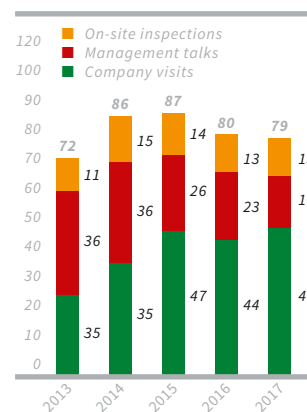
The FMA also analyses the annexes to audit reports prepared by the auditors as well as analysing the annual reports on activities submitted by issuers.

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

OFFICIAL PROCESSES

If facts emerge in a specific case during the FMA's supervisory activities indicating that a supervised company has possibly acted in breach of compliance regulations or

Chart 32: Supervisory measures 2013–2017



¹ Source: FMA corporate database; number of issuers: monthly statistics for December 2017 of Wiener Börse AG.

² In 2016 the area of market abuse related to trading in financial instruments was further harmonised at the level of the European Union. Many of the provisions contained in the Market Abuse Directive (MAD) were standardised and are now included in the Market Abuse Regulation (MAR), which has been directly applicable since 3 July 2016. The new EU-wide law on market abuse has been extended and now applies to all financial instruments that are admitted to trading on a multilateral trading facility (MTF) or any other organised trading facility (OTF). Consequently, issuers in the third market segment of the Vienna Stock Exchange are now also subject to ad hoc disclosure requirements and must disclose any directors' dealings. Issuers whose shares or securities similar to shares are admitted to trading on a regulated market in Austria are additionally obliged to meet the terms of the ECV 2007.

rules of conduct in accordance with the relevant legal standards, an investigation is launched to examine and clarify the case.

The FMA initiated a total of 58 such investigations during the reporting year.

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

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

DIALOGUE WITH STAKEHOLDERS

The FMA maintains a continuous dialogue with representatives of the supervised companies and their interest groups. While preparing for the introduction of MiFID II including its implementation by way of the WAG 2018 in 2017, this dialogue with stakeholders was particularly intense and constructive. The key objective of compliance supervision – in line with the notion that prevention is better than cure – is always to create more awareness of adherence to rules of conduct and compliance, thus ensuring that the supervised companies comply with the relevant regulations. To this end, the FMA experts regularly provide information about compliance rules and the FMA's supervisory practice in workshops, training sessions, seminars, meetings and public discussions. Specifically, 36 talks on compliance supervision were given in 2017. In a dialogue on practice organised in October 2017, FMA representatives presented the innovations introduced by MiFID II and WAG 2018, and discussed those with the 300 participants. All of this is done to enforce uniform high standards in investor protection in the Austrian capital market, to strengthen investor confidence and consequently to contribute to the smooth functioning of the financial market.

LEGAL SUPERVISION OF EXCHANGE OPERATING COMPANIES

During the period under review, the Vienna Stock Exchange remained the only securities and commodities exchange established in Austria pursuant to the Stock Exchange Act (*BörseG; Börsegesetz*). Its licensed operator and assigned legal entity under private law is Wiener Börse AG. Wiener Börse AG executes some official functions in its capacity as the entity responsible for the admission of financial instruments to trading and to this extent may be viewed as an “enterprise charged with the fulfilment of sovereign functions”, or as being a partly official entity. With regard to financial market regulation, it therefore assumes a special role.

The Vienna Stock Exchange itself continued to operate two regulated markets (official market and second regulated market) during the reporting period (see below for further information on new rules due to be implemented) while also operating the “third market”, which is classed as a multilateral trading facility (MTF). Despite the harmonisation in many areas following the entry into force of Regulation (EU) No 596/2014 (Market Abuse Regulation, MAR) in 2016, such as with regard to issuers’ ad hoc disclosure obligations, trading on the third market is subject to less stringent regulatory requirements than those applicable on the regulated market. For this reason, this segment is repeatedly referenced in relation to the capital market ambition of providing Austrian medium-sized business with easier access to capital in a stock market setting. The Vienna Stock Exchange has been using the tool of inclusion in trading on the third market primarily for international equities in the global market segment since 2017. However, the published terms and conditions governing trading on the third market make reference to potential legal differences in trading in domestic or foreign shares, regarding the legal position of the shares being traded for example.

Supervisory activities during the reporting period were dominated by preparations and supervisory discussions in conjunction with MiFID II and MiFIR entering into force (Directive (EU) 2014/56, Markets in Financial Instruments Directive and Regulation (EU) 600/2014, Markets in Financial Instruments Regulation), the far-reaching implementing legislation in the EU and the resulting changes to the *BörseG* based on the 2018 version. As far-reaching changes have been made to the legislation, a legal basis for voluntary delistings has been implemented, having been supported by the FMA for a long time and advocated by the market participants, and the spectrum of dealers has been enlarged. As automated stock market trading grows ever more relevant, the new package of regulations includes comprehensive rules regarding the expansion of direct market access and algorithmic trading. Key issues of high and direct

practical relevance to stock market trading include limits on order to trade ratios, new market making requirements, limits on price intervals when placing orders and obligatory pre-trade controls. The new package also includes the first set of rules on data reporting services providers in conjunction with the extended trading transparency and reporting obligations applicable to banks involved in securities trading. The Vienna Stock Exchange's strategic decision to offer to take care of the practical side of market participants' trading transparency obligations will mean an expansion of official supervisory activity in the future regulatory landscape.

In addition, the BörseG 2018 abolishes the second regulated market, with the result that the official market will be the only regulated market on the Vienna Stock Exchange with effect from 2 January 2018.

The environment (in terms of company law and with regard to cooperation) in which the Vienna Stock Exchange operates was barely subject to any changes during the reporting period. Wiener Börse AG, along with the Prague Stock Exchange, remains part of the CEE Stock Exchange Group (CEESEG), which is ultimately owned by Austrian credit institutions and issuers. The company Central Counterparty Austria GmbH (CCP.A) continues to act in the capacity of the clearing agency for securities trading, having been licensed pursuant to Regulation (EU) No 648/2012, the European Market Infrastructure Regulation (EMIR) since 2014.

SUPERVISION OF THE STOCK EXCHANGE AND SECURITIES TRADING

LEGAL BASIS

The primary goal in supervision of the stock exchange and securities trading is to ensure orderly and fair trading in listed securities, to safeguard the integrity of the financial markets and to bolster investor protection as well as investor confidence in these markets. The relevant applicable legal provisions in this context are defined in the Stock Exchange Act (BörseG; *Börsegesetz*), the 2007 Securities Supervision Act (WAG 2007; *Wertpapieraufsichtsgesetz*), the Market Abuse Regulation (MAR – Regulation (EU) No 596/2014 on market abuse) along with the delegated implementing acts, and the Market Abuse Directive (MAD – Directive 2014/57/EU on criminal sanctions for market abuse).

The Austrian Financial Market Authority's (FMA) key task within this area of supervision is to combat market abuse. According to MAR and MAD, the term “market abuse” includes insider dealings, the unlawful disclosure of inside information and market manipulation.

A case of market abuse can exist where investors are harmed as a result of third parties using confidential information (insider dealings) or acting to distort the price of financial instruments or disseminating false or misleading information (market manipulation). In such cases the FMA has the legal mandate to expose the illegal activity and to take measures to prosecute the offence in accordance with the statutory provisions. Pursuant to the BörseG, both insider dealings and market manipulation can be classified as offences relevant for prosecution under administrative penal law or criminal law. The severity of the infringement determines which law applies, with this mainly being judged on the basis of the value limits of the capital invested. If the FMA has reasonable suspicion of market abuse and the underlying offence falls within the jurisdiction of the courts, the FMA is obliged to report the case to the Central Public Prosecutor for Economic Crime and Corruption (WKStA), which takes up prosecution and as a rule commissions the FMA with further investigations.

The FMA is also mandated with monitoring compliance with the Vienna Stock Exchange's trading rules, which serve to prevent market abuse and to facilitate the exposure of actual breaches.

The FMA also monitors market participants' compliance with statutory disclosure, reporting and information obligations, and prosecutes any breaches by means of administrative penal proceedings.

Table 27: Supervised markets, issuers and securities 2013–2017 (source: Wiener Börse AG)

NUMBER OF ISSUERS	2013	2014	2015	2016	2017
OFFICIAL MARKET AND SECOND REGULATED MARKET					
Foreign shares	7	6	5	5	5
Domestic shares	65	67	64	61	58
Profitsharing certificates	1	1	1	1	1
Warrants	2	2	2	2	2
Participation certificates	2	2	1	1	1
Bonds	95	93	93	87	71
Certificates	10	7	6	4	3
Exchange traded funds	3	3	2	2	2
Total issuers	152	146	141	134	118
THIRD MARKET					
Foreign shares	13	11	8	7	456
Domestic shares	17	15	15	10	9
Profitsharing certificates	4	4	4	3	2
Warrants	1	1	2	2	2
Participation certificates	1	1	1	0	0
Bonds	175	188	322	311	326
Certificates	11	9	6	6	6
Investment funds	1	1	1	2	1
Total issuers	213	221	353	337	776
ANZAHL GELISTETER WERTPAPIERE					
OFFICIAL MARKET AND SECOND REGULATED MARKET					
Foreign shares	7	6	5	5	5
Domestic shares	71	73	70	67	63
Profitsharing certificates	2	2	2	2	2
Warrants	1 684	1 529	1 510	2 007	2 278
Participation certificates	2	2	1	1	1
Bonds	2 616	2 359	2 051	1 957	1 856
Certificates	4 084	4 064	4 264	4 825	5 708
Exchange traded funds	20	20	9	9	9
Total securities	8 486	8 055	7 912	8 873	9 922
THIRD MARKET					
Foreign shares	13	11	8	7	464
Domestic shares	17	15	15	10	9
Profitsharing certificates	4	4	4	3	2
Warrants	2	2	3	3	3
Participation certificates	1	1	1	0	0
Bonds	802	868	1 253	1 202	1 692
Certificates	151	179	157	123	126
Investment funds	1	1	1	2	1
Total securities	991	1 081	1 442	1 350	2 348

OFFICIAL TASKS

SUPERVISED COMPANIES

ISSUERS

As at 31 December 2017, a total of 9 922 financial instruments from 118 issuers were listed on the official market and the second regulated market of the Vienna Stock Exchange (> Table 27). Compared with the previous year, the number of issuers has declined (2016: 134) while the number of listed securities has risen by 12% (2016: 8 873).

On the third market, a total of 776 issuers (2016: 337) had 2 348 financial instruments listed (2016: 1 350). This rapid increase of 130% and 74% respectively is a direct result of the new global market segment on the third market.

As at 31 December 2017, 894 issuers were trading 12 270 securities on the Vienna Stock Exchange.

INSTITUTIONS UNDER REPORTING OBLIGATIONS

Companies that conclude transactions in listed financial instruments are required pursuant to Article 64 of the WAG 2007 to report each transaction to the FMA. Such companies include Austrian credit institutions and Austrian branches of foreign credit institutions on the one hand, but also foreign companies providing services in Austria under the freedom to provide services. Instruments subject to reporting obligations include financial instruments, such as for example transferable securities that are admitted to trading on a regulated market or for which an application for admission to trading on a regulated market has been made. It is not relevant in this regard whether the transaction was concluded or executed on a regulated market. The reporting requirement therefore also covers OTC transactions. A total of 639 companies were required to report to the FMA in 2017.

OTHER STOCK EXCHANGE MEMBERS

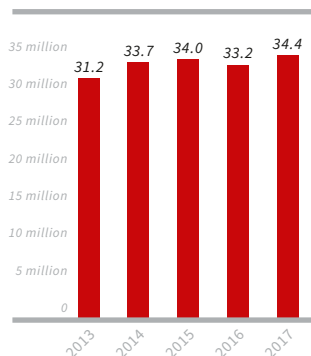
In addition, non-Austrian market participants that are based within the EU are required to report the securities transactions they carried out on the Vienna Stock Exchange to the competent authority of their home country. The reported data, if within the FMA's remit, is subsequently forwarded to the Austrian regulator within the framework of the European transaction reporting mechanism (TREM). This regulation has been in effect since the implementation of the Markets in Financial Instruments Directive (MiFID) in 2007, which has been replaced as at 3 January 2018 by MiFID II and the Markets in Financial Instruments Regulation (MiFIR).

TRANSACTION REPORTING

With the MiFIR becoming applicable on 3 January 2018, the changes to the reporting regime also became effective in Austria, and required extensive preparations during the reporting period to ensure the necessary adaptations were made in time. In particular, numerous adaptations to the previously used technical reporting systems were necessary.

The FMA attached great importance to the regular exchange of information with mar-

Chart 33: Transaction reports received by the FMA 2013–2017 (pursuant to Article 64 WAG 2007)

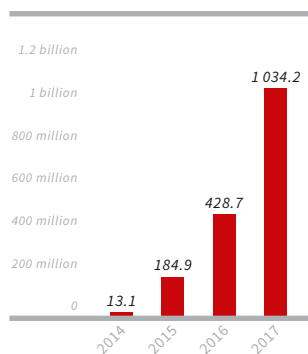


market participants and institutions under reporting obligations during the transition period in order to make the transition as efficient and effective as possible for the Austrian market. In this context, the FMA organised seven MiFIR forums for members of the Austrian Federal Economic Chamber (WKO) in 2017, during which it provided information on a regular basis and communicated any FMA requirements in advance and in good time.

In 2017 the 639 institutions under reporting obligations submitted 9 053 389 securities transaction reports to the FMA. Of these reports, 4 430 039 were forwarded to the competent EU partner authority by means of TREM. In its role as competent authority for Austria, the FMA received 25 253 169 transaction reports from other European supervisory authorities. This meant that the FMA exchanged 34 306 558 transaction reports in total, which represents a 3% increase on the previous year (33 200 721 reports) (> Chart 33).

EMIR REPORTING

Chart 34: Data sets received by the FMA 2014–2017 (pursuant to Article 9 EMIR)



As in previous years, the FMA monitored and analysed the reports of derivative transactions submitted to it pursuant to Article 9 of the European Market Infrastructure Regulation (EMIR) on a regular basis. Market participants that conclude a derivative contract are required to report the details to a trade repository. In 2017 special attention was given to companies under reporting obligations whose reports to the trade repository turned out to have a significantly high error rate.

On 1 November 2017 Commission Delegated Regulation (EU) 2017/104 and Commission Implementing Regulation (EU) 2017/105 entered into force, which are based on EMIR's regulatory technical standards on the data to be reported. The aim of these revised standards is to further advance the quality of reported derivative data and the level of detail contained in these reports.

In 2017 the FMA received some 1.03 billion data sets in total pursuant to Article 9 EMIR, representing a clear increase of 140% compared with 2016 (428.7 million) (> Chart 34).

MARKET SUPERVISION

The FMA's remit includes ensuring orderly and fair trading in securities listed on the financial markets. Specifically, the Authority must expose any misuse of inside information, any market manipulation and any breaches of the Vienna Stock Exchange's trading rules.

The FMA establishes irregularities in trading either through its own monitoring of the market by performing regular routine analyses or through third-party observations. Through their reporting of suspicious transactions and orders, an increasingly significant role is being played by operators of trading venues and by institutional market participants and professional traders. Market participants are legally obliged to put in place effective arrangements, systems and procedures aimed at preventing market abuse and attempted market abuse. Based on this, they are also required to immediately report suspicious orders and transactions to the FMA (Article 16 MAR). The FMA then examines these reports to determine whether a plausible explanation exists for the irregularities or whether the evidence points to market abuse.

If the latter applies, the FMA decides on further investigation measures depending on

the type of irregularity identified. For this purpose the FMA investigates, for example, the trading behaviour of specific market participants or traders or assesses the investment behaviour of a client on the basis of historical transactions, thereby identifying possible recurring trading patterns. A detailed analysis of the order and/or transaction data is then carried out taking into account more in-depth information such as professional securities analyses. When conducting investigations, the FMA makes full use of its rights to demand information and carry out inspections pursuant to the WAG 2007 and the BörseG, examining documents, performing on-site inspections and interviewing those involved. In this context, the FMA is also authorised to take other steps, including temporarily prohibiting individuals from practising their profession, freezing or seizing assets to secure illegal gains, requesting persons to temporarily desist from activities or requesting the temporary interruption of trading in a security. Where there is reasonable suspicion of market abuse or breaches of ad hoc reporting obligations, the FMA is additionally authorised, upon prior judicial authorisation, to search premises and to obtain data on telephone conversations such as their location and duration. Such actions are in accordance with the Code of Criminal Procedure (StPO; *Strafprozessordnung*), and the FMA may request support from the police.

In the reporting year, 1 503 routine analyses were carried out. Suspicions were substantiated in 84 cases and more in-depth analysis was performed. This subsequently led to the opening of an investigation, in 30 of those cases on account of the suspected misuse of inside information and in 54 cases on suspicion of market manipulation or of a breach of trading rules (> *Table 28*). Compared with the previous year, there was an increase in the number of investigations initiated in response to the suspected misuse of inside information (2016: 26 investigations) while the number of investigations initiated on suspicion of market manipulation or breach of trading rules (2016: 66 investigations) has fallen. Although the number of total investigations initiated in 2017 was lower than in 2016, a year with a very high level, the long-term trend shows a clear increase.

The FMA cooperates closely with its European and international counterparts in the supervision of the stock exchange and securities trading. During the period under review, a total of 31 requests for official assistance were addressed to authorities in other countries. This number has changed only marginally since 2016 (33 requests). With regard to enquiries, seven (2016: 16) were directed at the German Federal Financial Supervisory Authority (BaFin) and 24 were sent to partner authorities in other countries (> *Table 29*).

The number of requests received from foreign authorities rose on the previous year, from 26 to 32, 21 of which were made by the German partner authority BaFin. This number more than doubled compared with the previous year (2016: 10 requests).

As part of its investigation activities, the FMA also carried out special inspections on various subject areas in the reporting year. These are focus activities that are not initiated in response to specific irregularities but that are aimed at analysing subject areas with general relevance for investigation activities, dealing with these areas in their entirety. The goal of these special investigations is to analyse current market developments and thereby gain insights that will prove valuable for ongoing market observation. Special inspections can be launched in response to insights gathered either through ongoing market observation, pending investigations, or information or

Table 28: Market supervision
2013–2017

	<i>Routine analysis</i>	<i>Investigations into misuse of inside information, market manipulation and violation of trading rules</i>			
	<i>Warnings computed</i>	<i>Investigations initiated</i>	<i>Investigations forwarded for internal legal processing</i>	<i>Investigations dropped / completed</i>	<i>Reports forwarded to the Central Public Prosecutor for Economic Crime and Corruption (WKStA)</i>
2013	1 376	67	9	50	2
2014	1 380	61	10	31	3
2015	1 403	79	16	73	4
2016	1 192	92	21	86	4
2017	1 503	84	9	72	6

Table 29: Official assistance
market supervision 2013–2017

	<i>Enquiries addressed to foreign supervisory authorities</i>			<i>Enquiries received from foreign supervisory authorities</i>		
	<i>BaFin</i>	<i>FCA</i>	<i>Other</i>	<i>BaFin</i>	<i>FCA</i>	<i>Other</i>
2013	6	5	11	34	0	21
2014	26	5	50	21	0	17
2015	13	2	18	22	0	16
2016	16	0	17	10	0	16
2017	7	1	23	21	0	11

reports submitted by external parties. Examples of activities during special inspections include investigating securities trading in certain sectors, analysing new trading strategies, selected market areas or the trading behaviour of market participants or traders over an extended period of time, or researching the risks entailed in electronic trading facilities that exist as alternatives to conventional exchanges.

MISUSE OF INSIDE INFORMATION

According to the Market Abuse Regulation, inside information is information of a precise nature, which has not been made public, relating, directly or indirectly, to one or more issuers or to one or more financial instruments, and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments (Article 7(1)(a) MAR). The nature of inside information has to be such that a reasonable investor would be likely to use it as the basis of his or her investment decisions. For individuals such as agent traders, who are commissioned by customers to execute orders, confidential information concerning orders not yet placed can also represent inside information.

The offence of misuse of inside information includes taking advantage of inside information on one's own behalf or on behalf of a third party. Misuse can be committed by purchasing or selling a financial instrument, cancelling or modifying an order, recommending or inciting a third party to buy or sell a financial instrument, or by disclosing the information to third parties (unlawful disclosure of inside information). Disclosure is not unlawful, in contrast, when it occurs as part of performing work or professional duties, fulfilling responsibilities or carrying out market soundings. A market sounding comprises the communication of information, prior to the announcement of a transaction, in order to gauge the interest of one or more potential investors in a possible transaction and the conditions relating to it such as its

potential size or pricing. Sounding the interest of potential investors can be done by an issuer, a secondary offerer or by a third party acting on behalf of one of the former two. Market sounding can also take place in the context of takeover bids or mergers. Where inside information is involved, the disclosing market participant is required to maintain a written record of the entire process and to keep the record for at least five years.

The BörseG prohibits the misuse of inside information and punishes any breaches depending on the amount of the capital invested with sanctions imposed under administrative penal law or criminal law. In the event of the misuse of inside information by natural persons involving administrative offences, the FMA may impose a maximum fine of € 5 million or of three times the amount of the benefit gained from the misuse, including any loss avoided thereby, provided that the benefit can be quantified. If carried out with intent, even the attempt is punishable. Where cases fall under the jurisdiction of criminal courts, the misuse of inside information may result in a prison sentence of between six months and five years. This applies to primary insiders who are found guilty of intentionally carrying out prohibited insider dealings or making recommendations based on such information; to secondary insiders only when they knowingly use the inside information. The maximum punishment for the unlawful disclosure of inside information is a two-year prison sentence. In both cases, i.e. when cases fall under court jurisdiction and when they are punishable under administrative penal law, legal entities can also be held to account. The maximum fine is € 15 million or 15% of the entity's total annual revenue or three times the amount of the benefit gained, including any loss avoided, provided that the benefit can be quantified.

In 2017 a total of 30 investigations involving inside information were opened, 21 of which were concluded. As in the previous year, the FMA submitted reports to the Central Public Prosecutor for Economic Crime and Corruption (WKStA) concerning the suspected misuse of inside information, doing so in relation to six cases in 2017. As a result of these reports submitted to the WKStA, a total of 24 individuals were accused of misuse of inside information.

MARKET MANIPULATION

Market manipulation as defined in Article 12(1)(a) MAR refers to entering into a transaction, placing an order to trade or any other behaviour which:

- gives, or is likely to give, false or misleading signals as to the price or supply of or demand for a financial instrument; or
- secures, or is likely to secure, the price of a financial instrument at an abnormal or artificial level,

unless the person has legitimate reasons and acts in conformance with an accepted market practice.

Other actions falling under the criminal offence of market manipulation include:

- Transactions which are entered into or buy or sell orders placed under false pretences or by any other deceitful actions and which would be likely to influence the price of a financial instrument.
- The dissemination, via the media (including the Internet), of information that sends out or may send out false or misleading signals as to the price or supply of or demand for a financial instrument. This also applies to the dissemination of

rumours where the person who disseminated that information knew or should have known that it was false or misleading.

- In relation to a benchmark, transmitting false or misleading information or providing false or misleading inputs while knowing or being responsible for knowing that the information was false or misleading, or taking any other behaviour which manipulates the calculation of a benchmark.

MAR lists forms of behaviour that potentially represent market manipulation. Examples of such include:

- the buying or selling of financial instruments, at the opening or closing of the market, which has or is likely to have the effect of misleading investors acting on the basis of the prices displayed;
- the placing of orders to a trading venue, including any cancellation or modification thereof, by any available means of trading, including by electronic means, such as algorithmic and high-frequency trading strategies, and which has the effects of:
 - disrupting or delaying the functioning of the trading system of the trading venue or being likely to do so, or
 - making it more difficult for other persons to identify genuine orders or being likely to do so, or
 - creating or being likely to create a false or misleading signal about the price or supply of or demand for a financial instrument, in particular by entering orders to initiate or exacerbate a trend.

Depending on whether certain value limits are exceeded, market manipulation prosecutions are carried out within the framework of either administrative penal proceedings or criminal court proceedings, as is also the case for inside information. The amount of the penalty to be imposed under administrative penal law or by the court is the same for both offences. As with the misuse of inside information, even an attempt to misuse the information is punishable if carried out with intent.

In 2017, 54 investigations of suspected market manipulation were initiated, and 51 were completed.

SUPERVISION OF ISSUERS

Monitoring compliance with disclosure obligations as set forth in the BörseG is one of the key tasks of securities supervision. According to the recitals to Commission Directive 2007/14/EC and Directive 2013/50/EU amending Directive 2004/109/EC, the Transparency Directive, the disclosure of accurate, comprehensive and timely information about security issuers builds sustained investor confidence and allows an informed assessment of their business performance and assets, which enhances both investor protection and market efficiency.

The statutory disclosure obligations are laid down in various European standards, with the Transparency Directive and the MAR being the most important. The most significant national legislation in this area is the BörseG and the Disclosure and Reporting Regulation (VMV; *Veröffentlichungs- und Meldeverordnung*).

AD HOC DISCLOSURE

Issuers of financial instruments must inform the public as soon as possible of inside information which directly concerns that issuer. Reasonable investors base their

investment decisions on information already available to them (ex ante available information).¹ Publicising inside information quickly and without delay makes such information common knowledge that is generally available to the public, in this way preventing anyone from illegally taking advantage of it by carrying out transactions involving listed financial instruments. The disclosure of information lends the required transparency to securities trading.

In 2017, 439 ad hoc reports were published by issuers whose financial instruments were admitted to trading on the Vienna Stock Exchange, compared with 435 in 2016.

Issuers may, temporarily, delay disclosure of inside information. Such delay of disclosure presupposes that the immediate disclosure is likely to prejudice the legitimate interests of the issuer, while delay of disclosure is not likely to mislead the public and the issuer is able to ensure the confidentiality of that information. The recitals to the MAR as well as the MAR Guidelines cite the following circumstances for a possible legitimate interest to delay public disclosure:

- ongoing negotiations which would likely be jeopardised by immediate public disclosure;
- when, in ongoing negotiations, the public disclosure would put the financial viability of the issuer in grave and imminent danger;
- cases where the approval of another body of the issuer is still outstanding but necessary;
- product developments, patents or inventions;
- the issuer is planning to buy or sell a major holding in another entity;
- other regulatory obligations yet to be fulfilled, for example in connection with takeovers or M&A transactions where fulfilment of those obligations would be jeopardised by public disclosure.

PERIODIC DISCLOSURE

While ad hoc disclosure is triggered in response to current cases of inside information, regular financial reporting is the main form of reporting carried out by listed companies, and all market participants, i.e. retail and institutional investors, banks, analysts and supervisory authorities, must be able to rely on it. Financial reporting is the basis for drawing up analyses and credit ratings and, as a comprehensive source of information, helps investors to reach decisions regarding their investments. The capital market should be regularly informed about the business situation of issuers, and not only intermittently in specific cases. The BörseG stipulates a number of periodic disclosure requirements, including annual financial reports, half-yearly financial reports and quarterly reports. Issuers are obliged to submit those reports as required under periodic disclosure provisions. The FMA's task is to monitor whether these reports are published within the statutory deadlines.

In the reporting year, the FMA received a total of 470 annual, half-yearly and quarterly reports (2016: 464).

DISCLOSURE OF MAJOR HOLDINGS

Requiring issuers to disclose any changes in major holdings allows investors to buy or sell shares of stock in full awareness of the modified voting rights, while on the whole

¹ Recital 14 of MAR.

providing for enhanced transparency of large capital flows within the market. Parties holding major portions of voting rights are obliged to advise the exchange operating company and the supervisory authority whenever the proportion of rights held in the company reaches, exceeds or falls short of certain thresholds. The reporting thresholds set in the BörseG are 4%, 5%, 10%, 15%, 20%, 25%, 30%, 35%, 40%, 45%, 50%, 75% and 90%. Due to group structures becoming more and more complex, the supervisory efforts required from the FMA have also increased.

In 2017 the FMA received 451 reports of major holdings, compared with 494 in 2016.

DIRECTORS' DEALINGS

The management and supervisory boards of listed companies and individuals closely associated with them reported a total of 538 securities transactions in 2017. This represents little change in the number of reports compared with 2016 (555).

Table 30: Ad hoc reports by subject matter 2013-2017

	2013	2014	2015	2016	2017
Share buyback/resale	14	27	11	18	10
Peculiarities/other items of ongoing business operations	116	112	87	125	144
Participations (acquisition, sale), partnerships	24	60	45	81	78
Financial reports/business figures	187	121	151	108	103
Large-scale orders	2	3	2	4	2
Capital measures	29	36	44	30	38
Staff details	45	43	46	36	39
Forecasts, profit warnings	5	13	3	4	2
Restructuring, recovery, insolvency	17	4	16	8	7
Strategic corporate decisions, investments	10	17	11	16	15
Management board meetings, resolutions	3	8	3	5	1
Total	462	444	419	435	439

Table 31: Supervision of issuers 2013-2017

	Ad hoc disclosure	Periodic disclosure	Reports pursuant to Article 48d para. 4 BörseG	Reports of major holdings	Investigations		
	Ad hoc reports received	Annual, half-yearly and quarterly reports received	Directors' dealings	Reports of voting rights received	Initiated	Forwarded	Dropped/completed
2013	462	526	283	293	17	14	30
2014	444	645	374	293	27	6	31
2015	419	518	363	261	33	14	29
2016	435	464	555	494	12	4	18
2017	439	470	538	451	22	16	11

SUPERVISION OF CAPITAL MARKET PROSPECTUSES

An issuer publicly offering securities or intending to apply for admission to a regulated market (of Wiener Börse AG, which is currently the only operator of regulated markets in Austria) must prepare a comprehensive securities prospectus containing key information on the issuer and the securities to be issued. The legal basis is laid down in the Capital Market Act (KMG; *Kapitalmarktgesetz*), which transposes the Prospectus Directive (Directive 2003/71/EC as amended) into national law, and in Regulation (EC) No 809/2004 as amended (legal basis for preparing securities prospectuses). In cases where the prospectus includes securities for admission to the stock exchange, the Stock Exchange Act (BörseG; *Börsegesetz*) also applies accordingly.

With regard to its remit of supervising capital market prospectuses, the Austrian Financial Market Authority (FMA) is in essence responsible for the following tasks:

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

APPROVAL PROCEDURES

A prospectus is required to be issued whenever securities or investments are publicly offered and when securities are admitted to trading on a regulated market of the stock exchange. The prospectus must include all details that are required based on the nature of the issuer and the publicly offered securities or investments, or the securities admitted to trading on a regulated market. The purpose is to allow investors to make a sound judgement on the issuer's, and any guarantor's, assets and liabilities, financial

situation, profits and losses, and future prospects, as well as on any rights associated with these securities or investments.

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

Any supplement pursuant to Article 6 KMG to a previously approved securities prospectus must be published and filed according to the same procedure as for the prospectus. A supplement must be issued for any important new fact or material error or inaccuracy with respect to the information contained in the prospectus that could affect the valuation of the securities or investments and that occurs or is identified between approval of the prospectus and the final closure of the public offering or, in the case of a listing on a regulated market, the opening of trading on a regulated market. The issuer has a legal claim to approval where a prospectus submitted for approval meets all of the requirements in full.

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

AUDIT BENCHMARK APPLIED BY THE FMA IN APPROVAL PROCEDURES

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

COMPLETENESS

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

COHERENCE

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

COMPREHENSIBILITY

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

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

OFFICIAL TASKS

The number of prospectus approvals increased in 2017, for the first time since 2013. With 69 approved prospectuses, the number was around 30% higher than in 2016, when the FMA approved 53 prospectuses. In addition, three applications for prospectus approvals were withdrawn by the issuer in 2017 (> Chart 35).

In terms of the instruments issued, equity instruments doubled from five in 2016 to ten in 2017. The number of companies making use of the capital market by way of a base prospectus increased from 23 in 2016 to 31 in 2017, i.e. by nearly 35%. Similarly, the number of bond issuers also rose from six in 2016 to nine in 2017.

The number of approved supplements grew from 71 in 2016 to 81 in 2017, i.e. by nearly 14%. Similarly, the final terms filed in connection with the base prospectuses approved by the FMA increased by some 24%, from 7 259 in 2016 to 8 998 in 2017.

EEA NOTIFICATIONS

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

Analogous to the increase in the number of approved prospectuses, the number of prospectuses notified by Austria to other EEA Member States has also risen. While in 2016 the number of notified prospectuses was 23, the comparable figure for 2017 was 28, an increase of around 22%. At 40, the number of supplements notified by the FMA remained at previous year's level (> Chart 36). The majority of outgoing notifications were addressed to the competent authorities in Germany and Luxembourg. Some prospectuses and supplements were notified to partner authorities in Central and Eastern European countries.

At 311, the number of prospectuses notified in Austria in 2017 by other EEA Member States declined by some 10% compared with one year earlier when the figure was 346. The number of notified supplements also dropped accordingly, falling by some 16% from 1 198 in 2016 to 1 009 in 2017. The majority of incoming notifications to the FMA were submitted by the competent authorities in Germany and Luxembourg.

INVESTIGATION OF BREACHES OF THE RULES ON PROSPECTUSES AND ADVERTISING

The FMA is additionally responsible for monitoring the Austrian financial market in order to identify any breach of statutory provisions that may occur in connection with

Chart 35: Approval procedures 2013–2017

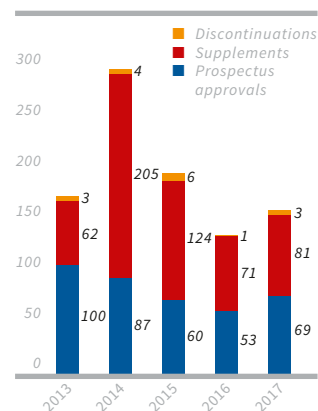
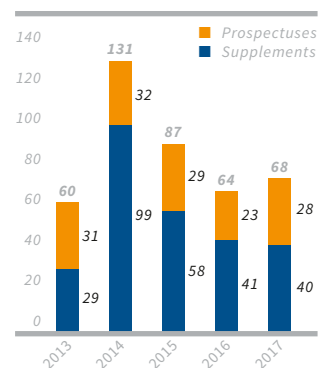


Chart 36: Outgoing notifications 2013–2017



the issuing and advertising of securities and investments. Investigations were completed in 37 such cases in 2017 (2016: 27), 36 of which (2016: 19) resulted in administrative penal proceedings being initiated. One case (2016: eight) was referred to the public prosecutor for further proceedings. Furthermore, five sanctions (2016: three) relating to KMG breaches were published on the FMA's website in 2017.

COMBATING UNAUTHORISED BUSINESS

UNAUTHORISED BUSINESS

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

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

FINANCIAL CRIME

As well as identifying cases where business operations are being carried out without authorisation, the FMA also frequently encounters cases involving financial crime as defined in criminal law. The diverse range of cases shows that there are no limits to the imagination of those who commit these crimes.

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

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

Phishing is a type of online fraud whereby the fraudsters attempt to obtain access

details to online bank accounts (user names, passwords, PINs and TANs) by means of phishing e-mails or trojans. These details are subsequently used to withdraw money from the accounts, with the funds being transferred abroad.

LEGAL BASIS

Since the beginning of 2006 the FMA has been legally authorised and obliged to take action against unauthorised business, with the legal basis for the FMA's activities in this regard being found in the relevant supervisory laws, e.g. the Austrian Banking Act (BWG; Bankwesengesetz), the Insurance Supervision Act (VAG; *Versicherungsaufsichtsgesetz*) and the Securities Supervision Act (WAG; *Wertpapieraufsichtsgesetz*).

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

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

In the course of its investigations the FMA uses public sources, registers and databases and also calls on individuals to submit a written statement or summons them to appear on the FMA's premises for questioning.

In addition, the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehörden-gesetz*) defines specific investigatory powers for the FMA when prosecuting breaches of the relevant laws in relation to unauthorised business activities. Under these powers, the FMA is entitled to obtain information from natural and legal persons and other entities with legal personality, and to process the required data. This right also encompasses the FMA's power to carry out on-site examinations of documents and electronic data media, e.g. on the business premises of a suspected party and also on those of third parties.

Of particular importance in this regard are the provisions contained in the relevant laws (specifically in Article 4 para. 7 BWG and Article 92 para. 11 WAG 2018), according to which the FMA may inform the public by means of an announcement that a person is not authorised to carry out certain transactions that require a licence. In addition to these provisions on publication, the FMABG also authorises the FMA – taking into account above all the stability of the financial markets and the interests of those concerned – to publish details of any penal decisions and administrative decisions prohibiting activities that require a licence, and to disclose the details of these. This enables the FMA to inform the public, by making an announcement on the Internet, in the official gazette “*Amtsblatt zur Wiener Zeitung*”, or in any newspaper with nationwide circulation, to the effect that a person is not authorised to carry out particular transactions that require a licence, which is an important function ensuring that the market and its investors are supplied with information.

Another key tool for the FMA and one which is effective in combating unauthorised business is the possibility of instructing a company suspected of engaging in unauthorised business, irrespective of any initiation of criminal proceedings, to remedy the situation such that the statutory provisions are met; such instruction is issued in

the form of a procedural order. If the party concerned fails to meet this request by the stipulated deadline, the FMA will issue an administrative decision ordering the necessary measures to be taken (extending as far as closure of the business operation) to ensure that a lawful situation is created. The issuing of such an administrative decision routinely involves the threat of a coercive penalty, up to the amount of € 30 000. In addition to the powers stipulated in the FMABG with regard to investigation, publication and prohibition, the FMA also regularly conducts administrative penal proceedings in accordance with the relevant supervisory laws in its efforts to combat unauthorised business.

Since many companies that engage in unauthorised business offer their services on a cross-border basis, particularly by means of the Internet, cooperation at an international level with partner authorities is of vital importance. Consequently, there is a regular exchange of information on cross-border cases with the respective competent authorities.

OFFICIAL TASKS

INVESTIGATIONS

In 2017 the FMA initiated a total of 208 investigations, 194 of which could be brought to a close. Furthermore, 11 cases were examined on site.

PROCEDURES TO PROHIBIT BUSINESS OPERATIONS

Based on the results of its investigations, the FMA will introduce a procedure to prohibit business operations in the event of a current case of unauthorised business. The first stage of this process involves the suspected party being called upon by means of a procedural order to remedy the situation such that it complies with the statutory provisions.

In 2017 a total of 52 parties were called upon by means of a procedural order to take action in order to comply with the statutory provisions. In three cases an administrative decision prohibiting business operations, simultaneously threatening a coercive penalty, had to be issued due to non-compliance with the procedural order.

One administrative decision prohibiting business operations was issued against an association for unlawful securities trading. The association had offered to buy investment funds with its members' money.

Another decision was issued against an undertaking that accepted funds from its customers for forwarding to its debtors (so-called financial restructuring agreements). This business model was considered to constitute a credit transfer transaction as defined in Article 1 para. 2 no. 2 lit c of the Payment Services Act (*ZaDiG; Zahlungsdienstegesetz*) and therefore prohibited.

A further decision was issued against an undertaking that offered a discount scheme involving the collection of bonus points which could subsequently be used when making purchases with participating merchants. This system was deemed to constitute the issuance and administration of payment instruments pursuant to Article 1 para. 1 no. 6 BWG.

PUBLICATIONS

In total, 47 announcements were made in 2017. Experience has shown that this is a

very efficient way of tackling unauthorised business conducted via the Internet, as dubious providers can be countered with publicity.

ADMINISTRATIVE PENAL PROCEEDINGS

A key pillar in the fight against unauthorised business is also the rapid implementation of administrative penal proceedings, which provide for penalties of up to € 100 000.

There were six cases of administrative penal proceedings being initiated in 2017, and seven penal decisions were issued.

One penal decision in the amount of € 8 000 was issued in accordance with Article 60 para. 1 no. 1 in conjunction with Article 4 para. 1 and Article 1 para. 5 no. 1 of the Alternative Investment Fund Managers Act (AIFMG; *Alternatives Investmentfonds Manager-Gesetz*) against the managing director of a company that was administering an alternative investment fund (AIF) without the requisite licence. The company had accepted capital from more than 100 individuals and invested the money in real estate in Austria and Germany.

Another penal decision in the amount of € 1 000 was issued against a natural person who had seven individuals grant him powers of attorney to administer their securities deposits and had concluded contract for difference (CFD) transactions with these deposits on his own initiative during a period of six months. This business model was judged to be unauthorised portfolio management as defined in Article 94 para. 1 in conjunction with Article 3 para. 2 no. 2 WAG 2007, as a result of which the individual concerned was punished.

A second natural person committed the same offence and was issued with a penal decision amounting to € 10 000. For a period of nearly nine years he had been managing deposits for his customers and investing in forex contracts without holding the necessary licence.

Another penal decision was issued due to the unauthorised provision of payment services pursuant to Article 66 para. 1 in conjunction with Article 1 para. 2 no. 2 lit c ZaDiG. The accused had settled flows of funds between a policyholder and an insurer via his own account, in the capacity as the person responsible for a legal entity.

Finally, three penal decisions in the amount of € 2 000 each were issued against the persons responsible for a legal entity for unauthorised brokering of transactions (Article 1 para. 1 no. 18 lit a in conjunction with Article 1 para. 1 no. 1 BWG). The plan according to this business model was to provide a service brokering current accounts via a mobile app.

ENFORCEMENT

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

REPORTED OFFENCES AND REPORTS FORWARDED TO ADMINISTRATIVE AUTHORITIES

If an authority or public office becomes aware of a suspected criminal act that falls within its statutory remit, it is obliged under Article 78 para. 1 of the Code of Criminal

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

In 2017 the FMA submitted a total of 67 statements of the facts to the public prosecutors or police authorities and made 12 reports to the administrative authorities.

COMBATING MONEY LAUNDERING AND TERRORIST FINANCING

The FMA monitors the companies under its supervision to ensure compliance with the due diligence and disclosure obligations aimed at preventing money laundering and terrorist financing. The efforts to combat money laundering and terrorist financing are based on the FATF Recommendations, the internationally accepted standards drawn up by the Financial Action Task Force. Austria implemented these Recommendations in its Financial Markets Anti-Money Laundering Act (FM-GwG; *Finanzmarkt-Geldwäschegesetz*), which has been applicable to the financial market since 1 January 2017.

The Financial Action Task Force (FATF) is an independent intergovernmental body based at the Organisation for Economic Co-operation and Development (OECD). The FATF develops standards to protect the global financial system against money laundering, the financing of terrorism and the proliferation of weapons of mass destruction, and it regularly conducts country evaluations to check member states' implementation of these standards. Relevant European legislation also draws on the FATF Recommendations.

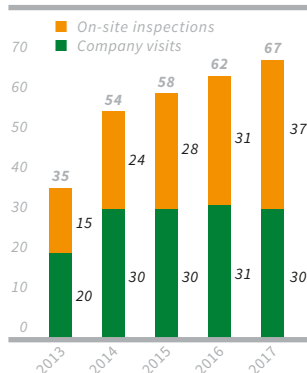
OFFICIAL TASKS

ON-SITE INSPECTIONS AND COMPANY VISITS

The FMA conducts on-site inspections to verify that the supervised companies have implemented suitable systems for the prevention of money laundering and terrorist financing. This involves in particular evaluating the IT systems that are deployed to monitor business relationships on an ongoing basis, verifying the effectiveness of the scenarios and relevant thresholds that have been defined as part of the monitoring systems to identify suspicious transactions. The system review also entails an in-depth inspection of the workflows and measures that the supervised companies have defined in order to safeguard compliance with due diligence requirements. Besides the system review, individual test cases are evaluated as a means of checking the performance of the implemented systems and measures.

For the purpose of preventing money laundering and terrorist financing, 67 on-site measures were carried out in total during 2017 (> Chart 37). In detail, 37 were on-site inspections: 24 conducted at credit institutions, one at an insurance undertaking and 12 at investment firms. The FMA also carried out a total of 30 company visits during the year under review. Of those visits, 24 were held at credit institutions, three at

Chart 37: On-site measures to prevent money laundering and terrorist financing 2013–2017



agents of payment institutions, two at insurance undertakings and one at a payment institution.

OFFICIAL PROCESSES

If, during the FMA's supervisory activities, facts emerge in a specific case indicating that a supervised company has possibly violated due diligence or disclosure obligations aimed at combating money laundering and terrorist financing, an investigation is launched to examine and clarify the case. Where a situation of non-compliance with statutory provisions is identified, it is the FMA's responsibility to ensure restoration of legal compliance and/or remedy of the associated defects.

In so doing, the FMA conducts a procedure to restore legal compliance, in the framework of which the company concerned is confronted with the existing defects and called upon to define and implement measures towards remedying them. In this context, the FMA subsequently also examines the suitability of the measures taken by the company. If any suspicion of systematic or serious violation of the due diligence requirements aimed at combating money laundering and terrorist financing arises, the FMA also conducts administrative penal proceedings.

During 2017 there were 191 cases in total of supervisory procedures being initiated. The procedures included 163 investigations, 17 procedural orders requesting compliance with statutory provisions to be restored and 11 cases of administrative penal proceedings.

A total of eight penal decisions were issued due to breaches of anti-money laundering (AML)/countering the financing of terrorism (CFT) provisions.

EXCHANGE OF INFORMATION AND PUBLIC SPEAKING ACTIVITIES

To further intensify the exchange of information and cooperation with the supervised companies, the FMA participated in a substantial number of talks and discussions in 2017 on how to prevent money laundering and terrorist financing. For instance, the FMA gave numerous talks at events organised by various seminar providers and at a range of events aimed at dealing with the issue in practice. A significant part of those talks concerned the innovations introduced by the FM-GwG and the planned changes owing to the Beneficial Owners Register Act (WiEReG; *Wirtschaftliche Eigentümer Registergesetz*).

In addition, the FMA was also represented at the Third Austrian Anti-Money Laundering Convention, which took place in Vienna from 21 to 22 March 2017 and was organised by the Financial Intelligence Unit of the Austrian Federal Office of Criminal Investigation (BKA). The Convention offered a platform for the exchange of information across authorities and sectors on how to prevent and combat money laundering and the financing of terrorism.

CURRENT DEVELOPMENTS

Since the FATF published its mutual evaluation report (MER) of Austria in September 2016, a number of measures have been taken to address the deficiencies identified. In relation to the financial market, the entry into force of the new FM-GwG on 1 January 2017 was of particular relevance. Additional measures were also taken as part of the action plan that the Federal Government had adopted following the FATF's country evaluation. In its first follow-up report, which was published in December 2017, the

FATF positively stressed that Austria has made good progress in implementing the recommendations made in the MER. Consequently, Austria was able to gain re-ratings of several recommendations only one year after publication of the MER.

A second major development during the year under review concerned the changed definition of beneficial owner. Although most of the provisions of the WiEReG only entered into force on 15 January 2018, the new definition of beneficial owner has applied since 16 September 2017. Specifically, the changes made in relation to indirect beneficial owners have eased the situation for supervised companies and aligned the concept of control in company holdings with the international understanding of the term. In contrast to the earlier legal situation, from the second level of holding, only active control of the respective company will now constitute beneficial ownership. Active control is now primarily defined as holding the majority of shares or voting rights in a company. In those case where no beneficial owners can be established, the natural persons belonging to the most senior management level will now be considered the beneficial owners. It will thus no longer be possible to have a situation in which the beneficial owners of a company cannot be identified.

FINANCIAL REPORTING ENFORCEMENT

In accordance with the Financial Reporting Enforcement Act (RL-KG; *Rechnungslegungs-Kontrollgesetz*), the FMA is the authority responsible for verifying that capital market-based companies carry out proper financial reporting as governed by the International Financial Reporting Standards (IFRS) and the Corporate Code (UGB; *Unternehmensgesetzbuch*). As part of a two-tier system, the activity of the FMA precedes the work of the Austrian Financial Reporting Enforcement Panel (AFREP), which carries out routine reviews of financial reporting. Where there is a need for official action, or at its own initiative if reporting appears to be insufficient, the FMA will also take action at the second level. In such instances the RL-KG equips the FMA with the supervisory and sanctioning powers needed to enforce accounting standards.

In addition to its actual official and auditing activity, the FMA further stepped up its preventive work in 2017 with the aim of further improving corporate reporting. Particular emphasis has been placed in this regard on European thematic reviews dedicated to accounting carried out by the European regulatory authorities (ESMA, EBA and the SSM), and support for companies in interpreting the IFRS rules in the run-up to the publication of financial information (pre-clearance). The FMA's approach of joining up its review work with its preventive measures is continuing to have a positive impact on the error statistics. With an error rate of 28% for the financial statements reviewed in 2017, there was a further significant improvement in the quality of financial reporting compared with the 2015 and 2016 financial years (41% and 33% respectively). The Austrian figure is now close to the long-term EU average of 27%.

The FMA has been able to use intensive preventive measures to reduce the high incidence of errors, particularly among financial institutions. Accounting on the part of issuers in the financial sector has suffered from a noticeably high level of errors in the past few years (67%). At 22% in 2017, the rate actually fell to just below the error rate for the financial market as a whole.

DETECTION OF ERRORS

Enforcement is centred around checks carried out in response to a certain issue or on a random basis, during which companies' financial statements and selected documents are checked for errors. Randomly selected reviews are carried out as standard by AFREP, which reports to the FMA on its findings.

AFREP is required to obtain the company's consent before starting any review, and the results of the AFREP review also need to be accepted by the company concerned. The FMA is obliged to initiate or carry out an official review in any cases that are disputed and where the company concerned withholds its consent. This is generally the exception rather than the rule, however. If the company reviewed accepts the errors detected by AFREP, which was the case with all sample checks carried out by AFREP in 2017, the FMA will arrange a hearing with the company concerned and then issue an administrative decision ordering publication of those errors. In one case the check was carried out directly by the FMA as it linked to other investigations on the part of the FMA regarding compliance with stock market rules. This approach avoided any overlapping between the different checks, effectively and efficiently exploiting the benefits of an integrated supervisory approach.

Pursuant to the RL-KG, the FMA is required to repeat a review if there are significant doubts surrounding AFREP's findings or as to whether the review was carried out properly. In accordance with a working agreement, the FMA and AFREP engage in intensive dialogue with each other, also exchanging information, in order to exclude the possibility of and/or resolve any divergent assessments from the outset. Consequently, there was only one instance of the FMA being required to repeat a review during the reporting year.

In cases in which the specific interpretation of errors found is unclear, or has not yet been dealt with at a European level, the FMA consults with the European Securities and Markets Authority (ESMA) on potential errors. This consultation mechanism guarantees a uniform approach across Europe in relation to reviewing the content of financial reporting, as far as the comparability of detected errors is concerned, and with regard to the uniform application of the relevant legal rules. Any apparent errors can be compared against ESMA's case-handling database, which already contains the details of some 1 500 precedents.

Table 32: Review processes
2015–2017

	2015		2016		2017	
	AFREP	FMA	AFREP	FMA	AFREP	FMA
<i>Processes to detect errors</i>	31	8	33	3	27	2
<i>Publication processes</i>		14		13		9
<i>RL-KG appeals</i>		1		1		–
<i>Pre-clearance processes</i>		3		3		3
<i>Reviews instructed by ESMA</i>		3		5	3	10
Total number of processes	31	29	33	25	30	24
<i>Error rate for all reviews</i>		41%		33%		28%
<i>Error rate for randomly selected reviews</i>		39%		30%		26%
NUMBER OF ERRORS BY AREA						
<i>Financial instruments</i>		7		7		7
<i>Impairment of non-financial assets</i>		2		6		4
<i>Revenue recognition</i>		3		–		4
<i>Figures and notes</i>		4		1		3
<i>Funds statement</i>		3		10		2
<i>Consolidation and business combinations</i>		8		5		1
<i>Calculation of fair values</i>		–		2		1
<i>Deferred taxes</i>		1		5		–
<i>Other</i>		3		1		2
Total individual errors		37		37		24

With 24 errors being detected at eight companies in 2017, the average number of individual accounting errors was on a similar scale to 2016 (> *Table 32*). A large proportion of the individual errors were, however, detected during the same process conducted directly by the FMA. If this statistical outlier is excluded, there was a clear fall in the number of individual errors per review. Financial statements with a large number of individual errors that combine to result in the accounts as a whole being classed as incorrect were less common in 2017.

Reporting on financial instruments remains a frequent source of incorrect disclosures. While this type of error was found less frequently among financial institutions now that the FMA has stepped up its preventive measures, the high frequency of errors demonstrates the need to increase the intensity of the review process and to expand the range of preventive measures in relation to the accounting treatment of financial instruments.

With regard to the recognition of revenue and the associated notes, there was a noticeable increase compared with the previous year. A general trend regarding enforcement in Austria cannot be deduced from this rise, as the increase is based on the priority area set last year and, in turn, the complex and far-reaching review of one single company.

The areas subject to intensive review in previous years, namely value adjustments, fair value, deferred taxes, consolidation and cash flow statement have all shown vast improvement. These mistakes, most of which tend to be made to improve typical success indicators, appear to be motivated by accounting policy. The intensive review activity in this area and the consistent publication of any detected errors are now having an impact for the first time. However, given the incentives and margin of discretion applicable to valuations, educational measures will only have a sustained effect and reduce the frequency of errors on a long-term basis if backed by consistent review activity.

PREVENTION

The FMA's prevention work in the area of financial reporting enforcement comprises several different elements, with the improvement suggestions gained from thematic reviews and pre-clearance being of particular importance. Other elements include the publication of identified errors, management talks and letters advising companies on their financial reporting, as well as the FMA's range of information materials.

THEMATIC REVIEWS

Since 2016 the FMA's prevention programme with regard to enforcement has been linked to international thematic reviews, sometimes also carried out in the form of impact analysis or fact-finding exercises. In contrast to backward-looking reviews, the aim is to identify and highlight good practices and to promote their future application.

Several reviews on the implementation of IFRS 9 in the banking sector have formed the core of this work. Of particular interest to the enforcement authority is the reduction in one of the main sources of errors in accounting, namely the incorrect measurement of impaired loans, which is one of the primary contributors to the high rate of errors among financial institutions. In order to make sustained improvements in this

area, it is crucially important that the new rules be implemented uniformly and on the basis of a high-quality approach as of 2018. In terms of the thematic reviews on IFRS 9, the FMA, in its capacity as an integrated supervisory authority, was able to pool and consider various national and European enquiries (from the ECB and ESMA in particular) together, helping to relieve the burden placed on Austrian banks.

Additional ESMA reviews related to fair value measurement (IFRS 13), the disclosures of insurance undertakings following the entry into force of Solvency II (IAS 1), and the new rules governing the recognition of revenue (IFRS 15).

The companies concerned have to date always accepted the offer of early discussion with the FMA during the thematic reviews. Further cross-sectional exercises are expected for the introduction of the new leasing standards as of 2019 (IFRS 16) and the new insurance standards with effect from 2021 (IFRS 17).

PRE-CLEARANCE

As well as reviews, the FMA has also offered a pre-clearance service since 2015 enabling companies to discuss cases in advance with the FMA in order to avoid errors from the outset. Pre-clearance enquiries in 2017 were dominated by questions about the accounting treatment of financial instruments. Two cases related to the measurement of loans pursuant to IFRS 9 and another query related to the classification of own finance as equity in accordance with IAS 32. The pre-clearance process takes place before the financial statements are prepared, and the discussions and outcomes are confidential and not published.

The relatively high number of pre-clearance enquiries compared with other European countries confirms the degree to which the FMA is an accepted contact person, and the availability of the pre-clearance service is well known among companies and auditors. The short time taken to respond to enquiries also helps to make pre-clearance an attractive option. Despite EU-wide harmonisation, the average time taken to answer pre-clearance enquires in 2017 was 80 calendar days. Particularly in relation to the various new rules to be implemented (IFRS 9, IFRS 15, IFRS 16, IFRS 17), pre-clearance is proving to be an appropriate tool. Even in the absence of any past experience from enforcement procedures and published enforcement decisions, users of the service can obtain reliable feedback, which is harmonised at European level, from the enforcement authority.

RESOLUTION PLANNING

The FMA, in its capacity as national resolution authority, is tasked with drawing up a resolution plan for each of the independent banks based in Austria. It is also responsible for carrying out annual reviews of these plans, which set out the strategy that would be applied if an institution were to find itself in financial difficulties and be no longer fit for a recovery process. In such a case, the aim would be to liquidate the institution concerned with as little impact on financial market stability as possible. Resolution plans were required for just over 480 institutions in 2017. In the context of the European banking union, the Single Resolution Board (SRB) in Brussels was responsible for 15 of these institutions. The SRB's remit covers those banks classed as significant for the purposes of the SSM, as well as all other institutions with cross-border operations. The FMA, which has a seat and a vote on the SRB, plays an essential part in the development of these institutions' resolution plans through the Internal Resolution Teams (IRT).

Resolution planning is an annual, iterative process during which existing plans are updated, supplemented, revised and further developed. The resolution planning process started during the previous year continued in 2017. Data was collected from ten banks under the responsibility of the SRB and from 55 institutions for which the FMA bears sole responsibility, focusing on areas not covered by the data already available from supervisory reporting. This included information on the banks' critical functions and liabilities.

As part of this data collation process, a survey on organisational interrelationships was prepared for the first time in cooperation with the OeNB and trialled during a pilot project. The plan is to expand this survey to all major Austrian banks over the coming years.

Work during the year under review also focused on updating the resolution plans with the ongoing involvement of the institutions concerned, which were invited to bilateral meetings and workshops. At the same time, further foundation work was also carried out, with the development of resolution planning guidelines by both national and SRB working groups.

The conclusion of the national resolution planning process for 2017 had been (provisionally) scheduled for the beginning of December 2017. Following an update of the chapters produced in 2016, the first versions of the following chapters from resolution plans for the largest national institutions were drawn up:

- Financial resolution strategy
- Liquidity during resolution
- Indicative MREL calculations
- Access to IT and financial market infrastructure
- Critical functions and critical interrelationships
- Loss absorbing capacity

The resolution plans for those institutions with regard to which an initial financial resolution strategy had already been prepared by the FMA in its capacity as national resolution authority were forwarded to the FMA in its capacity as banking supervisor and to the SRB for comment in December 2017/January 2018. In the case of two institutions subject to direct responsibility by the FMA as the national resolution authority, resolution colleges were also established with the responsible authorities in Romania and Hungary in November 2017.

The preparation of resolution plans for smaller banks in Austria was a further priority during 2017. Given the specific, decentralised structure of the Austrian banking market with its high number of small banks, this presents the FMA with a particular challenge.

RESOLUTION PLANNING

KA FINANZ AG

On 6 September 2017 the FMA, in its capacity as banking supervisor, approved the conversion of KA Finanz AG (KF) into a wind-down entity. On the same day, in its capacity as resolution authority, the FMA also approved the wind-down entity's strategy and risk profile. A reporting system was developed jointly by the banking supervision and banking resolution departments, on the basis of which the continued supervision of KF will be carried out.

In early June 2017 KF had applied to the FMA for permission to operate as a wind-down entity. KF based its wind-down strategy on a ten-year wind-down period, with its portfolio due to be completely wound down by 2026. KF's total exposure as at 30 June 2017 totalled € 8.7 billion. The activities to wind down KF in accordance with the resolution objectives defined by law are continuously supervised by the resolution authority. KF is provided with refinancing from the federal divestment company ABBAG following the conclusion of a framework agreement to this effect on the granting of refinancing facilities.

IMMIGON PORTFOLIO AG

In 2017 immigon portfolioabbau ag continued activities to wind down its portfolio. The wind-down measures implemented during the year included: disposal, early repayment or refinancing of loans extended and assets, the sale of former leasing projects, securities and holdings, and the sale of a significant Raiffeisen Bank International share package. On the liability side, the wind-down process was stepped up with the early buy-back of issued liabilities, particularly bonds. The active wind-down of the remaining assets is scheduled for completion in 2018, which means that initial preparations for statutory liquidation can be introduced in parallel.

The process of winding down the portfolio continues to be based on a plan approved by the supervisory board, as well as on the wind-down strategy and risk profile as approved by the FMA. The resolution authority is monitoring the progress made on an ongoing basis using its powers under supervisory law. This progress is visible from the cash reserve held at the OeNB, which for the first time was higher than the total of all liabilities and provisions as at the 2017 year-end.

The FMA is required to take account of these specific characteristics by applying the principle of proportionality to both form and content. With this in mind, it has been working to ensure the process is as automated as possible so that resolution plans for the large number of small banks can be produced efficiently while, at the same time, avoiding the need to subject these institutions to additional data queries. As a result, resolution plans were prepared for more than 400 smaller institutions in 2017. The institutions concerned were briefed in late September 2017 for the first time with regard to the status of their resolution plans and the requisite MREL ratios. Their resolution plans will be updated annually in future.

As part of the resolution planning for institutions for which the SRB is responsible, several workshops were held with the institutions in 2017, focusing primarily on the subjects of critical functions, institutional protection schemes, operational continuity, MREL-eligible liabilities, loss absorbing capacity, preferred resolution strategy and liquidity. Two major Austrian institutions with strong representation in the CESEE region were involved in intensive exchange with the banking supervisor in order to develop the preferred resolution strategy. The resolution plans prepared in 2017 for

HETA

The resolution of HETA pursuant to the Bank Recovery and Resolution Act (BaSAG; *Bankensanierungs- und Abwicklungsgesetz*) was successfully continued in 2017. On 2 May 2017 the FMA, in its function as resolution authority, issued an administrative decision in relation to the challenge procedure replacing its emergency administrative decision of 10 April 2016. Compared with the earlier decision, the new administrative decision reduced the bail-in (haircut) with regard to the eligible preferential liabilities. These had been cut to 46.02% of the nominal value in the original decision. Given that the process of realising the assets had advanced more positively than initially assumed, the new decision stipulated a haircut to 64.40%. The instruction delaying the due date of all eligible liabilities until 31 December 2023 was upheld.

There are currently no BaSAG cases pending with the supreme courts (ECJ, Constitutional Court, Administrative Court).

The realisation of HETA's assets was actively driven forward in 2017. There were large-scale disposals from the portfolio of ailing loans in South-East European countries. HETA's liquidity portfolio also continued to increase as a result of redemptions in the loan portfolio and the strong reduction in amounts owed to banks and customers and in the securities portfolio. The resolution progress made to date – based on a reduction of approximately 95% in assets (excluding cash assets) by the end of 2018 at the latest – is therefore ahead of HETA's original plan.

The exceptionally positive progress made in realising HETA's assets even meant that some creditors' claims could be settled early in 2017. The HETA extraordinary general meeting on 30 June 2017 passed a resolution on the early distribution of some of the assets to satisfy creditors' claims. Around € 5.8 billion was paid out to settle eligible liabilities or was securely deposited for disputed or uncertain claims.

At the same time, the size of the HETA management board was cut from four to three members with effect from 1 September 2017 in response to the faster than anticipated and positive progress made in realising assets, and in order to adapt the management structure to the new circumstances.

Ongoing activities to wind down HETA in accordance with the resolution objectives defined by law are continuously supervised by the resolution authority.

the SRB institutions were sent for comment to the ECB and, depending on responsibility, to the FMA in the capacity of supervisory authority. Resolution colleges for three major Austrian SRB institutions were also held in Brussels in early December 2017.

RESOLUTION FUND

The contributions to the Single Resolution Fund (SRF) were set by the FMA as the national resolution authority for 566 institutions in the form of emergency administrative decisions. The contribution level was based on data collected using an SRB template. Overall, the Austrian banking sector paid total contributions of € 187.9 million in 2017. The FMA remitted the contributions collected for 2017 in full to the SRF on 29 June 2017, meeting the specified deadline, on the basis of an intergovernmental agreement.

This means that Austrian banks have paid € 590 million to the SRF since its inception. Over the same period, the number of institutions required to pay contributions has fallen from 605 (in the 2015 contribution year) to 566, with a further fall in the number of institutions liable to pay expected in 2018.

In mid-October 2017 the template to gather the data needed to calculate the SRF contributions for 2018 was approved by the SRB. The FMA forwarded a German version of the template to the Austrian Federal Economic Chamber (WKO) for distribution to the institutions concerned. As in recent years, there was another workshop for the banking sector in 2017, during which new aspects were presented and any questions answered.

**LAW AND
ENFORCEMENT**



LEGAL AND ENFORCEMENT AFFAIRS

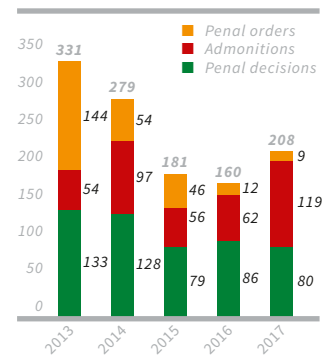
The Financial Market Authority (FMA) has administrative penal jurisdiction in the first instance and is therefore authorised to conduct administrative penal proceedings and impose sanctions where provisions of the supervisory laws are breached. The FMA represents itself where necessary during all stages of appeal, that is in all proceedings before the Federal Administrative Court (BVwG) and the courts of public law, as well as, within the scope of the European supervisory structure, where necessary before European courts of law and other bodies providing legal protection. Where a breach of a provision of law within the FMA’s scope of supervision is punishable as a criminal offence and the FMA identifies a corresponding case, it is required to file a report with the public prosecutor’s office, providing a statement of the facts of the case. Where as part of supervisory activities facts come to light that are grounds for suspecting a breach of a legal provision to be prosecuted by another authority, the FMA may also report the case to that authority. Such reports, which can pertain to any area within the FMA’s scope of supervision, are submitted in particular to the public prosecutor’s office, district administration authorities and other authorities, such as the telecommunications supervisory authority.

ADMINISTRATIVE PENAL PROCEEDINGS

As at the beginning of 2017, 78 administrative penal proceedings were pending at the FMA. A further 255 were initiated, and 208 cases were concluded with an administrative decision during the year under review. Among the completed proceedings, penal decisions were issued in 80 cases, penal orders in nine and admonitions in 119 (> Chart 38). Proceedings were discontinued in 46 cases, while in 121 cases the FMA refrained from initiating proceedings after preliminary investigations. As at the end of 2017, administrative penal proceedings were pending in 85 cases.

A penal decision refers to an administrative decision imposing a fine following an investigation procedure. A penal order can be issued without any additional investigation procedures if the evidence for an offence is sufficiently unequivocal. The fine in this case can be a maximum of € 600 per violation, whereas the laws applicable until the end of 2017 provided for imposing cumulative fines in the event of several breaches. In some cases the circumstances are negligible, specifically the significance of the right protected under criminal law and the degree to which that right was impaired as a result of the offence, as well as the accused party’s share of fault. In such cases the FMA

Chart 38: Administrative penalties and admonitions 2013–2017



may refrain from a penalty while issuing a formal admonition calling attention to the unlawfulness of the party's conduct.

In 2017 the FMA imposed 89 fines totalling € 1 735 200, of which € 1 708 800 related to penal decisions and € 26 400 to penal orders. The average fine resulting from a penal decision was thus € 21 360 in 2017, with fines from penal orders averaging € 2 933. The highest fine imposed was € 210 000.

The number of 'minor' proceedings in response to breaches of notification obligations was further reduced. Since 2014, as set out in several supervisory laws, breaches of reporting requirements have no longer been subject to any fine, provided that notification is provided later before the breach becomes public. This continues to serve as an incentive for the companies concerned to make up for the missed notification. The decline in fines that has been observed for years is lastly also in the interests of supervision. At one penal order and one penal decision, the total number of penalties imposed on account of notification obligations was limited. Admonition orders nonetheless had to be issued in a clearly increased number of cases, in particular because of credit institutions' failure to provide timely notification of changes in supervisory board membership.

In the interests of transparency and prevention, the FMA publishes notices of sanctions on the FMA website. This is mainly in response to changes to Union law in recent years, which have brought forth requirements to publicise a growing number of cases involving sanctions. Consequently, the number of instances in which the FMA publishes information on penalties related to individuals is also increasing.

Chart 39: Facts reported to public prosecutors 2013–2017

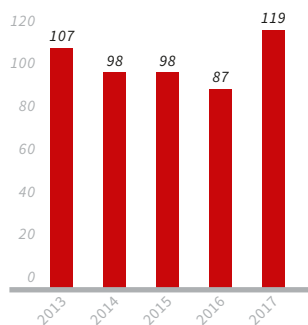
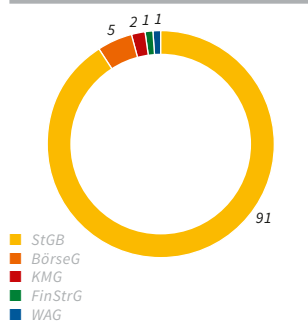


Chart 40: Facts reported by subject (in %)



STATEMENTS OF FACTS AND REPORTS TO CRIMINAL PROSECUTION AUTHORITIES

Some of the laws included in the FMA's supervisory remit also cover criminal offences. Where the FMA has reasonable grounds to suspect the breach of such a law, a report must be filed with the public prosecutor's office or the criminal investigation department. The courts of law are then responsible for imposing any sanctions. Examples of such offences include insider dealing and market manipulation as prohibited by the Stock Exchange Act (BörseG; *Börsegesetz*) where amounts exceeding defined limits are involved, and the public offering of investments without submitting a prospectus as required by the Capital Market Act (KMG; *Kapitalmarktgesetz*). As part of its supervisory activity, from time to time the FMA also becomes aware of circumstances pointing to a suspected breach of criminal law. The FMA is obliged to report such cases. The most frequent cases of this kind involve suspected breach of trust and/or fraud.

In 2017 the FMA forwarded 119 statements of facts to the public prosecutor's office (> Chart 39). In 91% of these cases, the statements of facts related to reports based on suspicion of other breaches of the Criminal Code (StGB; *Strafgesetzbuch*), 5% involved suspected breaches of the BörseG and 2% related to suspected violations of the KMG, while shares of 1% each were attributed to suspected breaches of the Fiscal Offences Act (FinStrG; *Finanzstrafgesetz*) or the Securities Supervision Act (WAG; *Wertpapieraufsichtsgesetz*) (> Chart 40).

	2013	2014	2015	2016	2017
<i>AIFMG: Violations of notification obligations</i>	-	-	-	2	13
<i>AIFMG: Unauthorised business</i>	-	-	-	-	4
<i>BWG: Violations of notification obligations</i>	64	37	26	27	42
<i>BWG: Bank auditor provisions</i>	-	-	-	-	-
<i>BWG: Protection of designations</i>	-	-	-	-	-
<i>BWG: Deckungsstock</i>	8	46	8	4	6
<i>BWG: Owner control</i>	18	-	-	-	-
<i>BWG: Deposit guarantee and investor compensation</i>	2	-	-	-	-
<i>BWG: Money laundering</i>	29	10	31	32	21
<i>BWG: Violations of reporting requirements</i>	51	14	7	8	-
<i>BWG: Accounting</i>	11	14	14	5	-
<i>BWG: Unauthorised business</i>	22	17	8	9	4
<i>BWG: Consumer protection provisions</i>	-	2	-	1	-
<i>BWG: Presentation obligations</i>	-	1	-	-	2
<i>ZaDiG: Consumer protection</i>	1	20	26	10	2
<i>ZaDiG: Unauthorised business</i>	1	-	1	1	1
<i>PKG: Violations of notification obligations</i>	-	-	-	-	2
<i>PKG: Approval requirements</i>	-	-	-	-	-
<i>PKG: Protection of designations</i>	-	4	-	-	-
<i>PKG: Violations of information requirements</i>	-	-	-	-	-
<i>PKG: Unauthorised pension company business</i>	-	-	-	-	-
<i>PKG: Violations of investment provisions</i>	-	-	-	2	7
<i>VAG: Violations of notification obligations</i>	10	13	-	9	-
<i>VAG: Instructions</i>	-	2	-	-	-
<i>VAG: Unauthorised business</i>	-	1	-	-	-
<i>VAG: Money laundering</i>	-	-	-	3	-
<i>VAG: Violations of information requirements</i>	-	-	-	-	15
<i>InvFG: Violations of notification obligations</i>	9	6	23	4	-
<i>InvFG: Protection of designations provisions</i>	1	3	3	-	4
<i>InvFG: Fund rules</i>	-	2	6	5	-
<i>InvFG: Organisational requirements</i>	5	10	4	5	-
<i>InvFG: Accounting</i>	5	2	-	2	1
<i>InvFG: Violations of advertising provisions</i>	3	2	7	-	-
<i>InvFG: Protection of investors' interests / investment provisions</i>	57	67	25	3	17
<i>ImmoInvFG: Violations of notification obligations</i>	-	-	2	-	-
<i>ImmoInvFG: Protection of designations</i>	-	-	-	-	-
<i>ImmoInvFG: Violations of advertising provisions</i>	-	-	-	-	-
<i>BeteilFG: Violations of protection of designations provisions</i>	-	-	-	-	-
<i>WAG: Violations of notification obligations</i>	10	4	1	-	-
<i>WAG: Capital requirements</i>	2	4	3	2	1
<i>WAG: Owner control</i>	8	-	4	7	2
<i>WAG: Organisational requirements</i>	26	27	17	22	19
<i>WAG: Unauthorised business</i>	1	3	-	-	2
<i>WAG: Violations of reporting requirements</i>	-	-	-	-	4
<i>WAG: Conduct of business</i>	23	28	15	2	4
<i>BörseG: Violations of obligation to report holdings</i>	22	-	6	-	1
<i>BörseG: Directors' dealings</i>	5	8	5	-	-
<i>BörseG: Market manipulation</i>	9	22	4	21	15
<i>BörseG: Non-disclosure of inside information</i>	4	10	4	13	1
<i>BörseG: Violations of periodic disclosure obligation</i>	3	7	3	-	4
<i>BörseG: Other violations</i>	1	1	-	-	-
<i>BörseG: Unauthorised business</i>	-	-	2	-	-
<i>BörseG: Violations of Vienna Stock Exchange trading rules</i>	-	-	-	-	-
<i>KMG: Other violations of prospectus rules</i>	5	4	18	18	27
<i>KMG: Violations of advertising provisions</i>	1	-	-	1	9
<i>VZKG: Consumer protection</i>	-	-	-	-	14
<i>EuVECA Regulation: Presentation obligations</i>	-	-	-	-	2
<i>MAR: Other violations</i>	-	-	-	-	4
<i>MAR: Directors' dealings</i>	-	-	-	-	1
<i>MAR: Market manipulation</i>	-	-	-	-	3
Gesamt	417	391	273	218	257

Table 33: **Administrative penal proceedings concluded 2013–2017 (by law)**

In the event of several violations, proceedings categorised according to predominant violation.

SELECTED PENAL DECISIONS ACCORDING TO AREA OF THE LAW CONCERNED

CONSUMER PAYMENT ACCOUNTS ACT/PAYMENT SERVICES ACT (VKZG/ZaDiG)

On account of breaches of the VKZG and the ZaDiG, the FMA imposed sanctions against five members of the management board and four responsible representatives of a bank. Among other things, the credit institution had failed to make a functioning switching service available to its customers. Issuing a preliminary appeal decision, the FMA imposed fines amounting to a total of € 460 000.

INSURANCE SUPERVISION ACT (VAG 2016)

Administrative penalties were imposed against three members of the management board of an insurance undertaking on account of the failure to provide sufficient information on tax laws to clients taking out life insurance policies.

ANTI-MONEY LAUNDERING PROVISIONS

During the year under review, in cases related to the banking sector, the FMA issued eight penal decisions in response to breaches of provisions aimed at preventing money laundering. The penal decisions in six of the eight cases were issued directly to credit institutions as legal entities, with administrative penalties of between € 60 000 and € 210 000 imposed. The other two penal decisions concerned responsible representatives of safety deposit box providers (see also the rulings by the BVwG and the VwGH below).

SECURITIES SUPERVISION ACT (WAG 2007)

Of the 13 penal decisions issued in response to breaches of the WAG 2007 (not counting unauthorised business), eleven concerned representatives responsible for credit institutions and two related to managers of another company. The penal decisions issued against credit institutions were all related to deficiencies in organisational standards and mainly to inappropriate precautions to prevent unauthorised staff transactions, but also included the failure to provide adequate risk information when selling financial instruments. A fine of € 19 000 was imposed in one case due to a credit institution's failure to ensure that investment services and activities could be carried out continuously and on a regular basis for customers affected when the bank closed their securities deposit accounts to migrate to a new customer platform. Sanctions in two other cases related to breaches of owner control provisions.

STOCK EXCHANGE ACT (BörseG)

Penal decisions relating to the BörseG were issued in 11 cases. Three of the decisions were issued due to systematic breaches of the Vienna Stock Exchange's trading rules on proper naming of orders. The other penal decisions were issued in response to market manipulation. The majority was related to cases of private persons negligently cross-trading illiquid securities for tax reasons. A preliminary appeal decision was issued in one case, imposing a fine of € 12 000 for the accused party's intent to push up the price of a stock and keep it high for tax reasons.

INVESTMENT FUND ACT (InvFG 2011)

Six penal decisions were issued in response to breaches of the terms of the InvFG

2011. The infringements addressed in the penal decisions included one case of exceeding the borrowing limit, three cases of misleading information in fund documents relating to the use of derivatives, and two cases of charges to securities accounts without the management company actually authorising payment.

CAPITAL MARKET ACT (KMG)

Penal decisions were issued in 21 cases in response to breaches of provisions of the KMG. Nine of those penal decisions were issued against responsible representatives of six companies on account of misleading advertising, with maximum fines of € 85 000 and € 69 000 being imposed. The other cases related in particular to the reporting obligation for the new-issue calendar, to public offerings without a prospectus or supplement, or failure to additionally provide the prospectus on the Internet after making it available at the issuer's place of establishment.

AUSTRIAN BANKING ACT (BWG)

Two penal decisions were issued against directors of a credit institution that was repeatedly tardy in submitting audited financial statements and reports.

SELECTED PROCEEDINGS BEFORE THE FEDERAL ADMINISTRATIVE COURT

UNAUTHORISED BUSINESS

In one case before the Federal Administrative Court (BVwG), the court dismissed as unjustified a complaint lodged against a penal decision that had been handed down by the FMA in response to unauthorised issuing and administration of a means of payment. In its ruling, the BVwG stated that bonus points could also be considered a money surrogate if accepted as a means of payment within an open system.

In another case, the BVwG dismissed a complaint lodged against a penal decision by the FMA that had imposed a € 15 000 fine. The company had been fined after issuing participation certificates, which constitutes operation of a deposit business without a licence. The BVwG concurred with the FMA's legal opinion that the form of the participation certificates in the particular case qualified as acceptance of third-party funds for deposit, which requires a licence.

PROSPECTUS LAW

The BVwG confirmed the legal opinion put forth in a penal decision by the FMA which had imposed fines totalling € 11 500 on account of publicly offering investments but failing to publish prospectus supplements in time. The same ruling by the BVwG did, however, note that no public offering was made after the stated extended subscription period, even though a prospectus and other investment information were still available for viewing on the provider's website. According to the ruling, a public offering after the end of the extended subscription period does not of itself constitute an extension of the subscription period and thus a condition requiring a supplement.

AD HOC DISCLOSURE OF ORDERS

The BVwG confirmed a penal decision issued by the FMA which had found two parties guilty of delayed disclosure of inside information relating to the signing of a project

agreement. The fine of € 36 000 imposed by the FMA against one of the accused parties was lowered, but only to € 33 000. The BVwG ruled in this case that a major order can represent inside information if that order is correspondingly relevant for the price of a listed security. The court refused to recognise the accused parties' arguments as relevant, namely that the company's past practice had been to disclose major orders only through press releases and that departing from this practice would actually have indicated information of special significance.

PENALTY INTEREST

The BVwG dismissed the complaint lodged by a credit institution against a payment notice by the FMA charging € 221 573 in penalty interest. The BVwG shared the FMA's legal opinion, according to which exceeding the limit for large exposures represented a breach of law at the level both of the individual credit institution and of the banking group. The court noted that charging a double fine is not unlawful in a case of this kind in which the criteria for exceeding limits are satisfied on two separate accounts. An extraordinary high-court appeal against the ruling was lodged with the Administrative Court (VwGH).

SELECTED CASES REVIEWED BY BOTH THE BVWG AND THE VWGH IN THE REPORTING YEAR

MARKET MANIPULATION

One case concerned sanctions that the FMA had imposed on a former securities trader of an Austrian bank on account of market manipulation. Here the BVwG did not follow the arguments put forth in the complainant's appeal and in the face of changed economic circumstances merely reduced the imposed fine to € 21 000. According to the BVwG's ruling, it was not relevant whether the trader's conduct was aimed at personal enrichment or, as the fined complainant claimed, his placing orders on his own account was intended to test manipulative behaviour. As a bank employee, the complainant had carried out trading activities, which while otherwise unusual had been legal, as part of his work responsibilities and using the trading access provided by the bank. The BVwG found that his conduct had become manipulative, however, when he simultaneously placed orders through a private securities account. The VwGH subsequently dismissed the extraordinary high-court appeal because it did not concern a fundamental point of law.

ANTI-MONEY LAUNDERING DUE DILIGENCE REQUIREMENTS FOR SAFETY DEPOSIT BOX PROVIDERS

The BVwG upheld a penal decision issued by the FMA against the director of a safety deposit box provider. The company had been accused of renting out safety deposit boxes on an anonymous basis, without having appropriate procedures in place to ensure the identification of the respective parties renting a safety deposit box. Based on substantially the same charge, the FMA also imposed a fine on the director of another safety deposit box provider. While confirming the party's guilt, the court adjusted the amount of the fine after the individual's financial circumstances had come to light.

In one of the two cases, the VwGH has meanwhile dismissed the ordinary appeals

against the administrative penalty. The VwGH stated that dual control in the case of safe deposit services is not provided for either in the wording of Article 1 para. 2 no. 6 of the Austrian Banking Act (BWG; *Bankwesengesetz*), of the related legal commentaries or in Union law, so that anti-money laundering due diligence requirements must be observed even in the absence of dual control.

UNAUTHORISED BUSINESS

In several sets of proceedings, decisions issued by the FMA in cases involving measures to counteract unauthorised business were confirmed by the BVwG as well as the VwGH and the Constitutional Court (VfGH). The complainants in each case were private associations founded by one and the same individual as chairman and representative. The purpose of those associations was to support employees and their family members in the event of illness, joblessness or incapacity for work. Products providing a supplementary pension were offered while fees were collected from members. Such activities can be subject to licensing requirements in Austria. The FMA viewed the case as requiring a licence because funds were accepted from third parties, so that the Authority subsequently prohibited business activities and published a corresponding notice. Both the BVwG and the VwGH later specifically confirmed the FMA's decision to prohibit the party from accepting funds from third parties without holding a licence granted by the FMA.

OTHER SELECTED PROCEEDINGS BEFORE THE COURTS OF PUBLIC LAW

CLIENTS' KNOWLEDGE AND EXPERIENCE

IN THE CONTEXT OF SELLING FINANCIAL INSTRUMENTS

In one case, the VwGH did in fact repeal the penal decision issued by the FMA on formal grounds but nonetheless confirmed the FMA's legal opinion. Specifically, the FMA had ruled that the phrase "the clients' knowledge and experience in the investment field" as stated in Article 44 WAG 2007, when taken literally, was by itself enough to exclude the interpretation, presented by the party appealing the decision, that rating a client's "knowledge" or "experience" at a high level would allow classification in the resulting higher risk category. It was observed that the law in fact requires information to be obtained concerning both the client's knowledge and experience, accordingly requiring clients to be rated or classified uniformly based on these criteria.

OPTIONS FOR USING PAYMENT ACCOUNTS IN OTHER COUNTRIES

The FMA imposed a fine on a major telecommunications company. In its general terms and conditions of business during the period in question, the company had specified the Member State in which payers had to hold an account to be able to receive payments. The VwGH confirmed the legal view put forth by the FMA, ruling that the telecommunications company had applied general terms and conditions of business that did not comply with law, preventing customers from becoming aware of the option of establishing a business relationship using a SEPA (single euro payments area) account in another country.

AD HOC DISCLOSURE WHEN SIGNING AN MOU

The VwGH dismissed the (ordinary) appeal, lodged by an issuer's management board,

against a fine imposed on account of delayed disclosure of inside information relating to the signing of a memorandum of understanding, in other words an intermediate step towards concluding a business transaction. In doing so, the court confirmed the FMA's legal opinion that such intermediate steps can constitute inside information, a view that is recognised throughout Europe and is based on court jurisprudence.

PARTICIPATION IN A COMMON CASH-CLEARING SYSTEM

The FMA issued a decision to two cooperative banks, ordering them to participate in a common cash-clearing system and to hold liquidity reserves at their central institution or another credit institution defined by law or contract. The banks disputed the decisions. In several sessions, the VfGH subsequently addressed the issue of the point in time and the circumstances under which a credit institution as defined in Article 27a BWG becomes associated with a central institution. The main effect of the ruling was to confirm the conformity of Article 27a BWG with Union law. The appeals by the cooperative banks to the VfGH did not raise any issues related to fundamental points of law and were consequently refused.

CONTRIBUTIONS TO THE RESOLUTION FUND

The VfGH terminated proceedings initiated upon an appeal lodged by a credit institution concerning contributions paid into the EU resolution fund. In doing so, the court followed the arguments brought forth by the FMA, which had argued that the decision regarding any suspensive effect of a submitted challenge could not have any legal consequences once the decision in relation to the challenge procedure (*Vorstellungsbescheid*) had been issued in lieu of the emergency administrative decision (*Mandatbescheid*). Thus, the complaint lodged by the complainant, requesting recognition of the suspensive effect of her challenge, became void. Earlier, the appeal filed by the credit institution in relation to the admissibility of a petition requesting recognition of the suspensive effect of a challenge had been deemed irrelevant by the VfGH, with the appeal case being closed.

INTERNATIONAL COOPERATION



CROSS-BORDER COOPERATION

The FMA is a member of many different European, global and transnational organisations and associations that deal with the regulation and supervision of financial markets. FMA employees are also permanently involved in the work of various international organisations, committees and working groups, the most important of which are described in brief below.

EUROPEAN COOPERATION

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

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

The ESRB, an independent body, is based at the European Central Bank (ECB). It is tasked with evaluating and monitoring systemic risks within the financial system, with the aim of strengthening the shock resilience of financial markets. To this end, the ESRB provides the Council of the European Union with regular assessments of the current situation, as well as providing warnings or recommendations as and when required to the EU, one or more Member States, ESAs or NCAs.

Microprudential supervision at European level (> *Figure 1*) is the role of:

- the European Banking Authority (EBA), currently still in London (its relocation to Paris on account of Brexit was agreed during the reporting year);
- the European Insurance and Occupational Pensions Authority (EIOPA) in Frankfurt; and
- the European Securities and Markets Authority (ESMA) in Paris.

The work of the ESAs focuses on regulation, in other words the creation of supervisory standards. This means that the ESAs play a crucial role in strengthening supervisory convergence within the EU and in helping to create a level playing field for financial institutions across the whole of the EU. As advisers to the European Commission, the ESAs play a central role in the development of a single body of rules for the EU by publishing opinions and reports on potential and/or new legislative proposals. In contrast, the ESAs are only directly involved in operational supervision in a few specialist areas of the financial market. Otherwise, all operational activities are carried out by the NCAs.

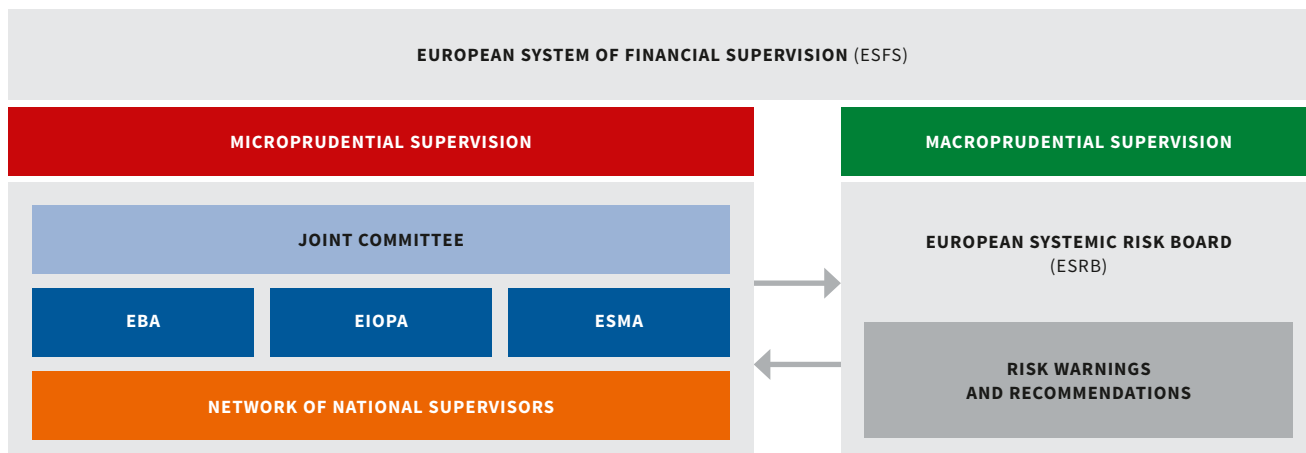


Figure 1: European supervisory architecture

A Joint Committee coordinates cooperation between the ESAs and deals with cross-sectoral issues in four sub-committees: financial conglomerates, anti-money laundering, microprudential analyses of cross-sectoral developments, and consumer protection and financial innovation. This system ensures that microprudential and macroprudential supervision mesh together perfectly.

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

- preparing Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS) in which the fine detail of certain aspects of European directives and regulations is stipulated;
- issuing guidelines and recommendations;
- monitoring and enforcing supervisory convergence;
- consumer protection.

In this way they have a key role to play in creating a level playing field for financial services in the European single market. For the purposes of securing financial stability, half-yearly financial stability reports are prepared by the ESAs and the Joint Committee for the attention of the Financial Stability Table (FST) of the EU's Economic and Financial Committee (EFC).

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

The BoS elects a Management Board, composed of the Chairperson and six additional voting members. An Executive Director is responsible for the administrative management of the authority, preparing the work of the Management Board. Currently serving as Executive Directors are Adám Farkas (EBA), Fausto Parente (EIOPA) and Verena Ross (ESMA). A Board of Appeal has been set up to decide on appeals against deci-

sions of the ESAs. Stakeholder Groups have also been created to facilitate the process of consulting stakeholder representatives.

On 20 September 2017 the European Commission presented its proposals for the reform of the EU supervisory structure (ESFS). The corresponding Council working groups began their work on 18 October 2017, and the European Parliament is also preparing its report. The completion of this reform package was not expected until 2018 at the earliest.

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

EUROPEAN BANKING AUTHORITY (EBA)

One of the key focuses of the EBA's work in 2017 was advising the European Commission on the new legislative proposals for large, systemically relevant investment firms, alongside pending work in relation to non-performing loans (NPLs). The EBA made a key contribution to the planned strengthening of secondary markets for NPLs in the EU. By publishing harmonised standards for use throughout Europe on the external reporting of NPLs, the aim is to significantly improve the information situation on the market, enabling potential investors to assess and value non-performing loans quickly on the basis of standardised data.

The new Payment Services Directive (PSD2) means stricter rules regarding the online security of card payments, which have been addressed with a series of technical standards and guidelines. Meanwhile, the EBA has also been looking at financial innovations, with its discussion paper on automation in financial advice, for example, and its recommendations on outsourcing to cloud service providers. The EBA's published Brexit Opinion addressed a wide range of issues relevant to supervision. Prudential rules were tightened up by means of guidelines on internal governance, Regulatory Technical Standards on passporting under PSD2 and guidelines on supervision of significant branches. Guidelines developed jointly with ESMA covered measures to assess the suitability of the members of management bodies and holders of key functions. In conjunction with the new IFRS 9 accounting rules, two impact studies were published and various guidelines also adopted.

The EBA has been working hard to achieve EU-wide coordination of the negotiations on the Basel reform package, publishing an impact study on this subject in late 2017. Other important topics dealt with during the financial year included cyber risks, preparatory work for the EU banking stress test in 2018 and consumer protection issues. FMA Executive Director Helmut Ettl represents the FMA within the EBA.

EUROPEAN SECURITIES AND MARKETS AUTHORITY (ESMA)

The biggest challenges facing ESMA in 2017 were Brexit, the ESA review and activities in relation to MiFID/MiFIR implementation.

ESMA was first of the ESAs to publish general principles to support supervisory convergence in the context of the United Kingdom withdrawing from the European

Union, doing so in May 2017. For the purposes of preventing regulatory arbitrage, ESMA published further Opinions setting out sector-specific principles in the areas of investment firms, investment management and secondary markets, aimed at fostering consistency in authorisation, supervision and enforcement related to the relocation of entities, activities and functions from the United Kingdom to the EU-27 in July.

The European Commission's proposal regarding the review of the ESAs' legal basis contains new substantive changes in relation to the financing and governance of ESAs, as well as broad new powers for ESMA. The main areas in which extended powers are proposed include the direct supervision of certain types of investment funds (EuVECA – European Venture Capital Funds, EuSEF – European Social Entrepreneurship Funds and ELTIF – European Long-Term Investment Funds), data reporting service providers and certain benchmarks, and capital market prospectuses.

With a view to guaranteeing the harmonised application of MiFID II/MiFIR with effect from 3 January 2018, ESMA developed various Guidelines and Questions & Answers (Q&As), and finalised its Financial Instruments Reference Data System (FIRDS) IT project. Having been given new powers in terms of product invention through the MiFID II package of measures, ESMA may now restrict or prohibit the sale of questionable financial instruments across the EU. In December ESMA published a statement on contracts for difference (CFDs), binary options and other speculative products for which restrictions and bans have been created. A final decision on the measures to be taken will be made in the first half of 2018.

Peer reviews are another instrument used to promote EU-wide harmonisation in terms of applying the common rules. These involve reviewing how the Member States are implementing and applying regulations in the context of ESMA. The peer review on certain aspects of the compliance function, including a very positive assessment of the FMA, was concluded and published in November 2017.

As part of the work towards a uniform set of rules, technical standards were drawn up on the regulations governing benchmarks, money market funds, prospectuses and securitisations.

In order to take account of the importance of data in business models and supervision, an implementation plan for the data strategy and methodologies for data quality testing in the FIRDS and TREM IT projects was adopted.

The challenges facing supervision as a result of new technologies are dealt with in the Financial Innovation Standing Committee. One of the key focuses during the year under review was RegTech and all the related aspects.

In November the ESMA Chair, Steven Maijoor, paid a two-day visit to Vienna. As well as speaking at the Austrian Federal Economic Chamber (WKO) and FMA, he took the time to meet senior representatives from the financial and supervisory sectors.

FMA Executive Director Klaus Kumpfmüller represents the FMA within ESMA.

EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY (EIOPA)

In the second year since the entry into force of Solvency II, reports were produced on various aspects of implementing the new supervisory regime, including ORSA (Own Risk and Solvency Assessment), SFCRs (Solvency and Financial Condition Reports),

capital add-ons and exemptions regarding the submission of regular supervisory reporting. There were also further initiatives to secure supervisory convergence during the reporting year, including a report on long-term guarantees measures (LTG) and a project dedicated to the review of the Solvency Capital Requirement (SCR) standard formula. Digitalisation issues such as InsurTech (insurance technology) and the development of the cyber insurance market also featured on the agenda.

Three peer reviews were carried out, covering the following subjects: application of the principle of proportionality in terms of governance rules on key functions under Solvency II, application of the prudent person rule by institutions for occupational retirement provision, and the suitability of administrative, management and supervisory bodies and qualifying holdings. The findings are expected in the second quarter of 2018.

A report on the investment behaviour of insurance undertakings over the past five years focused in particular on the potentially more risky search for yields against a background of persistently low interest rates. The periodic reports on financial stability issues and on market development were continued, with a further analysis on macroprudential aspects in the insurance sector being launched. Two stress tests in the area of occupational pensions were begun in May, and the results published in the fourth quarter. Preparatory steps for the next insurance stress test were also carried out during the reporting year. Following the publication of an Opinion to Institutions of the European Union on the Harmonisation of Recovery and Resolution Frameworks for (Re)insurers across the Member States, a second phase involved work on national insurance guarantee schemes (IGSs) and resolution funding.

In conjunction with the Insurance Distribution Directive (IDD), guidelines were adopted on insurance-based investment products. The delegated act on IDD based on EIOPA's drafts has already been accepted by the European Commission.

The FMA is represented on the Board of Supervisors by its Director for Insurance and Pension Supervision, Peter Braumüller, who has served as Alternate Chair of EIOPA since 2015.

SINGLE SUPERVISORY MECHANISM (SSM)

2017 was the third year in which the European Single Supervisory Mechanism (SSM) was fully operational. FMA Executive Director Helmut Ettl is a voting member of the SSM Supervisory Board, the executive body, and is represented in this role by fellow Executive Director Klaus Kumpfmüller as his deputy. Up until the end of March 2017, Ettl was a member of the Steering Committee of the SSM Supervisory Board, which prepares the content of the Board's meetings. He is due to serve on the Steering Committee again from April 2019 to March 2020.

The issue of the high level of non-performing loans among the assets of the SSM banks was a priority during 2017, with the Supervisory Board working intensively in this area and publishing supervisory guidelines for the reduction of banks' NPL ratios in March 2017. A draft addendum was issued for consultation in October, adding qualitative targets to the existing quantitative guidelines. This addendum is scheduled for publication during the first quarter of 2018. The issue of NPL will also play a key role in the SSM over the years to come.

Another key issue for the SSM was the targeted review of internal models (TRIM). The

aim of this project is to improve the comparability, reliability and suitability of internal models that have already been recognised.

The SSM has been dealing intensively with the development of policies for those banks considering relocating banking activities to the euro area in response to Brexit. There are two aims, namely to be prepared for a bigger number of licensing applications for these banks and also to avoid any situation in which the supervisory rules are circumvented or undermined.

Activities in 2017 also focused on the lessons learned from the first failing-or-likely-to-fail (FOLTF) decisions. Cooperation with the Single Resolution Board (SRB) was key in this regard, focusing on the communication and publication of FOLTF decisions.

The application of a proportionate approach to supervising credit institutions was keenly discussed and incorporated into many different areas such as the roll-out of the Supervisory Review and Evaluation Process (SREP) to less significant institutions (LSIs). The following four SSM priorities have been set for 2018: business models and profitability drivers, credit risk with a focus on NPL, risk management and activities comprising multiple risk dimensions.

SINGLE RESOLUTION MECHANISM (SRM)

The Single Resolution Mechanism (SRM) comprises the Brussels-based Single Resolution Board (SRB), the National Resolution Authorities (NRAs) and the Single Resolution Fund (SRF).

The SRB is the resolution authority within the European banking union. It is responsible for those institutions that are supervised directly by the European Central Bank (ECB), for those that operate on a cross-border basis within the banking union and for those that are reliant on SRF funds in the context of a resolution process. There are currently around 140 credit institutions in total for which the SRB is directly responsible. All other credit institutions fall under the direct responsibility of the national authorities. FMA Executive Director Klaus Kumpfmüller is a voting member, representing the FMA in the SRB's Plenary Session, its decision-making body.

Within the SRM, the SRB and NRAs cooperate closely via a committee structure, thereby guaranteeing that the Bank Recovery and Resolution Directive (BRRD) is applied uniformly across the EU. Ongoing changes have been made to this structure since the SRB was first established in 2015, with the Administrative and Budget Committee, the Resolution Committee (dealing with all content-related and operational issues such as resolution planning, resolution procedures and cooperation between the SRB and NRAs) and the Fund Committee now in place. Additionally, two permanent networks for cross-cutting issues have also been set up. The aim is for these to provide flexible support to the decision-making level and committees when dealing with the various issues. For its part, the FMA is represented in all of the committees and networks. The committees may also set up temporary working groups to help them develop standards and guidelines, and this was done on numerous occasions in 2017. Around 30 working groups on various policy issues were created during the year under review. In its capacity as the resolution authority, the FMA was involved in the vast majority of these working groups with its own representatives, in some cases supported by the OeNB.

The intensive exchange of information between the SRB and NRAs continued in 2017.

Over the course of the year the SRB was able to build up its resources and make progress in relation to coordination, cooperation and resolution planning. In June 2017, the first resolution decision, based on the SRB's resolution powers, was required following the sale of Banco Popular Español S.A. to Banco Santander S.A. The decision was implemented by the Spanish resolution authority, the Fondo de Reestructuración Ordenada Bancaria (FROB).

Dialogue with the banking sector and industry continued in 2017. The SRB also staged another public conference in September 2017. In January and November 2017, the industry dialogue series was continued, with the SRB briefing representatives from the industry, the authorities and other institutions on current resolution issues and policy developments.

BILATERAL AND MULTILATERAL COOPERATION

MEMORANDA OF UNDERSTANDING

The FMA has entered into bilateral Memoranda of Understanding (MoU) with foreign supervisory authorities. These regulate the exchange of information and thus simplify and expedite cross-border supervisory activities. They also serve to build confidence, in particular with non-EEA Member States, and to facilitate the FMA's continued efforts to strengthen operational cooperation with its partner authorities, mainly those situated in Central, Eastern and South-Eastern European countries. The main function of the MoUs is to define in practical terms the responsibilities and obligations in relation to cross-border cooperation with the other supervisory authority in question.

An MoU on cooperation and the exchange of information for the purpose of banking supervision was concluded with the Brazilian insurance supervision authority in 2017.

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

Table 34: **Bilateral Memoranda of Understanding concluded** (incl. year of conclusion)

Country	Banking	Insurance	Securities	AIFMD-MoU
<i>Albania</i>		2009		
<i>Australia</i>				2013
<i>Bahamas</i>				2015
<i>Bermuda</i>				2013
<i>Bosnia and Herzegovina</i>	2015			
Brazil	2017			
<i>British Virgin Islands</i>				2013
<i>Bulgaria</i>	2005			
<i>Canada</i>				2013
<i>Cayman Islands</i>				2013
<i>China</i>			2008	
<i>Croatia</i>	2005	2008	2000	
<i>Cyprus</i>	2007		2002	
<i>Czech Republic</i>	2001	2004	1999	
<i>Dubai</i>				2013
<i>France</i>	1995			
<i>Germany</i>	2000			
<i>Guernsey</i>				2013
<i>Hongkong</i>				2013
<i>Hungary</i>	2001	2002	1998	
<i>Isle of Man</i>				2013
<i>Italy</i>	1998			
<i>Japan</i>				2013
<i>Jersey</i>				2013
<i>Kosovo</i>		2016		2013
<i>Liechtenstein</i>	2009			
<i>Macedonia</i>		2010		
<i>Malaysia</i>				2013
<i>Malta</i>	2007			
<i>Montenegro</i>		2009		
<i>Netherlands</i>	1997			
<i>Poland</i>			1999	
<i>Romania</i>	2006	2005		
<i>Russian Federation</i>	2010			
<i>Serbia</i>		2009		
<i>Singapore</i>				2013
<i>Slovakia</i>	2003	2002		
<i>Slovenia</i>	2001		2001	
<i>Switzerland</i>	2012	2006		2013
<i>Thailand</i>				2014
<i>United Kingdom</i>	1994/1998			
<i>USA</i>				2013

GLOBAL COOPERATION

INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS (IAIS)

The IAIS is the global body of insurance supervisors and regulators, and has members from approximately 140 different countries. Austria is represented by the FMA in the person of Peter Braumüller, Director of the Insurance and Pension Supervision Department, who holds voting rights.

The work of the IAIS in 2017 focused once again on global financial market stability and on new standards and greater cooperation to improve it. The list of global systemically important banks (G-SIBs) published by the Financial Stability Board (FSB) in 2016 and which also includes insurance undertakings was not subject to any further review during the reporting year. Within the IAIS itself, the committee structure was overhauled and new working groups set up. Three new main committees were created in the form of the Macropprudential Committee (MPC), the Policy Development Committee (PDC) and the Implementation and Assessment Committee (IAC). This structural change took effect on 1 January 2018. At the IAIS Annual Conference in Kuala Lumpur in November 2017, some individual Insurance Core Principles (ICPs) were revised, and the Association set itself the goal of field testing the risk-based global Insurance Capital Standard (ICS) in its revised form during 2018. It was also agreed that internal models for the ICS would be generally accepted. With effect from December 2016, supervisory authorities from 64 jurisdictions, among them the FMA, had signed the IAIS Multilateral Memorandum of Understanding (IAIS MMoU), designed to promote the exchange of information and cooperation between IAIS members.

A cooperation agreement was signed in 2017 between the IAIS, the International Actuarial Association (IAA) and the Access to Insurance Initiative (A2ii). The aim is to pool the resources of the different organisations more effectively in future in order to build up supervisory authorities' actuarial expertise, particularly in emerging markets, not least because the risk factors for the insurance sector are set to grow even more complex and diverse over the coming years as a result of digitalisation and climate change. Consequently, these new challenges will also affect the supervisory practice of the different supervisory authorities and the related training provided for their staff.

INTERNATIONAL ORGANISATION OF PENSION SUPERVISORS (IOPS)

The IOPS was set up in July 2014 and now comprises supervisory authorities from around 80 countries with highly varying pension and supervision schemes, especially with regard to pension funds and pension companies. A founding member of the IOPS, the FMA has been represented on the organisation's Executive Committee since October 2014.

The final report on the study Good Practices on the Role of Pension Supervisory Authorities in Consumer Protection Related to Private Pension Systems, led by the FMA, was published in 2017. Proposed recommendations for pension supervisory authorities in the form of Good Practices were subject to public consultation in 2017 and will be adopted in the first half of 2018.

Meanwhile, the IOPS also dealt with the following issues during the reporting year: design of defined benefit pension plans, impact of financial incentives on saving behaviour, design of private retirement provision with regard to varying financing and prevailing behavioural patterns (behavioural economics), lending by pension funds, automated and internet-based investment advice (known as “robo advice”) in relation to private pension planning, infrastructure and long-term investments, the continuation of the survey prepared in 2014 on costs and charges, as well as forecasts for private pension benefits as the first part of the now two-part overarching topic of the solvency of defined benefit and adequacy of defined contribution private pension systems. Work also began to revise the IOPS Principles of Private Pension Supervision, and a project was launched with regard to pension-related digitalisation topics.

INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS (IOSCO)

IOSCO is acknowledged worldwide as the setter of standards for securities regulation and works closely with the G20 and FSB, which have both recognised the IOSCO Objectives and Principles of Securities Regulation as relevant standards in this field. IOSCO currently has 130 ordinary members, 115 of which have signed the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMoU). This lays the foundation for the international exchange of information. Additionally, the Enhanced Multilateral Memorandum of Understanding (EMMoU), containing additional powers, was adopted in 2016. The first applications to sign this EMMoU were submitted in 2017 and will be completed in 2018. The two MMoUs can be applied in parallel. For its part, the FMA has signed both documents.

Key areas of the organisation’s agenda in 2017 included the implications of risky products (in the area of investor protection), market infrastructures (in the area of markets) and, more generally, all aspects of digitalisation, FinTech (financial technology) and RegTech (regulatory technology).

In early October, IOSCO organised World Investor Week (WIW), the aim of which was to raise awareness of the importance of financial education and investor protection. Various different initiatives were launched worldwide, also with the FMA’s involvement.

The IOSCO European Regional Committee (ERC) Meeting, a regional sub-committee of IOSCO, was held in Vienna for the first time on 5 October 2017. With 50 members, the ERC is the largest regional committee. One of the key issues discussed was the Securities Markets Risk Outlook 2018 and the implications for IOSCO’s future work programme.

FINANCIAL ACTION TASK FORCE (FATF) – EXPERT GROUP ON MONEY LAUNDERING AND TERRORIST FINANCING (EGMLTF) – ANTI-MONEY LAUNDERING SUB-COMMITTEE (AMLC)

The FMA is represented on various international bodies dedicated to the prevention of money laundering and the financing of terrorism. It is a member of the Austrian delegation to the Financial Action Task Force (FATF), to the Commission Expert Group

on Money Laundering and Terrorist Financing (EGMLTF) and to the Anti-Money Laundering Sub-Committee (AMLC), an expert group of the Joint Committee of the three European Supervisory Authorities, namely EBA, EIOPA and ESMA.

The year under review was dominated by the first FATF follow-up report to its evaluation of Austria, conducted in 2016, and by negotiations on the revision of the EU's Fourth Anti-Money Laundering Directive. Since the publication of the FATF mutual evaluation report in autumn 2016, Austria has made far-reaching progress in addressing the deficiencies identified by the FATF and in implementing the recommendations resulting from the country evaluation. The Federal Government adopted a comprehensive package of measures for this purpose in October 2016. As well as various legislative measures, such as the transposition of the Fourth Anti-Money Laundering Directive (AMLD4) into Austrian law by means of the new Financial Markets Anti-Money Laundering Act (FM-GwG; *Finanzmarkt-Geldwäschegesetz*), the action taken has included significantly increasing the number of FMA staff working to prevent money laundering and terrorist financing. The FATF has also taken positive note of Austria's progress in this area, with the re-rating of ten out of the total 40 recommendations.

Political agreement on the revisions of the AMLD4 was reached in December 2017. Some of the new provisions relate to tackling terrorist financing with, for example, exchange platforms for virtual currencies now being included in the scope of the due diligence requirements to prevent money laundering and terrorist financing, while measures have also been introduced to increase transparency around beneficial owners in light of the Panama Papers case and other similar revelations. Registers of beneficial owners will be publicly accessible in future.

INTERNALS MATTERS



BODIES

The executive bodies of the FMA comprise the Executive Board and the Supervisory Board. The Executive Board is responsible for managing the entire operation as well as the FMA's business transactions in accordance with the law and the Rules of Procedure. The Supervisory Board is responsible for monitoring the management and business operations of the FMA.

EXECUTIVE BOARD

In accordance with the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehördengesetz*), the Executive Board consists of two members with equal rights, one of whom is nominated by the Federal Minister of Finance and the other by the Oesterreichische Nationalbank (OeNB). Both are to be appointed by the Federal President upon the proposal of the Federal Government for a five-year term of office, and may be reappointed for a second term. During the year under review, Helmut Ettl and Klaus Kumpfmüller made up the Executive Board of the FMA. Both Executive Directors were reappointed on 28 November 2017 for another term of office starting in February 2018.

SUPERVISORY BOARD

The Supervisory Board of the FMA is composed of eight members. Of these, the Federal Minister of Finance (BMF) as well as the Oesterreichische Nationalbank (OeNB) appoint three members each, who are eligible to vote, while the Austrian Federal Economic Chamber (WKO) nominates two co-opted members without voting rights to represent the supervised institutions. The latter members have clearly delineated rights to obtain information. The ordinary members¹ of the Supervisory Board are to be appointed by the BMF, whilst the members nominated by the WKO are co-opted by the Supervisory Board itself.

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

- the financial plan to be drawn up by the Executive Board including the investment and staff plan;

¹ In November 2017 an amendment to the FMABG was adopted, according to which the Supervisory Board of the FMA will be extended by two further voting members as of 2018.

- investments, to the extent that they are not authorised in the investment plan, and the taking out of loans that exceed € 75 000 each;
- the acquisition, disposal and encumbrance of real estate;
- the financial statements to be drawn up by the Executive Board;
- the Rules of Procedure pursuant to Article 6 para. 2 FMABG and changes thereto;
- the Compliance Code pursuant to Article 6 para. 4 FMABG and changes thereto;
- the appointment of employees of the FMA to leading functions directly subordinate to the Executive Board (second management level), as well as their dismissal and termination of employment;
- the Annual Report to be drawn up pursuant to Article 16 para. 3 FMABG;
- the conclusion of collective bargaining and works agreements.

In accordance with Article 9 para. 1 FMABG, the Supervisory Board is required to hold meetings at least once every calendar quarter. In 2017, the Supervisory Board convened on 13 March, 31 May, 29 September and 30 November.

At its meeting on 31 May 2017, the Supervisory Board unanimously discharged the Executive Board for the 2016 financial year pursuant to Article 18 para. 4 FMABG.



Figure 2: Organisation chart of the FMA (as at 31 December 2017)

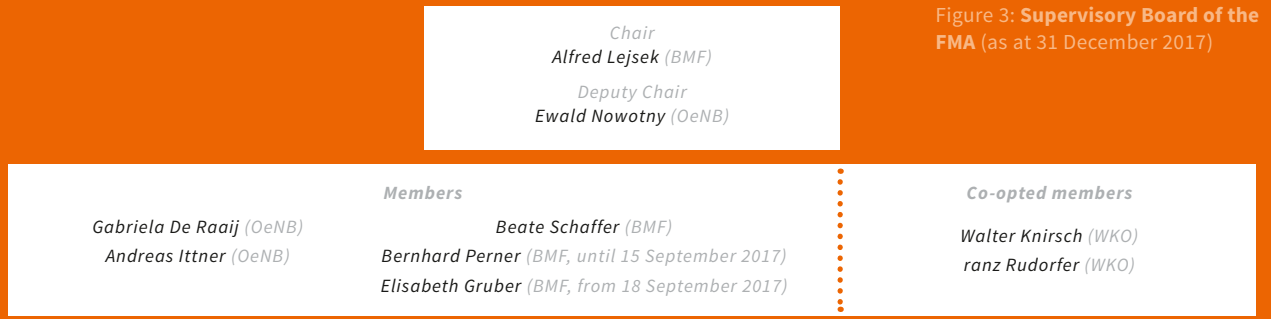


Figure 3: Supervisory Board of the FMA (as at 31 December 2017)

STAFF

NUMBER OF STAFF

The Supervisory Board had approved a staffing target of 392 full-time equivalents (FTEs) for 2017. The actual number of staff employed by the FMA as at 31 December 2017 was 380.03 FTEs, which corresponds to 415 employees (excluding those on leave). A breakdown of the planned distribution of staff among the individual departments compared with the actual figures is shown in Table 35.

The staff turnover rate decreased to 5.22% in 2017 (after 6.71% in 2016), becoming stable at a relatively low level. The figures as calculated do not include those employees whose fixed-term contracts expired during the year. The low turnover rate is attributed to factors including the positive expectations brought on by revising the FMA's system of specialist careers as well as the career development opportunities afforded at international level within the European supervisory system. The FMA provides staff members working in highly specialised sectors of the financial market with excellent opportunities to assume positions of responsibility and to contribute to ongoing further development of supervisory tasks.

The number of civil servants assigned to duty at the FMA by the Federal Ministry of Finance dropped to 14.25 FTEs, due to three individuals retiring as well as to part-time contracts. In a year-to-year comparison, the percentage of civil servants in proportion to all employees declined from 4.50% to 3.75% at the end of 2017, whereas the comparable share in 2007 had been 10%. Due to part-time employment arrangements, the number of contractual employees decreased from 5.65 to 5.15 FTEs. The

Table 35: **Planned and actual staffing levels in FTEs in 2017***

	Planned staffing levels as at 31 Dec.	Actual staffing levels as at 31 Dec.	Difference in %
<i>Executive Board Affairs, Enforcement and Law, Internal Audit</i>	28.00	27.25	-2.68
<i>Banking Supervision Department</i>	77.50	76.89	-0.79
<i>Insurance and Pension Supervision Department</i>	58.00	55.33	-4.60
<i>Securities Supervision Department</i>	81.15	78.85	-2.83
<i>Integrated Supervision Department</i>	70.25	68.78	-2.09
<i>Services Department</i>	52.10	52.06	-0.08
<i>Banking resolution Department</i>	25.00	20.88	-16.48
Total	392.00	380.03	-3.05

* Differences due to rounding to two decimal places are ignored.

share of contractual employees relative to total FMA staff consequently decreased from 1.49% to 1.36%. The average age of FMA employees increased during the year, from 40 to 41 years. The share of part-time employees was 23.61% in 2017, with parents on part-time leave accounting for most cases. The percentage of women in relation to total staff increased again slightly in 2017, from 53.77% to 54.70%. Among management positions, the share accounted for by women increased from 39% to 40%. The share of university graduates rose slightly from 81.75% to 82.89%. The proportion of employees with additional qualifications was 40.24% in 2017; examples of such qualifications include a second degree, postgraduate training, and certification as a lawyer or tax consultant. This share amounts to 55.42% when the 63 active employees are taken into account who successfully completed the two-year postgraduate university programme in Financial Market Supervision.

TRAINING AND CAREER DEVELOPMENT

As an organisation of experts, the FMA places an especially high priority on the continued professional development of its employees. Its training programme encompasses a range of measures for the various target groups and training needs:

- University programme in Financial Market Supervision (first students admitted in 2010), subsequently upgraded to an MBA course (first admissions in 2013)
- New series of CPD events for management staff: the Leadership Circle
- FMA Academy (since 2005)
- International seminars organised by the European system of financial supervision
- Third-party seminars based on individual requirements

EXECUTIVE DEVELOPMENT PROGRAMMES

The Basic and Advanced Leadership executive development programme, which has proven effective and been attended by over 75% of management staff, was redesigned and presented under the name of “Leadership Circle” in 2017. While drawing on the content of the Basic and Advanced programme, opportunity is at the same time given for management staff to share experiences. This is intended to strengthen both awareness of the executive mission statement, drawn up in 2016, as well as communication among departments.

FMA ACADEMY

The FMA Academy offers seminars designed for certain target groups and areas of responsibility:

- | | |
|--------------------------------|---|
| ■ New employees/basic seminars | ■ Specialist skills |
| ■ Assistants | ■ Self-management and social skills |
| ■ Officers | ■ Skills in methods |
| ■ Specialists | ■ Language skills |
| ■ Executives | ■ E-learning |
| | ■ Decentralised measures |
| | ■ International seminars |
| | ■ Study visits and staff exchange |
| | ■ University programme in Financial Market Supervision and upgrade to MBA programme |

In 2017, the FMA Academy organised a total of 151 seminars, workshops and lectures in which 2 218 individuals participated. In addition to these centrally organised seminars, FMA staff attended more than 391 specialised training courses at third-party educational establishments targeted at individual career development in their specific fields.

INTERNATIONAL SEMINARS

FMA staff members attended a total of 26 seminars at the European institutions ECB, ESMA, EIOPA, SRB, EBA and the European Supervisor Education Initiative (ESE).

INTERNATIONAL COOPERATION

COOPERATION WITH THE EUROPEAN CENTRAL BANK (ECB)

In the course of three years, a solid footing has been established for cooperative activities with the ECB in relation to the personnel issues associated with the Single Supervisory Mechanism (SSM). In the reporting year, there was a further increase in secondments to the ECB, with the majority taking place under host-based contracts according to which the ECB pays the expenses of the posted FMA staff members.

The main task for human resources was to further expand training programmes. The trainee programme was also additionally expanded, and the FMA provided active support here by accepting trainees on a temporary basis. The Schumann Programme, which allows national supervisory authorities and central banks to deploy their staff members to assist temporarily in international projects, was similarly expanded. The SSM performance feedback process, still currently being tested, was evaluated and adapted on an ongoing basis. By regularly attending the Human Resources Conference (HRC), the FMA was included in ongoing processes and developments, actively helping to shape them.

As part of internal FMA activities and in response to needs, staff members were provided with specialised training and information events to prepare them for the recruiting process and later work at the ECB. These measures served to further encourage employees' motivation towards international mobility.

COOPERATION WITH THE SINGLE RESOLUTION BOARD (SRB)

Contacts with the SRB were further intensified, resulting in another study visit and a long-term host-based secondment of one employee. The FMA also participated in SRB working groups, to share information and actively help shape the SRB.

COOPERATION WITH EUROPEAN PARTNER AUTHORITIES

OUTGOING STUDY VISITS

Four FMA employees took part in study visits at international partner authorities. One employee completed a study visit to the Prudential Regulation Authority at the Bank of England, while another staff member had the opportunity to establish valuable contacts at the Bank of Ireland. One employee from Integrated Supervision was able to exchange experiences with colleagues at the ECB. Another staff member, from

Executive Board Affairs, received the opportunity to gain insight into the work of the OeNB delegates at Austria's Permanent Representation in Brussels.

INCOMING STUDY VISITS

By way of reciprocity, the FMA again hosted study visits by staff members from partner authorities. One colleague from the Deutsche Bundesbank and one from the German Federal Financial Supervisory Authority (BaFin) were given work placements at the FMA. The FMA also provided three ECB trainees with the opportunity to extend their knowledge of banking supervision.

SPECIALIST CAREERS

The FMA's system of specialist careers was revised during the reporting year to adapt it to meet current and future requirements raised by modern talent management concepts. The new specialist careers system was launched as of 1 January 2018. With division into five instead of the previous two role types, the new specialist careers system now offers additional career development options, while overall expenses have nonetheless been maintained at the previous level. Compared with the previous system, more employees will have access to a specialist career in the medium term, with the prospect of accelerated professional development for those having the required aptitude.

Specialist career positions have been defined and planned for the departments, in line with the FMA's strategy. Participating employees are classified and advanced based on a catalogue of specific criteria which consists of proactive knowledge management as the main component. A central database, accessible to all staff members, increases the transparency of available knowledge within the FMA reflecting its integrated approach to supervision.

By enhancing the attractiveness and transparency of the system of specialist careers, the long-term aim is to ensure the retention of employees in key positions.

RECONCILIATION OF WORK AND FAMILY LIFE

In late 2016, the FMA began re-auditing as part of the "workandfamily" audit certificate. This involved examining and revising the previous definitions relating to family and management relevant for the auditing process, as well as the strategic goals and areas of action specified in the first audit back in 2013. An audit workshop, also attended by employees and works council representatives, was subsequently held to discuss and define further steps and goals aimed at better reconciliation of work and family life for FMA staff members. At the workshop, a target agreement was detailed, representing the core focus of the re-audit and serving as the main basis for obtaining the full "workandfamily" audit certificate. Following positive assessment by an external certification body, the agreement was submitted to the auditing board.

The full certificate was presented to the FMA by the Federal Minister of Family and Youth at an award ceremony on 14 November 2017. All of the measures to support family life that have been stipulated in the target agreement will be implemented within the coming three years.

Figure 4: Specialist career paths at the FMA



FINANCE AND CONTROLLING

FINANCING

The FMA's finances are based on three pillars, as stipulated in the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehördengesetz*): The FMA receives an annual lump sum of € 4 million from the federal budget as prescribed by law. In its capacity as an authority, the FMA may levy fees for particular services as defined by law. The remaining amount is contributed by the supervised entities according to the share of costs incurred in each case.

In addition, in its capacity as resolution authority pursuant to Article 74 para. 5 of the Bank Recovery and Resolution Act (BaSAG; *Bankensanierungs- und Abwicklungsgesetz*), the FMA may request that the institution under resolution reimburse the FMA for all reasonable expenses properly incurred in connection with the application of a resolution tool or exercise of its resolution power.

Pursuant to Article 19 FMABG, four accounting groups are to be set up for the apportionment of costs to the supervised entities according to the share incurred in each case: banking, insurance, securities and pension supervision.

The supervisory costs must be apportioned on a direct basis as far as possible:

- direct costs must be allocated directly to the relevant accounting group,
- costs that cannot be directly allocated are to be apportioned based on a ratio which represents the share of the relevant accounting group in the direct costs.

After deducting the federal contribution, the fees and other income from the overall costs, the share of other costs accounted for by each accounting group can be calculated. In accordance with the statutory provisions, this share is to be allocated and charged to each individual supervised entity.

TIME AND PERFORMANCE TRACKING

The FMA uses a time and performance tracking system (ZLES) to allocate personnel expenses to the accounting groups defined in the FMABG on the basis of the share of the costs incurred. Using an electronic punch clock, each FMA employee's individual working time is recorded electronically to the nearest minute. The time data can be accessed via employees' PC workstations and then assigned to the accounting groups by activity on the basis of pre-defined activities, which are catalogued in a product list.

The activity reports generated by the ZLES tool are checked by the FMA's Controlling Division on a quarterly basis to verify that they have been properly assigned to the accounting groups. They are subsequently prepared for the process of apportioning costs according to the share incurred in each case and made available to FMA executives for use as a control and management instrument.

PAYMENT NOTICES

In accordance with Article 19 FMABG, the supervised companies are required to reimburse the FMA for the costs incurred. These costs are determined using the financial statements including statement of costs. The respective amount to be paid by each company is determined on the basis of the data reported by the supervised companies themselves or by the Vienna Stock Exchange.

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

The FMA sent out the payment notices for the actual costs incurred in 2016 in November 2017, together with those for the advance payments for 2018. Compared with one year earlier, when some 3000 payment notices were issued, the number of notices dropped to around 2300, which is mainly due to legal amendments to the Deposit Guarantee Schemes and Investor Compensation Act (ESAEG; *Einlagensicherungs- und Anlegerentschädigungsgesetz*). Additional payments of approximately € 8.1 million from the entities liable to pay costs were needed to cover the actual costs for 2016, based on the costs reported in the 2016 financial statements of the FMA minus the advance payments made that year.

FINANCIAL STATEMENTS

Applying Chapter III of the Corporate Code (UGB; *Unternehmensgesetzbuch*), the FMA is required to draw up financial statements for the previous financial year in the form of an annual balance sheet, an income statement and notes pursuant to Article 18 FMABG, as well as a balance sheet and an income statement for the resolution financing arrangement pursuant to Article 123d para. 2 BaSAG in conjunction with Article 18 FMABG.

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

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

Contax Wirtschaftstreuhandgesellschaft mbH carried out the statutory audit of the FMA's financial statements and statement of costs for 2016 as well as of the 2016 bal-

ance sheet and income statement for the resolution financing arrangement. Upon completion of the audit the auditor issued unqualified opinions in each case, confirming compliance with the statutory provisions.

In accordance with Article 10 para. 2 no. 4 FMABG, the Supervisory Board approved the 2016 financial statements of the FMA and of the resolution financing arrangement on 31 May 2017.

The 2016 financial statements were subsequently sent to the Federal Minister of Finance and the Court of Audit and were published on the FMA website and announced in the “Wiener Zeitung” by the required deadline.

FINANCIAL PLANNING

Pursuant to Article 17 FMABG, the FMA is required to submit a financial plan including an investment and staff plan to the Supervisory Board by 31 October of each year for the following financial year.

This financial plan must then be approved by the Supervisory Board by no later than 15 December.

Financial planning is based on individual targets that the FMA sets each year, as well as on the statutory requirements. Based on these targets, a draft financial plan for 2018 was prepared together with the Executive Board in the summer of 2017, and broken down by Controlling in cooperation with the planning managers to the level of cost centres and accounts.

The Controlling Division reported to the Executive Board on an ongoing basis, and implemented any of the changes it requested.

No plans have been made to hire new staff in 2018 in order to implement the identified targets and to meet the upcoming challenges, meaning that the staff plan remains unchanged at 392 FTEs. Personnel costs were planned centrally for 2018, and based on the staff plan as well as the respective salary system.

With regard to other operating expenses, those reimbursement amounts that, pursuant to Article 19 FMABG, are to be paid by the FMA to the OeNB for services rendered in the area of banking and insurance supervision were also taken into account.

Furthermore, write-downs and allocations to the reserve established in accordance with Article 20 FMABG were also computed.

The projected costs and income were apportioned to the accounting groups pursuant to the FMABG in a way that made it possible to forecast the share of the entities liable to pay costs per accounting group.

For the purposes of effective cash management, Controlling prepared a liquidity calculation encompassing all income and expenses planned for 2018.

The 2018 financial plan (including the financial plan pursuant to Article 123d BaSAG – resolution financing arrangement) was presented to the Supervisory Board at the end of October 2017, and was discussed and approved by the Supervisory Board at its meeting on 30 November 2017.

PROJECT CONTROLLING

In addition to its ongoing tasks, the FMA is also involved in activities that are classified as projects owing to their limited duration, innovative character, complexity and

required resources. The FMA has laid down specific standards for such projects. The verified projects are subject to project controlling by the FMA, which includes regular reporting. As well as covering the progress made towards targets, these checks also look at adherence to time frames, personnel resource levels and costs of external services, and are carried out quarterly. The results of these reports are then presented to the FMA's Executive Board on a quarterly basis.

2017 PRELIMINARY FINANCIAL STATEMENTS

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

Since the 2017 financial statements have not yet been approved by the auditor, the balance sheet and income statement figures given below are provisional and may be subject to change.

The most important items of the 2017 preliminary financial statements can be summarised as follows:

The share contributed by entities liable to pay costs increased over the previous year by some € 1.2 million to approximately € 57.7 million. This increase is mainly attributable to higher personnel expenses. Other operating income was down but was offset by a similar fall in other operating expenses. The reimbursement of costs pursuant to Article 74 para. 5 no. 2 BaSAG (approximately € 1.8 million less than in 2016) pushed other operating income down by some € 1.1 million to around € 5.1 million. Over the same period, other income under this item (excluding the reimbursement of costs pursuant to Article 74 para. 5 no. 2 BaSAG) rose by around € 0.7 million mainly owing to higher income from fees and the release of provisions.

Table 36: 2017 preliminary balance sheet

BALANCE SHEET AS AT 31 DECEMBER 2017 (preliminary amounts in €)

A S S E T S

Previous year
in € thousands

A. Fixed assets			
I. Intangible assets			
Industrial property and similar rights and licences in such rights		505 653.40	771
II. Tangible assets			
1. Buildings on third-party land	1 094 030.85		1 228
2. Other equipment, operating and office equipment	1 651 696.42		1 655
		2 745 727.27	2 884
		3 251 380.67	3 655
B. Current assets			
I. Services not yet invoiced to entities liable to pay costs			
		57 646 969.09	56 515
II. Receivables and other assets			
1. Trade receivables	504 542.10		1 753
Amounts becoming due and payable after more than one year	0.00		0
2. Other receivables and assets	796 257.97		1 314
Amounts becoming due and payable after more than one year	0.00		0
		1 300 800.07	3 067
III. Cash at bank and in hand		31 430 064.58	22 601
		90 377 833.74	82 183
C. Prepaid expenses			
		1 441 036.02	1 283
		95 070 250.43	87 121

The higher number of staff, up by an average of 4 FTEs, annual salary progressions and the adjustment of salary levels for inflation, as well as the corresponding allocations to provisions for personnel expenses, led to a year-on-year increase in personnel expenses of some € 1.4 million to around € 41.4 million.

Other operating expenses fell by some € 1.3 million to approximately € 23.5 million as extraordinary expenses were in fact not as high as had been projected for 2017.

The 2017 financial statements will be published on the FMA's website after they have been audited by the auditor and approved by the Supervisory Board. The audited 2016 financial statements can be found in the Annex to this Annual Report.

		<i>EQUITY AND LIABILITIES</i>	
		<i>Previous year</i>	
		<i>in € thousands</i>	
A.	Reserve pursuant to Article 20 FMABG	3.337.558.46	3.151
B.	Provisions		
1.	Provisions for severance pay	1 978 398.95	1 811
2.	Other provisions	<u>7 442 488.52</u>	<u>9 655</u>
		9 420 887.47	11 466
C.	Liabilities		
1.	Advance payments received pursuant to Article 19 FMABG	56 260 723.50	49 027
	Amounts becoming due and payable within one year	56 260 723.50	49 027
	Amounts becoming due and payable after more than one year	0.00	0
2.	Trade payables	22 310 080.42	19 875
	Amounts becoming due and payable within one year	11 882 361.42	11 875
	Amounts becoming due and payable after more than one year	10 427 719.00	8 000
3.	Other liabilities	2 941 223.08	2 785
	Taxes	670 443.85	642
	Social security and similar obligations	716 274.29	691
	Actual cost accounting for previous years	650 424.00	240
	Other	904 080.94	1 212
	Amounts becoming due and payable within one year	2 941 223.08	2 785
	Amounts becoming due and payable after more than one year	0.00	0
		<u>81 512 027.00</u>	<u>71 687</u>
	Amounts becoming due and payable within one year	71 084 308.00	63 687
	davon mit einer Restlaufzeit von mehr als einem Jahr	10 427 719.00	8 000
D.	Deferred income	799 777.50	816
		95 070 250.43	87 121

Table 37: 2017 preliminary income statement

INCOME STATEMENT FOR THE FINANCIAL YEAR FROM 1 JANUARY TO 31 DECEMBER 2017 (preliminary result, amounts in €)

		Previous year in € thousands
1. Federal Government contribution pursuant to Article 19 FMABG	4 000 000.00	4 000
2. Income from fees and the allocation of costs	4 412 856.64	5 772
3. Other operating income		
a) Income from the disposal of fixed assets	5 909.00	0
b) Income from the release of provisions	414 218.48	199
c) Other	250 422.99	222
	670 550.47	421
4. Personnel expenses		
a) Salaries	-32 622 678.59	-31 310
b) Social security costs	-8 799 055.33	-8 675
Expenses for old-age pensions	-1 288 625.56	-1 216
aa) Expenses for severance pay and contributions to corporate staff provision funds	-591 820.81	-781
bb) Cost of statutory social security, payroll-related taxes and mandatory contributions	-6 557 617.42	-6 326
cc) Other social security costs	-360 991.54	-353
	-41 421 733.92	-39 986
5. Amortisation and write-downs of intangible assets, depreciation and write-downs of tangible assets	-1 667 476.61	-1 541
6. Other operating expenses		
a) Direct costs pursuant to Article 79 para. 4b BWG – Banking Supervision	-8 000 000.00	-8 000
b) Direct costs pursuant to Article 182 para. 7 VAG – Insurance Supervision	-204 774.00	-109
c) Direct costs pursuant to Article 3 para. 5 BaSAG	-2 000 000.00	-2 000
d) Direct costs pursuant to Article 6 para. 6 ESAEG	-222 945.00	-500
e) Other	-12 943 499.48	-14 182
	-23 371 218.48	-24 791
7. Subtotal of items 1 to 6	-57 377 021.90	-56 124
8. Other interest income	334.23	0
9. Interest expenses	-84 131.03	-58
10. Subtotal of items 8 to 9	-83 796.80	-58
11. Release of the provision pursuant to Article 20 FMABG	0.00	43
12. Appropriation to reserve pursuant to Article 20 FMABG	-186 150.39	-332
13. Share of entities liable to pay costs	57 646 969.09	56 515
14. PROFIT OR LOSS FOR THE YEAR	0.00	0

Table 38: 2017 preliminary statement of changes in fixed assets

STATEMENT OF CHANGES IN FIXED ASSETS PURSUANT TO ARTICLE 226 PARA. 1 UGB (preliminary result, amounts in €)

	As at 1 January 2017	Additions	Disposals	As at 31 December 2017
I. <u>Intangible fixed assets</u>				
Industrial property and similar rights and licences in such rights	3 755 064.66	229 717.30	103 341.38	3 881 440.58
II. <u>Tangible fixed assets</u>				
1. Buildings on third-party land	2 145 118.83	78 238.57	0.00	2 223 357.40
2. Other equipment, operating and office equipment	6 000 781.83	943 418.33	582 753.14	6 361 447.02
3. Low-value assets	0.00	66 315.64	66 315.64	0.00
	8 145 900.66	1 087 972.54	649 068.78	8 584 804.42
	11 900 965.32	1 317 689.84	752 410.16	12 466 245.00

Table 39: 2017 preliminary balance sheet of the resolution fund

BALANCE SHEET AS AT 31 DECEMBER 2017 (preliminary amounts in €)					
A S S E T S			E Q U I T Y A N D L I A B I L I T I E S		
		Previous year in € thousands			Previous year in € thousands
A. Current assets			A. Liabilities		
I. Receivables			Other liabilities	<u>171.35</u>	<u>0</u>
1. Allocation of SRF receivables	0.00	0		171.35	0
2. Other receivables and assets	<u>171.35</u>	<u>0</u>			
		171.35			0
II. Bank balances	0.00	0			
		<u>171.35</u>		<u>171.35</u>	<u>0</u>

Table 40: 2017 preliminary income statement of the resolution fund

INCOME STATEMENT FOR THE FINANCIAL YEAR FROM 1 JANUARY TO 31 DECEMBER 2017 (preliminary result, amounts in €)			Previous year in € thousands
1. Other operating income		85 660.60	145
2. Other operating expenses		<u>-2 782.10</u>	<u>-3</u>
3. Subtotal of items 1 to 2		82 878.50	142
4. Interest and similar expenses		82 878.50	-142
5. Subtotal of item 4		82 878.50	-142
6. PROFIT OR LOSS FOR THE YEAR		<u>0.00</u>	<u>0</u>

As at 1 January 2017	Cumulative depreciation, amortisation and write-downs			Carrying amounts	
	Additions	Disposals	As at 31 December 2017	As at 31 December 2016	As at 31 December 2017
2 983 640.25	442 976.31	50 829.38	3 375 787.18	771 424.41	505 653.40
916 648.17	212 678.38	0.00	1 129 326.55	1 228 470.66	1 094 030.85
4 345 586.26	945 506.28	581 341.94	4 709 750.60	1 655 195.57	1 651 696.42
0.00	66 315.64	66 315.64	0.00	0.00	0.00
5 262 234.43	1 224 500.30	647 657.58	5 839 077.15	2 883 666.23	2 745 727.27
8 245 874.68	1 667 476.61	698 486.96	9 214 864.33	3 655 090.64	3 251 380.67

IT SYSTEMS

SMART CARDS

A smart card solution using two-factor authentication was introduced in 2017 for logging into the Windows operating system, serving to facilitate usability while at the same time enhancing access protection. As a result, it is now no longer necessary to remember complicated passwords, which previously had to be changed periodically and chosen based on similarly complicated rules. In addition to supporting logging into the system both at the FMA and via remote access, use of the system also had to be ensured in special situations, for instance after losing a smart card or forgetting it at home. This requirement has been met through a smartphone app that is integrated into the system. Users are sent an access code via the app, which then needs to be entered at a PC to log into the Windows system. On successfully completing the project in the last quarter of 2017, the solution went into operation organisation-wide at the FMA.

FABASOFT EGOV-SUITE MAJOR RELEASE UPGRADE 2016

The FMA uses the “ELAK im Bund” version of the Fabasoft eGov-Suite records management system for all official processes and documents. To support efficient cooperation in banking supervision, this software solution is available to all FMA staff members as well as to OeNB employees. Currently, it serves more than 680 users. The solution was upgraded to eGov-Suite 2016, a new release, in the second half of 2017. The upgrade was required to allow eGov-Suite to be used at any time if necessary with the Microsoft Windows 10 operating system and the 2016 version of the Microsoft Office platform. As part of this migration, the server infrastructure was also upgraded to ensure optimum system performance for users. The updated system went live on 7 December 2017.

SOFTWARE PROJECTS

INCOMING PLATFORM INTERFACE – ELAK ELECTRONIC FILING SYSTEM

The Incoming Platform is the central web application at the FMA that is used to submit most of the reports and notices required by law. In use since 2009, the system is consistently being expanded. A workflow within the ELAK internal file system is

used to process materials that are submitted via the Incoming Platform. As part of the FMA's digitalisation strategy, this workflow was improved and fully automated in 2017. With over 9000 reports submitted each year, this interface provides vital support in ensuring that tasks can be completed efficiently.

TRANSACTION REPORTING UNDER MIFIR

The previous reporting system pursuant to Article 64 of the 2007 Securities Supervision Act (WAG 2007; *Wertpapieraufsichtsgesetz*) had to be reimplemented in order to accommodate the new Markets in Financial Instruments Regulation (MiFIR) reporting system. With MiFIR having become effective on 3 January 2018, institutions under reporting obligations are now obliged to use the new ESMA format for reporting transactions with financial instruments. Master data covering all financial instruments subject to reporting obligations are exchanged among authorities throughout Europe and serve as the basis for validating the reported data. Alongside various interface applications, new programs were developed and existing software was adapted for use in data analysis and validation and in handling any errors occurring. With the programs completed on schedule, data reports in the new format could be processed by the deadline.

PREPARATION FOR MEETINGS OF ESA BODIES

To modernise and automate the relatively extensive process of preparing for Board of Supervisors meetings, a new, integrated workflow solution was developed based on the FMA's internal SharePoint platform. The process is now completed within a single application, involving one workflow to forward all documents and data, automatically making them accessible to the participating staff members. Now that this highly efficient workflow has been successfully implemented, more time can be dedicated to actual preparation. Staff members additionally benefit from the structured and clear visualisation provided by the SharePoint solution.

ELECTRONIC PROSPECTUS SUBMISSION

An option allowing electronic submission of prospectuses as of the beginning of 2018 became necessary as a result of an amendment to the Capital Market Act (KMG; *Kapitalmarktgesetz*). This involved programming a new system to model all processes entailed in prospectus submission. With the new solution going live at the beginning of January 2018, a remaining task is to correspondingly modify the program used internally to verify prospectuses, the Prospectus Approval and Support System (PASS).

PUBLIC RELATIONS

Given that the FMA, in its capacity as an authority that is self-financed by the supervised entities, has an obligation to be frugal, it has no financial resources at its disposal for use in advertising, information or PR campaigns or for media cooperation projects. Its most important form of communication is therefore classic media work. The FMA has set itself the goal, within the scope of its statutory framework and whilst meeting its legal obligations to maintain official secrecy, of always pursuing a communication policy that is as open as possible in order to reinforce confidence in the Austrian financial market. To this end, the FMA utilises conventional PR tools such as press releases, press conferences and background discussions, as well as presentations and one-on-one interviews of the Executive Directors by selected media. In addition, as digital communication becomes increasingly important, the FMA is permanently updating its website (www.fma.gv.at). During the year under review it also launched its own Twitter channel and developed a mobile phone app for licence queries and investor warnings. Through training and continuing professional development for journalists, the FMA also strives to improve understanding of the regulatory and supervisory foundation that underpins the financial market at both Austrian and European Union level.

MEDIA RELATIONS

As far as 2017 was concerned, the FMA defined three main priorities for its external communication work:

- Highlighting the value of the integrated approach to supervision for a small, open national economy like Austria's.
- Communicating the FMA's role in investor and consumer protection, and the concept of collective consumer protection in particular.
- Presenting the challenges posed by the digital revolution, and the regulatory and supervisory measures introduced in response, and explaining the FMA's digital roadmap concept.

In accordance with its multi-channel communication approach, the FMA focused on these communication priorities in a variety of ways. The FMA's role in consumer protection was highlighted, for example, through press meetings dedicated to the new legal interpretation of subordinated loans and to the presentation of the new consumer protection rules included in the new 2018 Securities Supervision Act

(WAG 2018; *Wertpapieraufsichtsgesetz*) and MiFID II. Joint meetings were also organised with ESMA Chair Steven Maijor tackling the risks of CFDs and binary options, and the opportunities presented by the newly created product intervention regime. Meanwhile, the FMA's smartphone app, positioned as a security app enabling consumers to carry out a quick check of the status of providers on the financial market, offers a real-time service with push notifications. The FMA publication "Facts and figures, trends and strategies 2018" addressed the challenges of the digital revolution, an issue focused on by the FMA Executive Board in the form of presentations and interviews, dealing with the lack of regulation covering cryptocurrencies and initial coin offerings (ICOs) but also highlighting the opportunities associated with new, digital technologies in the regulated sector. The value of the integrated approach to supervision, as a communication aim, is demonstrated using practical examples from the integrated concept, focusing in particular on such issues as consumer and investor protection, proportionality in regulation and supervision, prevention of money laundering, harmonised accounting standards and supervision, combating unauthorised business, and whistleblowing and complaints management. Further key topics included conveying the challenges posed to supervised entities by the prolonged period of low interest rates and presenting the regulatory and supervisory measures introduced in response, particularly from the perspective of consumer protection.

The FMA published a total of 50 press releases during the reporting year (2016: 32). These are sent out via the Austria Press Agency (APA) and the FMA's own media distribution list, to which any journalist can sign up via the FMA website. They are also promptly published on the FMA website in German and English.

The FMA also published 48 official announcements in the official gazette "Amtsblatt zur Wiener Zeitung" (2016: 33). These usually take the form of investor warnings, informing investors that a named provider is not authorised to offer particular financial services that require a licence in Austria. This information is also made available on the FMA website at the same time. In addition, the FMA website is also available for the publication of investor warnings issued by partner organisations. Over the years a very comprehensive database of dubious providers of financial services has been built up in this way, and is easy to access for any interested parties.

The broadest media coverage was achieved by the press events with the FMA Executive Directors, which were held on seven occasions in 2017 (2016: 6) and focused on the following subject areas:

- 8 January 2017, Press meeting at the Economic Writers' Club dedicated to "Whistleblowing 2016" and the "Challenges posed by the new market abuse regime under MAD/MAR".
- 5 February 2017, Press meeting "HETA Asset Resolution AG/administrative decision in relation to the challenge procedure".
- 26 April 2017, Press meeting "New legal interpretation of subordinated loans".
- 16 May 2017, Balance sheet press conference: "Presentation of the FMA's Annual Report for 2016".
- 11 July 2017, Press background talks on "WAG 2018/MiFID" and "Proportionality in regulation and supervision".
- 4 October 2017, Joint press meeting with Elke König, Chair of the Single Resolution Board (SRB), during the FMA Supervision Conference 2017.

- 14 November 2017, Joint press meeting with Steven Maijoor, Chair of the European Securities and Markets Authority (ESMA), on current issues in European securities regulation and market supervision.

All of these press meetings met with keen interest among journalists, who reported on them widely.

The FMA held training and continuing professional development for journalists and investor relations managers at the APA campus in Vienna and at St. Pölten University of Applied Sciences.

EVENTS

The FMA Executive Directors and staff members regularly participated in discussions or appeared as speakers at many events again in 2017 in order to communicate to selected target groups the Authority's remit and goals, as well as technical and specific issues.

At the same time, the FMA itself organised various events on specific topics:

- On 18 May 2017 the Securities Supervision Department hosted the annual "WPDLU Forum", providing an opportunity to present and discuss the schedule for implementation of MiFID II and PRIIPs in particular.
- The 8th FMA Supervision Conference took place at the Austria Center Vienna on 4 October 2017. The overall theme of the conference was "The New Risks in Integrated Financial Markets: Challenges for market players and supervisors", and proved highly interesting to the 900 or so delegates.
- From 12 to 13 October 2017 the Insurance Supervision Department hosted the conference "Current Challenges for Insurance Markets and Supervision in the Central, Eastern and South Eastern European Region", which was held in Vienna's Museums-Quartier.

PUBLICATIONS

The FMA Annual Report 2016 was submitted to the Supervisory Board by the statutory deadline. It was approved by the Board and then submitted to the Finance Committee of the National Council. The Executive Directors of the FMA presented the major key figures at the annual balance sheet press conference.

The Annual Report 2016 was printed in German only. The electronic version is available in German and English, and can be downloaded from the FMA website (www.fma.gv.at). In addition to its Annual Report, providing a review of 2016, the FMA again published "Facts and figures, trends and strategies 2017" in the reporting year, providing an analysis and outlook for 2017 in relation to topical issues of relevance to the FMA. The publication offers a summary of changes in national and international legislation pertaining to the FMA's supervisory remit and covers such topics as an in-depth analysis of the FMA's integrated approach to supervision based on some 15 years of practical experience.

The FMA also published quarterly reports on the development of foreign currency loans to Austrian households, the performance of insurance undertakings and *Pensionskassen*, the supervision of capital market prospectuses, interim and annual balance sheets for the FinTech point of contact and unauthorised business.

DIGITAL COMMUNICATION

Further changes were made to the FMA's public presence this year. The Authority's new mobile app was launched at the end of 2017, available free of charge in iOS and Android versions. The aim of the FMA app is to enable retail investors and consumers to check whether financial service providers hold the proper licence and to identify any dubious providers as quickly as possible.

This information is also available online and can be accessed on the FMA website, which was relaunched with a new responsive design in 2016 (which means the web pages display properly on a range of devices and screen sizes).

The FMA has also been very active on Twitter for some time now, tweeting useful information for consumers and announcing its latest investor warnings/press releases.

CONSUMER PROTECTION, CONSUMER INFORMATION AND COMPLAINTS SYSTEM

The FMA is legally bound to protect consumers collectively, i.e. to protect all investors, creditors and consumers in accordance with the statutory provisions. In particular, the FMA protects the interests of various different groups of consumers, e.g. groups of savers or investors, or the customers of a certain class of insurance.

The FMA has a dedicated section for consumers on its website, where it provides clear and unambiguous information, particularly in the form of FAQs, not only providing answers and explanations but also including informative charts.

Handling complaints is another FMA service available to consumers. At the same time, complaints represent an important source of information for the FMA's supervisory activity.

HANDLING OF COMPLAINTS BY COMPANIES

How supervised companies deal with complaints is governed by guidelines set by the European supervisory authorities for insurance undertakings, securities traders and banks.

According to these guidelines, supervised companies must have written complaints management measures in place and must also set up a complaints management function. The latter must review complaints fairly, identifying and avoiding any conflicts of interest within the company.

Supervised companies must ensure that consumers have easy access to information on the complaints process. In particular, consumers must know how to complain and where they should submit any complaint. All of the relevant information should be written in clear and unambiguous language, and consumers who submit complaints should receive a response within an appropriate period of time. When providing a final response that does not meet all or any of the complainant's demands, companies must justify their decision and inform the consumer on how the matter may be taken further, including details of the relevant contact person.

Supervised companies must record complaints in an electronic database within a reasonable period of time. Depending on the number of complaints received and based on various criteria and categories, this complaints data must be reported to the FMA on a periodic basis. The complaints data must be followed up and analysed on an ongoing basis in order to guarantee that any recurring or systematic problems,

as well as potential legal and operational risks, flagged up by the complaints are recorded and dealt with. In this regard too, the FMA used its dialogue with the companies concerned to present and discuss different interpretations and options for recording complaints such as in the event of a spike in complaints or with regard to defining complaint categories.

THE FMA'S COMPLAINTS PROCEDURES

For more than ten years now the FMA has had its own central complaints system in place that complies with the requirements specified in the European guidelines for handling consumer complaints. This has enabled it to lead by example, sharing best practices with the supervised companies from an early stage.

Any consumer with a complaint should always raise the issue directly with their contractual partner, namely the company subject to FMA supervision, in the first instance. A specific solution as a result of the complaint process can only be found with the involvement of the entity concerned. The latter must provide the complainant with a written response to the submitted complaint.

Consumers who subsequently take their complaint to the FMA should provide the Authority with details of their complaint and the company's response. If no such response has been received, the FMA should also be informed of this. In such a case it will be assumed that the company is not handling the complaint as required under the terms of the European guidelines.

The FMA will then review the relevant documents and the issues concerned in terms of their relevance to its supervisory activity. If the object of the complaint is not clear from the documentation, the FMA will call on the supervised company to provide a written statement. After receiving this statement and the complete documentation, the FMA will review the matter from a legal perspective in accordance with the supervisory laws, imposing supervisory measures where appropriate.

The enquiries and complaints covered a wide range of issues:

- A strikingly high number of complaints concerned the **switching of bank accounts**. Banks and payment service providers are obliged to provide consumers with a clear, quick and safe procedure to switch payment accounts as part of the account switching service. Yet customers wishing to change bank frequently encountered problems.
- Many enquiries related to **basic payment accounts**, which are accounts allowing essential payment services such as the facility to deposit cash and to withdraw cash at the counter or an ATM within the EU, to make payments via direct debit (within the EU), and to make payments online and with a payment card.
- Recurring issues, as in previous years, were **foreign currency loans** and **repayment vehicles**, as well as the time taken for transfers according to the Payment Services Act (ZaDiG; *Zahlungsdienstegesetz*), questions regarding the anti-money laundering rules and the related obligations concerning identification and proof of identity, and the terms and conditions of deposit guarantee schemes.
- With regard to insurance supervision, enquiries and complaints frequently related to the **incomprehensibility of the information** provided by insurance undertakings in the life insurance sector. Enquires here mostly concerned the actual amount of the capital guarantee, doubts as to the accuracy of calculations and the

lack of clarity in policy summary reports, termination of the contract, and exemption from or discounts on premiums.

- In **non-life insurance**, a large number of complaints concerned the slow settlement of claims. Meanwhile, in the area of **securities supervision**, complaints related to failure to observe rules of conduct, lack of proper advice, failure to protect investors' interests, investment of funds at an inappropriate level of risk, and once again information that was difficult to understand.
- Other issues concerning **investors** include binary options and contracts for difference (CFDs), products often subject to aggressive advertising practices and sold to retail investors without advice. The FMA has urged the utmost caution in relation to such products, publishing an information sheet to explain how they work and what risks they involve.
- Many enquiries were also received in relation to all aspects of **virtual currencies** such as Bitcoin, Ethereum, Ripple and Litecoin. Buying virtual currencies is a highly speculative and high-risk type of transaction, prompting the FMA to highlight and explain the risks typically associated with the use of virtual currencies.
- Numerous enquiries also related to financing involving **initial coin offerings** (ICOs). As ICOs are often designed in such a way that they avoid regulation and supervision, investors do not enjoy the same level of protection as would apply to regulated products or products from supervised companies. Here again the FMA has set out and explained the risks typically associated with investing in an ICO.
- It was also noticeable in 2017 that there were many enquiries regarding investments in the form of **qualified subordinated loans**. The FMA took the opportunity to inform investors about the legal design of subordinated loans and what the subordinate character means for investors, as well as providing information on the typical risks.
- The number of enquiries and complaints relating to **unauthorised business operations** remained consistently high. Cases of international investment fraud relating to **cryptocurrencies** were a new addition in 2017.

RISK MANAGEMENT SYSTEM AT THE FMA

An enterprise-wide integrated risk management system (RMS) was set up at the FMA, providing a uniform, structured and transparent process to support risk identification and assessment, risk decisions, as well as risk reporting and response, where such risks potentially impact the FMA's integrity or capability of taking action. Risk management at the FMA is aimed at risks that affect the FMA as an institution, its bodies and/or its staff, supporting in this way the FMA in fulfilling its statutory remit. Risk management here does not relate to risks for the Austrian financial market, companies subject to supervision by the FMA or consumers.

In fulfilling its principal mandate under law and pursuing its strategic goals, the FMA cannot avoid certain risks. Bearing in mind its importance for the Austrian financial market and in line with its mission statement, the FMA nonetheless ensures that:

- attention is given to such risks as part of risk management at the FMA; and
- appropriate steps are taken to reduce potential risks to an acceptable level where possible.

In addition to complying with the Public Corporate Governance Code (B-PCGK; *Bundes Public-Corporate-Governance Kodex*), the previously decentralised system of risk control has now been centrally organised and concentrated to further contribute to meeting obligations at European and international level relating to operational risk management.

At the outset was the risk management system project at the FMA, which gave way to new developments including the following:

- introducing and maintaining a centralised RMS at the FMA;
- meeting the organisational prerequisites for setting up a risk management organisation that includes clearly defined roles and responsibilities;
- initiating and coordinating a risk management process aimed at identifying major risks at the FMA as well as introducing measures to minimise risks;
- periodic review of the effectiveness of the RMS, along with ongoing further development of the system based on the model of a continuous improvement process.

One of the key preconditions of any effective risk management system capable of anticipating risks is a healthy risk culture, in which every member of the staff and management practises a conscientious approach to dealing with risks that is based on three important principles:

- Open exchange of information and a culture of learning, in particular in order to

help identify and manage risks at the interface between two or more divisions. Each department profits from the experience collected in others.

- In analysing risks and defining risk management options, respect for the expertise and competency of staff members, even of those not authorised to take decisions.
- An obligation to provide information, ensuring that all staff members inform their managers of relevant hazards that they identify in their spheres of activity, including the requirement to inform the risk management coordinator for the department of any hazards affecting more than one division. This supports heightened awareness and proactive risk responsibility.

Alongside promoting general working principles that are aimed at an enhanced risk culture, the FMA also places priority on periodically exchanging information with internal and external actors on topics relating to risk management, as a means of heightening risk awareness and deepening sensitivity to risk management within the organisation.

WHISTLEBLOWING – ORGANISATION, EXPERIENCES AND STATISTICS IN 2017

REPORTS ON SUPERVISORY ISSUES

In order to detect and bring a halt to any potential cases of malpractice on the financial and capital market, the FMA makes use of a range of different information sources, not least its own supervisory powers and authority to carry out inspections, and the data it regularly receives from supervised entities. However, another important source of information is the reports that the FMA receives from whistleblowers on the market who are willing to report to the supervisory authority instances of malpractice that they encounter during their own activity. Reports received in this way must be treated sensitively and confidentially to avoid any negative consequences for the informant either professionally or personally. A dedicated IT-based whistleblowing system has been in place at the FMA since 2014 to ensure that information can be reported anonymously and in confidence. Once a report is received, specially trained staff begin by checking whether the area concerned is relevant to the FMA's supervisory activity, in other words whether the information relates to companies and issues that fall within the FMA's supervisory remit.

By setting up its own system in this way, the FMA has not only created a central unit responsible for taking receipt of information but has also established a dedicated tool and procedure for the protection of whistleblowers and of anyone affected by a whistleblowing report.

COMMUNICATION WITH WHISTLEBLOWERS

The main task of the whistleblowing unit is to communicate with whistleblowers. The electronic system allows for the creation of a mailbox for anonymous communication. This is important in that it enables any questions that arise in the course of an investigation to be clarified. Using this secure mailbox, the FMA is able to ask any questions and also to communicate any feedback. Generally, communication via the mailbox is very quick. Consequently, whistleblowers can play a key part in the success of the investigation process.

Information on any form of malpractice within a company supervised by the FMA may also be reported at any time in writing, electronically or by using the FMA's telephone hotline. Additionally, whistleblowers who wish to report an actual or potential breach

of the Market Abuse Regulation (Regulation (EU) No 596/2014) to the FMA may also do this in person by talking to an employee at the whistleblowing unit on the FMA’s premises.

PROTECTION OF WHISTLEBLOWERS

In order to protect whistleblowers effectively, the FMA uses the latest certificate-based encryption system to secure its communication platform for anonymous whistleblowing reports. Whistleblowers can also set up their own secure mailbox in order to communicate anonymously with the FMA. It is not technically possible for the FMA to identify whistleblowers who use this system, unless they themselves disclose personal information.

Provided that a whistleblower does not provide any data that results in their identity being revealed, the whistleblowing system also protects that person’s anonymity throughout the entire communication process conducted via the secure mailbox, such that their identity cannot be found out. The FMA will make this clear to the whistleblower from the outset.

All FMA employees and bodies are bound by a statutory obligation to maintain official secrecy. This means that the identity of both whistleblowers and those affected by whistleblowing reports are protected. The FMA has also set up specific procedures in-house to protect personal data. Separate confidentiality areas have been created within the FMA’s organisational structure and there is also the option of imposing access restrictions on certain files during investigations in order to maintain strict confidentiality.

In some cases the FMA may, however, be obliged to disclose information that is known to it. In the event that a report is not made anonymously or if the identity or other personal data of a whistleblower is disclosed knowingly or unknowingly, this disclosure of personal data may result in the whistleblower being identified, during a criminal investigation for example.

Chart 41: Number of whistleblowing reports 2014–2017

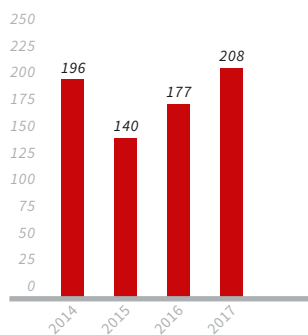
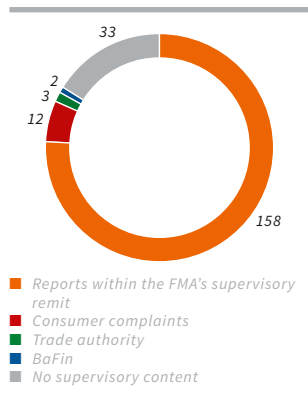


Chart 42: Enquiries by area of responsibility



STATISTICS ON REPORTS AND OUTCOMES IN 2017

In 2017 the FMA received 208 reports from whistleblowers through its IT-based system, and a further four reports by post (> Chart 41). Of the 208 reports received, 158 were taken further in the context of the FMA’s supervisory remit. Only twelve of the reports turned out to constitute consumer complaints, and were duly handled as such by the FMA. A further three reports were forwarded to the responsible trade authorities, while two reports were forwarded to the German Federal Financial Supervisory Authority (BaFin). Only 33 reports were found not to contain any relevant information, either from a supervisory perspective or on another basis (> Chart 42). Reports regarding tax affairs, which do not fall within the FMA’s remit, were down slightly again in 2017.

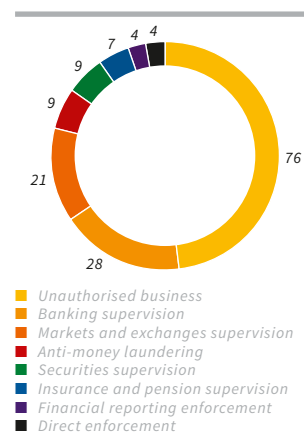
The whistleblowing reports received in 2017 resulted in a total of 93 further supervisory measures being introduced. In 54 cases these measures included either on-site inspections, company visits, management talks or “fit and proper” tests. Additionally, there were eight cases of administrative penal proceedings being launched, one admonition and two penal decisions in the total amount of € 154 000, 19 reports

submitted to the public prosecutor's office (including economic crime and corruption departments) and nine instances of investor warnings being published.

Out of the 158 relevant reports, 28 related to banking supervision, seven concerned insurance and pension supervision, and 21 were submitted in relation to markets and exchanges supervision (> *Chart 43*). A further nine reports were concerned with money laundering and the financing of terrorism, another nine related to securities supervision, four reports were about financial reporting enforcement and 76 reports were submitted in relation to the operation of unauthorised business. Four reports were also submitted directly to the Enforcement and Law Division.

By providing a modern, credible system for the receipt of whistleblowing reports and for dealing with any such reports professionally and without undue delay, the FMA has succeeded in securing a further important source of information. The result is also a more closely-meshed follow-up of any malpractice, which, from the FMA's perspective, results in a heightened sense of justice on the market and, ultimately, has a preventive effect in terms of compliance with supervisory standards and the further strengthening of confidence in Austria's financial market.

Chart 43: **Distribution of reports within the FMA**



ANNEX
2016 FINANCIAL STATEMENTS

AUDITOR'S REPORT

We have audited the attached financial statements of the Financial Market Authority, Vienna, consisting of the balance sheet as at 31 December 2016, the income statement for the financial year then ended, as well as the notes. The statement of costs pursuant to Article 19 of the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehördengesetz*) was also part of our audit.

In our opinion, the attached financial statements comply with the legal provisions and present a picture of the Authority that is as true and fair as possible with respect to net assets and the financial position as at 31 December 2016 as well as the results of operations of the FMA for the financial year then ended, in accordance with Austrian company law. The statement of costs pursuant to Article 19 FMABG complies with the statutory provisions.

BASIS FOR AUDIT OPINION

We conducted our audit in accordance with the Austrian standards of proper auditing. These standards require us to apply the International Standards on Auditing (ISA). Our responsibilities under those provisions and standards are further described in the section "Auditor's responsibilities for the audit of the financial statements" of our auditor's report. We are independent from the FMA, as required in accordance with Austrian company law and professional regulations, and we have fulfilled our other professional obligations in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

LEGAL REPRESENTATIVES' AND SUPERVISORY BOARD'S RESPONSIBILITIES FOR THE FINANCIAL STATEMENTS

The legal representatives are responsible for the preparation of the financial statements and for ensuring that they present a picture that is as true and fair as possible with respect to net assets, financial position and the results of operations of the FMA in accordance with Austrian company law. The legal representatives are also responsible for any internal control procedures that they deem necessary to enable preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the legal representatives are responsible for assessing the FMA's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting. The supervisory board is responsible for overseeing the FMA's financial reporting process.

AUDITOR'S RESPONSIBILITIES FOR THE AUDIT OF THE FINANCIAL STATEMENTS

Our objectives are to obtain reasonable assurance about whether the financial statements are free from material misstatement whether due to fraud or error, and to issue an auditor's report including our audit opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit carried out in accordance with the Austrian standards of proper auditing, which require us to apply the ISA, will always detect a material misstatement when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Austrian standards of proper auditing, which require us to apply the ISA, we exercise professional judgment and maintain professional scepticism throughout the entire audit.

Additionally:

- We identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our audit opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the overriding of internal controls.
- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the FMA's internal control procedures.
- We evaluate the appropriateness of accounting policies used by the legal representatives and the reasonableness of accounting estimates and related disclosures made by the legal representatives.
- We conclude on the appropriateness of legal representatives' use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the FMA's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the FMA to cease operating as a going concern.
- We evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- We communicate with the supervisory board regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

REPORT ON MANAGEMENT REPORT

Austrian company law requires us to perform audit procedures to determine whether the management report is consistent with the financial statements and whether it was prepared in accordance with the applicable statutory requirements.

The legal representatives are responsible for the preparation of the management report in accordance with Austrian company law.

We conducted our audit in accordance with the standards of actuarial practice applicable to the audit of the management report.

OPINION

In our opinion, the management report has been prepared in accordance with the applicable statutory requirements and is consistent with the financial statements.

DECLARATION

Considering the findings obtained during our audit of the financial statements and the appreciation we gained of the FMA and its environment, we did not identify any material deficiencies in the management report.

Vienna, 26 April 2017

CONTAX WIRTSCHAFTSTREUHAND GmbH

Auditing and tax consultancy

OTHMAR EBERHART

Auditor

WERNER PRENNER

Auditor

Publication or dissemination of the financial statements with our auditor's report is only permitted in the version we have audited. This auditor's report refers exclusively to the complete German version of the financial statements including the management report. With regard to other versions, the provisions contained in Article 282 para. 2 of the Corporate Code (UGB; *Unternehmensgesetzbuch*) are to be observed.

NOTES PURSUANT TO ARTICLE 236 UGB (amounts in €, previous year's amounts in € thousands)

A. GENERAL INFORMATION

- The FINANCIAL MARKET AUTHORITY (FMA) is an institution under public law and was established by the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehördengesetz*) (Federal Law Gazette I No. 97/2001) on 22 October 2001. The official competence of the FMA commenced on 1 April 2002. The FMA is in charge of banking supervision, insurance supervision, securities supervision and pension supervision. As at 31 March 2002, the Austrian Securities Authority was incorporated into the FMA by way of universal legal succession pursuant to Article 1 of the Securities Supervision Act (WAG; *Wertpapieraufsichtsgesetz*).
- The financial statements were prepared in conformity with the generally accepted accounting principles and the general principle of presenting a picture that is as true and fair as possible with respect to net assets, financial position and the results of operations. In accordance with Article 18 FMABG, the provisions of the Corporate Code (UGB; *Unternehmensgesetzbuch*) were applied accordingly to the present financial statements.
- The accounting policies applied to the individual items of the financial statements were based on the general provisions of Articles 193 to 211 UGB, taking the special provisions for large corporations into account.
- The financial statements were prepared in accordance with the going concern principle.
- Where a value was determined on the basis of an estimate, those estimates were based on prudent assessment. Where empirical values were available, the assessment was based on those values.
- Previous year's figures and structures were adjusted in these financial statements in accordance with the 2014 Accounting Amendment Act (RÄG 2014; *Rechnungslegungs-Änderungsgesetz*).

B. INFORMATION ON THE BALANCE SHEET INCLUDING THE DESCRIPTION OF THE ACCOUNTING POLICIES1. Fixed assets

The changes in fixed assets and the breakdown of the annual depreciation according to individual items can be seen in Table 43.

1.1. Tangible assets

Depreciation is calculated on a straight-line basis.

The useful life of the individual asset groups is as follows:

Table 41: 2017 balance sheet

BALANCE SHEET AS AT 31 DECEMBER 2016 (preliminary amounts in €)

A S S E T S

Previous year
in € thousandsA. Fixed assetsI. Intangible assets

Industrial property and similar rights
and licences in such rights

771 424.41

628

II. Tangible assets1. Buildings on third-party land

1 228 470.66

1 229

2. Other equipment, operating and office equipment

1 655 195.57

1 623

2 883 666.23

2 852

3 655 090.64

3 480

B. Current assetsI. Services not yet invoiced to entities liable to pay costs

56 515 323.43

53 063

II. Receivables and other assets1. Trade receivables

1 753 153.81

6 769

2. Other receivables and assets

1 313 600.42

1 966

3 066 754.23

8 735

III. Cash at bank and in hand

22 600 821.06

17 509

82 182 898.72

79 307

C. Prepaid expenses

1 282 558.17

1 139

87 120 547.53

83 926

1. Industrial property and similar rights and licences in such rights: 3 years
2. Buildings on third-party land: 8 to 20 years
3. Other equipment, operating and office equipment: 3 to 10 years

There was no need for depreciation pursuant to Article 204 para. 2 UGB as there was no impairment loss.

The low-value assets pursuant to Article 13 of the Income Tax Law (EStG; *Einkommensteuergesetz*) with individual acquisition values of less than € 400.00 each were reported as disposals in their year of acquisition.

2. Services not yet invoiced to entities liable to pay costs

This item comprises the expenses to be borne by the entities liable to pay costs pursuant to Article 19 FMABG in the amount of € 56 515 323.43 (previous year: € 53 063k). The statement of costs is prepared according to the procedures stipulated under Article 19 FMABG.

In this connection, the FMA has set up four accounting groups to which the cost shares are apportioned as follows:

	2016 (in €)	2015 (in € thousands)
1. Banking Supervision costs	31 442 301.41	28 828
2. Insurance Supervision costs	9 947 972.52	10 350
3. Securities Supervision costs	13 995 717.40	12 866
4. Pension Supervision costs	1 129 332.10	1 019
Total	56 515 323.45	53 063

The costs are apportioned to the individual entities liable to pay costs, and the advance payments made by the entities liable to pay costs in the 2016 financial year are offset based on the reference data, listed in the relevant supervisory laws and reported to the FMA, which is only available after the financial statements have been prepared.

3. Trade receivables

The receivables are carried at nominal values and show a residual maturity of less than a year. Individual valuation allowances were recognised for identifiable risks in the measurement of receivables.

Trade receivables in the amount of € 1 123 712.66 (previous year: € 1 740k) constitute receivables pursuant to Article 74 para. 5 no. 2 of the Bank Recovery and Resolution Act (BaSAG; *Bankensanierungs- und Abwicklungsgesetz*). In 2016 there were no receivables from the comprehensive assessment (SSM) (previous year: € 3 912k).

EQUITY AND LIABILITIES

Previous year
in € thousands

A. Reserve pursuant to Article 20 FMABG		3 151 408.07	2 819
B. Provisions			
1. Provisions for severance pay	1 810 577.95		1 434
2. Other provisions	9 655 174.34		7 859
		11 465 752.29	9 293
C. Liabilities			
1. Advance payments received pursuant to Article 19 FMABG	49 027 312.15		44 985
2. Trade payables	19 874 936.21		22 105
3. Other liabilities			
a) Taxes	642 155.33		676
b) Social security and similar obligations	691 187.86		645
c) Actual cost accounting for previous years	239 691.64		827
d) Other	1 212 076.74		1 970
		2 785 111.57	4 117
		71 687 359.93	71 207
D. Deferred income		816 027.24	608
		87 120 547.53	83 926

Receivables of € 648 850.15 (previous year: € 1 139k) are still carried from the actual cost accounting of previous years. Itemised valuation allowances of € 19 409.00 (previous year: € 21k) were recognised for receivables from actual cost accounting.

4. **Other receivables**

Other receivables include mostly receivables from orders imposing fees, administrative penalties, penalty interest, trustee fees, as well as transitory items concerning the ELAK electronic filing system. The itemised valuation allowance amounts to € 0.00 (previous year: € 0).

5. **Prepaid expenses**

The item prepaid expenses comprises in particular rental fees, insurance expenses, royalties and maintenance fees, membership fees, as well as subscriptions.

6. **Reserve pursuant to Article 20 FMABG**

Article 20 FMABG specifies the option of establishing a reserve in the amount of 1% of the FMA's total costs based on the latest adopted financial statements as at 31 December 2015 (1% of the FMA's total costs in 2015 in the amount of € 63 028 161.31 is € 630 281.61). The maximum amount of the reserve may not, however, exceed 5% of the FMA's total costs based on the latest adopted financial statements as at 31 December 2015 (5% of the FMA's total costs in 2015 in the amount of € 63 028 161.31 is € 3 151 408.07). As at 31 December 2015, the reserve totalled € 2 818 550.39. In 2016, € 42 641,80 (previous year: € 0) of the reserve were released to cover extraordinary supervision expenses for the benefit of

Table 42: **2017 income statement**

INCOME STATEMENT FOR THE FINANCIAL YEAR FROM 1 JANUARY TO 31 DECEMBER 2016 (amounts in €)

		<i>Previous year in € thousands</i>
1. Federal Government contribution pursuant to Article 19 FMABG	4 000 000.00	3 500
2. Income from fees and the allocation of costs	5 771 810.42	11 859
3. Other operating income		
a) Income from the disposal of fixed assets	0.00	2
b) Income from the release of provisions	198 990.08	915
c) Other	222 198.26	179
	<hr/>	<hr/>
4. Personnel expenses	421 188.34	1 097
a) Salaries	-31 310 375.85	-30 071
b) Social security costs	-8 675 491.29	-8 101
Expenses for old-age pensions	-1 215 625.29	-1 091
aa) Expenses for severance pay and contributions to corporate staff provision funds	-781 471.42	-549
bb) Cost of statutory social security, payroll-related taxes and mandatory contributions	-6 325 540.32	-6 116
cc) Other social security costs	-352 854.26	-346
	<hr/>	<hr/>
5. Amortisation and write-downs of intangible assets, depreciation and write-downs of tangible assets	-39 985 867.14	-38 172
6. Other operating expenses		
a) Direct costs pursuant to Article 79 para. 4b BWG – Banking Supervision	-8 000 000.00	-8 000
b) Direct costs pursuant to Article 182 para. 7 VAG – Insurance Supervision	-108 900.00	-230
c) Direct costs pursuant to Article 3 para. 5 BaSAG	-2 000 000.00	-1 000
d) Direct costs pursuant to Article 6 para 6 ESAEG	-500 000.00	0
e) Other	-14 181 717.52	-20 397
	<hr/>	<hr/>
7. Subtotal of items 1 to 6	-24 790 617.52	-29 627
8. Other interest income	-56 124 467.28	-52 780
9. Interest expenses	205.20	0
10. Subtotal of items 8 to 9	-58 203.67	-21
11. Release of the provision pursuant to Article 20 FMABG	-57 998.47	-21
12. Appropriation to reserve pursuant to Article 20 FMABG	42 641.80	0
13. Share of entities liable to pay costs	-375 499.48	-262
	<hr/>	<hr/>
14. PROFIT OR LOSS FOR THE YEAR	56 515 323.43	53 063
	<hr/>	<hr/>
	0.00	0

the sub-accounting group Central Counterparties in the accounting group Securities Supervision. Following the allocation of € 375 499.48, the reserve pursuant to Article 20 FMABG totalled € 3 151 408.07 as at 31 December 2016. The costs for the comprehensive assessment are not included in the FMA's overall costs for 2015.

7. Provisions

Provisions are established taking the prudent person principle pursuant to Article 211 para. 1 UGB into account.

7.1 Provisions for severance pay

Change:	2016 (in €)	2015 (in € thousands)	
As at 1 January 2016	1 433 822.63	1 264	
Use	0.00	0	
Appropriation/Release	376 755.32	170	Rounding differences are ignored.
As at 31 December 2016	1 810 577.95	1 434	

The provisions for severance pay were calculated in accordance with actuarial principles using the entry age normal method and taking account of the current actuarial assumptions for pension insurance "AVOe 2008-P". These assumptions are based on an interest rate of 3.24% and a salary increase of 3.45%. The assumed interest rate corresponds to a 7-year average rate for a residual maturity of 15 years. The retirement age was assumed to be the pension age as set forth in the General Social Insurance Act (ASVG; *Allgemeines Sozialversicherungsgesetz*) also applying the transitional provisions of the 2003 Budget Accompanying Act (BBG 2003; *Budgetbegleitgesetz*). The raised retirement age for women as of 2024 was taken into account.

Last year the provisions for severance pay were computed in accordance with financial principles. The calculation was based on an interest rate of 2% and a retirement age of 65 for men and 60 for women.

7.2 Other provisions

Other provisions were determined in accordance with the prudent person principle and include all risks recognisable as at the balance sheet date and all liabilities as yet uncertain in terms of their amount or reason, all contingent losses from pending business, as well as expenses that are essential in accordance with sound business judgement. These provisions were recognised with their respective settlement amounts.

	As at 1 Jan. 2016	Use	Release	Appropriation	As at 31 Dec. 2016
Anniversary bonuses	240 053.00	0.00	22 838.00	5 801.00	223 016.00
Provisions for premiums	1 868 164.41	1 868 164.41	0.00	1 964 593.99	1 964 593.99
Unused holiday entitlement	3 481 291.28	104 157.23	0.00	0.00	3 377 134.05
Overtime to be paid	10 514.97	10 514.97	0.00	5 223.96	5 223.96
Additional hours	204 757.65	0.00	0.00	19 466.74	224 224.39
Other provisions	1 940 567.62	1 742 602.73	62 277.15	2 901 212.33	3 036 900.07
2014 provision actual costs					
Banking Supervision	113 874.93	0.00	113 874.93	0.00	0.00
2015 provision actual costs					
Banking Supervision	0.00	0.00	0.00	824 081.88	824 081.88
	7 859 223.86	3 725 439.34	198 990.08	5 720 379.90	9 655 174.34

The provision for anniversary bonuses was calculated in accordance with actuarial principles using the entry age normal method and taking account of the current actuarial assumptions for pension insurance "AVOe 2008-P". These assumptions are based on an interest rate of 3.24% and a salary increase of 3.45%. The assumed interest rate corresponds to a 7-year average rate for a residual maturity of 15 years. The retirement age was assumed to be the pension age as set forth in the General Social Insurance Act (ASVG; *Allgemeines Sozialversicherungsgesetz*) also applying the transitional provisions of the 2003 Budget Accompanying Act (BBG 2003; *Budgetbegleitgesetz*). The raised retirement age for women as of 2024 was taken into account. For contractual employees non-wage labour costs were recognised at a rate of 3.9% and social insurance contributions on a pro rata basis.

Last year the provision for anniversary bonuses were calculated in accordance with financial principles. The calculation was based on an interest rate of 2% and a retirement age of 65 for men and 60 for women; non-wage labour costs for contractual employees were recognised at a rate of 4.5% and social insurance contributions on a pro rata basis.

The other provisions comprise the following items:

Direct costs OeNB pursuant to Article 3 para. 5 BaSAG	2 000 000.00	
Direct costs OeNB pursuant to Article 6 para. 6 BaSAG	500 000.00	
Other expenses	119 573.54	
OeNB expert opinions on models pursuant to Article 182 para. 7 VAG	108 900.00	
Expenses FMA Annual Report	77 400.00	
Exemption levy for non-employment of disabled persons	63 294.00	
Maintenance and other IT expenses	60 744.55	
Operating expenses	58 926.38	
Consulting costs and external services	46 821.60	
Objections to payment notices for contributions to penalties	1 240.00	
Total	3 036 00.07	<i>Rounding differences are ignored.</i>

2014 provision for actual costs of Banking Supervision

The provision established pursuant to Article 69a of the Austrian Banking Act (BWG; *Bankwesengesetz*) in one financial year must be released in the following financial statements of the FMA, i.e. the provision established in the 2015 financial statements for the actual costs incurred in 2014 was released in the 2016 financial statements of the FMA; by way of derogation to Article 19 para. 4 FMABG, the resulting income is only to be deducted from the costs of accounting group (AG) 1.

2015 provision for actual costs of Banking Supervision

Pursuant to Article 69a BWG the difference between the calculated cost shares and the minimum amounts to be paid by the credit institutions for 2015 is to be allocated to a provision in 2016.

8. Liabilities

The liabilities are computed with the settlement amount taking the prudent person principle into account. All liabilities, with the exception of some amounts to be repaid to the OeNB, have a residual maturity of up to one year.

8.1 Advance payments received pursuant to Article 19 FMABG

For the 2016 financial year, the entities liable to pay costs had to make advance payments in the amount of € 48 379 072.00 (previous year: € 45 268k) as prescribed by administrative decision. Itemised valuation allowances of € 375.00 (previous year: € 1k) were recognised for the amounts not yet paid.

The 2016 advance payments are compared with the cost share to be borne by the entities liable to pay costs within the scope of preparing the statement of costs. The resulting balance is either charged or repaid to the entities liable to pay costs.

As at 31 December 2016, € 635 764,25 (previous year: € 647k) had already been paid in advance for the 2017 financial year.

8.2. Trade payables

The liabilities owed to the Oesterreichische Nationalbank (OeNB), resulting from the direct costs of on-site inspections and the analysis of individual banks, totalled € 16 million (unchanged from the previous year), of which € 8 million – with a residual maturity of more than one year – for 2015 is to be reimbursed by 31 March 2017 and € 8 million for 2016 by 31 March 2018.

This item also includes liabilities owed to the OeNB resulting from direct services for the review of

Table 43: 2016 statement of changes in fixed assets

STATEMENT OF CHANGES IN FIXED ASSETS (ARTICLE 226 PARA. 1 UGB) (amounts in €)

	As at 1 January 2016	Additions	Cost Disposals	As at 31 December 2016
I. Intangible fixed assets				
Industrial property and similar rights and licences in such rights	3 306 000.10	555 736.62	106 672.06	3 755 064.66
II. Tangible fixed assets				
1. Buildings on third-party land	1 947 174.54	199 297.14	1 352.85	2 145 118.83
2. Other equipment, operating and office equipment	5 416 163.03	919 760.19	335 141.39	6 000 781.83
3. Low-value assets	0.00	58 334.83	58 334.83	0.00
	7 363 337.57	1 177 392.16	394 829.07	8 145 900.66
	10 669 337.67	1 733 128.78	501 501.13	11 900 965.32

insurance undertakings' risk models in the amount of € 226 224.35 for 2015 (previous year: € 168k) and for recovery and resolution activities (each to be reimbursed by 31 March 2017) in the amount of € 1 000 000.00 for 2015 (previous year: € 0).

8.3 Other liabilities

A liability of € 239 691.64 (previous year: € 827k) is still carried from the actual cost accounting of previous years.

Expenses in the amount of € 482 752.63 (previous year: € 451k) which will only become due after the balance sheet date are also included.

9. Contingent liabilities

As at 31 December 2016 there were no contingent liabilities or guarantees.

10. The liabilities from the use of tangible fixed assets not shown in the balance sheet amount to approximately € 3 634 800.00 (previous year: € 3 561k) for the following year and a total of approximately € 17 934 000.00 (previous year: € 17 625k) for the following five years.

C. INFORMATION ON THE INCOME STATEMENT

1. Adjustments (reclassification) of previous year's figures

In the course of converting to the RÄG 2014, the following financial statement items of the previous year have been adjusted (reclassified):

<i>Previous year's financial statement items adjusted</i>	<i>Previous year's financial statement items</i>	<i>Amount reclassified in EUR</i>
<i>Income from fees and the allocation of costs</i>	<i>Other operating income</i>	<i>11 859 250.19</i>

2. Income from federal grant

Following a change of law, the Federal Government paid an amount pursuant to Article 19 para. 4 FMABG now totalling € 4 000 000.00 (previous year: € 3 500k) for the 2016 financial year, which was used to cover part of the costs incurred during the 2016 financial year.

3. Income from fees and the allocation of costs

Income from fees and the allocation of costs amounted to € 5 771 810.42 (previous year: € 11 859k) and predominantly included income from payment notices, income pursuant to Article 74 para. 5 no. 2 BaSAG and authorisation fees. The lower amount is due to the comprehensive assessment having been carried out in 2015.

4. Other operating income

Other operating income made up € 421 188.34 (previous year: € 1 097k) and predominantly included income from the release of provisions and income from transitory items concerning the ELAK electronic filing system. The decline is primarily attributable to increased releases of provisions in 2015 due to objections being filed for payment notices.

5. Personnel expenses

In the income statement, item 4b aa) shows contributions to corporate staff provision funds in the amount of € 404 716.10 (previous year: € 379k). The remaining amount of € 376 755.32 (previous year: € 170k) is attributed to expenses for severance pay.

<i>As at 1 January 2016</i>	<i>Cumulative depreciation, amortisation and write-downs</i>			<i>Carrying amounts</i>	
	<i>Additions</i>	<i>Disposals</i>	<i>As at 31 December 2016</i>	<i>As at 31 December 2015</i>	<i>As at 31 December 2016</i>
<i>2 678 238.86</i>	<i>411 797.34</i>	<i>106 395.95</i>	<i>2 983 640.25</i>	<i>627 761.24</i>	<i>771 424.41</i>
<i>718 460.25</i>	<i>199 371.69</i>	<i>1 183.77</i>	<i>916 648.17</i>	<i>1 228 714.29</i>	<i>1 228 470.66</i>
<i>3 792 747.89</i>	<i>871 477.52</i>	<i>318 639.15</i>	<i>4 345 586.26</i>	<i>1 623 415.14</i>	<i>1 655 195.57</i>
<i>0.00</i>	<i>58 334.83</i>	<i>58 334.83</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
<i>4 511 208.14</i>	<i>1 129 184.04</i>	<i>378 157.75</i>	<i>5 262 234.43</i>	<i>2 852 129.43</i>	<i>2 883 666.23</i>
<i>7 189 447.00</i>	<i>1 540 981.38</i>	<i>484 553.70</i>	<i>8 245 874.68</i>	<i>3 479 890.67</i>	<i>3 655 090.64</i>

6. Amortisation and write-downs of intangible assets, depreciation and write-downs of tangible assets

The depreciation, amortisation and write-downs amount to € 1 540 981.38 (previous year: € 1 437k).

7. Other operating expenses

Other operating expenses included the following direct costs for services rendered by the OeNB in 2016 pursuant to:

- Article 79 para. 4b BWG – € 8 000 000.00 for banking supervision (previous year: € 8 000k);
- Article 182 para. 7 VAG – € 108 900.00 for insurance supervision (previous year: € 230k);
- Article 3 para. 5 BaSAG – € 2 000 000.00 for banking resolution (previous year: € 1 000k); and
- Article 6 para. 6 ESAEG – € 500 000.00 for deposit guarantees (previous year: € 0).

The remaining other operating expenses amounted to € 14 181 717.52 (previous year: € 20 397k). Extraordinary expenses of € 6 492k arising from the comprehensive assessment are included in previous year's figure.

7.2 Audit expenses

Other operating expenses include the following expenses related to the statutory audit carried out by Wirtschaftsprüfungskanzlei Contax WirtschaftstreuhandgmbH in accordance with Article 18 para. 2 FMABG:

	<i>in €</i>
<i>Audit of the financial statements of the Financial Market Authority</i>	33 000.00
<i>Audit of the resolution financing arrangement pursuant to Article 123d para. 2 BaSAG</i>	9 000.00
<i>Total</i>	<i>42 000.00</i>

8. Reserve pursuant to Article 20 FMABG

Please refer to Information on the balance sheet/Point 6 for details about the allocation to the reserve. The release of the reserve pursuant to Article 20 FMABG, amounting to € 42 641.80 (previous year: € 0), to cover extraordinary supervision expenses was effected for the benefit of the sub-accounting group Central Counterparties in the accounting group Securities Supervision.

9. Share of entities liable to pay costs

Please refer to Point B. 2. Services not yet invoiced to entities liable to pay costs in the notes.

D. OTHER INFORMATION

1. Events of particular importance after the balance sheet date

No significant events took place after the balance sheet date. Any necessary reporting (quarterly reports, annual report) was carried out in good time.

2. Average number of staff pursuant to Article 239 UGB:

	2016	2015
<i>Civil servants</i>	19	19
<i>Employees (incl. contractual employees)</i>	421	402
<i>Staff total</i>	<i>440</i>	<i>421</i>

3. Management of the FMA pursuant to Article 6 FMABG

Klaus Kumpfmüller was appointed by the Federal President on 14 February 2013 to serve as a member of the FMA's Executive Board from 14 February 2013 to 13 February 2018.

Helmut Ettl was reappointed by the Federal President on 14 February 2013 to serve as a member of the FMA's Executive Board from 14 February 2013 to 13 February 2018.

4. Expenses for severance pay and pensions

The expenses for severance pay and pensions, broken down by members of the Executive Board including executive employees and by other employees, amount to the following sums in the respective financial years:

	2016 (in €)	2015 (in € thousands)
<i>Executive Directors and executive employees</i>	117 190.99	96
<i>Other employees</i>	1 879 905.72	1 543
<i>Total</i>	<i>1 997 096.71</i>	<i>1 639</i>

5. Remuneration of the members of the Executive and Supervisory Boards

The remuneration of the two Executive Directors of the FMA consists solely of fixed components (no variable components are budgeted) and amounted to € 260 207.22 before taxes per director and year in 2016.

The remuneration paid to the six voting members of the Supervisory Board has remained unchanged since the FMA was established in 2001 and comes to a total of € 15 300.00. The amount can be broken down as follows:

Chairperson: € 3 600.00
Vice-Chairperson: € 2 900.00
Member: € 2 200.00

The remuneration of the members appointed by the Oesterreichische Nationalbank is not paid to the members themselves but to the OeNB, in accordance with the terms of their employment contracts. The members co-opted by the Austrian Federal Economic Chamber do not receive any remuneration.

Members of the Supervisory Board appointed by the Federal Ministry of Finance:

- Alfred LEJSEK (Chairperson), Federal Ministry of Finance
- Ewald NOWOTNY (Vice-Chairperson), Governor of the Oesterreichische Nationalbank
- Andreas ITTNER, Vice Governor of the Oesterreichische Nationalbank; Director of Financial Stability, Banking Supervision and Statistics at the OeNB
- Gabriela DE RAAIJ, Head of the Off-Site Supervision Division – Significant Institutions at the Oesterreichische Nationalbank
- Bernhard PERNER, Federal Ministry of Finance
- Beate SCHAFFER, Federal Ministry of Finance

The co-opted members were nominated by the Austrian Federal Economic Chamber.

- Walter KNIRSCH (co-opted member), sworn auditor and tax consultant
- Franz RUDORFER (co-opted member), Bank and Insurance Division, Austrian Federal Economic Chamber

Vienna, 26 April 2017

HELMUT Ettl
(signed in person)

KLAUS Kumpfmüller
(signed in person)

**AUDITOR'S REPORT
TO THE FINANCIAL STATEMENTS
OF THE RESOLUTION FINANCING ARRANGEMENT**

We have audited the attached financial statements of the resolution financing arrangement, Financial Market Authority, Vienna, consisting of the balance sheet as at 31 December 2016 and the income statement for the financial year then ended.

In our opinion, the attached financial statements comply with the legal provisions and present a picture of the arrangement that is as true and fair as possible with respect to net assets and the financial position as at 31 December 2016 as well as the results of operations of the resolution financing arrangement for the financial year then ended, in accordance with Austrian company law.

BASIS FOR AUDIT OPINION

We conducted our audit in accordance with the Austrian standards of proper auditing. These standards require us to apply the International Standards on Auditing (ISA). Our responsibilities under those provisions and standards are further described in the section "Auditor's responsibilities for the audit of the financial statements" of our auditor's report. In the capacity of resolution authority we are independent from the Financial Market Authority (FMA), as required in accordance with Austrian company law and professional regulations, and we have fulfilled our other professional

Table 44: 2016 balance sheet of the resolution fund

BALANCE SHEET AS AT 31 DECEMBER 2016 (amounts in €)							
A S S E T S		Previous year in € thousands		E Q U I T Y A N D L I A B I L I T I E S		Previous year in € thousands	
A. Current assets				A. Liabilities			
I. Receivables				I. Liabilities			
1. Allocation of SRF receivables	0.71	34		1. Allocation of SRF liabilities	0.00	198 226	
2. Allocation of FMA receivables	42.15	0		2. Other liabilities	150.00	2	
		42.86	34				
II. Allocation of resolution financing arrangement							
Bank balances	107.14	198 194					
	150.00	198 228			150.00	198 228	

Table 45: 2017 income statement of the resolution fund

INCOME STATEMENT FOR THE FINANCIAL YEAR FROM 1 JANUARY TO 31 DECEMBER 2016 (preliminary result, amounts in €)				Previous year in € thousands	
1. Other operating income					
Other		144 541.41		34	34
			144 541.41		
2. Other operating expenses					
Other		-2 926.55		-1	-1
			-2 926.55		
3. Subtotal of items 1 to 2			141 614.86	33	
4. Interest expenses			-141 614.86	-33	
5. Subtotal of item 4			-141 614.86	-33	
6. PROFIT OR LOSS FOR THE YEAR			0,00	0	

obligations in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

LEGAL REPRESENTATIVES' RESPONSIBILITIES FOR THE FINANCIAL STATEMENTS AND FOR THE ACCOUNTING

The legal representatives of the FMA acting in the capacity of resolution authority are responsible, pursuant to Article 123d para. 2 of the Bank Recovery and Resolution Act (BaSAG; *Bankensanierungs- und Abwicklungsgesetz*) for the accounting and for the preparation of the financial statements and for ensuring that they present a picture that is as true and fair as possible with respect to net assets, financial position and the results of operations of the resolution financing arrangement in accordance with Austrian company law. The legal representatives are also responsible for any internal control procedures that they deem necessary to enable preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the legal representatives are responsible for assessing the resolution financing arrangement's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the legal representatives either intend to liquidate the resolution financing arrangement or to cease operations, or have no realistic alternative but to do so.

The supervisory board is responsible for overseeing the resolution financing arrangement's financial reporting process.

AUDITOR'S RESPONSIBILITIES FOR THE AUDIT OF THE FINANCIAL STATEMENTS

Our objectives are to obtain reasonable assurance about whether the financial statements are free from material misstatement whether due to fraud or error, and to issue an auditor's report including our audit opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit carried out in accordance with the Austrian standards of proper auditing, which require us to apply the ISA, will always detect a material misstatement when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Austrian standards of proper auditing, which require us to apply the ISA, we exercise professional judgment and maintain professional scepticism throughout the entire audit.

Additionally:

- We identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our audit opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the overriding of internal controls.
- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the

purpose of expressing an opinion on the effectiveness of the FMA's resolution financing arrangement.

- We evaluate the appropriateness of accounting policies used by the legal representatives and the reasonableness of accounting estimates and related disclosures made by the legal representatives.
- We conclude on the appropriateness of legal representatives' use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the resolution financing arrangement's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the resolution financing arrangement to cease operating as a going concern.
- We evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- We communicate with the supervisory board of the FMA regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Vienna, 17 March 2017

CONTAX WIRTSCHAFTSTREUHAND GmbH

Auditing and tax consultancy

OTHMAR EBERHART

Auditor

WERNER PRENNE

Auditor

Publication or dissemination of the financial statements with our auditor's report is only permitted in the version we have audited. This auditor's report refers exclusively to the complete German version of the financial statements including the management report. With regard to other versions, the provisions contained in Article 282 para. 2 of the Corporate Code (UGB; *Unternehmensgesetzbuch*) are to be observed.

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A2ii	Access to Insurance Initiative	EURO STOXX 50	Stock index of the 50 largest listed companies in the eurozone
ABBAG	Abbaubeteiligungsgesellschaft des Bundes (federal divestment company)	EuSEF	European Social Entrepreneurship Funds
ABGB	Allgemeines Bürgerliches Gesetzbuch (General Civil Code)	EuVECA	European Venture Capital Funds
ABSP	Asset Backed Purchase Programme	FATF	Financial Action Task Force
AFREP	Austrian Financial Reporting Enforcement Panel	FCA	Financial Conduct Authority (UK)
AIF	Alternative Investment Fund	Fed	Federal Reserve (USA)
AIFM	Alternative Investment Fund Manager	FinTech	Financial technology
AIFMG	Alternatives Investmentfonds Manager-Gesetz (Alternative Investment Fund Managers Act)	FIRDS	Financial Instruments Reference Data System
AMA	Advanced Measurement Approach	FKG	Finanzkonglomeratengesetz (Financial Conglomerates Act)
AMLC	Anti-Money Laundering Sub-Committee	FMA	Financial Market Authority
APA	Austria Press Agency	FMABG	Finanzmarktaufsichtsbehördengesetz (Financial Market Authority Act)
APP	Asset Purchase Programme	FM-GwG	Finanzmarkt-Geldwäschegesetz (Financial Markets Anti-Money Laundering Act)
AtomHG	tomhaftungsgesetz (Atomic Liability Act)	FROB	Fondo de Reestructuración Ordenada Bancaria
ATX	Austrian Trade Index	FSB	Financial Stability Board
BaFin	Federal Financial Supervisory Authority (Germany)	FST	Financial Stability Table; EU Economic and Financial Committee
BaSAG	Bankensanierungs- und Abwicklungsgesetz (Bank Recovery and Resolution Act)	FTE	Full-Time Equivalent
BMF	Federal Ministry of Finance	FTSE 100	Financial Times Stock Exchange Index (UK)
BMSVG	Betriebliches Mitarbeiter- und Selbständigenvorsorgegesetz (Company Employee and Self-Employment Provisions Act, as amended)	FX	Foreign exchange
BoE	Bank of England	GDP	Gross Domestic Product
BörseG	Börsegesetz (Stock Exchange Act)	GewO	Gewerbeordnung (Trade Act)
BoS	Board of Supervisors	GmbH	Gesellschaft mit beschränkter Haftung (limited liability company)
B-PCGK	Bundes-Public Corporate Governance Kodex (Public Corporate Governance Code)	HETA	HETA Asset Resolution AG
BRRD	Bank Recovery and Resolution Directive	HICP	Harmonised Index of Consumer Prices
BVQA-V	Betriebliche Vorsorgekassen-Quartalsausweisverordnung (Regulation on the Quarterly Financial Statements for Corporate Provision Funds)	HTM valuation	To reach an investment income that is as stable as possible, a valuation deviating from the principle of current values can be used for certain securities with a high credit rating (e.g. debt securities issued by the Federal Government) held as direct investments (held to maturity or HTM).
BVwG	Bundesverwaltungsgericht (Federal Administrative Court)	IAIS	International Association of Insurance Supervisors
BWG	Bankwesengesetz (Austrian Banking Act)	ICPs	Insurance Core Principles
CBPP3	Covered Bond Purchase Programme	ICS	Risk-Based Global Insurance Capital Standard
CCPA	Central Counterparty Austria GmbH	IFRS	International Financial Reporting Standards
CEESEG	CEE Stock Exchange Group	IMF	International Monetary Fund
CESEE	Central, Eastern and South-Eastern Europe	ImmoInvFG	Immobilien-Investmentfondsgesetz (Real Estate Investment Fund Act)
CFD	Contract of Difference	InvFG	Investmentfondsgesetz (Investment Fund Act)
CIS	Commonwealth of Independent States	IOPS	International Organisation of Pension Supervisors
CRR	Capital Requirements Regulation	IOSCO	International Organization of Securities Commissions
CSPP	Corporate Sector Purchase Programme	IRB	Internal Ratings Based (Approach)
DAX	German stock index	IRGs	Investment and Risk Sharing Groups
EBA	European Banking Authority	IRTs	Internal Resolution Teams
EC	European Community	ISA	International Standards on Auditing
ECB	European Central Bank	JRAD	Joint Risk Assessment and Decision (Process)
ECV	Issuer Compliance Regulation	JSTs	Joint Supervisory Teams
EEA	European Economic Area	KIID	Key Investor Information Document
EFC	Economic and Financial Committee	KMG	Kapitalmarktgesetz (Capital Market Act)
EGMLTF	Expert Group on Money Laundering and Terrorist Financing	KVO	Kostenverordnung (Cost Regulation)
EIOPA	European Insurance and Occupational Pensions Authority	LSI	Less Significant Institution
ELAK	Electronic filing system	MAD	Market Abuse Directive
ELTIF	European Long-term Investment Funds	MAR	Market Abuse Regulation
EMIR	European Market Infrastructure Regulation	MBA	Master of Business Administration
ESA	European Supervisory Authority	MiFID	Markets in Financial Instruments Directive
ESFS	European System of Financial Supervision	MiFIR	Markets in Financial Instruments Regulation
ESMA	European Securities and Markets Authority	MMoU	Multilateral Memorandum of Understanding
ESRB	European Systemic Risk Board	MoU	Memorandum of Understanding
EURIBOR	Euro Interbank Offered Rate; three-month interbank rate		

MREL	<i>Minimum Requirement for Own Funds and Eligible Liabilities</i>	SRB	<i>Single Resolution Board</i>
MSCI	<i>Emerging Markets Index</i>	SREP	<i>Supervisory Review and Evaluation Process</i>
MTF	<i>Multilateral Trading Facility</i>	SRF	<i>Single Resolution Fund</i>
NCAAs	<i>National Competent Authorities</i>	SRM	<i>Single Resolution Mechanism</i>
NPLs	<i>Non-Performing Loans</i>	SSM SB	<i>SSM Supervisory Board</i>
NRAs	<i>National Resolution Authorities</i>	SSM	<i>Single Supervisory Mechanism</i>
OECD	<i>Organisation for Economic Co-operation and Development</i>	StpO	<i>Strafprozessordnung (Code of Criminal Procedure)</i>
OeKB	<i>Oesterreichische Kontrollbank AG</i>	TAN	<i>Transaction Authentication Number</i>
OeNB	<i>Oesterreichische Nationalbank</i>	TREM	<i>Transaction Reporting Mechanism</i>
OPEC	<i>Organization of the Petroleum Exporting Countries</i>	TRIM	<i>Targeted Review of Internal Models</i>
OTC	<i>Over The Counter</i>	UCITS	<i>Undertakings for Collective Investment in Transferable Securities</i>
OTF	<i>Organised Trading Facilities</i>	UDRB	<i>Umlaufgewichtete Durchschnittsrendite für Bundesanleihen (average government bond yields weighted by outstanding amounts)</i>
PASS	<i>Prospectus Approval and Support System</i>	UGB	<i>Unternehmensgesetzbuch (Corporate Code)</i>
PIN	<i>Personal Identification Number</i>	VAG	<i>Versicherungsaufsichtsgesetz (Insurance Supervision Act)</i>
PKG	<i>Pensionskassengesetz (Pensionskassen Act)</i>	VERA	<i>Asset, income and risk statements</i>
PK-RIMAV	<i>Risikomanagement-Verordnung Pensionskassen (Risk Management Regulation for Pensionskassen)</i>	VOEG	<i>Verkehrsoffer-Entschädigungsgesetz (Compensation of Road Accident Victims)</i>
PSD2	<i>Second Payment Services Directive</i>	VSTOXX	<i>EURO STOXX 50 volatility index</i>
PSPP	<i>Public Sector Purchase Programme</i>	VwGH	<i>Verwaltungsgerichtshof (Administrative Court)</i>
Q&As	<i>Questions and Answers</i>	VZKG	<i>Verbraucherzahlungskontogesezt (Consumer Payment Accounts Act)</i>
RAVG	<i>Ratingagenturvollzugsgesetz (Rating Agencies Enforcement Act)</i>	WAG 2018	<i>Wertpapieraufsichtsgesetz (2018 Securities Supervision Act)</i>
RL-KG	<i>Rechnungslegungs-Kontrollgesetz (Accounting Control Act)</i>	WiEReG	<i>Wirtschaftliches Eigentümer Registergesetz (Beneficial Owners Register Act)</i>
RMS	<i>Risk Management System</i>	WKO	<i>Austrian Federal Economic Chamber</i>
S&P	<i>Standard & Poor's</i>	WKStA	<i>Central Public Prosecutor for Economic Crime and Corruption</i>
Security-oriented IRG	<i>Security-oriented investment and risk sharing group</i>	WTI	<i>West Texas Intermediate</i>
SEE	<i>South-Eastern Europe</i>	ZaDiG	<i>Zahlungsdienstegesetz (Payment Services Act)</i>
SFT	<i>Securities Financing Transactions</i>		
SI	<i>Significant Institution</i>		
SK-EMV	<i>Sonderkreditinstitute-Eigenmittelmeldeverordnung (Regulation on the Reporting of Own Funds by Management Companies, Real Estate Investment Fund Management Companies and Corporate Provision Funds)</i>		

