

2009

Annual report of
the financial market
supervisory authority

Annual Report 2 0 0 9 of
the Financial Market Authority

according to § 16 A para. 3 f according to

imprint

Publisher: Financial Market Authority (FMA)

A -1090 Vienna, Otto-Wagner-Platz 5

Phone: +43-1-249 59-0, Fax: +43-1-249 59-5499

Email: fma@fma.gv.at

Internet: www.fma.gv.at

Sources (unless otherwise noted): FMA

Gender neutral wording

For reasons of easier readability, the gender-specific differentiation, e.g. B. employees, waived.

Corresponding terms generally apply to both genders in terms of equal treatment.

D The FMA is the independent, independent and integrated supervisory authority for the Austrian financial market and is set up as an institution under public law. It is responsible for the supervision of credit institutions, insurance companies, pension funds, company provident funds, investment funds, securities service providers, listed companies and the stock exchanges.

The objectives of the FMA

are to **n** contribute to the stability of the Austrian financial market,
n to strengthen confidence in a functioning Austrian financial market,
n protect investors, creditors and consumers in accordance with the law,
n To act preventively with regard to compliance with supervisory standards, but violations
to punish consistently.

In order to achieve these

goals, **n** the FMA monitors compliance with the legal regulations and takes the appropriate measures
necessary measures,

n the FMA defines minimum standards and issues ordinances to specify them
of laws

n the FMA, in dialogue with market participants, develops proposals for permanent

Securing a high standard of the Austrian financial market,

n the FMA represents Austrian interests in EU and other international affairs

committees and promotes cooperation with other supervisory authorities,

n the FMA uses modern analysis systems and continuously develops them further,

n the FMA attaches great importance to employing highly qualified, motivated employees

busy and use the latest technology,

n their employees work in a team-oriented manner on holistic problem solutions in terms of the
efficiency and effectiveness of the integrated supervisory activity.

As employees of the FMA, we identify with these goals

and base our actions on the values of independence and objectivity. We carry out our mission confidently in the knowledge of the importance of our work for the Austrian financial market.

Foreword by the Vice Chancellor and Federal Minister of Finance

2009 was marked by the financial crisis and presented Austria with major challenges. In the first half of the year, the problems in the credit sector were the main concern for this reason, which were accompanied by multi-year annual lows in all important financial centres. A few voices warned of a collapse of the entire system. Eastern Europe was particularly criticized - partly on the basis of incomplete or incorrect data and therefore unjustly, as it later turned out.

The Austrian place of work and business has benefited greatly from EU enlargement. Many sectors, above all the banking industry, have seized the opportunity and created thousands of new jobs in the course of their expansion into the new member states, from which the Austrian economy has benefited in the long term. Of course, every expansion also involves risks that can manifest themselves in times of crisis.

With the banking package, we reacted quickly to possible threat scenarios and made extensive support measures available. It has been ensured that the interbank market remains stable and that the domestic economy is supplied with credit.

The effectiveness of the measures taken will be based on data from the Oesterreichische Nationalbank which indicate a stable development in lending volumes and new lending despite a tightening of the lending guidelines over the course of the year.

The financial markets are networked today. Boundaries between products and sectors are blurring, interactions exist, and systemic risks transcend industry and sector boundaries. The financial market must therefore be viewed and supervised as a unit, although I believe that we will have to act more flexibly in the future – especially with regard to the framework conditions with which we want to provide financial market supervision. The

Discussion about this must be conducted across Europe or globally. There is an urgent need for internationally recognized regulations and minimum supervisory standards for all market participants and, if possible, all products, including the seamless inclusion of offshore

centers. Banks must be dissuaded from excessive speculation and shady financial dealings and get back to their core business, which is making loans and assessing and managing the risks involved.



With the trust and security package planned for 2010, we want to strengthen the trust of investors to accompany international efforts and contribute to the stability of the domestic financial market

A key point in this context is increasing transparency, for which leasing companies, transactions with foundations and offshore companies will also be subject to controls in the future

the. The rights of the FMA, in particular with regard to its powers for on-site inspections, are expanded. At the same time, the monitoring of compliance with the accounting regulations at the companies listed on the Vienna Stock Exchange must be intensified. In this respect Austria undoubtedly has a need for action compared to other EU countries. I don't want state over-regulation, but we have to create a system that meets the challenges of the time and – if this becomes necessary – can enforce official measures.

In 2010, a key year, we are once again facing major challenges – and not just in terms of budget. It is now a question of guaranteeing transparency and long-term stability for the domestic business and financial location. I would like to walk this path together with the employees of the Financial Market Authority. At this point, I would like to give my special thanks to my colleagues at the Financial Market Authority, which is not always easy to understand for the public

do hard work. Your commitment deserves recognition, and I am sure that together we will successfully introduce the necessary reforms.

Josef Proll

FOREWORD BY THE EXECUTIVE BOARD OF THE FMA

After the bankruptcy of the US investment bank Lehman Brothers almost caused the global financial system to collapse, the 2009 crisis hit Real economy and thus also increasingly included Austrian rich financial institutions, and despite their rather conservative business models. In this situation proved itself by the Austrian federal government

The financial market stability package adopted by the government, which on the one hand offered preventive protective shields for individual institutions, but on the other hand also enabled courageous intervention and action in acute crisis situations. This protective shield has made a significant contribution to safeguarding the stability of the Austrian financial system in this difficult situation.

It therefore makes sense and is necessary to leave this open in 2010 as well.

While the year under review was still strongly characterized by acute crisis management, special attention will be required in the coming year to uncover hidden in the system to discover embers and smoldering fires quickly and to nip in the bud.

The new Austrian supervisory architecture, in which in 2008 the FMA, which is responsible for microprudential supervision, was closely integrated with the Austrian National Bank (OeNB), which is responsible for macroprudential supervision, has proven its worth during the crisis. In this way, interface problems and frictional losses were eliminated, system and individual institution perspectives were merged into one picture and the synergies of integrated financial supervision were fully exploited.

Now it is time to take the next steps and implement the lessons to be learned from the crisis efficiently and effectively, not just at national level, but especially at international level: we need minimum global regulatory standards that must be consistently enforced. We need a strong European supervisory system similar to the European System of Central Banks, with a strong central institution that focuses on the fixed

and market-oriented network of national support and leave inspection authorities can. And we need new or ver

improved frameworks to address the G-20 principles laid down global obligation that in the future no market, no provider, no product should be without supervision. To do this, we must improve the quantity and quality of our own funds and bolster the risk buffer. To do this, we must subject rating agencies, hedge funds and alternative investments to supervision. To do this, we must stop people from fleeing their balance sheets and ensure that all risks are included in the calculations and thus in the institutions' risk management.



We in the supervisory authority are ready to face these challenges. The employees of the FMA have demonstrated this since it was founded. And for that they deserve respect, thanks and recognition, which we both express here on this path.

Of course, our thanks and our recognition also go to our partners in supervision, the employees of the Oesterreichische Nationalbank and the Federal Ministry of Finance, without whose competent and dedicated support and partnership-based cooperation the difficult challenges could not be mastered: three institutions, one supervision – in this sense we will continue to do our best for the financial sector in the future

give place to Austria.

Mag. Helmut Ettl

dr Kurt Pribil

Mission Statement of the FMA	I
Foreword by the Vice Chancellor and Federal Minister of Finance	III
Foreword by the Executive Board of the FMA	V
table of contents	VI
FINANCIAL MARKETS	1
The development of the financial markets	2
The economic environment	2
n Economic data	3
International Financial Markets	5
Austria's financial market	8th
n Data on the financial markets	9
The Global Financial Market Crisis – A Part in the Real Economy	11
THEMES MAJOR ITEMS	15
Financial market crisis : how stability is to be achieved in the future	16
International cooperation	21
The FMA and international co-operation	22
Global Cooperation	22
European cooperation	24
Bilateral and multilateral cooperation	28
Legal development	31
National legal development	32
international legal development	36
Operational supervision	39
SUPERVISION OF BANKS	40
n The Payment Services Act: New rules for the financial transfer and payment card business	43
n Foreign currency and repayment vehicle loans as a systemic risk	49
SUPERVISORY OF OPERATING PROVISION FUNDS	57
SUPERVISION OF PENSION FUNDS	60
SUPERVISION OF INSURANCE COMPANIES	66
n QIS 4.5 – Solvency II and its quantitative impact	73
SUPERVISION OF INVESTMENT FUNDS	81
n EU initiative for supervision of alternative investments	87
SUPERVISION OF SECURITIES companies and service companies	89
SUPERVISION OF FINANCE CONGLOMERATE	95
COMPLIANCE SUPERVISORY	98

LEGAL SUPERVISION OF STOCK EXCHANGE COMPANIES	101	
SUPERVISION OF STOCK EXCHANGE AND SECURITIES TRADING	103	
Brochure supervision		112
Combating illicit business operations	115	
Money laundering and combating terrorism	120	
n The fight against money laundering: FATF audit Austria 2008/2009		121
LEGAL AND PROCEDURE MATTERS		123
FMA INTERNAL		127
ORGANS		128
PERSONAL		130
FINANCES AND CONTROLLING		133
n Preview of the 2009 annual financial statements		136
n Budget 2010 at a glance		139
IT SYSTEMS		140
n Incoming platform – the official electronic mailbox of the supervisor		141
PUBLIC RELATION		143
Central Complaints Entity and Consumer Information		145
APPENDIX		147
List of Abbreviations		148
List of graphics, tables and figures		152
Annual accounts 2008		154

financial markets

Main topic

International cooperation

Legal development

operational supervision

LEGAL AND PROCEDURE MATTERS

F MA I nternal

Attachment

The development of the financial markets

The economic environment

Against the background of the global financial crisis, the economic forecasts for 2009 were not overly optimistic. The severity and speed of the economic downturn were nevertheless underestimated by most: In ab

In the past year, the large industrialized countries have suffered the sharpest slump in their economic output since the Second World War. Triggered by the global financial crisis, which came to a head dramatically in autumn 2008, the economy deteriorated rapidly. For the first time in more than 60 years, global gross domestic product (GDP) fell (-0.8%), and the volume of world trade in goods and services fell by 12%.

Almost at the same time, the large economic blocs entered a recession, starting with the USA, which from the fourth quarter of 2008 had to record a decline in GDP compared to the same quarter of the previous year.

From this point on, Europe and Japan also showed negative growth figures (see chart 1).

According to preliminary figures from the International Monetary Fund (IMF), economic output shrank

2.4% in the US, 3.9% in the European Union (EU) and 5.3% in Japan. In contrast, China's GDP increased by 8.7% and India's by 5.6%. Both countries are thus still acting as growth drivers, but also occupy an exceptional position among the emerging markets. For example, Russia (-9.0%), Mexico (-6.8%) and Brazil (-0.4%) had to record declines in growth.

Within the EU, GDP shrank in almost every country in 2009. Only Poland was able to avoid a recession with slight growth of 1.2%. The Baltic states were among the countries with the greatest economic slumps: Estonia, Latvia and Lithuania recorded GDP declines of between 13.7% and 18.1%. Heavy losses were also observed in Romania (-8.0%), Ireland (-7.5%) and Slovenia (-7.4%). All of these countries are characterized by extremely close ties to the world economy, so that the decline in foreign trade had an above-average impact.

The slump in Austrian GDP continued

several developments that were slightly offset in time: In the first quarter, it was consumption by private households that declined slightly (-0.9%); However, positive growth was again recorded here from the second quarter, and consumer confidence recovered from its lows.

Gross investments and exports, on the other hand, fell sharply in all four quarters compared to the same quarter of the previous year. In the second quarter, investment fell by 22.4% and exports by 20.8% - a double-digit decline had not occurred in a single quarter in the last 20 years.

Within the investments, the construction developed investments tend to outperform the equipment investments.

The effects of the financial crisis on the Austrian labor market continued into 2008

hardly noticeable. For the first time in November 2008, the

Figure 1: GDP growth rates 2005-2009 (in %, source: Eurostat)

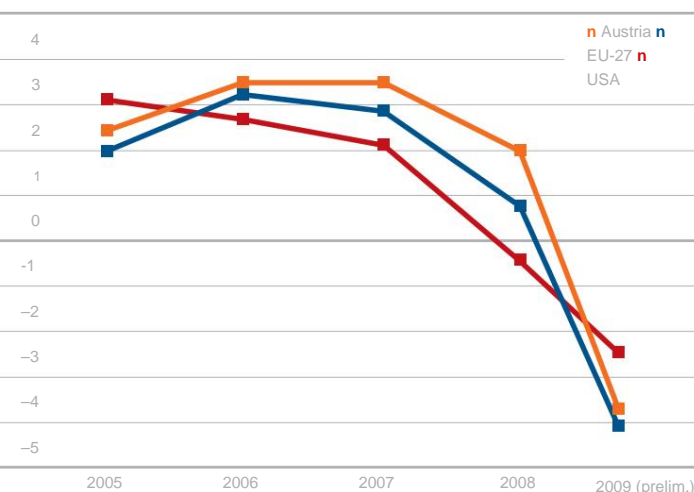


Table 1: Economic indicators Austria 2005-2009

(Sources: OECD, Eurostat, European Commission, ECB, OeNB, Labor Market Service, Main Association of Austrian Social Security Institutions, Credit Protection Association from 1870)

The economic environment in Austria	2005	2006	2007	2008	2009 (prelim.)
Supply and demand (real percentage change)					
gross domestic product	2.5	3.5	3.5	2.0	-3.6
consumer spending	2.0	2.0	1.0	1.4	0.6
private consumption	2.1	1.8	0.8	0.8	0.4
public consumption	1.7	2.7	1.7	3.2	1.2
gross investments	1.6	3.0	3.9	0.3	-9.3
gross fixed capital formation	1.2	2.4	3.8	1.0	-7.8
exports	7.4	7.5	9.4	0.8	-15.5
imports	6.4	5.3	7.3	-0.7	-13.6
labour market					
Active employees (change in %)	1.0	1.6	1.9	2.3	-1.4
unemployment rate					
in % of the employed	7.3	6.8	6.2	5.8	7.2
in % of the employed in % of the employed	5.2	4.8	4.4	3.8	5.0
Prices and income (change in %)					
GDP deflator	1.9	1.7	2.2	2.2	0.7
Consumer Price Index (HICP)	2.1	1.7	2.2	3.2	0.4
Unit labor costs (macro economy)	0.7	1.3	1.6	3.3	5.9
real disposable income	2.6	3.0	1.8	1.6	3.4
Household savings rate (in %)	9.7	10.8	11.3	12.0	14.2
Insolvencies (change in %)					
Bankruptcy corporate sector	11.7	-4.9	-6.1	0.3	9.3
personal bankruptcies	15.9	16.2	14.8	15.3	6.2
State budget (in % of GDP)					
Government revenue (incl. property revenue)	48.4	47.9	48.1	48.4	...
Government spending (incl. wealth spending)	50.1	49.7	48.8	48.9	...
Government balance (Maastricht definition) Public debt (Maastricht definition)	-1.6	-1.6	-0.6	-0.4	-3.5
	63.9	62.2	59.5	62.6	66.5
Balance of payments (% of GDP)					
Trade balance (goods import, goods export)	-0.7	-0.2	0.2	-0.7	-1.3
current account balance	2.2	3.0	3.4	3.6	1.4
interest and loans					
Loans to domestic non-banks (change in %)	5.1	4.7	3.4	7.3	-1.2
Loans to non-financial corporations	-0.6	6.2	5.1	9.5	-2.6
Loans to private households	11.3	3.7	5.9	5.5	-0.1
Three-month money (EURIBOR, average) 10-year reference Bund (average)	2.2	3.1	4.3	4.6	1.2
	3.4	3.8	4.3	4.3	3.9
Exchange rate					
Nominal effective exchange rate (average)	109.2	109.3	113.0	118.0	120.6
Real effective exchange rate (average)	102.5	101.9	104.2	107.1	107.9

Table 2: International economic indicators 2005–2009

(Sources: OECD, Eurostat, European Commission, ECB, OeNB, Labor Market Service, Main Association of Austrian Social Security Institutions, Credit Protection Association from 1870)

The international economic environment	2005	2006	2007	2008	2009 (provisional)
EU-27					
GDP growth (real, in %)	2.0	3.2	2.9	0.8	-4.1
Consumer prices (change in %)	2.3	2.3	2.4	3.7	1.0
Budget deficit (% of GDP)	-2.4	-1.4	-0.8	-2.3	-6.9
Debt (% of GDP)	62.7	61.3	58.7	61.5	73.0
Current Account Balance (% of GDP)	-0.3	-0.4	-0.4	-1.1	-0.8
USA					
GDP growth (real, in %)	3.1	2.7	2.1	0.4	-2.4
Consumer prices (change in %)	3.4	3.2	2.8	3.6	-0.5
Budget deficit (% of GDP)	-3.6	-2.6	-3.0	-5.3	-11.3
Debt (% of GDP)	61.3	60.8	61.8	70.0	83.9
Current Account Balance (% of GDP)	-5.9	-6.0	-5.2	-4.9	-3.0
3-month rates (average) 10-year	3.6	5.2	5.3	2.9	0.7
rates (average)	4.3	4.8	4.6	3.6	3.2
EUR/USD (average)	1.24	1.26	1.37	1.47	1.39
Japan					
GDP growth (real, in %)	1.9	2.0	2.4	-1.2	-5.0
Consumer prices (change in %)	-0.3	0.3	0.0	1.4	-1.4
Budget deficit (% of GDP)	-6.7	-1.4	-2.4	-1.9	-8.0
Debt (% of GDP)	175.3	171.9	170.6	173.0	189.8
Current Account Balance (% of GDP)	3.6	3.9	4.8	3.2	1.8
3-month rates (average) 10-year	0.1	0.3	0.8	0.9	0.5
rates (average)	1.4	1.7	1.7	1.5	1.3
EUR/JPY (average)	136.9	146.1	161.2	152.3	130.3
Switzerland					
GDP growth (real, in %)	2.6	3.6	3.6	1.8	-2.4
Consumer prices (change in %)	1.2	1.0	0.8	2.3	-0.7
Budget deficit (% of GDP)	-0.7	1.0	1.3	1.1	-0.7
Debt (% of GDP)	56.5	50.6	48.6	48.1	46.4
Current Account Balance (% of GDP)	13.9	12.9	8.9	1.6	7.3
3-month rates (average) 10-year	0.8	1.5	2.5	2.6	0.4
rates (average)	2.0	2.5	2.8	2.8	2.1
EUR/CHF (average)	1.55	1.57	1.64	1.59	1.51

Number of unemployed compared to the same month of the previous year, but the number of vacancies was already declining from July. In the past year the number of unemployed increased by 25,700, the unemployment rate in the EU definition rose from 4.2% to 5.4%.

At the end of the year, there were 23,700 vacancies put, 6,600 fewer than at the end of 2008.

In the summer of 2008, concerns about inflation were still dominating economic policy discussions. Driven by rising raw material prices and in particular the record high price of crude oil, the harmonized consumer price index in Austria rose to a value of 4.0% in June 2008. The same value was also achieved in the euro zone aggregate, well above the price stability target of the European Central Bank (ECB), which is stated as "below, but close to 2%". In the USA, consumer prices even rose by 5.6% in August 2008 compared to the same month of the previous year. However, with the economic downturn, the inflationary pressure also eased: from April 2009 onwards, consumption in the USA and from June also in Austria and in the euro zone fell

lower prices, deflation prevailed for a short time. Average inflation rates for the year as a whole range from -0.5% in the USA to +1.0% in the EU (see chart 2).

Crude oil prices turned around at the turn of the year 2008/09 and recovered from the significant drop that took the price of a barrel (159 litres) of Brent crude from its historic high in July 2008 of almost

\$150 to below \$35 in five months. By June 2009, oil prices had doubled to \$70; the rest of the year the price fluctuated in a range between \$60 and \$80. For the full year 2009 the calculated price increase was 108.90%, converted into euros it is 102.39% (see chart 3).

The price of other raw materials also increased significantly: the raw materials price index of the Hamburg Institute for the World Economy was listed at the end of 2009 by 43.30% higher than twelve months previously. Among the precious metals, gold rose 27.63% and silver rose 57.46%.

Chart 2: Development of consumer prices 2005-2009

(Change in %, source: Eurostat)

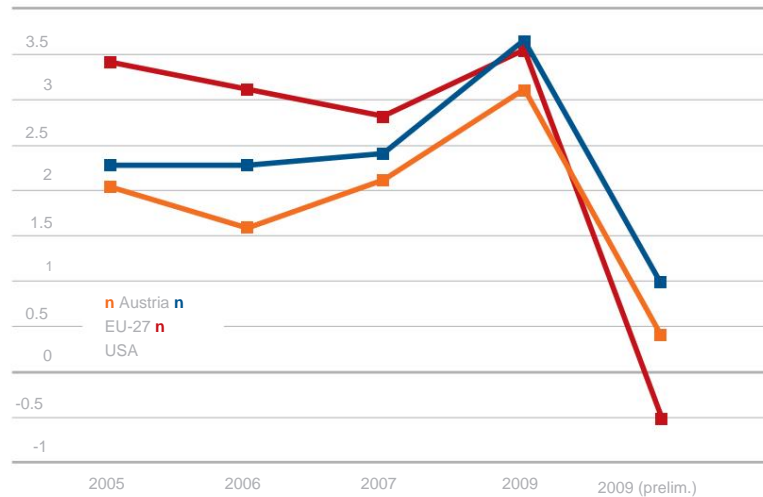
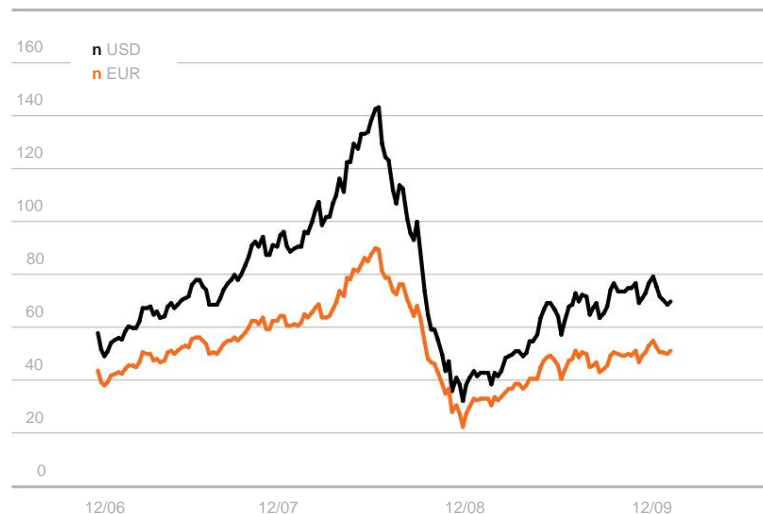


Chart 3: Development of the price of crude oil per barrel of the "Brent" variety 2006-2009 (Source: Datastream)



International financial markets

Despite the effects of the financial crisis on the real economy, the stock markets recovered noticeably last year. The economic recovery that became apparent over the course of the year made investors more willing to take risks

invested in equities and corporate bonds became.

However, 2009 began with massive price losses: the Euro Stoxx 50 Index lost 26.05% to its low on March 9, 2009; The US Standard & Poor's developed similarly

500 Index (S&P 500) during the same period

financial markets

Chart 4: Development of selected share indices 2006-2009
(in %, 12/31/2008 = 100%, source: Datastream)

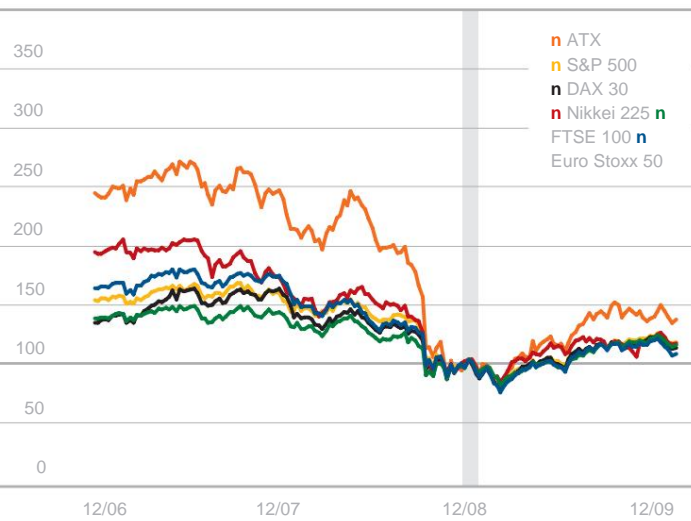


Figure 5: Development of European industry indices 2006-2009 (in %, December 31, 2008 = 100%, source: Datastream)

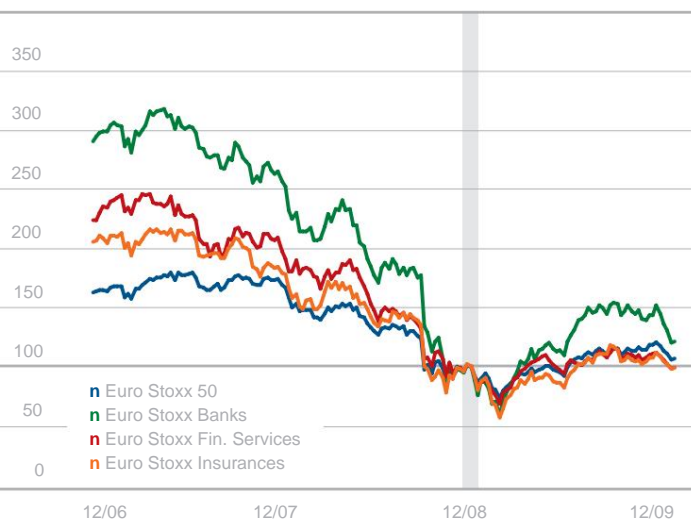
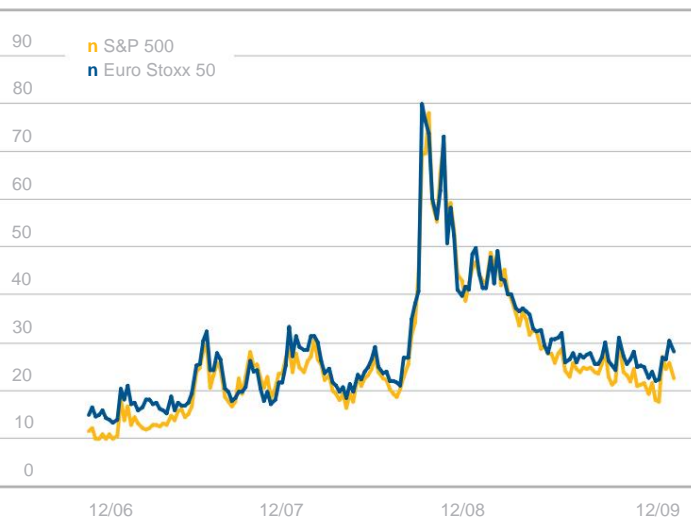


Chart 6: Implied volatility of selected equity indices 2006-2009 (in %, source: Datastream)



25.10% declined. Both indices had already suffered losses of 44.37% and 38.49% in the previous year and were listed in March 2009 to

60.29% and 56.78% below their 2007 highs. The price recovery set in quickly, so that 2009 ended with reasonable price gains for the leading international indices. The DAX showed the best performance, gaining 23.85%; the S&P placed almost at the same level

500 up 23.45%. The British FTSE 100, the Euro Stoxx 50 and the Japanese Nikkei 225 also posted gains of around 20% (see chart 4).

While all Stoxx sector indices in Europe had to accept losses in 2008, all indices closed 2009 with a plus. The top performers were the Stoxx Basic Resources Index, which more than doubled (+101.40%), and bank stocks, which gained an average of 46.92%. Both indices were among the three biggest losers last year. The winning trio was completed by the index of chemical stocks, which gained 44.15%. Insurance companies performed worse than the market as a whole

stocks and companies in the telecommunications industry che (+12.92% and +11.25% respectively); at the end of the year, the utility companies recorded a minimal plus of 0.99% (see Chart 5).

The uncertainty of financial market participants about too Future price fluctuations can be seen from the priced-in volatility in traded options.

The volatility indices for the S&P 500 and Euro Stoxx 50 reached historic highs in October 2008, but have leveled off again since mid-2009 at levels of between 20% and 30%, which are comparable to the initial phase of the financial crisis in mid-2007 (see chart 6).

Government bonds were valid until just before the peak of the Financial market crisis in autumn 2008 in most cases still a stronghold of stability, they were less in demand in 2009. One reason for this development was investors' renewed appetite for risk, who in the current environment of low interest rates were looking for higher-yield investments and gave preference to equities and corporate bonds. In addition, a supply effect was also noticeable: the sharp rise in new public debt

hand resulted in increased issuance volumes, which investors did not accept at any price. The biggest losses were seen in US government bonds, which fell by 12.29%. British (-5.41%) and German (-3.00%) government bonds were also among the losers.

There were minor gains in government bonds from Switzerland (+1.38%) and Austria (+0.88%); in the case of the latter, the declining yield premiums compared to German government bonds had a positive impact on prices (see chart 7).

The yield curve in the Eurozone became significant in 2009 steeper: The European Central Bank (ECB) lowered the main refinancing rate four times in the first five months, from 2.50% to a historically low 1.00%.

The key interest rate was last increased to 4.25% in mid-2008, due to the relatively sharp rise in consumer prices at the time. This now extremely expansive monetary policy is intended to provide the financial sector with the necessary liquidity after lending on the interbank market almost came to a standstill in autumn 2008 and was limited to the shortest possible maturities. At the end of 2009, the one-month EURIBOR was 0.45% and thus 215 basis points below the level at the end of 2008. The difference between the one-month interest rate and the yield on ten-year Bunds increased by 262 to 291 basis points in the past year (see chart 8).

Only few pronounced movements could be observed on the foreign exchange markets in 2009: While in the

In the first few weeks of the year, the euro lost up to 10% of its value against the US dollar, the Japanese yen and the British pound, but it quickly recovered against the two non-European currencies. The euro ended the year up 3.51% against the US dollar, and the euro also gained 5.57% against the Japanese yen. In relation to the Swiss franc, the euro fluctuated only minimally over the course of the year – at the end of the year the euro was 0.09% below the rate at the end of 2008. The pound sterling was able to

stop the devaluation trend against the euro that has been ongoing since the beginning of 2007 and a clear one Record price growth – the euro closed on the year resultimo 8.11% lower (see chart 9).

Figure 7: Development of ten-year reference bonds 2006-2009 (in %, 12/31/2008 = 100%, source: Datastream)



Figure 8: Development of short- and long-term interest rates in the euro zone 2006-2009 (in %, source: Datastream)

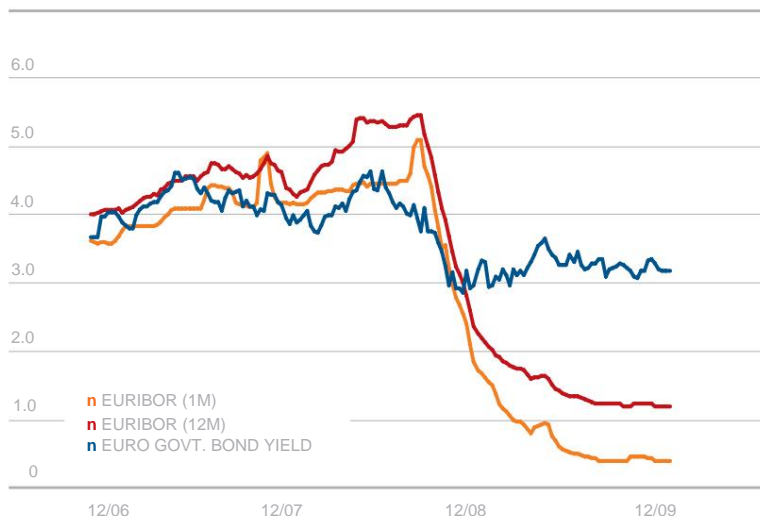


Chart 9: Development of selected exchange rates 2006-2009 (in %, December 31, 2008 = 100%, source: Datastream)

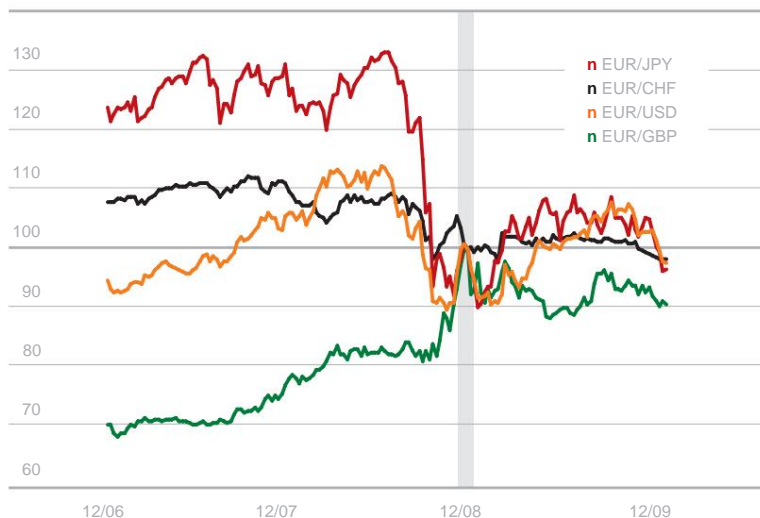
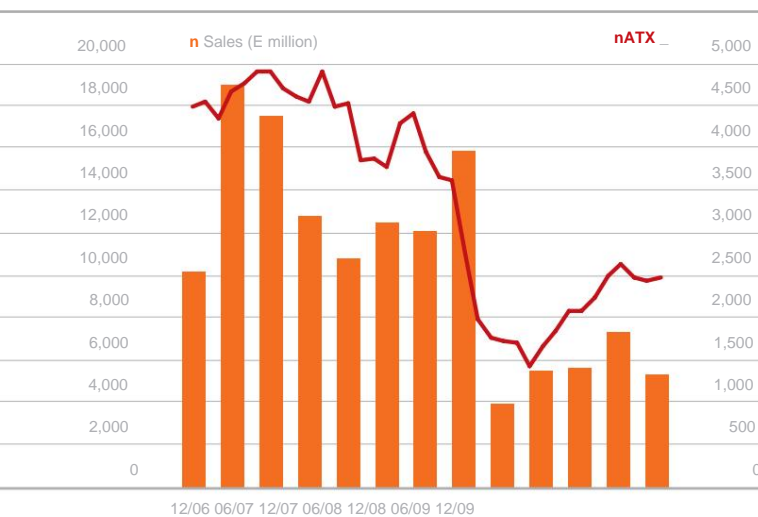


Chart 10: Development of the equity-market.at segment of the Vienna Stock Exchange 2006-2009
(month-end figures, source: Datastream, Vienna Stock Exchange)



Austria's financial market

In 2009, the stock market of the Vienna Stock Exchange recover noticeably from its losses from the previous year: the ATX rose by 42.54% to a year-end level of 2,496 points. Compared to the low for the year on March 9, 2009, a course is calculated

growth of 76.75% (see chart 10). However, it should not be overlooked that the price losses of more than 60% from the previous year have not yet been recovered and that the ATX was already briefly trading at more than 5,000 points in the summer of 2007, twice as high as at the end of 2009.

Almost all ATX shares ended the year with gains. Only Telekom Austria AG, Verbundgesellschaft AG and Österreichische Post AG

(the only gainer in 2008) closed between 3.40% and 21.05% lower. To the big winners in the ATX were bwin Interactive Entertainment AG (+213.83%), Zumtobel AG (+145.52%) and Andritz AG (+123.13%).

The market capitalization of the Vienna Stock Exchange also varies with the share prices. The equity-market.at segment had a capitalization of €77.0 billion at the end of 2009, 47.65% more than at the end of the previous year. Measured against Austrian GDP, it makes

Market capitalization around 28% - compared to the previous year, this is an increase of around 10 percentage points. Sales decreased by 49.21% compared to 2008; in the usual double counting, turnover was €72.6 billion; this is the lowest value since 2004

ten are Erste Group Bank AG (EUR 13.34 billion), OMV AG (EUR 8.36 billion) and voestalpine AG (€7.14bn).

As in 2008, issuing activity on the Vienna Stock Exchange was very limited in the past year: There were no new listings of domestic securities on the regulated market, the volume of the eleven capital increases carried out amounted to around €2.5 billion, of which a large part (around €1.7 billion) was attributable to the capital increase by Erste Group Bank AG in November.

Table 3a: Financial sector indicators 2005-2009

(Sources: Datastream, OeNB, OeKB, Wiener Börse AG)

Austria's financial market	2005	2006	2007	2008	2009 (provisional)
banking sector					
capital endowment					
Tier 1 capital (in billions of euros)	–	41.8	58.3	66.9	72.2
Additional own funds (in billions of €)	–	20.2	23.4	24.9	25.8
Equity ratio (in % of assessment basis)	–	15.0	17.8	17.2	18.7
Asset structure and quality					
Total assets (in billions of euros)	725.7	797.8	899.5	1,069.1	1,034.2
Structure of receivables (share in %)					
domestic banks	20.4	20.0	20.6	27.8	27.2
foreign banks	15.7	18.0	18.7	16.9	15.9
non-bank financial intermediaries	3.7	3.9	3.4	3.3	3.4
non-financial corporations	21.1	20.4	19.3	17.4	17.8
Private households	20.3	19.1	18.2	15.8	16.6
Private non-profit organizations	0.5	0.5	0.4	0.4	0.4
Country	5.7	5.0	4.2	3.3	3.6
Foreign non-banks	12.5	13.2	15.4	15.2	15.2
Deposits (other than interbank) on loans (in %)	76.4	77.0	79.2	75.6	77.9
Share of foreign currency loans to households (in %)	31.4	31.2	27.8	31.1	29.5
Structure of liabilities					
Domestic Interbank Obligations	16.6	16.1	16.2	23.1	20.6
Foreign Interbank Obligations	13.5	13.1	12.0	9.6	9.1
Deposits from domestic non-banks	30.4	29.0	28.7	25.8	27.0
Deposits from foreign non-banks	4.8	5.7	5.8	4.9	4.8
Own domestic issues	11.6	12.2	13.5	14.8	16.2
Earning power (in %)					
ROA	0.56	0.52	0.57	0.18	0.02
ROE	11.08	9.47	8.21	2.83	0.34
operating expenses to operating income	64.1	65.0	62.0	55.5	62.0
Personnel expenses to non-interest expenses	50.0	50.5	50.4	50.6	51.4
Balance of additions/reversals of allowance for credit losses 15.1		-5.8	9.0	105.7	1.3
Structure of income (share in %)					
Net Interest Income	45.2	43.2	42.3	40.1	49.1
Income from securities and participations	17.2	17.3	20.1	35.0	18.6
Balance from the commission business	25.1	25.8	26.9	20.5	20.2
Balance from financial transactions	4.1	4.1	1.7	-3.9	2.8
Liquidity (in %)					
Funding ratio of liquid funds I. Level Funding	–	648.7	555.3	665.4	680.3
ratio of liquid funds II	–	224.6	209.1	209.2	236.0

Table 3b: Financial sector indicators 2005-2009

(Sources: Datastream, OeNB, OeKB, Wiener Börse AG)

Austria's financial market	2005	2006	2007	2008	2009 (prelim.)
insurance sector					
Premiums earned (€m)	17,226	17,489	17,865	18,107	...
Life insurance (increase in %)	16.1	0.9	0.7	2.2	...
Property/casualty insurance (increase in %)	4.3	1.9	3.2	0.4	...
Health insurance (increase in %)	3.8	2.8	3.2	3.5	...
Underwriting result (€m)	170	196	243	-91	...
Financial result (million €)	3,593	3,717	3,419	2,319	...
Result from ordinary activities (million €)	970	1,045	989	392	...
Combined ratio (property/casualty insurance, in %)	92.5	95.0	94.9	97	...
pension funds					
Assets under management (€m, year-end)	11,499	12,442	12,887	11,714	13,342
Performance (in %)	11.4	5.5	2.0	-12.9	9.0
Eligible beneficiaries (thousands, year-end)	383	433	442	457	616
Beneficiaries (thousands, year-end)	46	49	52	58	62
Company provident funds					
Assets under management (€m)	696	1,128	1,622	2,138	2,830
Performance (in %)	5.5	3.6	2.0	-2.0	3.7
Investment funds					
Assets under management (€m, year-end)	155,604	167,347	163,753	126,037	136,670
Net cash inflows (€m)	20,614	8,613	-2,951	-15,289	-41
Number of domestic investment funds (year-end)	2,124	2,221	2,364	2,364	2,238
capital market					
Year-end ATX	3,667	4,463	4,513	1,751	2,496
Performance ATX (in %)	50.8	21.7	1.1	-61.2	42.5
Market capitalization (€m, year-end)	105,053	144,719	156,549	52,118	76,951
Market capitalization / GDP (in %)	42.8	56.1	57.4	18.5	27.8
Equity segment turnover (€ million, double counting)	74,817	129,527	187,876	142,938	72,594
Number of issuers (equity segment, year-end)	92	92	99	96	94
Secondary Market Yield (in %, year-end)	3:15	3.95	4.37	3.38	3:15
Spread of 10-year government bonds versus Germany (in basis points, year-end)	-1	4	9	73	29
Credit Default Swap Premium Austria (5 years, in basis points, year-end)	2	3	...	133	84
Revenue bond segment (million €)	759	989	1,140	1,614	1,947

The global financial market crisis – arrived in the real economy

The financial market crisis developed from the end of 2008 to a real economic crisis

massive economic downturns in most of the industrialized states. This marks another phase of the crisis

Global - now the third, if you follow a rough classification:

- 1st Phase: Crisis affecting US mortgage financiers and investors in securitization products based on subprime exposure.
- 2nd phase: banking and financial market crisis due to steeply rising credit defaults and falling real estate prices; increased risk aversion leads to falling share and corporate bond prices.
- 3rd phase: real economic crisis; Demand shock counteracted by fiscal stimulus programs, significant increase in public debt.

The subprime crisis, which emanated from the USA, arose on the basis of extremely low interest rates as a result of the very expansive monetary policy of the US central bank and in an environment of constantly rising real estate prices. This conglomerate allowed unsupervised mortgage brokers to lend to borrowers

to connect weak customers. Tempting to

Bids on interest rates – such as lower interest rates or no interest at all in the first few years of the predominantly flexible interest rate contracts (teaser rates) – ensured considerable demand, as did the prospect of problem-free repayment, if necessary

Sale of the collateralised property at a price generally considered higher than in the future the current.

At the same time was a steadily deteriorating Observing quality in loan documentation:

For example, wealth and income conditions of borrowers only insufficient

checked. The originate-and-distribute strategy, in which loans only remain on the books of the issuing bank for a short time and very

were quickly passed on to the capital market by means of securitization.

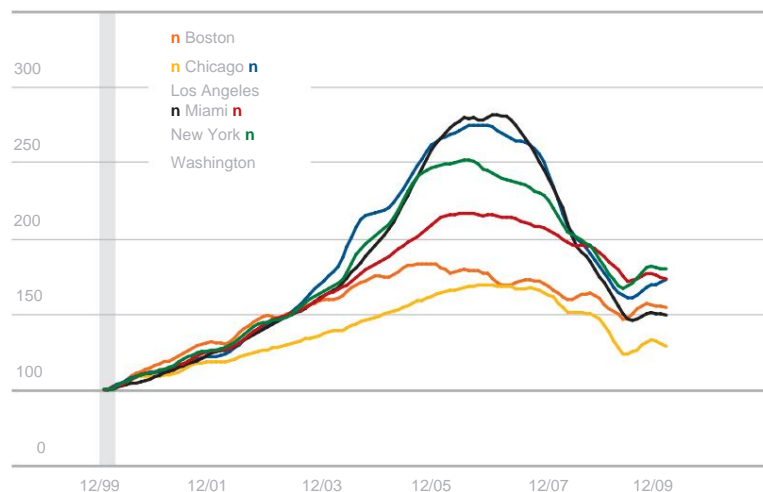
However, the long-term trend of steadily rising US real estate prices reversed in 2006 and 2007, with the countermovement being strongest in those regions where prices had previously risen the most. The nationwide S&P/Case

Shiller Index declined from the second quarter of 2006 to by 31.93% in the first quarter of 2009, but has since stabilized at a low level. An average minus is calculated for 2009

from 2.51%; property prices have already started to rise again in six of the 20 major cities included in the index (see Chart 11).

The trigger for the crisis was not so much falling real estate prices, but rather the rise in interest rates from the summer of 2004, which caused the financial obligations of private households to increase rapidly from 2006 onwards due to the delayed effect caused by the teaser rates. In connection with a traditionally low savings rate, the default rates of mortgage loans to non-creditworthy borrowers thus increased significantly. In the third quarter of 2009 achieved

Chart 11: Residential real estate prices in selected major US cities 1999–2009
(%, Dec 1999 = 100%, Source: S & P/Case-Shiller)



financial markets

Chart 12: Development of failure rates from US Mortgage Lending 1999-2009 (in %, Source: Datastream)

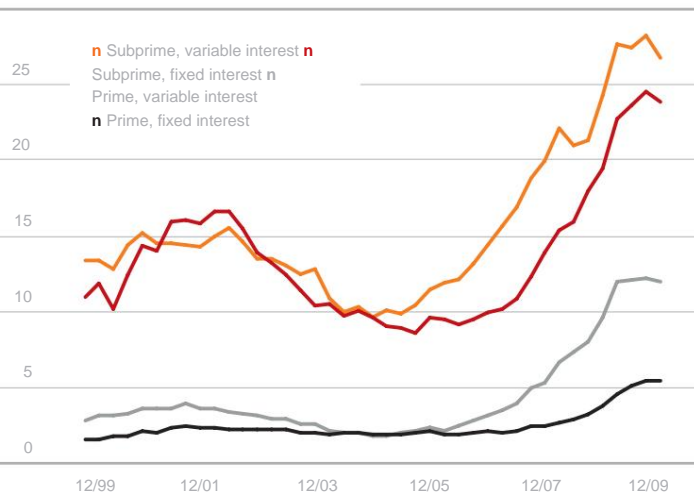
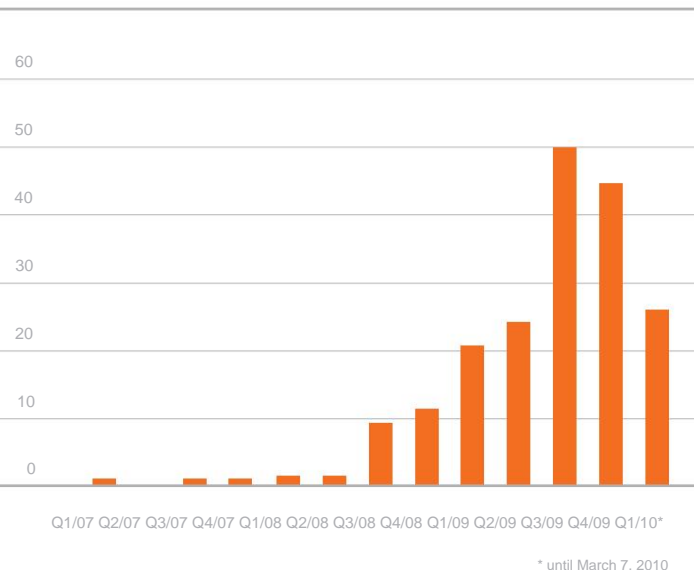


Chart 13: Number of bank failures in the US 2007-2010 (Source: Federal Deposit)



the default rates for prime and subprime loans reached their previous maximum, and towards the end of the year there were signs of a slight easing (see chart 12).

The rising default rates are a burden for US mortgage banks, especially because the real estate used as collateral can no longer be sold at the prices on which the loan calculation was originally based. However, it is not only in the direct lending business that write-downs are to be made due to the uncollectibility of receivables. The trend towards securitization

of credit risks and thus the sale of structu

pools of loans to other banks or other investors has contagion effects beyond the US mortgage banks to other sectors of the financial market. Although the investors had explicitly intended to take on the credit risk vis-à-vis US mortgage by Kre borrowers, for example in order to diversify their own loan portfolio, the financial crisis revealed deficiencies in risk management with regard to such structured credit products: when assessing the underlying risks and the design of the products,

investors are obviously too focused on the Ein assessment by credit rating agencies, which, however, lacked sufficient data for modeling the risks (particularly with regard to historical development) for such products.

Rising default rates drove prices of structured credit products such as asset-backed securities (ABS) and collateralized debt obligations (CDOs) collapse heavily. This was also due to that that trade in such products came to a virtual standstill; with extremely low liquidity, sales were only possible at very high discounts. Since accounting according to market prices in such an environment requires write-downs, the profit situation is extremely tense, especially for credit institutions that hold ABS and CDOs on US mortgage risks. According to the information service Bloomberg, the cumulative write-downs in the global financial sector as a result of the financial crisis amounted to \$1,736 billion by the beginning of March 2010, with further write-downs to come

waits.

As early as 2007, some banks, for example in Germany and Great Britain, got into existential difficulties as a result of the financial crisis. A dimension threatening the entire financial system was then reached in late summer 2008: the collapse of the US investment bank Lehman Brothers and

The simultaneous problems surrounding the two mortgage financiers Fannie Mae and Freddie Mac, the insurance company American International Group (AIG) and the investment bank Merrill Lynch have represented the peak of the crisis so far. However, alongside these institutions, which are the focus of public attention, there have also been many smaller ones

US banks in trouble. Bank failures in the US rose rapidly during 2009 to levels not seen since the US Savings & Loans crisis in the early 1990s - 140 bank failures in 2009 alone

institute closed by the US deposit insurance (see chart 13).

From 2008 onwards, almost all industrialized countries not only reacted with comprehensive emergency measures for stabilization of the banking sector (mostly in the form of equity or assumption of liability), but also with economic stimulus packages. This expansion of fiscal policy combined with falling tax revenue resulted in a massive increase in public debt. The budget deficit of the EU states in relation to the gross domestic product (GDP) rose from an average of 2.3% in 2008 to 6.9% in the past year, the national debt increased from 61.5% to 73.0% (see chart 14).

The expansive fiscal policy is perceived as a key risk factor on the financial markets.

At the end of 2008, the major rating agencies began downgrading individual countries in the euro zone; In addition to Ireland, Greece, Portugal and Spain were particularly affected (see Table 4). For investors, such downgrades can result in higher capital adequacy requirements for the securities concerned or make investments by institutional investors in these securities entirely inadmissible under investment regulations. For this reason, in 2009 a reallocation of investments into safer investment regions could be observed. Were with the introduction of the euro, the yields of Government bonds of the participating countries increasingly in Converging towards the comparatively low level of German Bunds, the spreads widened massively as early as the end of 2008. Although the risk premiums fell again by autumn 2009, concerns about Greek government finances caused a renewed increase, which caused the spreads on Greek government bonds to climb to over 300 basis points. At the end of the year, Austrian government bonds were trading with a yield premium of around 30 basis points. The networking with the financial markets of Central and Eastern Europe, which was still perceived as increasing risk at the beginning of 2009

Figure 14: Public debt of selected EU countries in relation to GDP (in %, source: Eurostat)

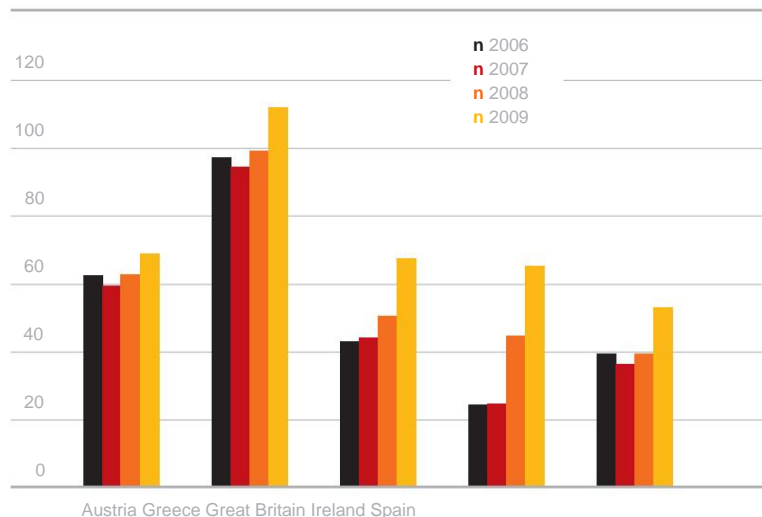
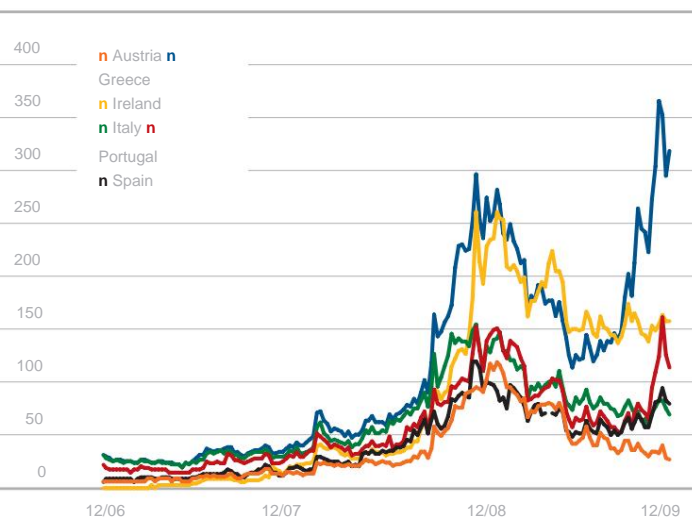


Table 4: Country ratings of EU countries for foreign currency liabilities (source: Standard & Poor's)

	12/31/2008	12/31/2009
Belgium	AA+	AA+
Bulgaria	BBB BBB	
Denmark	AAA AAA	
Germany	AAA AAA	
Estonia	AA-	
Finland	AAA AAA	
France	AAA AAA	
Greece	A BBB+	
Great Britain	AAA AAA	
Ireland	AAAAA	
Italy	A+	A+
Latvia	BBB	bb
Lithuania	BBB+	BBB
Luxembourg	AAA AAA	
Malta	aa	
Netherlands	AAA AAA	
Austria	AAA AAA	
Poland	A	A
Portugal	AA-	A+
Romania	BB+	BB+
Sweden	AAA AAA	
Slovakia	A+	A+
Slovenia	AA AA	
Spain	AAAAA+	
Czech Republic	aa	
Hungary	BBB BBB-	
Cyprus	A+	A+

financial markets

Chart 15: Spreads of ten-year government bonds versus German government bonds 2006-2009 (in basis points, source: Datastream)



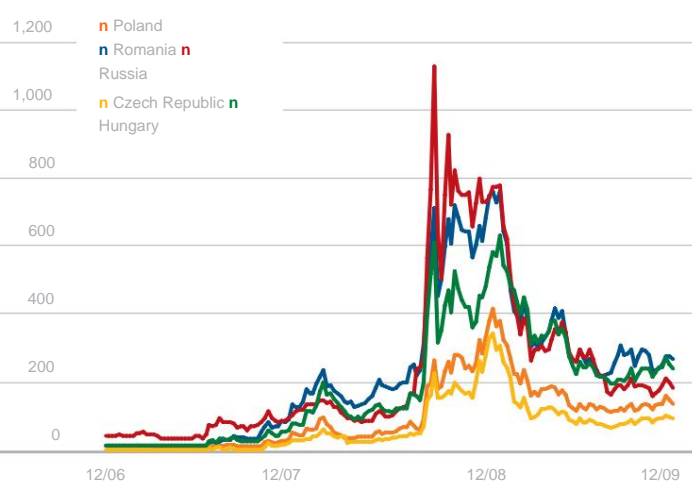
resulted in spreads of more than 100 basis points at times in March (see chart 15).

Compared to the countries of Central and Eastern Europe, risk aversion decreased over the course of the year: the premiums for credit default swaps (CDS), which are bought to protect against the default of a debtor, fell significantly from March. Did you pay for the Absi

If a five-year claim against Russia was still 7.44% of the claim value at the end of 2008, the premium at the end of 2009 was only 1.85%.

The CDS premium for Ru has also more than halved mania: This fell from 6.35% to 2.79% (see chart 16).

Chart 16: Credit default swap premiums for selected States 2006–2009 (in basis points, source: Datastream)



financial markets

Main topic

International cooperation

Legal development

operational supervision

LEGAL AND PROCEDURE MATTERS

F MA I nternal

Attachment

Financial Market Crisis: How Stability in the Future should be secured in the long term

In year 2009 advanced in the processing of Financial crisis the focus increasingly from the ad hoc crisis management to discussing the course that should lead to a new global supervisory and regulatory structure and culture. Tenor of the debate: What has to happen so that this can no longer happen?

In addition to numerous initiatives at EU level, especially the round of the G-20 countries – the heads of state heads of the most important industrialized and emerging countries – developed into the leading body in the discussion of these issues. In their Washington Declaration of November 2008, the G-20 agreed on an extensive package of measures to eliminate the weaknesses revealed by the financial crisis; in addition, there was a commitment to creating an international system of financial regulation. The heads of state set themselves the ambitious goal that in future no financial market, no financial product and no financial market participant should be without appropriate regulation. In addition to increasing transparency and accountability, the priority is to reduce incentives to take excessive risks

become.

The first measures are in the process – at least at the level of the European Union – already in the process of development and implementation: be they new Rules for managers' remuneration systems remove perverse incentives from excessive bonuses; be it regulation for alternative investments such as hedge funds, which should start with their managers and management companies; be it minimum regulation and supervision for rating agencies, whose credit ratings were often too naïve or distorted by possible conflicts of interest; be it the discussion on improved capital regulations for banks, which is being called "Basel III", with the aim of increasing the quality and quantity of capital; be it advances, standardized financial products for end consumers

subject to increased information and transparency requirements, as is the case with the PRIPs Directive (Packaged Retail Investment Products) may be the case should. And that's just a selection from the multitude the points at which levers should be applied in order to be able to recognize and curb excessive and risky behavior in the future.

Combat false incentives through excessive bonus payments

From the large number of initiatives, three instruments will be singled out as examples and the status of the discussion at the turn of the year 2009/2010 will be presented in more detail: the regulation of manager bonuses, further the measures that are being discussed to prevent banks from being classified as "too big to fail" simply because of their sheer size and importance and having to be supported by the state in any case, and – last but not least – the ideas for a new European supervisory architecture for the financial markets.

The new (global) compensation rules for managers and traders of financial institutions are to be derived from their short should be turned to a long-term and sustainable orientation: The basis for remuneration in the form of special and bonus payments should be less the profit of the current financial year than the strengthening of the long-term stability and earning power of the company. The management of company results, which is purely short-term oriented and is only caused by entering into speculative positions, should therefore no longer be rewarded in the future. Furthermore, the possibility should be built in of being able to reclaim bonuses that have already been paid out if the results change afterwards deteriorate drastically.

From the "too big to fail" to orderly insolvency

When it comes to "too big to fail", it should be avoided in future that financial institutions reach a size that could endanger the stability of the financial markets.

For this purpose, on the one hand, limitations in terms of size or business areas. So could at

For example, the rather low-risk business with private and business customers should be separated from proprietary trading and investment banking. On the other hand, a specially designed bankruptcy law for banks could make it possible to plan the settlement in advance; in the event of insolvency, the main burden should be borne by the owners. In the case of banks, it must be possible to implement an officially prescribed restructuring procedure against the will of the owner and under the leadership of the supervisory authority even before the stage at which creditors are at risk. And financial groups must no longer be so heterogeneous and interlinked that their rapid splitting up is no longer possible: In so-called "living wills" ("living wills"), the institutes must always have plans ready for how they can be split up efficiently and effectively, with the predetermined breaking points already being clearly defined.

However, size alone is not a sufficient indicator of systemic importance: interdependence with other market participants can also have system-threatening consequences in the event of a crisis. A strengthening of the market infrastructure can thus also be found on the agenda. In particular, over-the-counter transactions with (credit) derivatives are to be increasingly processed via clearing houses, and secondary markets for structured credit products are to be created.

From the FMA's point of view, it is important to remember that many of the proposals mentioned should be introduced on an equivalent scale worldwide in order to be fully effective – the regular G-20 summits and coordination by the Financial Stability Board (FSB) provide a suitable framework for this. National initiatives often involve the risk of regulatory arbitrage, i.e. circumventing mandatory regulations by relocating business activities to less strict jurisdictions or into unregulated and

supervised units. Close coordination between the EU states is therefore necessary, not only to promote globally harmonised, high-quality supervisory standards in the G20 negotiations, but increasingly also in the operational cooperation of the national supervisory authorities.

The global financial crisis also revealed gaps and weaknesses in the supervisory system, which prevented risks from being identified earlier and also made crisis management more difficult. The core of the problem was and is that the financial markets and flows have been globalized, but their supervision has remained strongly nationally organized and oriented. Despite the often tight regulation, supervision came to nothing in crucial areas, because the actors were able to switch to gaps in between that were not or only minimally supervised – be it in foundations, trusts or "Special Purpose Vehicles" (SPVs) or in offshore centers that were hardly or not at all regulated. One of the measures against this is called "Stop the flight from the balance sheet!" The outsourcing of risks from the balance sheet must be stopped. Balance transactions, such as derivatives, must be included in the balance sheet and thus be subject to risk management. Offshore centers are too close to the business group, with minimum global standards in terms of supervision and regulation. And special companies must be transparent and disclosed, included in the balance sheet or prohibited by regulatory law.

A new supervisory architecture for Europe

The Auf

supervisory authorities are still essentially national aligned. Further deficits in the current European supervision exist in the different national implementation of the uniform European legal framework and in the analysis of systemic risks across sectors and products.

For this reason, in October 2008, the European Commission commissioned a group of experts chaired by Jacques de Larosière, the EH

former chairman of the International Monetary Fund (IMF) to draw up proposals for a reform of European financial market supervision and regulation. The result was the draft of a financial market supervisory model consisting of two pillars: the European Systemic Risk Board (ESRB), which is tasked with monitoring and assessing macroeconomic developments, and the European Financial Supervisory System (ESFS), which, as a microprudential counterpart, is responsible for ensuring the supervision of individual financial companies.

Jacques de Larosière's recommendations became the central content of the communication presented by the European Commission to the European Council in May 2009, in which the improvement of European financial market supervision is seen as an important step towards protecting citizens and increasing confidence in the financial system. In September 2009, the European Commission presented a legislative package for a European financial market supervisory authority, which envisages the establishment of a number of new European institutions and structures. After lengthy negotiations, a softened compromise on these proposals was reached in ECOFIN in December 2009.

The European Parliament subsequently countered this with proposals to develop the concept more strictly in the direction of centralized European supervision. At the editorial deadline of the FMA year report, the discussion was still in full swing. In the middle of the year, however, the new European supervisory architecture is to be decided in the European Parliament; Ultimately, the goal is to have them come into force on January 1, 2011. Organisational, structural and personal preparations were already started at the beginning of 2010. A first overview of the largely undisputed new architecture is to be given here.

Two pillars

of the supervisory architecture

At the macroprudential level, oversight becomes European Systemic Risk Board (European Systemic Risk Board (ESRB), an independent body representing all financial sectors and Guarantee systems includes and its activity with

scheduled to start on January 1st, 2011. The ESRB will analyze the systemic risks of all financial sectors, issue early warnings and recommendations on how to address risks, and monitor the implementation of those warnings and recommendations. The warnings and recommendations can be of a general or specific nature and either the EU as a whole or individual member states, but also the new European supervisors

authorities or national supervisory authorities.

In any case, they must also be sent to the Council of the European Union. The European supervisory authorities have worked closely with the ESRB to work and all the necessary information exchange and, if necessary, to ensure that the corresponding recommendations are implemented. An ESRB report is published at least twice a year to the European Parliament and to the Council.

In order to fulfill its tasks, the ESRB will also coordinate with international institutions, in particular the International Monetary Fund (IMF) and the Financial Stability Board (FSB), from which early warning signals are expected from a macroprudential point of view.

In addition to the President (and Vice-President) of the European Central Bank (ECB), the Governors of the national central banks of the EU Member States and a member of the European Commission (EC), the three Chairmen of the three new European Supervisory Authorities (ESAs) will be represented on the Management Board with voting rights. A high-ranking representative of the competent national supervisory authority from each EU member state will be represented on the ESRB without voting rights.

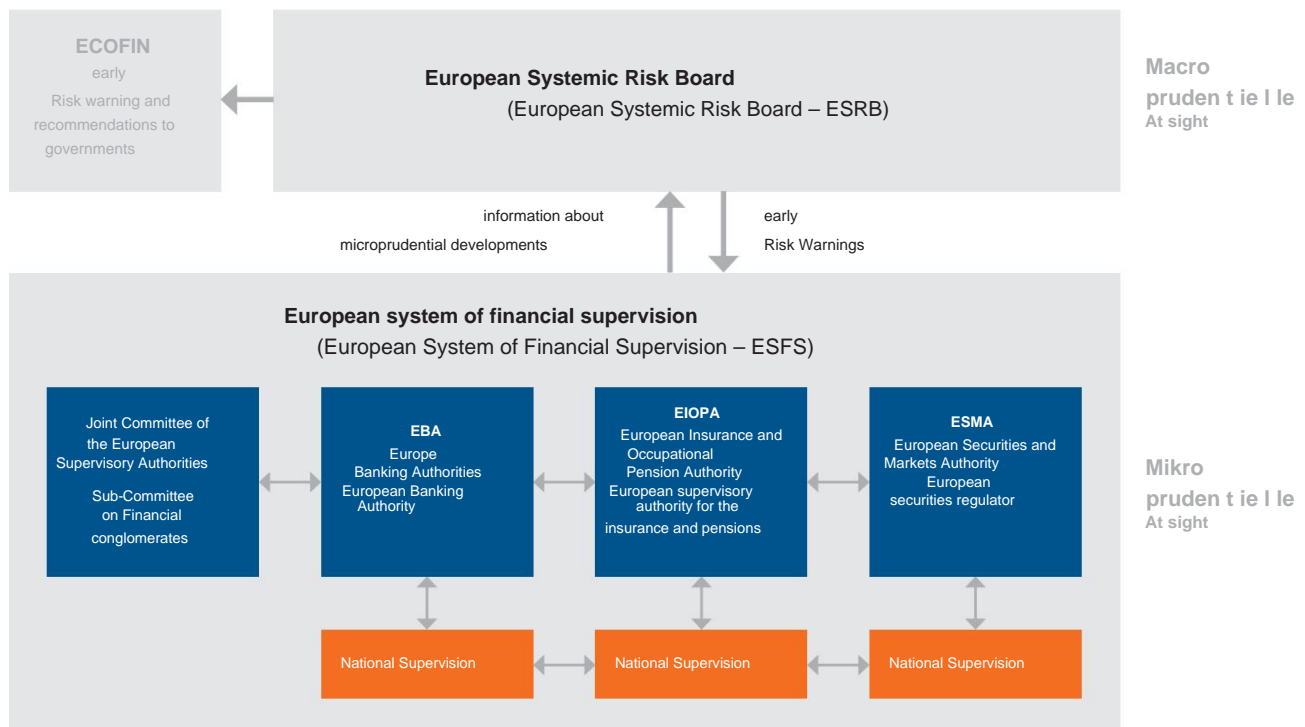
The ECB will provide the secretariat.

At the micro-prudential level, the ESRB's systems oversight is provided by the European System of Financial Supervisors (

ESFS), a network in which national supervisory authorities and the three newly created European supervisory authorities work together exchange with the ESRB.

To date, there have been three bodies at European level in the field of financial services to support and advise the European Commission: the Committee of European Banking Supervisors

Figure 1: Outline of the new European supervisory architecture



Committee of European Banking Supervisors (CEBS), the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) and the Committee of European Securities Regulators (CESR). However, these mergers of the respective national supervisory authorities were only able to develop guidelines and recommendations, but could not give the national authorities any binding specifications.

The financial crisis has made it clear that this structure at Community level is not sufficient.

Therefore, these committees are now to be upgraded to become independent authorities, the European Supervisory Authorities (ESAs), with legal personality and additional new tasks: These are the European Banking Authority (EBA), the European Supervisory Authority for insurance and occupational pensions (European Insurance and Occupational Pensions Authority (EIOPA)) and the European Securities and Markets Authority (ESMA). They will be their bishe

continue to carry out previous tasks and, in addition, be given the following new competencies to maintain the stability of the pan-European financial market:

- n Adoption of binding technical standards and thus creation of a uniform European “single rule book” for the entire financial sector,
- n Ensuring consistent application of EU Right including a request for comments from national supervisory authorities and, if necessary, in the event of a lack of reaction from the national supervisory authorities authorize (as a last resort) issuing direct decisions to individual supervised institutions,
- n Coordination role in the event of a crisis, although the existence of a crisis will be determined by the Council, in consultation with the European Commission, the ESRB and where necessary the ESAs. If measures are ordered that have an impact on national budgets, the respective member state is entitled to lodge an objection (safeguard clause). The measure is thus suspended unless a majority in the Council of Finance Ministers then agrees with the ESAs.

In this case, the decision must be followed.

n Binding decisions to national supervisory authorities in dispute settlement procedures between national supervisory authorities in cases involving

cross-border connection; the aforementioned Safeguard Clause also applies here.

n Participation of the ESAs in the supervisory colleges, in which all supervisory authorities concerned cross-border financial group. These colleges form a central part of the European supervisory system and have an important role in ensuring compliance

the flow of information between receiving and host authority. In order to participate in the colleges, the ESAs are granted the status of a competent authority – and thus access to all relevant information that is exchanged in the colleges.

n Close cooperation with the ESRB and thus corresponding central data collection.

It is essential that the actual financial market supervision continues to be the responsibility of the national supervisory authorities remains, but in the case of cross-border financial institutions a “European dimension” (see the above-mentioned new core tasks of the new European authorities) is added. In this way, national knowledge is linked to a pan-European perspective in order to obtain the most comprehensive possible knowledge of the situation of all cross-border financial intermediaries on the European financial markets.

The draft regulations for the three ESAs only differ in two respects: the first is the EBA through the participation of national central banks as non-voting members alongside the bank supervisory authorities (in countries where this task is not performed by the central bank) and on the other hand at the ESMA, which has the additional task of directly supervising rating agencies

will take over.

The core of the reform of the supervisory architecture is the Intertwining of micro- and macroprudential supervision. On the one hand, this is guaranteed by the ge

mutual flow of information (whereby the ESRB only has a right to information about individual institutions if the request is justified and checked by the ESAs) and on the other hand through the obligation of the ESAs to enforce the warnings and recommendations of the ESRB.

This combination of individual and system supervision is intended to counteract failures and threats to stability at an early stage.

Effects on Austria

Austria's Financial Market Authority FMA welcomes the Commission's proposals, but would have hoped for more far-reaching powers for the ESAs in some areas. These were achieved within the Council

Compromise limited, but are again included in the proposals of the European Parliament – in some cases going even further. Accordingly, the political debate on the actual decision-making remains to be seen.

As the supervisory authority, the FMA expects that the Creation of the new authorities will simplify and improve international cooperation.

The long-term goal should be the creation of a European financial market supervisory authority, similar to the organization of the European System of Central Banks (ESCB) with the strong position of the European Central Bank (ECB) implemented there - a strong central European supervisory institution that focuses on the Network of National Regulatory Authorities. The

In particular, the central institution should monitor the cross-border groups of financial institutions and also take over the official function for them, but also rely on the fact-finding of the national supervisors. In particular, the FMA is also in favor of an integrated supervisory approach at the European level, in which banking, insurance, pension fund and securities supervision are performed together, since cross-industry, cross-sector and cross-product supervision is equivalent to cross-border supervision.

financial markets

Main topic

International cooperation

Legal development

operational supervision

LEGAL AND PROCEDURE MATTERS

F MA I nternal

Attachment

THE FMA AND THE INTERNATIONAL COLLABORATION

Global Cooperation

International Association

of Insurance Supervisors (IAIS)

The International Association of Insurance Supervisors (IAIS), the worldwide organization of insurance supervisors, to which the FMA belongs as a voting member, is in favor of the drafting international principles and standards for Ge responsible for ensuring effective insurance supervision. In 2009 she can look back on an extraordinarily busy year.

The Executive Committee (ExCo), the governing body of the IAIS, prepared a paper containing considerations on how to define systemic importance in the insurance sector and submitted it to the Financial Stability Board (FSB).

The Financial Stability Task Force of the IAIS was transformed into a Financial Stability Committee in order to take account of the importance of financial market stability for the insurance sector as well. The mandate of this committee, given by the ExCo, includes under the topics of "systemic risks", "financial stability", "too big to fail", "macroprudential instruments" and "macroprudential supervision".

The ExCo also discussed the first report the IAIS Common Assessment Framework Task Force. In particular, there are different opinions as to whether the IAIS should create a system for insurance companies that is comparable to Basel II. In January 2010, the IAIS made the fundamental decision to gradually develop a Common Framework for the Supervision of Internationally Active Insurance Groups by 2013.

Finally, the ExCo also decided on new work processes on the topics of "macroprudential instruments", "remuneration" and "crisis management". The IAIS Technical Committee wants October 2011 new Insurance Core Principles (ICPs) – these are world

broad principles for insurance supervision – ver say goodbye The existing Stan

revised and assigned to the individual ICPs become.

At hearings with IAIS observers, topics such as "systemic risks", "lessons from the Crisis", "Group Supervision", "Accounting" and "Liquidity" discussed.

The IAIS Multilateral Memorandum of Understanding (IAIS MMoU), which serves to exchange information between IAIS members and is an important initiative to prevent future crisis situations, came into force in June 2009. At the end of the year, six IAIS

Members successfully completed the accession process (Australia, Bermuda, Germany, France, the Netherlands and Taiwan). Numerous other accessions can be expected in 2010, including that of the FMA.

The IAIS General Assembly, the highest body of the IAIS, took place in Rio de Janeiro in 2009. It adopted a standard and guideline on eggs

capital structure for solvency purposes and a guideline on the use of supervisory colleges in group supervision. In addition, eight new members were admitted to the IAIS, including the supervisory authorities of Armenia, Montenegro, Moldova and Uzbekistan.

The IAIS Annual Conference was held under the General theme "Insurance as a Means of Socio-Economic Development – Financial Crisis and Future of the Insurance Markets". One focus was the discussion of microinsurance markets in developing countries. There was general agreement that the importance of microinsurance products for poor sections of the population as a 'means of self-help' for protection against losses and risks could not be overstated. Microinsurance is particularly successful when the insurance products are simple, the distribution networks are comprehensive and the premiums are affordable.

There were different points of view as to whether

and to what extent the microinsurance sector should be supervised differently than the classic insurance sector.

You can find more information about the IAIS at www.iaisweb.org.

International organization of Pension Supervisors (IOPS)

The International Organization of Pensions Supervisors (IOPS) is the global association of supervisory authorities for private pension funds. 2009 became IOPS expanded by two members (Malawi, Rwanda) and comprises 57 members, including the FMA. At the IOPS General Assembly, the highest body of IOPS, the IOPS guidelines on the supervisory authority's options for intervention, enforcement and sanctions, working paper no. 10 on measuring supervisory success and working paper no. 11 on the risk management framework for pension funds (regulation and supervision) were approved.

At the Global Forum, the annual IOPS symposium, events were held on the following topics:

- n Developments in the Brazilian pension system,
- n Effects of the financial and economic crisis on Latin American pension systems including political reactions,
- n Adequate pension provision in defined contribution systems – contributions and coverage,
- n Mixed forms: Risk sharing in hybrid performance oriented systems,
- n human capital and life cycle investments,
- n Policy recommendations for decision makers and regulators.

More information on IOPS can be found at www.iopsworld.org.

International Organization of Securities Commissions (IOSCO)

The FMA is a member of the International Organization of Securities Commissions (IOSCO), the worldwide association of securities supervisory authorities. There she plays a particularly active role in the European Regional Committee (ERC).

On October 5, 2009, the FMA signed the IOSCO

Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (IOSCO MMoU). This is based on the IOSCO principles for international cooperation and sets a benchmark for all international

Organizations such as the International Monetary Fund (IMF). It regulates the international

nal cooperation and the exchange of information in all securities matters and can only be signed after an intensive, three-stage review and approval process. So far, 65 countries are members of this agreement, 38 countries are on the so-called B list. This means that not all criteria are met. The aim is for all IOSCO members to have applied for admission to the MMoU by the end of 2010. Since cross-border securities transactions are becoming more and more important, this is an important step for the FMA in terms of cooperation with foreign countries

dic supervisory authorities and thus for an area covering supervision.

In 2009, the following topics were of particular importance for IOSCO: non-regulated markets, transparency in structured products, short selling and hedge funds.

IOSCO is also on the Financial Stability Board (FSB) represent.

IOSCO's strategic goals for the next five years are:

- n Maintaining and improving the international regulatory framework for securities markets,
- n Identification of the systematic risks for the markets,
- n Strengthening the role of IOSCO within the financial world.

More information about IOSCO at www.iosco.org.

European cooperation

COMMITTEE OF EUROPEAN BANKING SUPERVISORS (CEBS)

The Committee of European Banking Supervisors (CEBS), the committee of the European banking supervisory authorities, is made up of high-ranking representatives of the responsible supervisory authorities or the supervisory authorities

supervisory authorities active central banks (voting members) and central banks not directly entrusted with the supervision of individual credit institutions finally the European Central Bank (non-voting members). Those EEA countries that are not EU member states take part in the meetings as observers. The European Commission is also represented. Austria is through the Fi

nancial market supervisory authority as a voting member and represented by the Oesterreichische Nationalbank.

In 2009, the focus of activities was particularly on supervisory and regulatory measures in response to the crisis situation on the financial markets

The CEBS measures were therefore coordinated with the corresponding EU action plans and can also be seen as an EU contribution to the recommendations of the G-20 summit, at which the heads of government of the most important industrialized countries discussed the lessons learned from the financial crisis.

A key focus of work in this context was periodic reporting

on the current financial and risk situation including supervisory official implications for the various EU institutions. An important contribution in this regard was the EU-wide stress testing exercise carried out by CEBS. At the same time, a pilot study on a cross-sector survey of the financial and risk situation was carried out. Another focal point was the action plan for supervisory colleges of bank supervisors, in which all national supervisory authorities responsible for cross-border groups of credit institutions obtain information and coordinate.

The CEBS report on the disclosure and transparency of banks to the market at the end of 2008 also represented an important topic.

Framework recommendations issued in 2009 relate primarily to hybrid capital, large investments with regard to the changes resulting from the Capital Requirements Directive, the liquidity buffer and liquidity risk management.

Of particular importance for CEBS were the EU Commission's proposals for reorganizing the European supervisory architecture, which were intensively discussed and extensively commented on. Finally should

CEBS itself, transformed into the new European Ban

King Authority (EBA), one of the central supervisory institutions in the new system. Accordingly, extended areas of responsibility in legal development and legal enforcement are then assigned to the CEBS.

More information about CEBS at www.cebs-eu.org.

BANKING SUPERVISION COMMITTEE (BSC)

The Banking Supervision Committee (BSC) is the fi nance market stability-oriented platform from central banks banks and supervisors within the framework of the European System of Central Banks (ESCB). With its investigations into structural developments, it complements the work of the CEBS, which primarily deals with questions of official supervision at the level of the individual credit institutions and groups. The BSC analyzed the development of the stability of the financial markets in the ESCB area on an ongoing basis and regularly informed the EFC Financial Stability Table. In addition, the BSC worked on, among other things, the implementation of cross-border stability groups, the basics of a liquidity stress test, the improvement of the information available on the structure and business of cross-border banking groups, a proposal for improving consolidated

Reporting data for banks and a report on the problem of foreign currency lending and examined the specifics of the credit cycle relevant to stability.

COMMITTEE OF EUROPEAN INSURANCE TO D OCCUPATIONAL PENSIONS SUPERVISORS (CEIOPS)

The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS), the European Committee for Insurance and Occupational Pensions, based in Frankfurt am Main, has set itself the goal of strengthening and harmonizing insurance supervision activities in Europe and, in particular, of supporting the European Commission in an advisory capacity.

CEIOPS is composed of the supervisory authorities of the European Union responsible for the supervision of insurance companies or pension funds; accordingly, the FMA is a voting member of the main body of this body.

The authorities of the

EEA countries that are not EU member states and the European Commission.

In the 2009 reporting year, too, work on the Solvency II regime was the main activity of CEIOPS. This topic was not only the focus of discussions at the regular general meetings, but has also been included in the numerous CEIOPS Working groups dealt with in detail. Particular mention should be made of the comprehensive preparation and consultation of the Level 2 advisory calls on Solvency II implementation measures to the European Commission, the full submission of which was completed at the beginning of 2010. In addition, special reports on the effects of the financial crisis on the European insurance market were drawn up as required, and a stress test was carried out at the end of 2009 for the 30 largest EEA insurance groups. Other initiatives relevant to the FMA relate to the creation of harmonized guarantee systems for insurance customers and work on a horizontal set of rules for investment products in the private customer sector – the so-called Packaged Retail Investment Products (PRIPs).

The CEIOPS working groups include four working groups that are responsible for the European Commission (EC) develop specific implementing provisions: **n** The Solvency II – Financial Requirements Expert Group deals primarily with technical provisions, equity capital requirements and own funds stocks.

n The Solvency II – Internal Models Expert Group discusses the requirements for approving full and partial internal models, including relevant quality and documentation standards darts.

n The Solvency II – Internal Governance, Supervisory Review and Reporting Expert Group works in particular on the topics of reporting to the supervisory authority, disclosure requirements, conditions for capital add-ons and corporate management requirements.

n The Insurance Groups Supervision Committee deals with the details of group solvency, also with regard to parent companies and subsidiaries in third countries, cooperation, coordination and

Exchange of information between the supervisors of a Group, the recording of risk concentrations and intra-group transactions and the regulatory measures at group level.

Other working groups: **n**

The Financial Stability Committee monitors and analyzes the macroeconomic situation of the European insurance and pension fund market with regard to the connections between the insurance and pension fund sector and financial market stability.

n The Committee on Consumer Protection dealt with Questions of consumer protection in the insurance and pension fund system, for example information obligations, questions of insurance brokerage and guarantee systems as well as increasing consumer knowledge about financial products. **n** The Occupational Pensions Committee has set itself the goal of contributing to a consistent understanding and as uniform an implementation as possible of the IORP guideline (Directive on the activities and supervision of institutions for occupational retirement provisions).

n The task of the Convergence Committee is to promote the convergence of different supervisory practices and to monitor the implementation of the relevant measures. Tough at that among other things, training measures and personnel exchanges between the supervisory authorities.

The review panel set up in 2008 to check the implementation of CEIOPS specifications and standards in the individual member states completed the first phase of the review process, the self-assessments on the implementation of the various EU cooperation protocols, in June 2009. The aim is to complete all three phases of the review (self-assessment, external assessment and final report) by the general meeting in autumn 2010.

Reference should also be made to the Consultative Panel, the exchange of information with high-level representatives of the European insurance industry, pension funds and consumer protection associations the serves.

Apart from the numerous Level 2 advisory results to the European Commission on solvency

cy II, CEIOPS published a variety of reports and analyzes in 2009, including: **n** Report on Risk Management

Rules applicable to IORPs: This report presents the results of a study carried out by CEIOPS on the risk management rules applicable to each member country under the IORP Directive, as well as the supervisory practices to control these rules.

n Report "The IMD (Directive on insurance mediation) and other intermediaries' related issues-practical solutions and examples": This report supports the development of common approaches in the supervision of insurance intermediaries. The topic is presented using a list of practical problems identified by CEIOPS and the solution models found by CEIOPS.

n Insurance-Linked Securities Report: This report analyzes insurance-linked securities as part of the larger mix of alternative risk-transfer opportunities, as well as market developments and investor behavior. Furthermore, the development prospects and the associated risks are described and the extent to which Solvency II will influence this market is discussed. **n** "Lessons to be learned from the crisis – Solvency II and beyond": The various CEIOPS working groups have recorded the general effects on the crisis in more detail and analyzed the different aspects of the insurance market in more detail. Their findings and possible conclusions in relation to the Solvency II level 2 and level 3 measures are presented in the report. **n** 2009 Report on the functioning of the Coordination Committees: This report is the result of a study that CEIOPS used to assess the practical

Supervisory cooperation within the Coordinati on Committees (Co-Cos) under the current Solvency I supervisory regime and shows the expectations for the future.

n Stock-taking report on the use of internal models in insurance: This report is the result of an inventory initiated in 2007, which is intended to contribute to an understanding of current practice in the handling of internal models in the Versi

to improve the security economy and to promote the discussion about the use of models as part of comprehensive risk management. **n** College of Supervisors – 10 Common Principles: CEBS, CEIOPS and the joint working group on financial conglomerates have developed ten principles for the functioning of colleges to apply to the banking, insurance and financial conglomerate sectors. These principles are based on the current work and oversight experience in the colleges as well as recent experiences from crisis situations.

n CEIOPS Financial Stability Report: This regular report covers developments in the (re) insurance and pension fund market and also discusses future developments.

During the general assembly, which took place on October 29th and 30th, 2009 in Berlin, the Managing Board was newly elected and the Portuguese Gabriel Bernardino appointed new chairman.

On November 19th, 2009 the 5th annual conference took place CEIOPS event, attended by more than 300 people. The main topics were the European supervisory architecture, developments in the area of pension funds, Solvency II and the convergence of the three Level 3 committees.

For more information about CEIOPS, see

www.ceiops.eu.

COMMITTEE OF EUROPEAN SECURITIES REGULATORS (CESR)

The Committee of European Securities Regulators (CESR) is made up of the securities and stock exchange supervisory authorities of the EU, with Iceland, Norway and the EU Commission having observer status. For CESR, 2009 was characterized by the discussions about the reorganization of the European supervisory architecture as a result of the expert report from De Larosiere.

Furthermore, CESR implemented an internal reorganization of the expert groups. These new Standing Committees (SC) were created by topic and no longer by policy. For example, there will be SCs for secondary markets, corporate finance and corporate reporting. The groups, such as CESR-Pol

were set up permanently up to now remain unchanged changes.

In February 2009, CESR held a conference on the topic "Preparing for the Future: Where to now for Regulation and Supervision in the Field of Securities". FMA board member Dr. Kurt Pribil conducted in his Function as CESR Pole Chair the panel "Enforcement Powers in the EU - Should Further Convergence Take Place?", in which the European Commission was also represented at a high level.

The Review Panel carried out extensive mapping of the Market Abuse Directive (MAD) under the main topic of "supervisory convergence". Contents were the use of national options and the so-called gold plating¹. The result shows that in some areas where the directive provides options, there is little or no convergence in the application of the MAD. This has already been reported to the European Commission. The main focus of the review panel for 2010 is expert assessments for the prospectus and transparency guidelines as well as mappings for the actual application of the sanctions in MAD and MiFID (Markets in Financial Instruments Directive).

The conversion of CESR into the European agency "European Securities and Markets Authority" (ESMA), one of the three central supervisory institutions in the new European supervisory architecture, has absolute priority for 2010. This includes all organizational issues, but above all the preparation for new agendas such as the supervision of rating agencies.

This is the first time direct supervisory tasks have been assigned to a European committee.

CESR must adapt to this new challenge and take the appropriate measures.

More information about CESR at www.cesr-eu.org.

CESR - POL

CESR-Pol is the permanent sub-group responsible for the functioning of cross-border information exchange and international

cooperation is responsible. Due to the growing number of globally active financial companies that are bringing increasingly complex products onto the market, CESR-Pol is becoming increasingly important.

Dr Kurt Pribil, who has headed this group since January 2004, has taken this development into account and has focused on convergent application of the Market Abuse Directive as well as in the handling management of cases from supervisory practice. The mandate of Dr. Pribil as Chair by CESR-Pol.

The beginning of the year was still marked by the global crisis situation. A group looked at the fallout from the Madoff fraud case and posted practical information for aggrieved investors on the CESR website.

Another major issue raised by CESR-Pol was short selling, massive uncovered short selling of securities, which was seen as one of the reasons for the fall in financial stocks. A specially formed group quickly drew up the consultation paper "Proposal for a Pan-European Short Selling Disclosure Regime". In order to reduce the potential risk of short positions, a two-tier system is proposed, involving reporting to the regulator and publication based on net short positions as a percentage

of the company's share capital. The report on this will be published in the first quarter

Adopted in 2010. This one is also stepping up the practical handling of reports and publications.

CESR-Pol is responsible for the convergent implementation of the Market Abuse Directive. In May 2009, the third series of Level 3 standards after Ein

processing of comments from market participants. This paper contains regulations on insider lists, suspicious transactions, stabilization measures and buyback programs as well as further clarifications on the definition of inside information (CESR 09-220).

The European Commission has reviewed the Market Abuse Directive (MAD) five years after it was passed and issued a call for evidence (statement on a topic with a request for feedback).

¹ If additional regulatory measures are introduced during the implementation of EU directives into national law, which mean a distortion of competition compared to other EU countries.

CESR-Pol commented on the main ones points as follows:

- n The definition of financial instruments should be addressed to the Definition in the MiFID should be adjusted, Credit Default Swaps (CDS) and Contracts for Difference (CfD) should be included.
- n Any short-selling regulations should not be included in the MAD, but should be dealt with in separate legislation.
- n The European Commission should continue to work on uniform sanctions in order to create the same conditions in all countries.

In the field of market abuse, 2010 is the end valid implementation of a central database planned. This will contain insider and market manipulation cases brought in by CESR Pole members and thus enables an overview of the case law in the individual countries, which will lead to further convergence in the application of the MAD

should. The database is entered at the CESR office in Paris directed.

In 2009, the CESR Pol subgroup "Surveillance and Intelligence", in which experts deal with cases of market abuse, dealt primarily with cooperation with public prosecutors and the market manipulation through OTC derivatives.

ACCOUNTING REGULATORY COMMITTEE (ARC)

The Accounting Regulatory Committee (ARC) is a Level 2 committee that is responsible for the adoption of the international accounting standards IFRS (International Financial Reporting Standards) within the framework of the EU comitology procedure and advises the Commission on the further development of the accounting guidelines. The FMA is represented on the committee as an expert. In the area of IFRS, all dated

International Accounting Standards Board (IASB), the adoption of IFRS 9 (Phase I – Classification and Measurement of Financial Assets) was initially deferred at the last meeting in 2009 because, in the majority opinion of the member states, the effects of an adoption before completion of the entire standard (Phase II – Accounting for financial assets

Debt and Impairment – and Phase III – Bi

launching hedging relationships) is not sufficient can be assessed accordingly. 2009 were about it

In addition, there are primarily accounting issues in connection with the financial crisis, such as dynamic provisioning to avoid future procyclical effects, but also topics to simplify accounting for small and medium-sized enterprises (SMEs). acts.

BI - AND MULTILATERAL COOPERATION

MEMORANDA OF UNDERSTANDING

On the basis of corresponding provisions in the supervisory laws, bilateral and multilateral cooperation agreements (Memoranda of Understanding, MoU) can be concluded between the FMA and foreign supervisory authorities in the banking, insurance and securities sectors. These agreements, which do not change the respective legal framework for the supervisory activities of the FMA, make it possible to simplify and accelerate the practical supervisory activities of the FMA in cross-border matters. They are also a confidence-building measure, particularly in relation to non-EEA member states, and an important instrument in the FMA's efforts to continuously strengthen its operational cooperation with its sister authorities, especially in the Central and Eastern European countries (CEEC). In essence, they detail the respective tasks and obligations for contacting and informing the respective other supervisory authority in a practice-oriented manner and form the basis for regular meetings between the authorities involved.

Tables 5 and 6 show those already completed its bilateral and multilateral MoUs. 2009 was designed an MoU with Liechtenstein in the banking sector and with Albania, Montenegro and Serbia in the insurance sector.

OTHER BILATERAL AND MULTILATERAL CONTACTS

The FMA endeavors to further expand collegial dialogue and existing contacts with supervisory authorities, particularly in Central and Eastern Europe. Here sets

within the framework of strategic partnerships, they focus on increased operational cooperation with the supervisors from those countries in which the Austrian Finanz economy is particularly well represented.

Accordingly, bilateral meetings took place within the framework of strategic partnerships and ongoing cooperation in the various supervisory areas and

take place at different levels. One of the focal points of the meetings was information training

Exchange via the cross-border supervised institutes and groups cooperation meetings, supervisory colleges in the banking sector and coordination committees in the insurance sector).

In 2009, among other things, meetings were held with the banking supervisory authorities from Germany, Bosnia and Herzegovina, Russia, Romania, Croatia, Kosovo and Bulgaria as well as insurance supervisory authorities from Montenegro, Serbia and Albania.

Together with the World Bank and the Joint Vienna institutes, the FMA organized a multi-day workshop on "Cross-border regulation and supervision" in Vienna from March 16 to 19, 2009

Table 5: Completed bilateral memoranda of Understanding (including year of graduation)

Country	Banks	Insurance	Securities
Albania			2009
Bulgaria	2005		
Germany	2000		
France	1995		
Great Britain	1994/1998		
Italy	1998		
Croatia	2005	2008	2000
Liechtenstein	2009		
Malta	2007		
Montenegro			2009
Netherlands	1997		
Poland			1999
Romania	2006	2005	
Switzerland		2006	
Serbia			2009
Slovakia	2003	2002	
Slovenia	2001		2001
Czech Republic	2001	2004	1999
Hungary	2001	2002	1998
People's Republic of China			2008
Cyprus	2007		2002

Table 6: Completed multilateral memoranda of Understanding (including year of graduation)

organization	Theme	Banks	Insurance	Pension Funds	Securities
CEIOPS	Ongoing cooperation, information exchange		1993		
CEIOPS	Supervision of insurance groups		2000		
CEIOPS	Cooperation on the application of the Insurance Mediation Directive		2006		
CEIOPS	Supervision of cross-border operations Company pension schemes				2006
CESR	Ongoing cooperation, information exchange				1999
IOSCO	Ongoing, international exchange of information				2009
All regulators the financial sector, ECB, Finance Minister	Cooperation in non-crisis times and in times of crisis, as well as crisis management for the coordination of a cross-border crisis	2008			
ECB	crisis management		2003		
ECB	payment systems		2001		

attended by representatives of numerous Eastern and Southeastern European countries. The main topics were the current developments on the financial markets, the financial crisis, the challenges of cross-border regulation and supervision as well as ways and opportunities to overcome these challenges.

Representatives of the FMA also attended the 22nd conference

the group of central and eastern European banking supervisory authorities (BSCEE Group) in Minsk, which dealt in particular with banking supervision in times of the financial crisis and the implementation of Basel II. The FMA was also present at the this year

Integrated Financial Supervisors' Conference, the annual exchange of information and experience between the integrated supervisory authorities.

financial markets

Main topic

International cooperation

Legal development

operational supervision

LEGAL AND PROCEDURE MATTERS

F MA I nternal

Attachment

National legal development

In the enforcement area of the FMA, the following important legal changes took place in 2009:

Changes in the law

Bankwesengesetz (BWG),
2007 (WAG 2007), Stock Exchange Act
1989 (stock exchange G), Insurance Supervision Act
(VAG) and others, BGB I. IN r. 22/2009

With this amendment, new procedural rules and evaluation criteria for the supervisory assessment of the acquisition and increase of shareholdings in the financial sector ("owner control") were introduced and thus the corresponding EU Directive 2007/44/EC implemented. In particular, it regulates whether participation thresholds are reached, exceeded or not reached, the supervisory procedure with regard to deadlines and information to be provided, criteria for assessing the permissibility of a corresponding acquisition and the cooperation of several responsible persons other authorities. The relevant provisions on the acquisition of shares in the Austrian Banking Act, WAG 2007 and VAG were adjusted accordingly. The BörseG also clarified that the transparency obligations for the purchase and sale of shares also for listed companies Certificates apply. In addition, a new type of contract was introduced in the VAG with the investment-oriented life insurance.

Securities Supervision Act 2007 (WAG 2007)
and Banking Act (BWG),
BGB I. IN r. 39/2009

With this law was essentially the leis strengthened the ability to compensate investors and limited the risk of compensation cases. As an accompanying measure, the tasks of an early warning system were assigned to investor compensation and special information obligations of the securities service providers to their customers were provided.

Announcement by the Federal Chancellor on

Banking Act (BWG), BGB I. IN r. 42/2009

The decision of the Constitutional Court was announced on March 12, 2009, G 164/08-12, where according to the first sentence of § 4 para. 7 BWG, BGBI.

No. 532/1993 in the version of Federal Law Gazette I No. 97/2001, regarding warnings that a named named company to carry out specific bank transactions is not authorized is repealed as unconstitutional.

Payment Services Act (Z a D i G), Bankwesen -
law (BWG) and others, BGB I. IN r. 66/2009

With the so-called payment institutes, the ZaDiG creates a new category of supervised companies. Payment institutions may be entitled to provide certain payment services that were previously reserved for credit institutions in Austria, such as giro and credit card business. Of

Furthermore, the ZaDiG provides for both credit and for payment institutions certain transparency requirements for contractual terms and information obligations for payment services and defines rights and obligations in the provision and use of payment services. It came through this novella in particular

re with regard to the amount of cover and payment period also to an amendment of §§ 93 and 93a BWG.

These adjustments serve to implement EU Directive 2009/14/EC on deposit guarantee systems into national law. In addition, Section 4 (7) BWG has been redesigned.

German Stock Corporation Law Amendment Act 2009 (ARÄG) –
Stock Corporation Act (A ktG) and others, BGB I. IN r. 71/2009

The ARÄG standardizes and strengthens shareholder rights with the aim of ultimately increasing the presence of shareholders at general meetings. In this respect, the ARÄG serves to implement the EU Directive 2007/36/EG, which sets certain minimum standards for the exercise of

Shareholder rights in listed companies

determines.

Insurance Supervision Act (VAG) etc. ,

BGB I. IN r. 109/2009

The draft provides for the repeal of the federal law on international insurance contract law for the European Economic Area and changes to the International Private Law Act (IPR Act), the VAG and the Traffic Victim Compensation Act.

These are flanking and legal

ing regulations for Regulation (EC) No. 593/

2008 on the law applicable to contractual obligations and

Regulation (EC) No. 864/

2007 on non-contractual obligations

applicable law.

B ankwesengesetz (BWG), insurance coverage

vision law (VAG) and others, BGB I. IN r. 152/2009

The amendment essentially contains changes to the BWG with an anti-cyclical effect, which are intended to strengthen the liquidity of banks. In addition, the legal basis for the so-called incoming platform, via which the relevant notifications according to the Austrian Banking Act, the Ordinance on the Protection of Trustees by the Federal Treasury, the Savings Banks Act, the Investment Funds Act (InvFG), the Real Estate Investment Funds Act (ImmoInvFG) and ZaDiG have to be made, was created. The VAG provides that in the event of a demerger, with which the entire insurance business is transferred to a joint-stock company founded for this purpose, the concession is automatically transferred to the latter. In addition, mutual insurance companies that have incorporated their insurance business into one or more stock corporations are able to create a modern group with a flexible holding structure.

Regulations of the F MA

2 · Short Selling Prohibition Ordinance (2nd LVV)

BGB I. II No. 27/2009, BGB I. II No. 1 2 1 / 2 0 0 9

BGB I. II No. 181/2009, BGB I. II No. 300/2009

With the present amendments, the ban on short selling for shares in Erste Group Bank AG, Raiffeisen International Bank-Holding AG, the

UNIQA Versicherungen AG and Wiener Städtische Versicherung AG Vienna Insurance Group each extended. Federal Law Gazette II No. 300/2009 sees validity of the ban until February 28, 2010.

Amend e t the R e gulation on the Invoicing

establishment of companies of the contract

insurance (RLVVU), BGB I. II No. 41/2009

The RLVVU was amended with regard to the so-called IWD business. IWD stands for "indirect as direct" and means that only one insurance company appears to the policyholder, but that several insurance companies share the risk as with co-insurance. It is intended that the IWD business will basically continue to be reported as reinsurance.

However, under certain, precisely defined conditions, the IWD business can be treated as (open) co-insurance and reported as such for accounting purposes.

Owner Control Ordinance (EKV) ,

BGB I. II No. 83/2009

When acquiring and increasing qualifying holdings in credit institutions, insurance companies and investment firms, as well as giving up and reducing qualifying holdings in such un

The FMA has to carry out an inspection procedure for the company (§§ 20 ff BWG, § 11b ff VAG and § 11 ff WAG 2007). The EKV sets out a list of those documents and declarations that must be submitted to the FMA by those subject to the reporting obligation in such procedures.

Profit Sharing Ordinance (GBVV U) ,

BGB I. II No. 88/2009, Actuarial Report Ordinance -

now, BGB I . II No. 89/2009, profit plan- V er -

order (GPVV U), BGB I. II No. 90/2009,

Ordinance of the Financial Market Authority

(F MA) about the content and structure of the versi -

Mathematical calcula tion basics

(VVMGL), BGB I. II No. 91/2009, capital investment -

Ordinance 2002, BGB I . II No. 1 4 9 / 2 0 0 9

Directory Ordinance (Verz VV U), BGB I . II

No. 150/2009

These amendments make necessary adjustments to the introduction of investment-oriented living

insurance in the VAG (Federal Law Gazette I No. 22/2009). For example, in the Actuarial Report Ordinance, the tariff classes were expanded to include investment-oriented life insurance, and the GBVVU stipulates that the investment success in investment-oriented life insurance is to be distributed among those groups of insurance contracts for which a common investment strategy has been agreed, based on cause. Since certain assets are assigned to certain contracts in investment-oriented life insurance, a misinvestment in a certain group of contracts is only borne by this group.

F MA - Cost Ordinance (F MA - KVO) ,
BGB I. II No. 297/2009

With this amendment, the FMA-KVO with regard to the calculation of the cost contributions of accounting group 3/sub-accounting group 1 (reportable institutions) against the background of the Directive 2004/39/EG (MiFID) amended European legal framework for reporting securities transactions.

Ordinance on the Annex to the Examination
report (AP - VO), BGB I . II No. 336/2009

With the amendment, a fundamental revision and expansion of the questions relating to the WAG 2007 in the ordinance were carried out. In addition, two additional questions regarding validation reports from credit institutions that determine the minimum capital requirement using the internal ratings-based approach pursuant to Section 22b BWG were added, and some terminological and technical adjustments were made.

F MA - Fee Ordinance (F MA - G eb V) ,
BGB I. II No. 350/2009

The amendment creates new charges in the future in connection with administrative actions of the FMA in relation to payment institutions. In addition, it is envisaged that notices on the non-prohibition of the acquisition of a qualifying holding must now also be subject to a fee. In addition, a new fee regulation will be introduced in connection with the preferential weighting of large investments

and a technical clarification in the area of fees for subsequent licenses under the VAG taken.

Owner Control Ordinance (EKV) ,
BGB I. II No. 351/2009

The amendment specifies the documents that the FMA in the event of a change of qualified parties involved in a payment institution (persons pursuant to Section 7 (1) no. 4 ZaDiG). In addition, the notification forms have been simplified and technical adjustments have been made.

Payment Institutions - Reporting Ordinance (ZIMV) ,
BGB I. II No. 352/2009

Pursuant to Section 20 (1) to (3) Za DiG, payment institutions must report various information, for example on the balance sheet, on items below the balance sheet, on the profit and loss account, on mandatory disclosures in the appendix on the granting of credit, on securing customer funds, on organizational requirements and on compliance with capital adequacy regulations. The ZIMV regulates the structure of these reports and the corresponding reporting deadlines.

Directory Ordinance (Ordinance VV U) ,
BGB I. II No. 354/2009

This amendment to the VerzVVU regulates that the FMA receives additional information to expand the risk-based analysis of assets as part of insurance supervision. In particular, this concerns the disclosure of the model values for securities and structured loans if these are used by the insurance company for the valuation. Under certain circumstances, insurance companies may also use so-called model values for the valuation of securities in addition to stock market values or other market values if no reliable stock market values are available.

Building Savings Bank Act Ordinance (BS pk V) ,
BGB I. II No . 355/2009

The Bausparkassen Act Ordinance was reissued as an ordinance of the FMA and requires the increase of the maximum amount of the Bauspar loan amount that can be obtained by a saver in total, the adjustment

the definition of "large home savings contracts" and the Raising the amount up to which building societies can grant loans or guarantees without security in individual cases allowed to grant the subject.

Ordinance on the financial market
notifications to be submitted to the supervisory authority
(MVV U), BGB I. II No. 441/2009
This amendment to the MMVU stipulates that the FMA will receive additional information regarding the development of the liquidity of insurance companies in order to be able to identify critical developments more quickly and take effective measures.

Ordinance on the Annex to the Examination report for payment institutions (ZAPV) ,
BGB I. II No. 494/2009
The ZAPV regulates the form and structure as well as the type of transmission of the annex to the audit report on the annual financial statements of payment institutions. The appendix to the ordinance contains a total of 32 questions and is divided into the following chapters: minimum capital requirement, general due diligence and risk management, reporting and notification obligations, consumer regulations, due diligence to combat money laundering and terrorist financing, accounting and "other obligations".

inter National legal development

Completed in 2009

Right in mind

In banks, insurance and pension funds as well as the securities sector were in

The following legal projects were passed in 2009:

Directive 2009/14/EC of the European Parliament and Council of 11 March 2009

to amend directive 94/19/EG

Deposit guarantee systems in view of

the cover amount and the payout

deadline

In response to the financial crisis, the deposit guarantee guidelines were revised; The focus here was on the one hand the amount of coverage to be paid out in the event of a guarantee (this was set at €100,000) and the payout period within which the deposit guarantee schemes must make payments to the depositors concerned; this was shortened to 20 working days. Furthermore, the Member States are obliged to ensure a procedure that guarantees an immediate payment of reasonable amounts within three days of receipt of the application.

Directive 2009/65/EC of the European

Parliament and Council of 13 July 2009

to coordinate the legal and administrative

regulations concerning financial

Organisms for common investment in

Securities (UCITS) (new version)

The changes set out in this directive serve to trigger a market-oriented restructuring and to make the dynamic but still highly fragmented European fund market more efficient. Essential here are the simplification of the notification procedure, the achievement of economies of scale and the improvement of liquidity by promoting the merger of funds and asset pooling, the revision

of the company passport, the simplification and improvement of information for investors and the expansion of cooperation between the supervisory authorities calls.

Commission Directive 2009/83/EC

from 27 July 2009 subject to change

Annexes to Directive 2006/48/EC des

European Parliament and the Council

with technical stipulations about that

risk management

This serves together with the EU Directive 2009/27/EG of the technical amendment of the directives 2006/48/EG (CRD – Capital Requirements Directive) and 2006/49/EG (CAD – Capital Adequacy Directive) by means of the comitology procedure. The changes either relate to editorial errors that occurred during the implementation of the New Basel Accord into European law within the framework of the CRD and CAD, or serve to correct and/or clarify technical provisions (mainly based on interpretations by the Capital Requirements Directive Transposition Group).

REGULATION (EC) No. 1060/2009 of the Euro

European Parliament and Council of

September 16, 2009 via rating agencies

This regulation stipulates that all credit rating agencies (unless they fall under one of the exemptions like central banks or credit information agencies) that have their headquarters or a branch in the EU must be licensed under the regulation. Credit institutions, insurance companies and other regulated companies in the financial services industry may only use ratings from licensed credit rating agencies for regulatory purposes. The regulation also provides for the establishment of a central database for the historical evaluation of the ratings prepared by the approved agencies at CESR level.

REGULATION (EC) N o . 924/2009 of the European

Parliamentary Sound of the R at esvom

1 6 . S eptember 2 0 0 9 cross-border

Payments in the community and to

Repeal of Regulation (EC) No . 2 5 6 0 / 2 0 0 1

This regulation is intended to simplify cross-border trade within the Community

and ensuring that cross-border payments in euro are subject to the same charges as corresponding euro payments within a Member State. This principle, which was already introduced by Regulation 2560/2001, was now extended to direct debits by the regulation that came into force on November 1, 2009, thereby introducing the common SEPA direct debit procedure in the EU. Other changes relate to reports for the purposes of balance of payments statistics and the establishment of out-of-court complaint and redress procedures for disputes between payment service providers and users on the issues covered by the regulation.

Directive 2009/103/ EC of the European

Parliament and Council of 16 September

2009 on the motor vehicle liability insurance

Security and control of the appropriate nds

Compulsory insurance

This guideline serves to consolidate the existing five guidelines for motor vehicle liability insurance and does not bring any changes to the content.

D irective 2009/110/ EC of the European

Parliament and Council of 16 September

2 0 0 9 about the recording , exercise and

Supervising the activities of E - money I n -

institutes , to change the guidelines

2 0 0 5 / 6 0 / EG and 2 0 0 6 / 4 8 / EG as well

Repeal of directive 2 0 0 0 / 4 6 / EG

The directive aims to create a modern legal framework for the issuance of e-money and the activities of e-money institutions. This is done, among other things, by a technology-neutral, simplified definition of e-money. In addition, through the

Adaptation to the provisions of the Payment Services Directive 2007/64/EC a new supervisory regime for Providers of e-money introduced (in particular regulation

of initial capital, calculation of capital requirements, protection of customer funds). Implementation in the law of the member states must take place by April 30, 2011.

Directive 2009/111/ EC of the European

Parliament and Council of 16 September

with regard to central organizations

regulated banks, certain capital requirements

components, large loans, supervisory regulations -

lungs and crises management (so-called

CRD II directive)

This guideline deals with new provisions regarding large exposures (in future, interbank claims will be counted in full against the large exposure limit; the aggregated limit of 800% will no longer apply), the uniform regulation for hybrid capital (the new regulations are only to be fully applicable in stages over 30 years), new securitization regulations (the sponsor must retain at least 5% of the underlying risk on its own books) and changes in the supervision of cross-border institutions. In order to strengthen risk management, colleges of supervisors should be set up within the EU for banking groups that are active in several EU countries. They should work together to supervise a group and come to a uniform solution to various issues.

The CRD II also affects new provisions regarding liquidity risk management; According to this, every bank should set a risk tolerance for its liquidity risk that corresponds to its business model and its role in the financial system.

Directive 2009/138/ EC of the European

Parliament and Council of 2 5 . November

2 0 0 9 regarding admission and exercise

of insurance and reinsurance

activity (Solvency II)

This directive is the framework regulation (level 1) for the new EU insurance supervisory system Solvency II, which is supplemented in some points by detailed regulations (level 2 directive or regulation) and applied in full from the end of 2012 should be.

Decisions of the Commission of 23 January 2009 to set up the committees of the supervisory authorities (2009/79/EC, 2009/78/EC, 2009/77/EC)

With the new version of the resolutions on the establishment of CEBS, CEIOPS and CESR, the three Level 3 committees strengthened. The new resolutions give the committees a more important role than before in maintaining financial market stability.

Legal plan nearing completion

The adoption of three regulations to establish the new European supervisory authorities for banking supervision (EBA), insurance and occupational pensions supervision (EIOPA) and securities supervision (ESMA), which will replace CEBS, CEIOPS and CESR, as well as a regulation to establish a European Systemic Risk Board (ESRB) is planned for 2010.

This allows the committees as of 1.1. start their activities in 2011. In accordance with the powers of the new regulators, these mandatory technical standards that are intended to serve a harmonized supervisory system. A large part of these binding technical standards are already the subject of some non-binding guidelines and standards of the current Level 3 committees and are part of the "European Single Rule Book".

Omnibus guidelines

These adapt the various sectoral directives (CRD, Solvency II, Conglomerate Directive and Money Laundering Directive etc.) to the above proposals and are currently being discussed in the Council.

Directive of the European Parliament and of the Council on the administrators of alternative investment funds ("Alternative Investment Funds Managers", AIFM).

The aim is to create a comprehensive regulatory framework for AIFM at European level and to ensure effective supervision. The proposed directive will create robust and harmonized regulatory standards and provide transparency to investors and regulators for activities

the managers and the funds they manage increase.

This will allow Member States to improve macroprudential oversight of the sector to take coordinated measures if necessary

to ensure the proper functioning of financial markets.

The proposal will help to close gaps and inconsistencies in existing national regulations. At the same time, it becomes a secure basis for the development of an inland create markets for alternative investment funds.

Communication from the Commission to the European Parliament and the Council

Packaged

Retail Investment Products", PRIIPS)

The subject is improved and standardized information obligations towards customers (Key Investor Information). The conduct of business regulations and the Markets in Financial Instruments Directive (MiFID) serve as a model.

CRD - III - Directive

This deals with further changes to the Banking and Capital Adequacy Directive (new provisions for the trading book, re-securitisations and remuneration). The Commission is thus following the Basel Committee, which has also published recommendations on these topics. The changes are expected to come into force by December 31, 2010.

Outlook on new legal projects

CRD - IV Directive

This deals with the abolition of national voting rights, the disclosure obligation for branches, "dynamic provisioning" and non-risk-based measures (leverage ratio – additional non-risk-sensitive measure of the indebtedness of a credit institution).

A revision of the Insurance Mediation Directive and the Block Exemption Ordinance is also expected.

financial markets

Main topic

International cooperation

Legal development

operational supervision

LEGAL AND PROCEDURE MATTERS

F MA I nternal

Attachment

Oversight of banks

LEGAL BASIS

D The central federal law of Austrian banking law is the Banking Act (BWG).

Sections 69 et seq. regulate the supervision of credit institutions. Article 69 BWG stipulates that the FMA – without prejudice to the tasks assigned to it in other federal laws – is responsible for compliance with the provisions of the BWG and other exhaustively listed federal laws by domestic credit institutions, credit institutions that operate in Austria by way of freedom of service and freedom of establishment, as well as by representative offices of foreign credit institutions. The

The other most important federal laws that the FMA must monitor compliance with in the banking sector are the Savings Banks Act (SpG), the Building Societies Act (BSpG), the Mortgage Bank Act (HypBG), the Investment Funds Act (InvFG), the Financial Conglomerate Act (FKG), the E-Money Act (E-Money Act) and the Payment Services Act (ZaDiG). In its supervisory activities, the FMA always has in mind the economic interest in a functioning banking system and in the stability of the financial market

to take into consideration. There are numerous other important legal bases for the activities of the FMA based on the BWG and other laws

Regulations and directly applicable EU regulations.

BWG AMENDMENTS

In 2009, the BWG was amended four times. Directive 2007/44/EC (“Acquisition Directive”) was implemented in Austria with Federal Law Gazette I 2009/22. This amendment resulted in a new version of the owner regulations and regulates the acquisition of property in Austrian credit institutions. It the procedural steps in particular became more concrete sated, the assessment criteria specified and the deadlines tightened. The new regulations allow

potential acquirers of qualifying shares a more precise assessment of the requirements to be met (see “Ownership and Concession Rules”, page 51).

The Payment Services Act (ZaDiG, Federal Law Gazette I 2009/66) brought further innovations. This led to a new regulation as to who may provide payment services in Austria and how these are to be provided. In the BWG, the license was granted by the ZaDiG

sion facts of the giro business, the issuance of means of payment and the money transfer business were placed in a new relationship to each other and the consumer provisions were adjusted (see special topic “The Payment Services Act”, page 43).

Minor changes brought the BGBl I 2009/39 and I 2009/152: Through these it came in particular on innovations relating to the definition of supplementary capital, the treatment of participation capital, the examination of internal models at domestic groups of credit institutions and the electronic transmission of notifications and other notifications to the FMA (incoming platform, see also “Sources of information for supervision”, page 46).

Market development

The following data is based on reporting data of the quarterly reports of the credit institutes of the statement of assets, income and risks (on an unconsolidated basis) as of the reporting date December 31, 2009.

Business development

The business volume of Austrian credit institute reached a level of at the end of 2009 €1,034.2 billion, down 3.3% year-on-year. One of the reasons for this development was a noticeable reduction in interbank business in Germany and abroad. As can be seen from chart 17, the sec

At the end of 2009, joint stock banks had the largest market share in terms of business volume with 27.8%, followed by the Raiffeisen sector (27%) and the savings bank sector (16.3%).

Yield situation

At the end of 2009, the unconsolidated operating result of the Austrian banks is expected to be EUR 6.79 billion, which corresponds to a decrease of around a quarter compared to the previous year.¹ The background to this development was a significant decline in operating income (-11.2%), whereby the decrease in operating expenses was hardly noticeable (-0.1%). The positive development of net interest income (7.6%) and income/expenses from financial transactions, which turned from a negative balance of € -812 million in the previous year to a positive amount of € +504 million, had a dampening effect on this development (see chart 18).

Austrian credit institutions ended the 2008 financial year on a negative note with a net loss for the year of €213 million. Final figures are not yet available for 2009; However, the credit institutes are forecasting positive net income of €248 million for 2009. The continued difficult economic environment in 2009 is reflected in persistently high risk provisions (value adjustments); In 2009, the banks are planning a further allocation to risk provisions of EUR 8.3 billion; In 2008, the increase in risk provisions had finally amounted to €10.3 billion.

PUBLIC ACTIVITY

BEAU FS AUTHORIZED COMPANIES

A credit institution within the meaning of the BWG is anyone who License to operate at least one bank

business pursuant to Section 1 (1) BWG. As of December 31, 2009, there were 856 credit institutions in Austria

tute, whereby this figure also includes 30 branches of credit institutes that are active in Austria pursuant to § 9 BWG by way of the EU freedom of establishment.

Chart 17: Market shares 2009

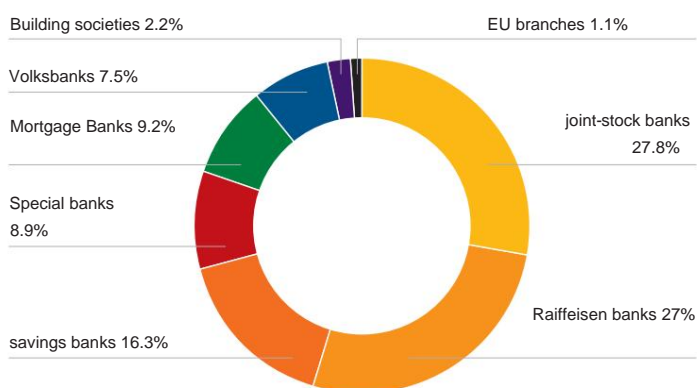


Chart 18: Earnings situation 2005-2009

(in E billion; 2009: extrapolation according to VERA)

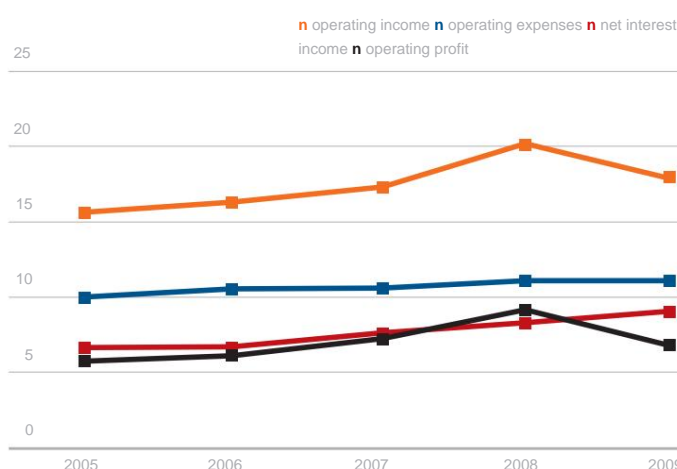


Table 7: Number of credit institutions

credit institutions	2008	2009
joint-stock banks and bankers	52	51
special banks	46	45
savings banks	55	55
Raiffeisen banks	551	545
people's banks	68	68
mortgage banks	11	11
building societies	4	4
investment companies	30	30
Company provident funds	9	9
Exchange offices/financial transfer institutes	10	en
EU branches	32	30
total	868	856

¹ Report figures based on unconsolidated data (comparison of expected values for 2009 with actual values from the annual financial statements of previous years).

The total number of banks fell by twelve compared to 2008, which means that the concentration process that has been going on for years has continued. There was further consolidation, particularly in the decentralized sectors, where the number of credit institutions fell from 674 to 668 (see Table 7 on the previous page).

In addition to the 30 EU branches, 20 representative offices of foreign banks were also registered in Austria in the reporting period. A representative office is a legally dependent branch of a foreign bank which, unlike a branch, does not conduct any banking business within the meaning of Article 1 BWG. The Banking Act therefore only applies to representative offices to a very limited extent. Typical tasks of a representative office are advertising and informing the represented bank about the banking and financial situation of the host country.

INFORMATION SOURCES OF SUPERVISORY

Reporting, notification and information obligations of the credit institutions

The Austrian banking supervisory system is based on a multi-level system of control bodies that build on one another: the first control bodies are the managers, the internal auditors and the supervisory board of a bank (internal control).

This is followed by a review by the bank auditor (external control). Only then does the real thing begin State supervision by FMA and OeNB.

In terms of this gradation of supervision are the first and the most important source of information for supervision are the credit institutions themselves. They have to fulfill

comprehensive statutory reporting, notification and information obligations.

A central reporting provision is § 74 BWG, where credit institutions are obliged to report economic key figures to the supervisory authority at periodic intervals

to be transmitted: The annual statement of assets, profit and risk (VERA) contains the figures that allow the supervisory authority to assess the economic situation and compliance with the risk-specific due diligence obligations. The regulatory norms card (ONA), which is to be reported monthly, provides an overview of whether the credit institutions have complied with central norms

of the BWG, in particular the capital adequacy provisions and large investment limits. In addition, there are reporting requirements for foreign currency risks, liquidity, positions in the trading book and the banks' master data. According to ei

According to an ordinance of the FMA, the credit institutions have to report the said information to the OeNB, which then processes it as part of its analysis and makes it available to the FMA.

The reporting requirements, which are set out in Sections 20 and 73 BWG in particular, have a different character find. These essentially concern two below different categories of facts:

n planned or scheduled actions, e.g. B. the change of the managing director or the chairman of the supervisory board,

n or facts that indicate an imminent danger, such as e.g. B. Insolvency or overindebtedness.

For each of these notifications, the authority must check what action it needs to take: whether the BWG grants the authority the right to prohibit a process directly, or whether the FMA takes action on the basis of other provisions, in particular due to the general intervention measures of Article 70 BWG (see also "Procedures by the supervisory authorities" on page 46).

In the reporting year, for example, the FMA received 140 notifications of a change in a manager and 31 notifications of a change in the chairman of the supervisory board. In each of these cases, the FMA must check whether the new function holder is personally and professionally suitable. On two occasions, managing directors had to report that the fulfillment of the bank's obligations was at risk.

In addition to the reports and notifications made by the credit institutions, the FMA also actively approaches the supervised banks: According to Article 70 para. 1 no. 1 BWG, the FMA can request information and inspect the documents of the credit institutions at any time.

This enables the authority to obtain additional information or to check data already reported. In the reporting period, 307 requests for information or inspections were carried out.

The money laundering company visits represent a special form of obtaining information. The inter

The Payment Services Act: New rules for the Financial Transfer and Payment Card Business

M on November 1, 2009, the Payment Services Act (ZaDiG, Federal Law Gazette I 2009/66) came into force. Essentially, it brought about two major innovations: on the one hand, the provision of payment services is now regulated in detail, on the other hand, the law establishes the new business model of the payment institution.

European background

In its 1999 action plan for Financial Services Action Plan - FSAP), the European Union set the Goal of creating a common market for financial services: financial services, be it in Banking, insurance or securities business should be able to be performed within the EU as if the Europe of the 27 were a single market without a national borders and barriers. part of this action plan was to create a common market for payment services.

Plans to establish this single payment area (Single Euro Payments Area – SEPA) through the initiative of the banking industry failed, however, due to the different legal conditions in the member states. In particular, liability issues, customer protection regulations and requirements for the quality of transfers were so different that the European banks, which had joined together in the European Payments Council (EPC), only made slow progress.

In order to create legal certainty, the Council and the European Parliament therefore passed the Payment Services Directive (PSD, RL 2007/64/EG) in 2007. On the one hand, this regulated the manner in which payment services are to be provided and, on the other hand, who may provide them. A new business model was created created for payment service providers: the “payment institute”. Since these provisions had to be implemented in all member states, there is now a

solid legal foundation on which the European banking industry can set up SEPA. With the Creation of the single payment area and the associated increased competition is intended offer European citizens a wider and cheaper range of payment services.

Implementation in Austria

The Payment Services Directive was approved with the ZaDiG implemented in Austria. The ZaDiG follows the two-part approach of the directive: regulation of payment services and enabling a new type of payment service provider, the payment institution.

Payment institutions

Payment institutions are companies that are authorized to provide and execute payment services on a commercial basis on the basis of a license from the FMA or the approval of the competent supervisory authority of an EEA member state. According to § 1 Para. 2 ZaDiG, payment services requiring a license are:

- the deposit and withdrawal transaction (Z 1)
- the payment transaction (Z 2)
 - direct debit business
 - payment card business
 - remittance business
- the payment transaction with the granting of credit (Z 3)
- the payment instrument business (Z 4)
- the money transfer business (Z 5) as well as
- the digitized payment business (Z 6)

However, payment institutions are only one of several possible categories of payment service providers. In addition to payment institutions, credit institutions, e-money institutions, the Oesterreichische Nationalbank (OeNB) and the federal and state governments may (continue to) provide payment services. So far, the

Most credit institutions have a license for giro business, money transfer business and the issuance of payment cards, which covers the business of the ZaDiG in terms of content. Section 1 (3) of the Banking Act (BWG) clarifies that credit institutions that are authorized to provide deposit and lending business or giro business can also use all of the ZaDiG's payment services

may offer.

In contrast to credit institutions, payment institutions may only provide ZaDiG payment services and grant loans within a very narrow framework. They are not permitted to engage in other transactions that require a licence, such as deposit business in particular.

Payment services

As previously mentioned, the ZaDiG regulates not only who may provide payment services, but also how these are to be provided. While the provision of payment services, such as bank transfers, credit card payments and paying with a mobile phone, has only been regulated in general terms or not at all, the legislator is now making precise specifications in the interests of customers.

For example, electronically initiated transfers in euros must now be processed by the next working day at the latest (although the general terms and conditions of the payment service provider may allow for a transfer duration of three days up until 2012 at the latest). Amounts transferred are to be credited to the recipient's account immediately.

Furthermore, the ZaDiG

comprehensive information requirements. Among other things, customers are to be informed about all applicable fees in clear form. Clear liability rules are also laid down if errors occur during a transfer or payment transaction (for details on customer protection provisions, see Articles 26 to 48 ZaDiG).

Supervision by the FMA

Payment institutes provide services that until now have mainly been reserved for credit institutes.

The requirements for obtaining a license to provide payment services and for the ongoing operation of the payment services business are largely based on those of banks. For example, payment institutions also have to meet certain minimum requirements in terms of own funds, management qualifications and risk management. Furthermore, the money laundering and owner control provisions of the Austrian Banking Act must be observed. In addition, payment institutions have reporting obligations to the OeNB, which is intended to enable the OeNB to carry out an economic analysis of the payment institutions and to monitor the payment system (for all license requirements, see in particular Articles 5, 6 and 7 ZaDiG).

For the above reasons, it made sense to subject the payment institutions to the supervision of the FMA. The FMA is primarily responsible for conducting licensing procedures, ongoing official supervision, taking supervisory measures and imposing administrative penalties for violations of the law.

As with the supervision of credit institutions, an Ar division of labor between the FMA and the OeNB.

The OeNB manages the reporting system, carries out on-site inspections at payment institutions and analyzes them from an economic point of view. The resulting detects

These form the basis for the official actions of the FMA described.

The FMA also publishes one on its website

Accessible payment institution register, in which all payment institutions licensed in Austria and all EEA payment institutions operating in Austria within the framework of the freedom to provide services and freedom of establishment can be viewed.

As of December 31, 2009, a total of five Austrian companies had applied for a license as a payment institute. At the same time, 20 payment institutions from EEA member states had notified their activities in Austria.

How the payment services market is changing in the future. Future developments, especially the extent to which domestic and foreign payment institutions can establish themselves as payment service providers in Austria alongside credit institutions, will change over the next few years point.

In line with the national obligation to fight money laundering and the financing of terrorism with ever greater determination, the FMA attaches particular importance to compliance with the relevant provisions of the Austrian Banking Act. In this way, not only information

Information is requested from the credit institutions, but rather the FMA inspects the institutions themselves, as part of the so-called money laundering company visits. In 2009, the FMA ran 16 money laundering companies
Visits to credit institutions.

Furthermore, the FMA can not only rely on the credit institutions obtain information themselves, but also from the bank auditors and auditing associations, guarantee schemes and, if necessary, from the government commissioners they appoint. In 2009, the FMA issued five such requests for information (see Table 8).

ON SITE INSPECTIONS

Another important source of information is the on-site inspections at the banks. These are either carried out routinely in accordance with a risk-oriented inspection plan (Section 70 Para. 1b BWG) or due to a special reason.

Since 2008, the on-site inspections have been carried out exclusively by the OeNB, for which the OeNB receives a formal and specifically determined mandate from the FMA. On-site inspections are an important basis of the OeNB's analysis activities, along with the mandatory reporting mentioned above. In 2009, 49 audit mandates were issued to the OeNB in accordance with section 70 (1) no. 3 BWG (see Table 9).

In addition, this requires as part of a model approval procedure by the OeNB, regular additional on-site presence of the OeNB. In 2009, from the

FMA approved 29 internal risk models (see also "Model Approvals" on page 51).

B ankauditor and State C ommissioner E

The annual financial statements of each credit institution and the consolidated financial statements of each group of credit institutions pursuant to Section 59 (1) BWG and each group of credit institutions pursuant to Section 59a (1) BWG must include the bookkeeping and the management report and, if applicable,

Table 8: Information sources

	2008	2009
Notifications of changes in management pursuant to Section 73 Para. 1 Z 3 BWG	85	140
Notification of the election of a new chairman of the Supervisory Board in accordance with section 28a (4) BWG	32	31
Notification of risk to creditors, possible insolvency or over-indebtedness by managers pursuant to Section 73 Para. 1 Z 5 or 6 BWG	0	2
Obtaining information, inspection at the bank in accordance with § 70 Para. 1 Z 1 BWG	179	307
Money Laundering Company Visits	18	16
Obtaining information from the bank auditor, guarantee scheme and government commissioner in accordance with § 70 Para. 1 Z 2 BWG	no	5
Reports of reportable facts by bank auditors according to § 63 Para. 3 BWG bank auditor/early identification talks	no	36
management talks	38	40
	60	78

Table 9: Audit assignments to the OeNB

	2008	2009
Audit assignments to the OeNB according to § 70 para. 1 no. 3 BWG	39	49

of the group management report by the bank auditors to check their legality. The bank auditors also have to check, among other things, the factual accuracy of the valuation, including the necessary write-downs, value adjustments and provisions, as well as compliance with the regulatory norms of the Austrian Banking Act and the allocation of positions in the trading book. The result of this test is in an appendix to the test report (AzP)

to represent. This is the business leaders and the to the supervisory body under company law at the same time as the audit report on the annual financial statements.

The credit institution is legally obliged to submit the reports mentioned no later than six months after the close of the financial year of the FMA and submit it to the OeNB. The FMA has in the

Reporting period audited by all banks

Receive annual financial statements, management reports, appendices to the audit report and reports on hidden reserves. Further were from existing credit groups of institutions forwarded the consolidated financial statements and group management reports. The FMA maintains intensive and regular contact with all bank auditors of Austrian credit institutions. In particular Worth mentioning here are the regular discussions held with the auditing associations of the decentrally organized sectors and with bank auditors. The FMA conducts similar talks with the respective guarantee schemes in the sectors (early detection talks). In 2009, a total of 40 bank auditor/early identification talks were held.

If bank auditors discover facts of particular importance in the course of their auditing activities (reportable facts pursuant to Section 63 (3) BWG), the FMA must be notified of this immediately. In the reporting period, 36 such notifications were made to the FMA.

Also of great importance is the activity of state commissioners. These are aimed at all credit institutions with a balance sheet total of €1 billion. Before the

On January 1, 2008, this limit was still €375 million. State commissioners who were appointed before this date at a bank with a balance sheet total of no more than EUR 1 billion remain in their position, but are to be dismissed at the end of 2010.

The state commissioners take part in all main and General assemblies, supervisory board meetings and audit committees. If they become aware of facts that indicate a threat to the credit institution, they must notify the FMA of this immediately. Furthermore, they have to write an annual report on their activities.

Incoming- Platform

The flow of information between banks, bank auditors and state commissioners on the one hand and the FMA on the other has improved significantly with the introduction of the incoming platform. Until the beginning of 2009, notifications, ad-hoc notifications, annual financial statements and audit reports were, depending on the legal basis, either only to the FMA or also to the OeNB, mostly in writing,

sometimes only to be transmitted electronically. The

There was a lot of administrative work for everyone involved, and the flow of information was prone to errors.

The incoming platform is an online portal through which entries can be made to the supervisory authorities (FMA and OeNB). In the first phase, notifications were primarily permitted, in particular in accordance with Sections 20 et seq. and Section 73 BWG. In a second phase, the annual financial statements can now also be submitted

and audit reports are submitted electronically.

The electronic transmission frees you from the much more complex postal delivery.

So far, use of the incoming platform has been voluntary. For 2010 it is planned to use the newly granted ordinance authorization in the Austrian Banking Act and to prescribe input via the incoming platform as a mandatory communication channel. Furthermore, starting in autumn 2010, as part of the third phase

State commissioners submit their reports via the platform can bring.

management talks

In addition to obtaining individual information and the reports mentioned, the management levels additionally standardized by numerous banks

talks held. These management discussions are an important part of the routine analysis and take place regularly at the major banks. In particular, they are intended to help maintain contact with management and to shed more light on the risk assessment and strategy of credit institutions. In this sense, a distinction is also made between management talks in the actual sense (talks with the managers), risk talks (with the senior risk managers) and CESEE talks (on the Eastern European strategy of the institutes), depending on the focus of the topic. In the reporting period, 78 management talks took place

instead of.

SUPERVISORY OFFICIAL PROCEDURES

General and official measures

according to § 70 BWG

In accordance with its statutory mandate, the FMA must monitor compliance with the framework provisions of banking law by the credit institutions and

Identify creditor endangerment facts and initiate appropriate countermeasures. The central standard for this is Section 70 BWG, which gives the FMA the means to implement these goals. Building on the FMA's extensive rights to obtain information, Article 70 BWG grants it far-reaching powers of intervention and sanctions

on rights:

Is there a risk to the fulfillment of a credit institution's obligations to its creditors, in particular to the security of those entrusted to it

assets, the FMA can take appropriate measures pursuant to Article 70 para. 2 BWG, in particular such as prohibiting a capital or profit distribution, appointing a government commissioner, dismissing the directors or prohibiting the continuation of business operations.

If no measures were required in 2008 in accordance with section 70 (2) BWG, in 2009 such measures had to be taken three times. In each of these cases, a government commissioner was appointed by the FMA.

A particularly relevant in practice official Er

Authorization can be found in § 70 Para. 4 BWG: If a license requirement is no longer met or if a bank violates the provisions of the BWG

or another special law (e.g. Savings Banks Act, E-Money Act or Pfandbrief Act), the FMA can take the following measures: **n** First, the credit institution must be instructed to restore the lawful situation under threat of a coercive penalty. **n**

If it does not comply with this mandate, the managers are to be prohibited from managing the business in whole or in part, unless this would be inappropriate given the type and severity of the violation and a repetition of the first measure can be expected to restore the legal situation. In this case, the threatened coercive penalty must be carried out and the order issued again under threat of a higher penalty. Can these measures improve the functional

If the ability of the bank cannot be ensured, the license must be revoked as a last resort.

n Para. 4a of Section 70 BWG contains a special authorization: If a violation of a law leads to an inappropriate limitation of banking business

Table 10: Official measures according to Section 70 and Section 97 BWG

	2008	2009
Measures if creditors are at risk in accordance with section 70 (2) BWG	0	3
Measures to ensure compliance with the law in accordance with Article 70 para. 4 nos. 1-3 BWG	2	27
Interest rate regulations according to § 97 BWG	46	51

commercial and banking risks and is one short-term limitation of these risks is not to be expected, the FMA must prescribe additional minimum own funds (capital add-on) without prejudice to other measures.

In the reporting period, the FMA had to issue 18 orders within a reasonable period of time, under threat of a coercive penalty

restore condition. Another nine times

carried out a threatened penalty and issued the request repeatedly. In no case, however, was it ultimately necessary to dismiss a manager by notice or to revoke a license by notice.

Another general supervisory measure for enforcing compliance with the statutory provisions can be found in Section 97 BWG: According to this provision, the FMA must impose interest on violations of the law that result in the violation of the law by exceeding or falling below specified thresholds (e.g. large investment limits, minimum capital requirement).

These serve to siphon off any illegal additional revenue resulting from the excess or shortfall. In 2009 there were 51 interest rate calls, five more than in 2008 (see Table 10).

In addition to the measures just described, ent the BWG also holds other authorizations for the FMA, which are intended to ensure compliance with its provisions. In particular, the FMA's rights of prohibition and approval serve to prevent violations of the law in advance. This relates in particular to the concession system, the provisions relating to the ownership structure and the approval of internal models.

Table 11: Newly licensed credit institutions

Applicant for a licence/license according to § 1 Para. 1 BWG

Liechtensteinische Landesbank (Austria) AG

Deposit business (Z 1)
 Giro business (Z 2)
 Credit business (Z 3)
 Custody business (Z 5)
 Securities trading (Z 7)
 Trading in financial instruments (Z 7a)

Semper Constantia Pr iva tbank AG

Deposit business (Z 1)
 Giro business (Z 2)
 Credit business (Z 3)
 Discount business (Z 4)
 Custody business (Z 5)
 Issue of means of payment (Z 6)
 Securities trading (Z 7)
 Trading in financial instruments (Z 7a)
 Guarantee business (Z 8)
 Other securities issuing business (Z 10)
 Loro emissions business (Z 11)
 Capital financing business (Z 15)
 Money brokerage transactions in the interbank market (Z 17)
 Mediation of business (Z 18)

Raiffeisen International Project Bank AG

Deposit business (Z 1)
 Giro business (Z 2)
 Credit business (Z 3)
 Issue of means of payment (Z 6)

Table 12: Licensing procedures

	2008	2009
Granting of licenses (new licenses)	5	3
concession extensions	15	10
concession rejections	1	5
Concession Withdrawals/Expirations according to §§ 6 and 7 BWG	=	5
Freedom of service and freedom of establishment		
Passive notification according to § 9 BWG	113	40
Active notification according to § 10 BWG	115	32

concession procedure

Pursuant to section 4 para. 1 BWG, the operation of the banking transactions listed in section 1 para. 1 BWG requires a license from the FMA. For this purpose, the FMA has a for submit an application, which must be accompanied by all the documents required by law. During the investigation, the FMA verified that the ge

to check the planned activity with the license status applied for, on the one hand, so-called "shell licenses" (when a bank outsources its banking activities and thus only exists as an "empty shell"), and on the other hand, a possible exceeding of the scope of the license must be ruled out. In addition, the corporate structure, articles of incorporation, suitability of the owners and managers ("Fit & Proper Test"), organizational structure of the bank, business plan and risk management are checked.

The hearing process, in which the Federal Ministry of Finance (BMF), the Oesterreichische Nationalbank (OeNB) and the relevant deposit protection institutions are given the opportunity to comment, runs parallel to the investigation.

Finally, there is a comprehensive assessment of the evidence and the decision on the granting of the concession, which can be subject to terms and conditions. The decision (granting or refusal of a license) is sent to the applicant for a license in the form of a notification.

Three new licenses were granted in 2009, two fewer than in 2008 (see Table 11).

The number of license extensions approved also fell from 15 in 2008 to 10 in 2009. In addition, five were granted in the reporting period

Concessions declared lapsed. Five concessions

Applications had to be rejected or rejected due to formal or content-related deficiencies (see Table 12).

Credit institutions do not require a license from the FMA (and some financial institutions) authorized in another EEA Member State. Due to the basic freedoms valid in the EEA, these can also offer their services in Austria, whether by way of the freedom of establishment through their own branch or by way of the freedom to provide services through cross-border direct offers. The only requirement is the so-called notification, in which the competent home country supervisory authority informs the FMA that the institution in question has a license and which banking transactions this includes, and at the same time confirms that this institution is thus subject to the supervision of the home country hear.

Foreign currency and repayment vehicle loan as a systemic risk

In the course of the financial market crisis, the additional risks for banks and consumers associated with foreign currency and repayment vehicle loans have become dramatically visible. In the case of credit institutions, the Re Financing risk, but also the concentration risk, in the case of borrowers in particular the currency and interest rate risk and in the case of repayment vehicles the asset price risk. It has also been shown that the contractual limitation of risks for the bank, for example through conversions or liquidity surcharges, has proved difficult to enforce in practice in the case of loans to consumers and is also associated with a high reputational risk for the credit institutions.

The volume of foreign currency loans (FWK) and loans with repayment vehicles (TTK) granted to private households in Austria is extremely high in an international comparison and has reached a volume that already represents a potential systemic risk from the point of view of the stability of the financial market. This fact is also regularly acknowledged by international financial institutions such as Internatio

The International Monetary Fund (IMF) and the World Bank viewed it very critically and considered by the rating agencies in their assessments as a systemic risk that should not be underestimated.

The existing volume of foreign currency loans and loans with repayment vehicles at Austrian banks are therefore likely to damage the reputation of Austria as a financial center.

Activities of the supervisor

FMA, Oesterreichische Nationalbank (OeNB) and IMF have been drawing attention to the risks inherent in foreign currency and repayment vehicle loans for years (press conferences, information brochures, lectures, websites and similar) and have also made the topic a focus of their attention

supervisory activity (special surveys, special analyses, etc.).

As early as October 2003, the FMA set a minimum standards for the granting and management of foreign currency loans (FMA-FX-MS) and minimum standards for the granting and management of loans with repayment vehicles (FMA-TT-MS) have been published, which are aimed at all credit institutions authorized to carry out lending business in accordance with Section 1 Para. 1 No. 3 of the Banking Act (BWG).

The managers of credit institutions operating in Austria are obliged on the basis of Section 39 BWG to exercise the diligence of a proper and conscientious manager within the meaning of Section 84 AktG in their management. In this sense, the minimum standards are to be understood as a guide for the banking sectors with regard to the implementation of these due diligence obligations – in particular the proper limitation of risk.

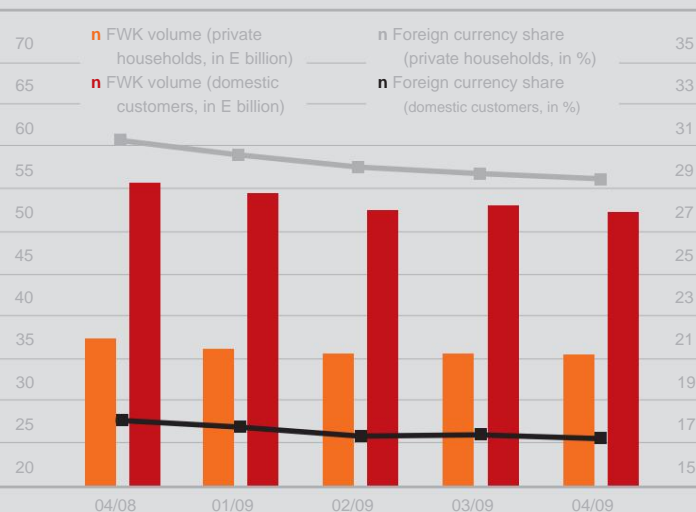
These minimum standards do not represent a regulation in the legal sense, but are to be seen as an interpretation of the FMA as the competent supervisory authority with regard to the statutory due diligence obligations. However, with reference to Section 39 paras. 1 and 2 BWG, the FMA expects credit institutions to comply with these minimum standards when issuing and managing FWK and TTK. The minimum standards

fundamentally do not prevent credit institutions from setting higher (internal) standards.

The current financial crisis has significantly increased the risks mentioned, so that the FMA – in accordance with its statutory mandate to take into account the economic interest in a functioning banking system and the stability of the financial market when fulfilling its tasks (Article 69 (1) BWG) – on October 10, 2008 expressly recommended that the banking industry no longer issue FWK to private households. At the same time, the FMA announced that it would apply very strict supervisory standards in this area.

Previous investigations

Chart 19: Overview of foreign currency loans in Austria
(left scale E billion, right scale %)



showed that the recommendations were followed.

Current situation

As can be seen in chart 19, the effectiveness of the initiatives to date is supported by the data available: the foreign currency share of total household loans has been falling steadily since the fourth quarter of 2008 and has fallen by 1.6 percentage points since the fourth quarter of 2009 compared to the previous year. In absolute terms, the foreign currency lending volume of both domestic customers (non-banks) and private households fell year-on-year and reached a level of EUR 52.3 billion and EUR 35.7 billion, respectively.

Development of repayment vehicles

The development of the repayment vehicle (TT) also requires special attention. At the end of 2008, a volume of around €32 billion in TTK to private households was outstanding. An OeNB/FMA survey on TTK in the first half of 2009 showed that around three quarters of the TT volume is exposed to direct market risks – the majority in the form of fund-related risks

life insurance, to a lesser extent also in the form of investment funds and other products (real estate funds, hedge funds, derivative funds).

The main result of the TT survey is that, in an aggregated view, the capital accumulated in the repayment vehicles is below the value it should have according to the repayment plan - the coverage gap for private households was 14% (EUR 4 billion) at the end of 2008. In individual products or

In some product categories, however, the coverage gap is significantly higher. From today's perspective, it can therefore be assumed that the capital saved in the repayment vehicle will in many cases be used to repay the loans lent will not be enough. FMA and OeNB will be the continue to monitor these developments closely and continue to react actively to corresponding developments.

Supplement to the FMA-Minimum Standards

Due to the inherent risks and the systemic relevance of foreign currency loans and loans with repayment vehicles, BaFin believes that a more significant reduction in banking risks in relation to the total volume of foreign currency loans to private households is necessary.

For this purpose, the FMA – with regard to the Limitation of banking risks within the meaning of § 39 BWG and in accordance with their legal order, in the fulfillment of their tasks on the economic interest in a functional banking and financial market stability (section 69 para. 1 BWG) – to supplement their relevant minimum standards, the FMA-FX-MS and FMA-TT-MS. One of the central goals is a sustainable reduction in the nationwide total volume of foreign currency loans to consumers, whereby foreign currency loans must lose their status as a standardized mass product. This supplement to the FMA Minimum Standards for the Granting and Management of Foreign Currency Loans and Loans with Repayment Vehicles (FMA-FXTT-EMS) will be published in the first quarter of 2010.

In the reporting period, 40 credit institutions from other member states notified their activities in Austria ("passive notification"). On the other Page have 32 Austrian credit institutions in the FMA notifies supervisory authorities in other member states of planned use of the freedom to provide services or the freedom of establishment ("active notification"). These figures include new notifications and changes to existing notifications during the reporting period (see Table 12).

As of December 31, 2009, four procedures for granting licenses and seven procedures for extending licenses were pending.

OWNERSHIP AND PERMIT REGULATIONS

Pursuant to section 20 para. 1 BWG, anyone who has decided to acquire a qualifying holding (10% of the shares or voting rights) in a credit institution or to increase their holding so that it exceeds the threshold of 20, 30 or 50% of the shares or voting rights is obliged to notify the FMA

to display. The same applies if the stated thresholds are to be undershot through sale.

The FMA must prohibit the intended participation within 60 working days if the new owners do not meet the requirements in the interest of sound and prudent management of a credit institution (section 20 para. 2 in conjunction with section 20b BWG). For example, there must be no doubts about the personal reliability of the new owners or the intended managers.

Furthermore, the new ownership structure must ensure continued compliance with the supervisory provisions afford. If the FMA meets within the period of 60 ares

If no decision is made within a few days, the purchase is deemed to have been approved.

In 2009, the FMA received 38 notifications of the planned acquisition of ownership of a domestic credit institution. Of these, 26 ended in failure

statement of ownership or a positive decision. The remaining advertisements were still being processed as of December 31, 2009. No qualifying holding has been prohibited.

In the reporting period, the FMA also approved nine mergers between credit institutions and three demergers (see Table 13).

Table 13: Notifications and permits pursuant to Articles 20 and 21 BWG

Notification or approval facts	2008	2009
Display of qualifying holdings at an Austrian bank		
in accordance with Section 20 (1) BWG	26	38
Proceedings ended by prohibition of the participation according to § 20a Abs. 2 BWG (former § 20 para. 3 BWG old)	1	0
End of proceedings due to non-prohibition or positive decision on participation pursuant to Section 20a (2) BWG (previously Section 20 (3) BWG old)	25	26
Approval of mergers in accordance with Article 21 para. 1 no. 1 BWG	8	9
Approval of demergers in accordance with Article 21 para. 1 no. 6 BWG	5	3

Model approvals

Credit institutions and groups of credit institutions based in Austria have been able to use internal models to calculate their regulatory capital requirements in the area of credit risk (IRB) since the implementation of the so-called Basel II guidelines on January 1, 2007 with the approval of the FMA. From 2007, the IRB approach with its own estimate of the probability of default was available to them for the first time. Since the beginning of 2008, credit institutions have been able to use their own estimates of the loss given default and the conversion factors in the area of IRB, and to use the advanced measurement approach (AMA) for operational risk

Zen.

If the approval of a model is applied for purely domestically, the procedure is very straightforward: After the application has been received by the FMA, it is checked to ensure that the formal requirements are met and that the necessary documents are complete. Then the

OeNB as an expert the model on the law to check the form and suitability. The model applied for is approved or rejected on the basis of the appraisal of all documents and the OeNB's report.

In 2009, a total of 26 purely domestic models were approved.

Table 14: Model Approvals

	2008	2009
<i>credit risk</i>		
Approval for the approach based on internal ratings in accordance with Section 21a (1) BWG	14	12
Approval for the approach based on internal ratings with own estimate of the loss given default and the conversion factors in accordance with Section 21a (1) in conjunction with Section 22b (8) BWG	0	1
Preliminary or final approval for the use of the IRB approach in accordance with Section 21a (1) in conjunction with Section 103e Z 2 BWG	3	13
Authorization to use own volatility estimation (extensive method) according to 21c para. 1 BWG	2	0
Approval for internal models to determine the exposure value of transactions within the meaning of Section 21f Para. 1 Z 1-5 BWG in accordance with Section 21f Para. 3 BWG	0	1
<i>market risk</i>		
Approval for internal market risk limitation models in accordance with section 21e (1) BWG	1	0
<i>operational risk</i>		
Approval for the advanced measurement approach for operational risk in accordance with section 21d (1) BWG 1		2
<i>of this</i>		
Cross-border procedures according to § 21g para. 1 BWG	2	3

However, the official procedure is far more extensive and complex when it comes to a cross-border model permit. Applies for a parent EEA parent loan

institute a risk model for himself and his subsidiary credit institutions, the approval must be granted jointly by all the supervisory authorities concerned. The supervisory authority responsible for the higher-level credit institution (home supervisor or home country supervisory authority) plays a central role here.

The joint application by the institutions of a group of credit institutions, which is submitted to the FMA as home supervisor for a Europe-wide group of credit institutions, corresponds to the joint decision of the FMA and all other supervisory authorities responsible for the supervision of the cross-border group of credit institutions. In the

As part of a so-called structured request, the FMA asks the host supervisory authorities (host supervisors) to comment. If the positions are controversial, the FMA must work towards an agreement.

If no joint decision is reached by the competent supervisory authorities within a period of six months, the FMA alone has to make a binding decision on the application, basing its decision on the opinion of the OeNB and the opinions of the other supervisory authorities.

An essential and meanwhile proven tool

The cooperation is the so-called Cooperation Meeting, a special form of the supervisory colleges (see "Consolidating Supervision"), to which the competent host country supervisory authorities and the relevant credit institution are invited. In addition to exchanging information, further regulatory steps and the specific procedure are discussed at such meetings

is correct.

In addition to its work as a home country supervisory authority, the FMA also worked in other cross-border procedures as a host country supervisory authority listen.

In the reporting period, the FMA, as home supervisor, was able to bring three cross-border approval procedures to a positive conclusion (see Table 14).

CONSOLIDATING SUPERVISION

The Basel II Directive not only fundamentally reformed the system of banks' own funds, but also took a major step towards a coordinated European supervisory process with the concept of the Consolidating Supervisor. On the one hand, the consolidating supervisor (ie the home supervisor) of a European credit institution group has to manage and coordinate the cross-border approval procedures (see "Model approvals"). On the other hand, as the competent supervisory authority of the EEA parent credit institution, it is required to coordinate the ongoing supervision of the entire group of credit institutions as a whole

dine. In both cases, employees of European supervisory authorities meet regularly, and these meetings are called "supervisory colleges". These supervisory colleges are managed and held in close cooperation with the OeNB.

In the Cooperation Meetings, the FMA takes on a decisive coordinating role in the role of home supervisor within the framework of cross-border credit institution group-wide approval procedures for internal models that are intended to map credit, market and operational risk adequately in terms of quality and quantity, particularly with regard to the Central and Eastern European supervisory authorities

and integrating task true. On the other hand, in the role of host supervisor, she makes a significant contribution to ensuring a level playing field – i.e. fair competitive conditions.

In 2009, a central cooperation meeting was held with the FMA as home supervisor as part of ongoing approval procedures. This was attended by three supervisory authorities from other member states part.

Questions relating to ongoing supervision are discussed in the general supervisory colleges, in particular the overall risk situation and management of a group of credit institutions within the meaning of Pillar 2 of Basel II (Supervisory Review and Evaluation Process, SREP). Specifically, the problems raised in the context of ongoing supervision are discussed and brought together to form an overall view (joint risk assessment).

Within the scope of this coordination function as home supervisor, the FMA held a total of six supervisory colleges on cross-border groups of credit institutions in 2009. Representatives from a total of 13 supervisors attended the supervisory colleges authorities part.

In the course of 2009, the FMA also worked on increased institutionalization of the supervisory board

colleges. For example, negotiations were held with the other supervisory authorities on the conclusion of cooperation agreements (so-called Article 131 agreements), which are intended to define rules for each college on procedures and the flow of information. In February 2010 the first two were signed.

The importance of the supervisory colleges will continue to increase in the future, as the amended Basel II directive, which is to be implemented in Austria in 2010, stipulates that in the future colleges should also discuss the possible requirement for additional own funds and also coordinate the supervisory authorities involved in the event of a crisis.

PAYMENT SERVICES ACT

As of November 1, 2009, the Payment Services Act (ZaDiG) introduced the company form of the payment institution. Payment institutions are legal entities that are authorized to provide payment services (e.g. transfers and card payments) on a commercial basis. Since the payment institutions conduct business that was previously reserved for banks and the applicable supervisory law is closely based on that for credit institutions, the supervision of payment institutions also falls within the remit of the FMA. As of December 31, 2009, 20

Payment institutions from other EEA member states are notified of their activities in Austria. Five license procedures by domestic applicants were pending, four of which make use of the transitional provision of Section 75 (2) ZaDiG, i.e. they may already provide payment services during the ongoing license procedure. In total, 24 non-credit institutions were authorized to provide payment services in Austria (see also the special topic "The Payment Services Act", page 43).

Table 15: Fully consolidated operational subsidiary banks (as of June 30, 2009)

	Bank Austria	First Bank	RCB	BAWAG	VBAG	Hypo Alpe Adri@ther	total	
Albania			1				1	
Bosnia Herzegovina	1	1	1		2	2	7	
Bulgaria	1		1				2	
Kazakhstan	1						1	
Kyrgyzstan	1						1	
Croatia	1	1	1		1	1	7	
Latvia	1						1	
Macedonia		1					1	
Montenegro						1	1	
Poland			1			1	2	
Romania	1	1	1		1	1	5	
Russia	2		1			1	4	
Serbia	1	1	2		1	1	6	
Slovakia	1	1	1		1	1	5	
Slovenia	1	1	1	1	1	1	6	
Czech Republic	1	1	1		1	1	5	
Ukraine	1	1	1		1		4	
Hungary	2	1	2		1	2	8	
Belarus			1				1	
In total	16	10	16	1	10	6	9	68

Market presence of the Austrian

BIG BANKS IN CENTRAL

, East and

Südosteuropa

The region of Central, Eastern and Southeastern Europe (CESEE) did not lose importance for Austrian banks over the course of 2009. So were with the end of June

2009 around 35% of all Austrian bank assets in this region. As in the previous year, this had a markedly positive effect on the consolidated results, as a large part of the profits were made in CESEE was generated.²

At the end of the first half of 2009, Austrian banks reported 68 fully consolidated operative subsidiary banks from a total of 19 countries in CESEE.

Table 15 shows the breakdown by country and bank.

The aggregated total assets of the Austrian Subsidiary banks reached in the third quarter of 2008 after a growth compared to the previous one

² Reported figures based on unconsolidated data (Comparison of CESEE data with group levels).

year by almost 30% with around € 272 billion new high point. As a result of the financial market crisis, exposure in Austria fell by around 6% to EUR 257 billion in the first half of 2009 the average market share in CESEE at et which stabilized over 15%.

The focus of its operations in CESEE Austrian banks have entered the Zen submarket

Central and Eastern Europe (CE: Hungary, Czech Republic, Slovakia and Poland). Although this region's share of the entire CESEE banking market is only about one third, Austrian banks are represented with almost half of their CESEE assets in the CE region. As a second

The most important area for Austrian banks can be classified as the South and Southeast Europe (SEE: Balkans, Romania, Bulgaria and Slovenia) market, which – despite its smaller share of the overall CESEE banking market – accounts for 38% of Austrian assets.

This relation is independent on the market today gigantic former republics of the Soviet Union (Commonwealth of Independent States, CIS: Weiss

Russia, Kyrgyzstan, Kazakhstan, Latvia, Russia, Ukraine) pronounced in the opposite direction:

Although the CIS accounted for about half of the total CESEE bank assets, Austrian banks only hold around 16% of their assets in re

gion (see charts 20 and 21).

Measured against the total balance sheet total of Austrian

In terms of subsidiary banks, the country comparison shows the outstanding importance of the following markets in particular: Czech Republic (total assets EUR 54.7 billion), Croatia (EUR 33.1 billion) and Romania (EUR 32.0 billion).

The three largest subsidiary banks in the region made a decisive contribution to this result: the Czech Čyeská Sporýitelna as, the Romanian Banca Comercialăy Românaý S. A. – both subsidiaries of

Erste Bank – and Zagrebacýka banka dd (UniCredit Bank Austria). Together with Hungary and Slovakia, these five countries account for around 68% of Austria's total involvement in CESEE (see chart 22).

Compared to the previous year, there was a clear change in the geographic allocation of the profits generated. In the first half of 2009, the CIS region's share of total CESEE profits (after taxes) fell by around 15 percentage points year-on-year.

On the other hand, the SEE share increased significantly by 13 percentage points and the CE share developed more steadily (plus two percentage points, see chart 23 on the following page). The reasons for this development can be found on the one hand in the noticeably increased credit risk costs, which were caused in particular by the economic difficulties of some former Soviet republics. On the other hand were due to greater heterogeneity in SEE

(keyword risk diversification) more stable income streams possible.

At country level, the Czech Republic made the largest contribution to the period result of all Austrian banks in the region, at almost 28%.

Romania had the with just over a fifth second largest share, followed by Croatia (17.5%) and Russia (7.4%). Ranked by the size of the market share of Austrian subsidiaries in CESEE, Croatia was first, Bosnia-Herzegovina second

Chart 20: Percentage by region across the CESEE banking market in 2009

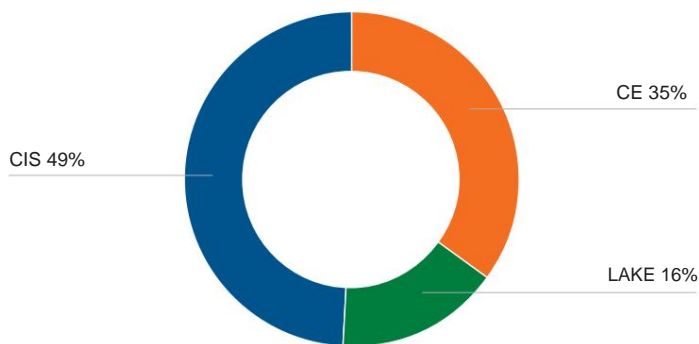


Figure 21: Distribution of Austrian banks' assets in CESEE 2009

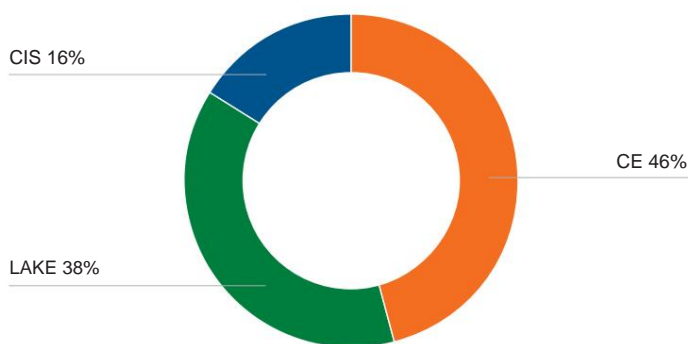


Chart 22: Total assets as a percentage of the total CESEE exposure per country (as of the end of June 2009)

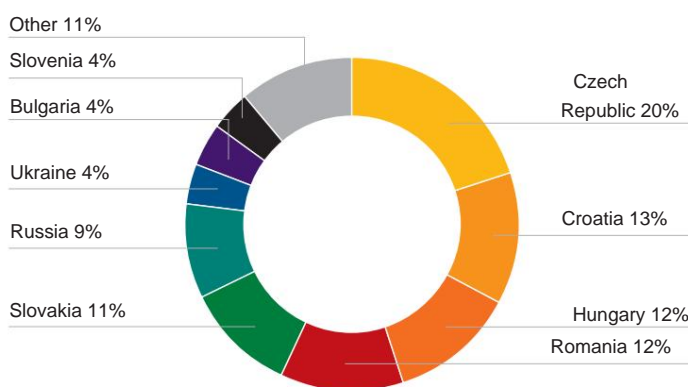
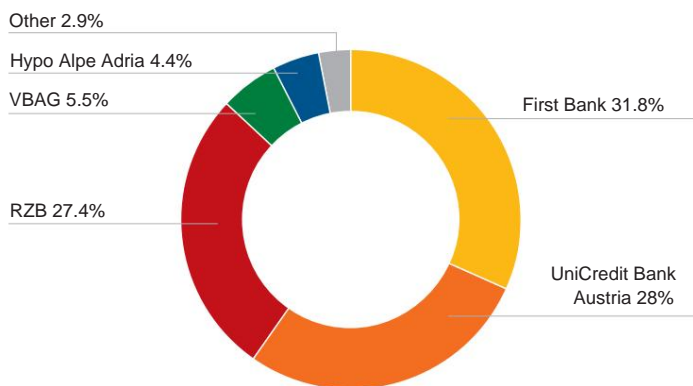


Chart 23: Breakdown of profit for the period in CESEE 2008/2009



Chart 24: Shares of Austrian banks to CESEE foreign subsidiaries (as of the end of September 2008)



and Slovakia in third place. The Austrian

Subsidiaries that have contributed most to the size of these market shares in each country are Zagrebačka banka dd (UniCredit Bank Austria), Raiffeisen Bank dd Bosnia i Hercegovina (RZB) and Slovenská sporiteľňa as (Erste Bank).

As can be seen in chart 24, the lion's share of slightly more than 87% of the total balance sheet total of the Austrian subsidiary banks is in CESEE

to Erste Bank, Raiffeisen Zentralbank and UniCredit Bank Austria.

The CESEE commitment of the Austrian banks became the focus of interest in 2008 when the financial market crisis spread to Europe. The increasing risk aversion of investors

and letting Iceland's problems become known

Greater attention has been paid to countries with large external imbalances, which has led, among other things, to a reassessment of the associated risks. Since the first quarter of 2009, when both the CESEE currency basket³ reached its low point and the CDS spreads of the CESEE sovereigns (the risk premiums for the country risk) reached their high point, a clear easing became noticeable as the year progressed.

Although, from an Austrian perspective, the ultimate risk vis-à-vis CESEE has steadily declined since the end of 2008, the continued increase in CDS spreads for CESEE sovereigns indicates that tensions exist.

³ Calculated index intended to reflect the development of currencies in CESEE

MONITORING OUR EMPLOYEES - AND SELF-EMPLOYED PROVISION INSURANCE

LEGAL BASIS

D The activities of the company pension funds are made by the operational staff

Since the acceptance and investment of severance pay contributions is standardized in the BMSVG as a banking transaction according to § 1 Para. 1 Z 21 BWG, the Banking Act (BWG) also applies to these, unless they are expressly excluded from it. In addition, the FMA has to implement the Company Provision Funds Quarterly Reporting Ordinance.

Significant changes

in the basics in the annual report

The publication in the Federal Law Gazette (Federal Law Gazette I No. 152/2009) created the legal basis for the possibility of an HTM valuation (held to maturity) of certain assets of an investment community, as a result of which the FMA has to adapt the company provision fund quarterly reporting ordinance (BVQA-V): company pension funds can thus be funded directly or indirectly via special funds, government bonds and bonds held by credit institutions at their amortized cost or their amortized market value at the time of dedication using the effective interest method. In contrast to the provisions in the Pensionskassen Act, which are largely the same, this right for company provident funds has also been extended to include investment grade corporate bonds (corporate bonds with good credit ratings).

MARKET DEVELOPMENT

The severe recession of 2008 was still raging noticeable in the first quarter of 2009. Only in the second quarter there was a reversal, and the global economy

shank was able to increase again. From this point in time, the mood on the financial markets was generally positive, which lasted until the end of 2009 stayed.

Development of the supervised person

Markets in the annual report

The assets of the nine company employee and self-employed provision funds (BMSVK) in their investment communities totaled around € 2,829.64 million as of December 31, 2009 (see chart 25).

As of the reporting date December 31, 2009, the number of accession contracts based on the employer account numbers from the employee pension scheme was 411,878 and from the self-employed pension scheme 338,708, whereby one employer can be assigned several employer account numbers (see chart 26 on the next page). In 2009, the company provident funds received regular contributions of €683.19 million from employee pension schemes and €102.91 million from self-employed schemes.

Chart 25: Total assets of the company Provident funds 2003–2009 (in billion E)

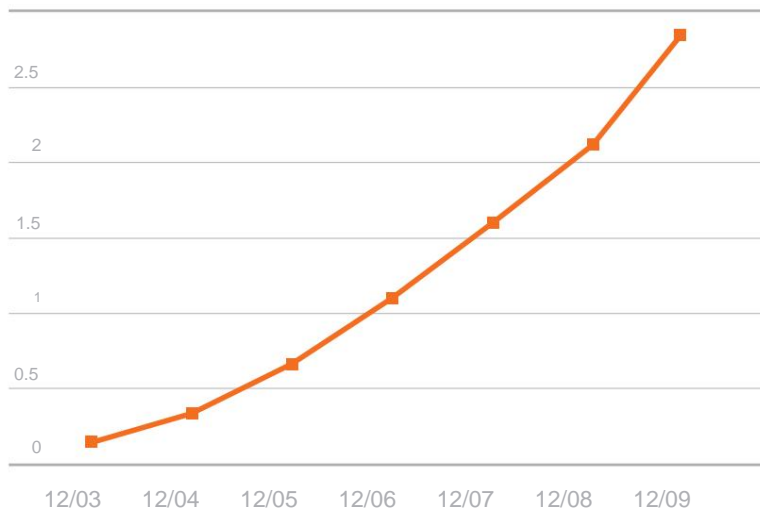
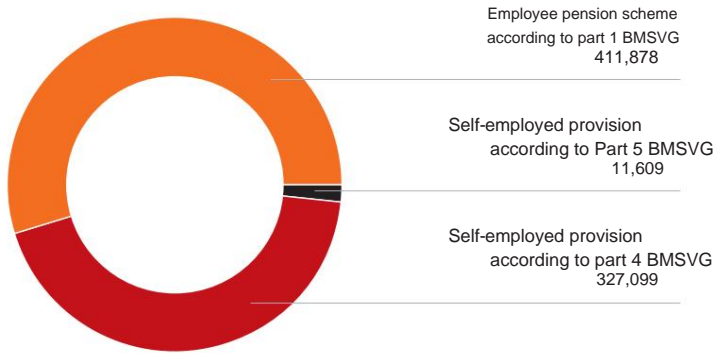


Figure 26: Number of accession agreements in 2009

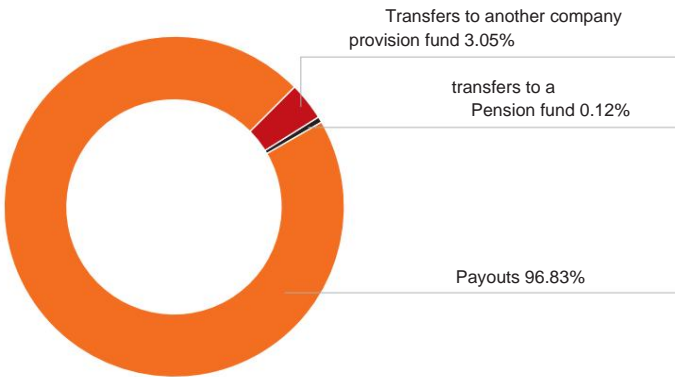


Since January 1, 2004, €419 million has been paid to 585,772 eligible paid. In the same period, 21,993 beneficiaries transferred their entitlements totaling around €17.06 million to another company pension fund, and

125 people transferred the funds to a pension fund or supplementary pension insurance. In 2009, the majority of the severance pay entitlements were paid out as a lump sum (see chart 27).

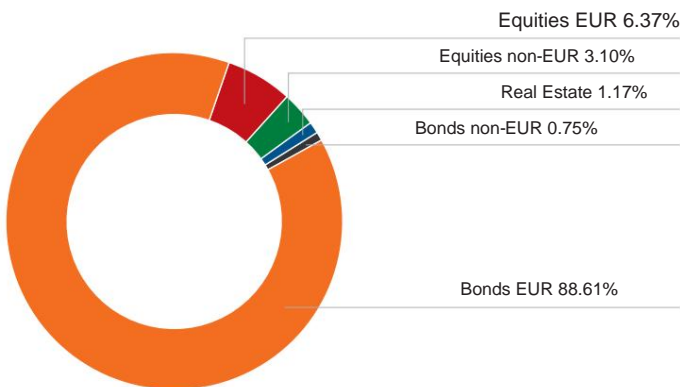
For reasons of cost, in the 2009 financial year the company provident funds resorted to the services of third parties, which were offset against corresponding contracts.

Diagram 27: Dispositions of the beneficiaries in 2009 (according to Article 17 BWG)



According to the law (§ 24 Para. 1 BMSVG), company provident funds are obliged to guarantee the severance pay contributions that have been paid, any transferred old severance pay entitlements as well as severance pay entitlements transferred from another company provident fund. This guarantee is referred to as a capital guarantee. Pursuant to Section 24 (2) of the Federal Ministry of Health and Human Services there is the possibility that company provident funds will grant an interest rate guarantee that goes beyond this minimum. Such an interest rate guarantee was offered by ÖVK Vorsorgekasse AG up until the end of the 2005 financial year. This was 3% net.

Chart 28: Investment instruments of company provision funds in 2009



Most of the company provision funds invest conservatively with regard to the statutory capital guarantee. It is mostly invested directly or indirectly through mutual funds in bonds

invested (see chart 28). As of December 31, 2009, the average performance of the company provision funds was 3.65%.

Most company provident funds take sustainability criteria into account when making investment decisions. Many involve an investment advisory board in the investment process.

PUBLIC ACTIVITY

P respective companies /
Concessionary

As of December 31, 2009, nine company provident funds were licensed. Currently manages each of the nine

Company provident funds each have a single investment community.

With the granting of the license, the occupational provident funds are subject to the ongoing supervision of the FMA, which is responsible for supervisory procedures and for

Notifications and reports according to the BWG responsible.

The FMA must therefore also check the suitability of the directors (fit & proper test). Furthermore, the FMA must approve the creation and any changes to the investment regulations.

In 2009, two changes to the assessment provisions were applied for and approved. Compliance with the own funds regulations of § 20 BMSVG is subject

the supervision of the FMA as well as that of the organisers 30 BMSVG. Appointment and change of custodian bank also require FMA approval.

Ongoing supervision

reporting / reporting

and sources of information

In order for the FMA to be able to fulfill its tasks, the company provident funds are subject to extensive reporting obligations.

Within four weeks after the end of each calendar quarter, the company provident funds must submit reports to the Oesterreichische Nationalbank (OeNB) on their quarterly statements in accordance with BVQA-V. The BVQA report contains information about own funds and the statement of assets of the investment community.

Furthermore, the company provident funds must submit the audited annual financial statements, the appendix to the audit report, the audited statement of accounts of the investment community and the audit report on the statement of accounts. further

the state commissioners employed in the company provision funds must submit regular reports, which are systematically evaluated.

Company provident funds are subject to the reporting provisions of the Austrian Banking Act.

P u b l i z i t y obligations

The beneficiaries are annually in the form an account message about the last balance sheet date

severance pay entitlement acquired on the day, the contributions made by the employer for the financial year, the cash expenses and administrative costs to be borne by the beneficiary, the allocated investment results and the total severance pay entitlement acquired. The FMA

has minimum standards for the design of the account information published.

The annual reports of the investment communities are made available to the contributors upon request employers and the relevant works councils averages

On-site inspection and on-site inspection

The Financial Market Authority has a number of supervisory measures such as B. In and Out future rights or rights of prohibition and intervention as well as the ordering of an on-site inspection to be carried out by the OeNB. In 2009, a comprehensive on-site inspection was carried out at a company provident fund. A special audit was carried out for all nine company provident funds.

I n f o r m a t i o n talks

The FMA regularly invites the representatives of the company provision funds to an information meeting. In the information meetings, the managers report, among other things, on the development and results of the past year, investments, organizational changes, deviations from the business plan and any concerns. In 2009, informational talks were held with all nine company provident funds.

Supervision of official procedures

In 2009, due to violations of the provisions of the BMSVG, no supervisory proceedings pursuant to Section 70 (4) BWG had to be initiated to restore the lawful state of affairs. However, as a result of a past inadmissible investment in a company provision fund, (penalty) interest was to be stipulated in accordance with Section 43 (1) no. 2 BMSVG.

OVERVIEW OF pension funds

Legal basis

The pension fund system is one of several possible forms of company pension schemes in Austria. In addition to state and private provision, company pension schemes represent an independent (second) pillar of the Austrian system of old-age provision.

The basis of the pension fund business is a valid contract between an employer and a pension fund. This contract is based on a company agreement between the employer and his employees or the works council. In this contract, the employer undertakes to make regular contributions to the pension scheme of its employees

pay.

The pension funds manage the assets in trust of the so-called expectant and benefit beneficiaries (AWLB). Entitled beneficiaries are those people who are in the savings phase, in which contributions are paid by the employer – and optionally also by the employee himself. Those entitled to benefits, on the other hand, are those who use the pen

have achieved the right to join and thus already have one receive a company pension from the pension fund.

The assets built up through the contribution payments are managed by the pension funds in what are known as investment and risk communities (VRGen) – groups of at least 1,000 beneficiaries each. In these IRGs, the actuarial risks are balanced and the assets are invested in the same way. The assets themselves represent special assets

and is therefore the Pensi in the event of bankruptcy onskasse protected.

With regard to the structure of the pension fund commitments, a distinction can be made between two models: the defined benefit and the defined contribution

oriented pension fund model. In the defined benefit model, the amount of the pension benefit is determined. Depending on the result of the asset investment, the amount of the employer's contribution varies in order to be able to service the agreed benefit. In the defined contribution model, on the other hand, the amount of the employer's contribution is determined. The amount of the pension benefit depends on the actuarial result and the performance of the investment. In contrast to defined benefit systems, beneficiaries in defined contribution systems participate in the additional income from good years of investment, but also bear the risk of poor years of investment.

market development

On the Austrian pension fund market around €13.7 billion under management as of December 31, 2009. In the year under review, the assets were managed in a total of 134 investment and risk sharing groups, 13 of which were in company pension funds. Chart 29 shows Pensi's market shares

onskassen based on the respective assets under management, whereby the total assets under management of the company pension funds are summarized in this table:

The company pension funds manage in total around 15% of the assets of all pension funds. The three largest market participants – VBV Pensionskasse AG, ÖPAG Pensionskassen AG and APK Pensionskasse AG – together hold a stake of more than two third of the market.

For company collective insurance (BKV) – another form of company pension scheme in Austria, which is however only operated by insurance companies – the administer

te assets in 2009 to € 411.6 million. This corresponds to around three percent of the total assets of the pension funds.

The number of beneficiaries as of December 31, 2009 was 742,389, of which 8.37% were already receiving pension benefits.

The majority of around 91.63% is therefore still in the savings phase and is therefore only entitled to a pension benefit. Company pension funds manage the assets of 32.23% of all beneficiaries. Table 16 shows the breakdown of people in the pension fund system into beneficiaries and beneficiaries on the one hand and those from the company on the other

and inter-company pension funds on the other hand clearly presented again.

Of all dependent employees in Austria¹

As of December 31, 2009, around 19.89% were entitled to a pension from a pension fund. This ratio increased by almost seven percentage points in the 2009 reporting year due to the increase in the number of persons entitled to entitlements and benefits.

Managed by the Austrian pension funds

te assets increased from 2008 to 2009 by around 17.12% to €13.7 billion. The change in assets is mainly due to contribution payments, pension benefits, inflows from newly concluded pension fund contracts and the result of the asset investment. Chart 30 shows the development of assets under management in the Austrian pension fund market from 1990 to 2009:

Since 1990, the managed by the pension funds has been growing te assets steadily. However, this time series also shows two phases of constant to negative development from 2000–2002 and 2007–2008, which is not last to those prevailing in these periods is due to capital market crises. The recovery of the capital markets over the course of 2009 is again reflected in a strong increase in assets. The relatively weak increase in the assets of company pension funds is largely due to the fact that in recent years some company pension funds have been split into inter-company pension funds

sion coffers have risen. In addition, at the end of 2008 what was then the largest company pension fund was converted into an inter-company pension fund.

¹ Average number of employees in 2008 according to the Main Association of Social Insurance: 3.42 million

Figure 29: Pension funds' market share (as of December 31, 2009, source: FMA)

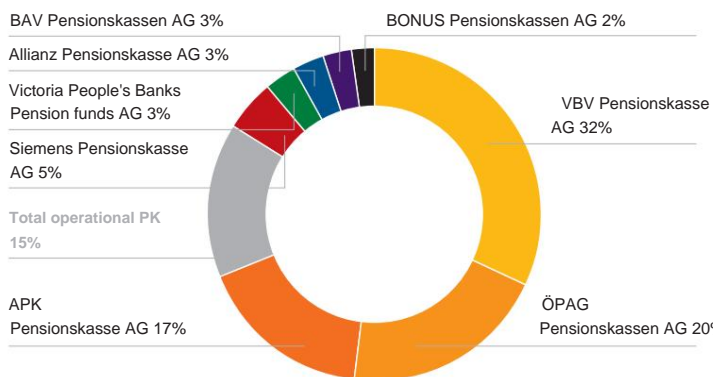


Table 16: Number of entitlement and Beneficiaries (as of December 31, 2009, source: FMA)

deferred benefit aggregate	legitimate	legitimate sum	
operational	232,162	7,125	239,287
intercompany	448,065	55,038	503,102
In total	680,227	62,163	742,389

Figure 30: Pension fund assets 1990–2009 (in billion E, source: until 2001 BMF, from 2002 FMA)

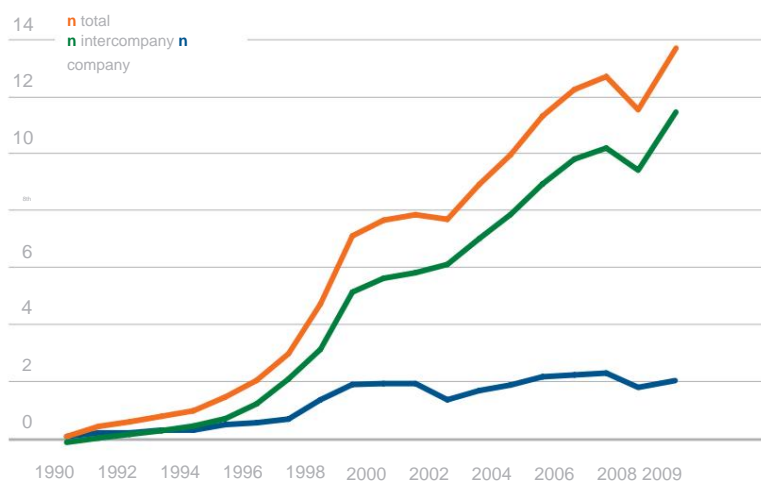


Chart 31 (on the following page) shows the development of the number of beneficiaries from 1991 to 2009.

From 1991 to 2009, the number of Anwart business and beneficiaries steadily increased. In 2009 the number of entitlements increased

Diagram 31: Persons entitled to entitlements and benefits 1991–2009
(in people, source: until 2001 BMF, from 2002 FMA)

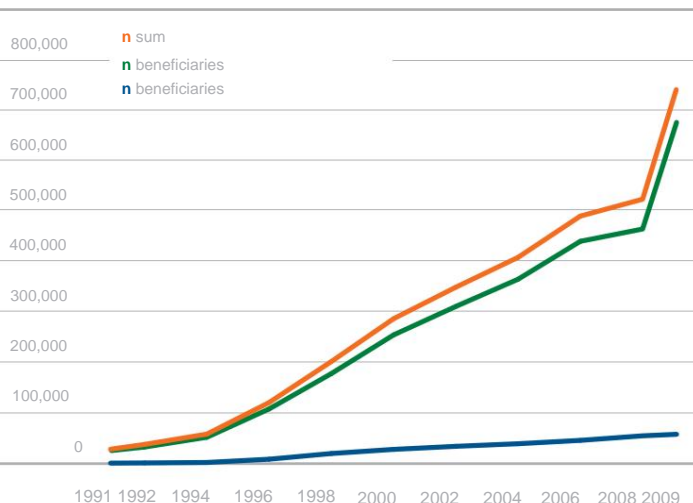


Table 17: Performance of the pension funds 2006-2009 (Source: OeKB)

pension funds	2006	% performance in			3 years pa	5 years start father	
		2007	2008	2009			
operational	6.75	1.82	-17.69	12.60	-1.91	2.83	4.14
intercompany	5.25	1.97	-11.82	8.41	-0.84	2.58	3.32
In total	5.55	1.95	-12.94	9.00	-1.09	2.61	3.59

Table 18: Performance by OeKB investment class
(as of December 31, 2009, source: OeKB)

assessment class	wealth in %	Average share in %	performance 2009
defensive	4.98	11.09	7.07
conservative	11.56	15.73	6.04
balanced	27.41	26.78	9.04
active	25.67	34.65	9.13
dynamic	30.38	38.81	10.46
in total	100.00	30.36	9.00

eligible by around 223,095 compared to the previous year to currently 680,227. This corresponds to an above-average increase of 48.80%. This major change is largely due to newly concluded pension fund contracts

Pension fund with over 150,000 and two over operational pension funds with a total of over 60,000 attributed to new beneficiaries. The number of all beneficiaries increased by 4,430 to 62,163 compared to the previous year.

Performance and Asset Allocation of the pension funds

Oesterreichische Kontrollbank AG (OeKB) calculates the investment performance on a quarterly basis on the basis of the investment data transmitted by the pension funds. Table 17 shows the performance for 2009, broken down into that of company and intercompany pension funds

sen, expelled. For comparison, the relevant values of the last three years and also the

Yields shown per annum over the last three, five and ten years and since OeKB performance calculations began in 1998.

The asset management of all pension funds

in 2009 aimed an average return of 9% The performance of company pension funds

In the year under review, at 12.60%, sen was more than four percentage points higher than that of the 8.41% of companies. This difference is due, among other things, to the traditionally stronger predisposition of the company pension funds in shares or investments bonds with higher volatility. Over the last five years, the pension funds have achieved an average return of 2.61% per year. Over this longer period, the difference between company and cross-company pen

sion funds around 0.25 percentage points per year. OeKB divides the investment and risk communities into five investment classes depending on the degree of their investment in shares: defensive, conservative, balanced, active and dynamic. These attributes become the VR

2 The performance and asset allocation data refer to the reporting date of December 31, 2009. Due to possible subsequent correction reports after the FMA annual report has been completed, marginal changes cannot be ruled out. The data relating to contributions, benefits, actuarial reserves and equalization reserves refer to the 2008 annual financial statements (as of December 31, 2008).

Gen are assigned by the pension funds themselves, depending on the focus of their investment. Table 18 shows the distribution of the assets across these five investment classes, their actual proportion of shares as of December 31, 2009 and their performance

grasslands.

The second column of Table 18 shows the percentage of the assets of all investment and risk sharing groups that shows the distribution of the IRGs across the five investment categories. The third column shows the average equity share and the fourth column shows the performance of the respective asset class.

Accordingly, 30.38% of the assets of all pension funds are attributable to the "dynamic" asset class. the actual

The proportion of shares in the VRGen allocated to this investment class was 38.81% on average as of December 31, 2009, and their performance averaged 10.46%.

Insurance data

The average annual employer contribution per beneficiary was €1,274 in 2008, and the average annual pension payment per beneficiary was €7,592. In 2008, an average actuarial reserve of €15,640 was created for each beneficiary. An average actuarial reserve of €90,737 could be allocated to the beneficiaries. The average equalization reserve was €87 in 2008, which means a reduction of around 90.54% compared to the previous year. In Table 19, these values and their percentage change are clearly shown again.

Fluctuation reset

In the case of occupational pensions in the defined contribution system, fluctuations in the investment success and the actuarial result of an investment and risk sharing group can lead to annual fluctuations in the development of assets and thus also to volatile pension benefits. In order to avoid these fluctuations or to keep them as low as possible, the legislator provides for the equalization reserve as a compensation mechanism.

The equalization reserve is funded from the part of the interest that exceeds the arithmetical surplus determined according to the business plan of the investment and risk community. According to According to the Calculation Parameters Ordinance, which is to be applied to pension fund contracts concluded after December 31, 2003, the calculated surplus can amount to a maximum of 5.50%. If the actuarial surplus is not reached, the missing part is taken from the equalization reserve. If the equalization reserve is used up and the actuarial interest rate³ is not reached, the assumed or expected pension based on the actuarial interest rate may be reduced come.

³ The actuarial interest rate is the interest rate on which the calculation of the expected benefits or the necessary contributions is based, and thus represents anticipated investment income. In accordance with the Actuarial Parameters Ordinance, which is to be applied to pension fund contracts concluded after December 31, 2003, the actuarial interest rate can be a maximum of 3.50%. The difference between the actuarial surplus and the discount rate is used to increase the actuarial reserve and pension payments. The application for approval must be accompanied by a report by the auditor who must examine the business plan and any changes to the business plan.

Table 19: Actuarial data (as of December 31, 2008, source: FMA)

entitlement benefit code entitled	2008 in E		Change to 2007 in %	
	entitled		entitlement beneficiaries	
Average actuarial reserve	15,640	90,737	-8.09	-5.35
Average employer contribution	1,274	-	8.47	-
Average pension benefit	-	7,592	-	-1.44
Average equalization reserve	87		-90.54	

Chart 32: Equalization reserve 1990–2008
(in E million, source: until 2001 BMF, from 2002 FMA)

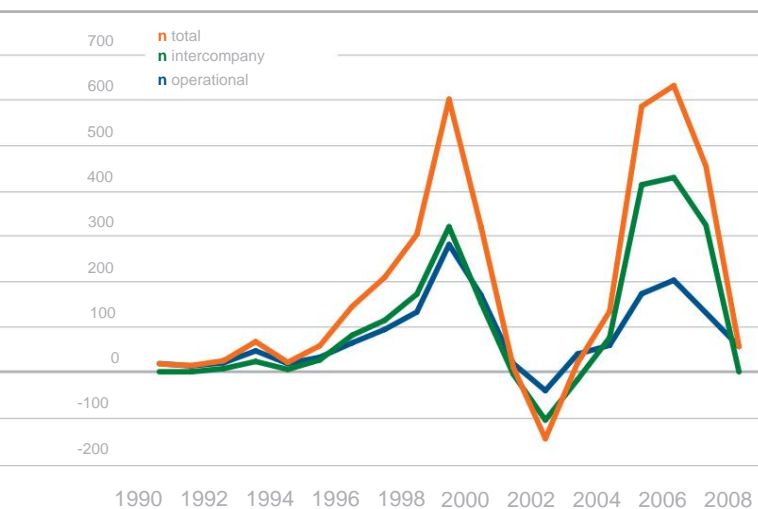


Chart 32 shows the development of the equalization reserve from 1990 to the end of 2008.

The equalization reserve was built up continuously up to the year 2000. With the slump on the capital markets in the years 2000 to 2002, this reserve was quickly used up and in 2002 even slipped into the red. This means that there were fewer assets on the assets side of the balance sheet than were required based on the development of the liabilities side. Such an underfunding was possible until December 31, 2004 due to a legally anchored regulation regarding the formation of a negative equalization reserve – and in principle only for beneficiaries.

The high investment income from 2005 to 2007 caused the Schwan to be rebuilt quickly protection provision, so that at the end of the 2006 financial year the capital market slump at the beginning of the century could be compensated for. In the last two years, not least because of the capital market crisis around 2008, the equalization reserve was almost completely used up again.

Official activity

Pursuant to Section 2 (4) FMABG, the tasks of the pension fund supervisory authority include exercising the official tasks and powers that are regulated in the PKG and the Company Pensions Act (BPG) and the

assigned to FMA. As stipulated in Section 33 (2) PKG, the FMA must monitor compliance with the provisions of this Federal Act. Included has them both on the economic interest in the functionality of the pension funds as well as the interests of the beneficiaries and beneficiaries. The key powers of the FMA are defined in Article 33 (3) PKG. To fulfill this task, the FMA can also conduct its own audits.

Grant , Withdrawal and Redemption
of concessions

Companies domiciled in Austria that have received a corresponding license from the FMA are authorized to operate pension fund business in Austria. This is to be granted if the requirements standardized in the PKG are met. These include, in particular, sufficient equity, the submission of an approvable business plan that includes suitable actuarial bases, and the suitability of the members of the Management Board and the shareholders. The legal form of a stock corporation is also one of the prerequisites for

a concession.

In 2009 there were no applications for the issuance of a Concession. In December 2008 the Siemens Pensionskasse AG, pursuant to Section 8 (1) PKG, has been granted the license pursuant to Section 4 PKG to operate the pension fund business for beneficiaries from multiple employers (inter-company pension fund). Previously it was a company pension fund

employed.

Effective January 1, 2010, the VRG is the Wüstenrot Pensionskasse AG to VBV Pensionskasse AG and those of Unilever Pensionskasse AG to ÖPAG Pensionskassen AG has been transferred. Wüstenrot Pensionskasse AG decided in 2009 to dissolve the stock corporation, which has already been approved by the FMA. The license will expire when the pension fund business ends in the course of 2010. The Unilever Pensionskasse AG has decided to give up the pension fund business and therefore intends to give up the license in the course of 2010.

S prudent companies

There are two different forms of pension funds to differentiate between cash registers:

Company pension funds: These are authorized to conduct pension fund transactions for beneficiaries of a single employer or employer.

group to carry out. Company pension funds

were mostly founded as subsidiaries of international corporations. On the one hand, employees should be able to be offered benefits from their "own" pension fund, on the other hand, this also allows the sponsoring company to have a greater influence on the investment and structuring of the conditions. In the 2009 financial year, the following Un

companies obtain a concession for the operation of be

operational pension fund transactions:

- Federal pension fund AG
- EVN Pensionskasse AG
- Generali Pensionskasse AG
- IBM Pension Fund AG
- Infineon Technologies Austria Pensionskasse AG
- Porsche Pension Fund AG
- Shell Austria Pensionskasse AG
- Social Insurance Pension Fund AG
- Unilever Pension Fund Ltd
- Chamber of Commerce Pensionskasse AG
- Wüstenrot Pensionskasse AG

Inter-company pension funds: These can

conduct pension fund transactions for beneficiaries from multiple employers.

In the 2009 financial year, the following companies had such a concession:

- Allianz Pensionskasse AG
- APK Pensionskasse AG
- BAV Pensionskasse AG
- Bonus Pensionskassen AG
- ÖPAG Pensionskassen AG
- Siemens Pension Fund AG
- VBV Pensionskasse AG
- Victoria-Volksbanken Pensionskassen AG

On-site tests

On-site inspections were carried out at four pension funds in the 2009 reporting year (see Table 20). check

The main areas of focus were the management of the equalization reserve and the calculation of the investment funds held for asset management.

The instrument of the on-site inspection, which has proven itself for years with banks and insurance companies, has therefore also been used and continuously optimized for pension funds since the FMA was founded.

In addition to the on-site inspections, the FMA management talks at the pension funds.

These have been with the company since 2009

regularly, during which current economic and regulatory issues are discussed with the Management Board. The results of the analysis of the annual financial statements and the resulting questions also form a focal point of these talks.

Ongoing Analysis

The most important activities within the framework of the mandate of the FMA include the ongoing analysis of the development of the pension fund market and the individual pension funds and VRGen as well as the verification of compliance with the standardized investment limits in the PKG, the coverage of the technical provisions and the sufficient availability of the prescribed own funds. For these goals, quarterly data on asset investment and annually the audited annual financial statements of the pension funds, the audited reports of the VRGen and the associated audit reports of the auditors are available.

Table 20: On-site activities 2006-2009

	Number 2006	Number 2007	Number 2008	Number 2009
on-site examinations				
unscheduled	4	3	2	4
according to the test plan	0	0	1	0
insight				
according to the test plan	0	7	0	0
management talks				
according to the test plan	7	7	7	25
company visits				
unscheduled	14	11	11	0
according to the test plan	0	1	2	0

SUPERVISION OF INSURANCE COMPANIES

LEGAL BASIS

D The insurance supervisory authority has to monitor the entire business conduct of the insurance companies, in particular compliance with the statutory provisions, as well as the asset, financial and earnings situation of the insurance companies. In accordance with the principle of home country supervision, this activity covers the entire European Economic Area (EEA).

The central tasks of insurance supervision are safeguarding the interests of the insured and, in particular, ensuring that the insurance companies can meet their obligations under the insurance contracts at all times. The official tasks and powers of the FMA are essentially regulated in the Insurance Supervision Act (VAG) and in the Motor Vehicle Liability Insurance Act 1994 in the currently valid versions as well as in the associated ordinances.

Within the scope of its powers, the FMA issues ordinances and publishes minimum standards and circulars as required.

LEGAL ADJUSTMENTS 2009

In the amendment to the VAG, among other things, New cover pool department implemented for investment-oriented life insurance in accordance with Section 20 (2) Z 4a VAG. The capital investment-oriented life insurance is a classic life insurance with a special design and allocation of the capital investment, which differs from the classic cover pool according to § 20 Para. 2 Z 1 VAG and gives the insurance company the opportunity to create different investment profiles within the framework of the classic life insurance. A key feature of this product group is the capital guarantee.

Furthermore, the provisions on the be

Group insurance for drivers was adjusted and the procedures for the acquisition and sale of qualifying holdings were specified.

In 2009, the Ordinance of the FMA on capital investments to cover technical provisions by contract insurance companies (Capital Investment Ordinance – KAVO) was expanded to include the introduction of a concentration limit for assets of the same group of companies in the amount of

10% of the requirement expanded. Additionally became

Among other things, it was stipulated that the appropriateness of the purchase price of real estate and property-equivalent rights entered in a public register can only be proven by an appraisal report by a generally sworn court expert.

In an accompanying amendment to the Ordinance of the FMA on the keeping of registers for the assets used to cover the technical provisions by contract insurance companies (Register Ordinance), the changes to the KAVO were adopted in the reporting system and additionally MeI

ments regarding asset-backed securities (ABS) expanded.

The European Union is planning a cross-sector framework guideline on packaged retail investment products (PRIIPs) on the subject of information obligations. The aim is greater protection for investors, improved product information, regulations for the sale of such products and the comparability of products. These goals are to be achieved with a uniform product information

tion sheet can be reached. In terms of sales

The Markets in Financial Instruments Directive (MiFID) and the UCITS Directive (Undertakings for Collective Investment in Transferable Securities) regarding information requirements are seen as benchmarks.

Excursus: REVIEW OF INFORMATION OBLIGATIONS IN LIFE INSURANCE

In 2009, the FMA conducted an almost nationwide focused review of compliance with the information requirements of insurance companies that offer life insurance. In contrast, individual companies had previously been checked for compliance with all information obligations. Through the comprehensive review, the FMA was able to obtain a timely overview of compliance with essential information obligations.

In particular, compliance with the FMA minimum standards published in 2004 for the Information obligations in life insurance (revised and supplemented in 2008 and 2009). Reasons for their introduction were the specification of legal regulations, the improvement of the transparency of the products, specific information requirements for different products and the comparison

availability of the products.

One positive aspect of the review was that almost all insurance companies present the benefits as stipulated in the minimum standards for the information requirements.

The

This means that the benefit is presented in a corridor in traditional life insurance and in unit-linked and index-linked life insurance or in premium-privileged future provision with returns of 0%, 3% and 6%. The level of the actuarial interest rate is specified almost consistently and a surrender value table is also created for classic, unit-linked and index-linked life insurance.

The lack of information on the total interest rate in classic life insurance and the lack of information on the invested premium both in unit-linked and index-linked life insurance and in premium-privileged future provision were often to be criticized. Also to be criticized was the often missing information about guarantees

failures in unit-linked and index-linked life insurance and in premium-privileged future provision, where it was often not clear what the guarantee relates to, who is the guarantor and who assumes the default risk of the guarantor.

EVALUATION FACILITIES FOR INSURANCE COMPANIES

Due to the financial market crisis, amendments to the statutory valuation and own funds regulations for insurance companies were decided in 2008. Essentially, there were two permanent and two temporary changes.

The changes, which are not limited in time, relate to the valuation of investments and investment funds. Investments in insurance companies are valued as fixed assets. Devaluations are only mandatory if they are likely to be permanent.

The same applies to shares in affiliated companies, insofar as they are intended to serve business operations on a permanent basis.

According to § 81h new paragraph 2a VAG, at In

investment funds, if certain conditions are met, the securities contained therein are now valued the same as securities that are directly owned by the company. This means that investment fund shares no longer necessarily have to be devalued.

The size limitation in the right to vote according to Section 81h (2) second sentence VAG and the extent to which hidden reserves are added were temporarily changed that:

Write-downs of investments pursuant to Section 81h (2) last sentence VAG to the lower value in the event of a reduction in value that is not expected to be permanent can now be omitted insofar as the total amount of these write-downs that have not been made does not exceed the entire otherwise existing hidden net reserves of the company in the relevant balance sheet department. The valid up to the 2007 financial year

Table 21: INSURANCE DENSITY 2005-2009 (sources: FMA/premiums written, direct overall accounting; Statistics Austria)

YEAR	LIFE INSURANCE per capita		NON-LIFE INSURANCE	
	in E billion	in E	in E billion	per inhabitant in E
2005	7.03	855	8.10	984
2006	7.08	856	8.34	1,009
2007	7.09	855	8.61	1,037
2008	7.26	871	8.85	1,062
2009 (prelim.)	7.32	874	9.03	1,079

Table 22: INSURANCE PENETRATION 2005-2009 (Sources: FMA, Statistics Austria, WIFO)

	2005	2006	2007	2008	2009 (prelim.)
Premiums written (in E million, direct total calculation)	15.129	15,416	15,703	16.114	16.349
in % nominal GDP	6:21	6.02	5.80	5.72	5.71

The current restriction with twice the amount of hidden reserves is not to apply again until the 2011 financial year.

Furthermore, the limit for adding hidden reserves to own funds according to Section 73b (5) VAG has been increased from the previous 50% of the requirement to 100%.

of the requirement increased. This rule was extended for the 2010 financial year.

MARKET DEVELOPMENT

In 2009, insurance companies were again confronted with a persistently difficult economic environment resulting from the global financial crisis. In addition, hailstorms, flooding and landslides caused exceptional loss events.

INSURANCE D

INSURANCE PENETRATION

The indicators of insurance density and insurance penetration reflect the development status of a country's insurance industry. Insurance density is expressed as the ratio of premium income to the number of inhabitants. In life insurance, the insurance density increased by around 2.3% in 2009 compared to 2005. In non-life insurance, this Ver

equivalent to around 9.6%. In the 27 member states of the European Union, the average premium income per inhabitant was €2,271 in 2007, with €1,481 being spent on life insurance and €790 on non-life insurance (see Table 21).¹

The ratio of premiums to gross domestic product is defined as insurance penetration. This amounted to 5.71% in 2009 and was therefore marginally below the previous year's figure (see Table 22). In 2007, insurance penetration in the 27 member states of the European Union averaged 9.1%.¹

BUSINESS DEVELOPMENT

The volume of premiums written (direct total accounting) increased by 1.5% compared to 2008 and amounted to €16.35 billion in 2009 (see Table 23).

In life insurance, premiums rose by 0.8% to €7.32 billion, with unit-linked life insurance and index-linked life insurance posting negative growth. After a very high increase in premiums in life insurance in 2005 of 15.7% compared to the previous year to € 7.03 billion, the pre

¹ (Source: CEA Statistics N° 37, European Insurance in Figures, October 2009, Spreadsheet "Ratio indicators")

Table 23: Premiums written 2005-2009 (source: FMA)

		PREMIUMS (in E million, direct overall calculation)						IN TOTAL	
		LIFE		SUFFER		DAMAGE/ACCIDENT			
2005	+/- (in %)	7,031	15.70	1,398	3.83	6,699	5.27	15,129	9.37
2006	+/- (in %)	7,075	0.63	1,438	2.83	6,903	3.04	15,416	1.90
2007	+/- (in %)	7,093	0.26	1,484	3.20	7,126	3.23	15,703	1.87
2008	+/- (in %)	7,259	2.34	1,535	3.45	7,320	2.72	16,114	2.62
2009 (provisional)	+/- (in %)	7,318	0.80	1,591	3.65	7,440	1.64	16,349	1.46

Growth in this segment tends to be subdued in the years that follow. The life insurance boom in 2005 was due to the continued use of life insurance for old-age provision and the good development of state-subsidised future provision.

In 2009, the premium income in the Property and casualty insurance increased by 1.6% compared to 2008 to €7.44 billion. In health insurance, premium income in 2009 was €1.59 billion. Compared to 2008, this is an increase of 3.7%.

More details can be found in the published insurance statistics under the link <http://www.fma.gv.at/cms/site/DE/einzel.html?channel=CH0068> (on the website in the "Statistics" area).

FOREIGN

INSURANCE COMPANY

EEA INSURER IN AUSTRIA

The premium volume of insurance companies from the EEA that exercised the right of freedom of establishment in Austria was €327.8 million in 2007. The premium volume for EEA insurance companies that were only active in Austria in the free movement of services amounted to €580.2 million in 2007 (see chart 33).

The data from all EEA supervisory authorities is not yet available for the 2008 financial year.

THIRD COUNTRY INSURER IN AUSTRIA

The premium income of the two non-EEA insurance companies licensed in Austria

totalled € 25 million in 2009. As in previous years, the entire share of premiums was attributable exclusively to property and casualty insurance.

AUSTRIAN INSURANCE

COMPANIES IN THE EEA

Exchange : Information exchange within the EEA

Annually between the supervisory authorities in exchanged information on the premiums charged. The premiums are broken down into uniformly predefined branches, separated into life and non-life insurance, giving the national supervisory authorities an overview of the domestic

get driven business. This information out

Figure 33: Premiums generated by insurance companies from the EEA in Austria through service and branch office traffic 2004–2007 (in E million, source: reports from the EEA authorities)

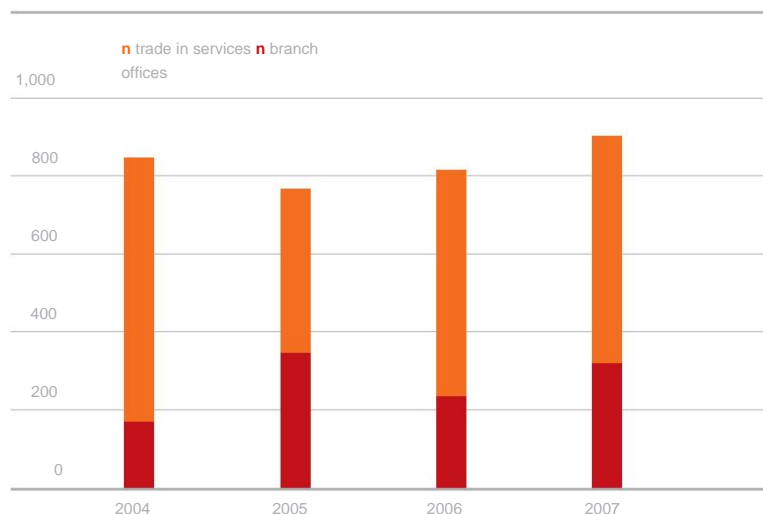
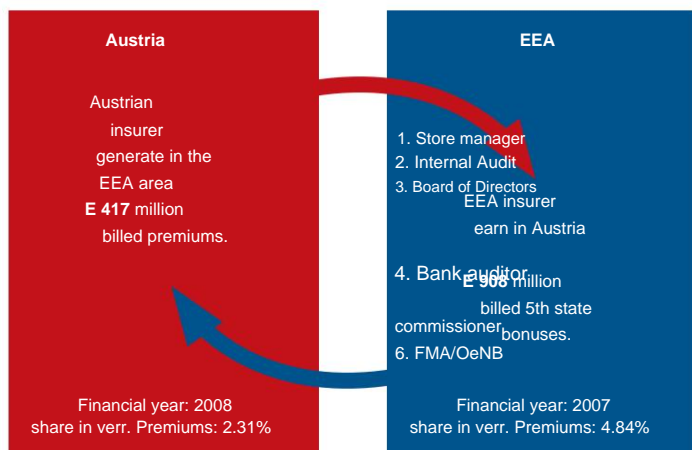


Figure 2: Development of services and branch offices in the EEA

(Source: FMA, reports from the EEA authorities)



Swap is based on the legal sources Article 44 of the Third Non-life Insurance Directive 92/49/EEC and Article 49 of the Life Insurance Directive 2002/83/EC.

Austrian insurance companies generated € 417.4 million in premiums written in the EEA (outside Austria) in the 2008 financial year (see Figure 2).

ANALYSIS OF THE ASSET STRUCTURE

At the end of December 2009, the total was all assets (cover pool values, cover values, free assets and social capital values, excluding reinsurance companies) to € 72.5 billion.

– this corresponds to an increase of 2.24% compared to the previous year. Table 24 compares the structure of the assets as of December 31, 2009 with those of December 31, 2008 (book value basis).

By far the largest part of the capital investments is made up of cover assets and cover assets – they serve to cover the technical provisions and thus to secure the obligations of insurance companies to the insured. Debt securities make up the largest share of total capital investments – at 49.55% they are slightly above the previous year's level. The share ratio (listed shares, share funds, share risk share of mixed funds) was 4.24% as of December 31, 2009. The expanded equity ratio (listed shares, equity funds, equity risk portion of mixed funds, unlisted shares, structured bonds without a capital guarantee, structured loans without a capital guarantee) of all insurance companies fell from 14.6% on December 31, 2008 to 13.4% on December 31, 2009.

LIFE INSURANCE

The total of life insurance assets secured as special funds (excluding unit-linked and index-linked life insurance) amounted to €51.08 billion as of December 31, 2009 – this means a decrease of 2.21% compared to the previous year.

With a value of 56.96%, bonds make up more than half of the investments in the life cover pool.

Table 24: ASSET STRUCTURE COVER POOL AND OTHER COVER ASSETS 2008/2009 (source: FMA)

COVER ASSETS (cover values, free assets and social capital, excluding reinsurance companies)	12/31/2008		12/31/2009	
	in 1,000 E share in %		in 1,000 E share in %	
debentures	34,643,372	48.85	35,921,359	49.55
Shares and participation capital listed and unlisted,				
Equity funds, equity risk portion of mixed funds	9,276,451	13.08	9,150,801	12.62
Bond funds, bond portion of mixed funds	12,310,970	17.36	12,769,091	17.61
Loans and prepayments on policies	4,294,224	6.06	4,526,345	6.24
real estate investments	4,837,209	6.82	4,980,699	6.87
hedge fund	1,041,517	1.47	709,883	0.98
Balances and cash balances	3,481,268	4.91	2,720,001	3.75
Values of the opening clause and rights from				
derivative financial instruments	1,026,343	1.45	1,719,526	2.37
total	70,911,354	100.00	72,497,705	100.00

Table 25: ASSET STRUCTURE LIFE INSURANCE 2008/2009 (source: FMA)

COVER ASSETS (without unit- and index-linked life insurance, incl. share of premium-privileged future provision)	12/31/2008 in 1,000 E Share in %		12/31/2009 in 1,000 E share in %	
debentures	29,339,223	56.17	29,093,157	56.96
Shares and participation capital listed and unlisted, Equity funds, equity risk portion of mixed funds	4,055,269	7.76	4,114,205	8.06
Bond funds, bond portion of mixed funds	8,894,998	17.03	8,889,699	17.41
Loans and prepayments on policies	3,241,979	6.21	3,121,653	6.11
real estate investments	3,251,466	6.23	3,265,975	6.39
hedge funds	848,147	1.62	602,724	1.18
Balances and cash balances	2,100,288	4.02	1,433,187	2.81
Opening clause values and rights from derivative financial instruments	497,145	0.95	554,571	1.09
total	52,228,515	100.00	51,075,171	100.00

Table 26: LEGAL FORM OF DOMESTIC INSURANCE COMPANIES 2000-2009 (source: FMA)

COMPANY	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
mutual insurance companies (except small mutual companies)	5	5	5	5	5	6	6	6	6	6
Small insurance companies	64	66	63	63	62	60	60	60	56	56
public companies	51	50	48	47	46	46	46	44	44	44
In total	120	121	116	114	112	112	112	106	106	106
insurance associations for Wealth management / private foundations	6	6	6	6	6	6	6	6	6	6

Table 27: BUSINESS AREAS OF INSURANCE COMPANIES 2003-2009 (except for small mutual companies, source: FMA)

BUSINESS AREAS	2003	2004	2005	2006	2007	2008	2009
Pure reinsurers	4	3	3	3	3	3	3
life insurer	34	33	33	33	31	31	31
health insurer	5	9	9	9	9	9	10
property and casualty insurers	43	44	44	43	43	43	42

Further changes in the asset structure are illustrated in Table 25.

The equity ratio of the cover pool across all insurance companies as of December 31, 2009 was 4.63% – the previous year's figure was 4.04%. The expanded share ratio fell from 9.6% as of December 31, 2008 to 9.07% as of December 31, 2009.

PUBLIC ACTIVITY

REGULATED ENTITIES

At the end of 2009, the FMA had 106 domestic insurance companies supervised. The number of verse

insurance company has decreased by 12% since 2000 and has remained unchanged since 2007 (see Table 26).

PUBLIC COMPANIES AND LARGE INSURANCE COMPANIES - MUTUAL PLANTS (VVAG)

A total of 50 domestic insurance companies (excluding small VVaG) were active in Austria in 2009, 6 of which were mutual insurance companies and 44 stock corporations. Of these 50 stock corporations and large VVaG be driven business areas are listed in Table 27 insight.

Composite verses traditionally prevail in Austria

Figure 3: Implementation of the country of origin principle in the Europe-wide approval for business operations from insurance companies

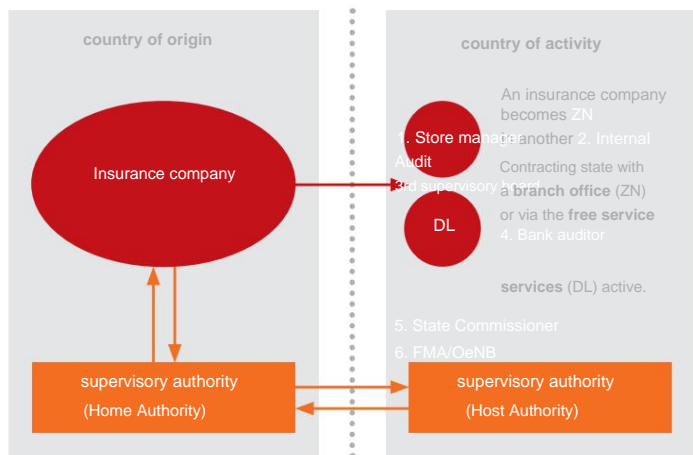


Table 28: EEA insurers in Austria 2005-2009 (source: FMA)

Registered EEA insurers 2005 2006 2007 2008 2009

via branch offices in the provision of services	24	25	26	25	23
	655	689	718	761	804

more forward. These are insurance companies that operate more than one accounting division (life insurance, health insurance, property and casualty insurance). Numerous insurance companies that operate several lines in parallel in Austria were not affected by the requirement to separate lines of business, which came into effect in Austria with the signing of the EEA Agreement (May 2, 1992), insofar as they were already active as composite insurers before the specified date and were therefore able to continue operating without restrictions.

Small VVAG

In 2008, around two thirds of the 56 small mutual insurance associations operated as fire insurance associations and around one third as animal insurance associations. There is also a reinsurance association for the small mutual insurance associations.

EEA and THIRD COUNTRY INSURERS

The single European insurance market that has existed since the beginning of July 1994 and encompasses the countries of the EEA

includes, among other things, the introduction of the country of origin principle for the Europe-wide approval of insurance companies for business operations.

According to this, Austrian policyholders or policyholders from a country of the EEA are given the opportunity to take out insurance not only with insurance companies established in Austria, but also with insurance companies that have their place of business in an EEA member state. The internal insurance market allows insurance companies that have their registered office in a member state of the EEA and already have a license there to operate in another member state in the form of services and/or branches without having to apply for a new license from the foreign supervisory authority – the “host authority” (“single license principle”).

The commencement of insurance activity in another country of the EEA must be reported to the authorities of Her of the home member state with the simultaneous submission of certain documents. Home Member State authorities are the authorities of the Member State in which the insurance company is located seat. Home country authorities then direct the vorlie documents to the host country authorities further.

Basically, the home country authority – and not the foreign supervisory authority in whose country an insurance company of a contracting state operates – responsible for supervising the insurance company (see Fig. 3).

In accordance with the country of origin principle, at the end of 2009 23 insurance companies based in countries belonging to the EEA were authorized to operate insurance companies with their own branches, and 804 were registered to provide services (see Table 28).

Of the 804, 154 were accounted for by country of origin the United Kingdom, 139 in Germany, 91 in Ireland, 50 in France, 46 in Luxembourg, 42 in the Netherlands, 38 in Italy and 33 in Sweden. Fewer than 30 insurers from each of the other EEA countries were registered to provide services in Austria.

A current list of all insurers authorized to provide services based in the EEA can be found at

QIS 4.5 – Solvency II and its quantitative impact

To give Austrian insurance companies the opportunity to prepare efficiently for the requirements of Solvency II, a national quantitative impact study, the so-called QIS 4.5, was carried out in Austria between April and August 2009 by the FMA. In this way, the companies were able to expand their level of knowledge regarding Solvency II, determine the effects of the financial market situation on solvency under Solvency II, carry out a position assessment in comparison to the Austrian market and decide for

prepare for future tasks. A total of 31 individual companies and four insurance groups took advantage of this opportunity. In terms of premiums, this corresponds to market coverage of around 72%. In this way, a comparable market share as in the QIS 4 field study in 2008 could be achieved.

Analyses and results of QIS 4.5 were discussed in detail with the insurance industry. In the process, different interpretations of the specifications relevant to the calculation could be eliminated and questions regarding the QIS 5 planned at European level for 2010/11 were addressed at an early stage. However, it also became clear that caution is advised when comparing the results of QIS 4.5 with the results of QIS 4, because the insurance companies often used other calculation methods, some of which were more advanced, and the economic environment was changing

changed significantly due to the financial crisis.

Key findings of the QIS 4.5

A major change under Solvency II is the calculation of (insurance) technical provisions: While the prudence principle applies to these under the Austrian Commercial Code (UGB), under Solvency II they are to be valued “consistently with the market”. The equalization reserve as a special item under the actuarial

Provisions are not applicable at all. As a logical consequence, under Solvency II, the technical provisions decrease in most cases.

In non-life insurance, the elimination of the equalization reserve and discounting effects from the revaluation from UGB to Solvency II have had the greatest impact. The main drivers in the area

Life and sickness are the increased discount rate, as well as changed bases of calculation of the second order (e.g. mortality tables). However, since under Solvency II, in contrast to the UGB, the payment of future surplus sharing (ZÜB) has to be deferred, this reduces the difference in the areas of life and health. In some cases, this represents a significant proportion of the technical provisions (see chart 34).

However, when calculating the future profit participation for the individual companies that operate life or health business, a very inconsistent picture. The reasons for this are inconsistent Calculation methods and different interpretations of the technical specifications. Since the ZÜB at the

Chart 34: Ratio of underwriting Provisions according to Solvency II to those according to UGB according to balance sheet departments

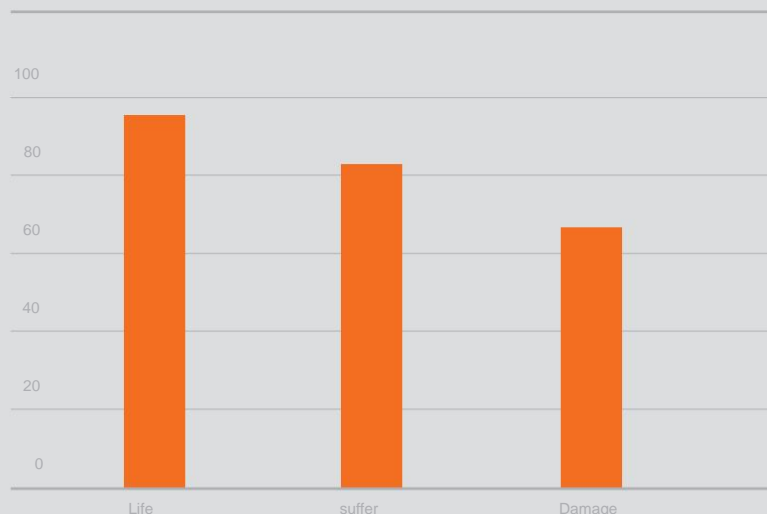


Chart 35: Spread of future profit participation
(in % of technical provisions per company)

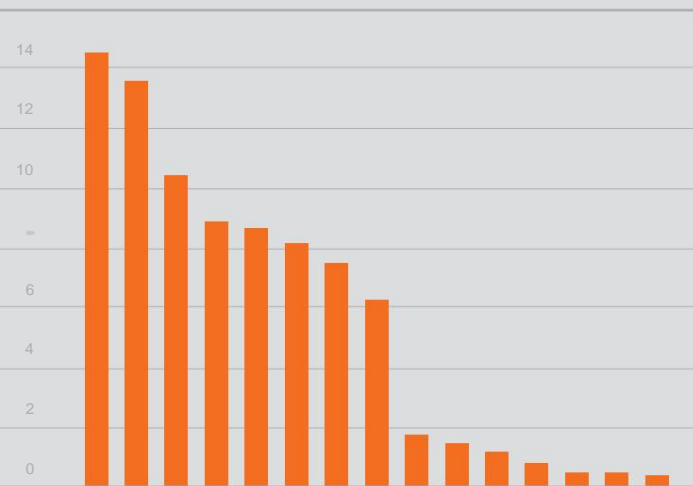
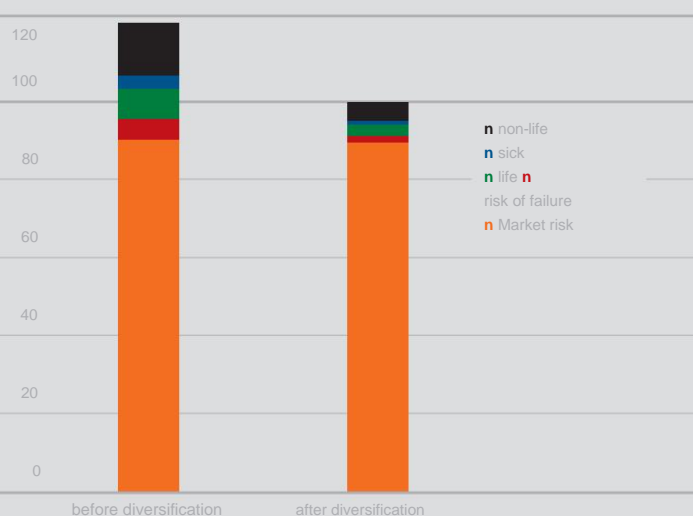


Chart 36: Composition of basic solvency capital requirements before and after diversification



Calculation of the Solvency Capital Requirement (SCR) plays a particularly important role as a risk-reducing item, its interpretation must be further standardized. But this is only one of several open ones

Questions that still need to be answered when evaluating technical provisions.

Another aim of the study was to gain insights into the most important risk drivers in the composition of the solvency capital requirement. A modular approach is used for its calculation.

The results of the modules for the risks non-life, market, health, life and default risk are aggregated using a correlation matrix and result

in the Basic Solvency Capital Requirement (BSCR). The result from the operational risk is then added to this. The creditable risk-reducing effects from deferred taxes and changes in future profit sharing are deducted from this.

If you look at the composition of the basic solvency capital requirement from the individual risk modules, you can see that market risk accounts for by far the largest proportion of the BSCR. After diversification, ie aggregation using a correlation matrix, this share is more than 90%.

It should be noted here that before diversification, ie after the mere summation of the shares normalized by the BSCR, the share of the market risk is around 75% and thus increases sharply as a result of the diversification. This is due to a purely mathematical property of this aggregation method, which generally amplifies the weight of large components. The overall diversification effect amounts to almost 20%.

Overall, as things stand at present, the risk-based approach of Solvency II will significantly increase the equity requirement compared to Solvency I.

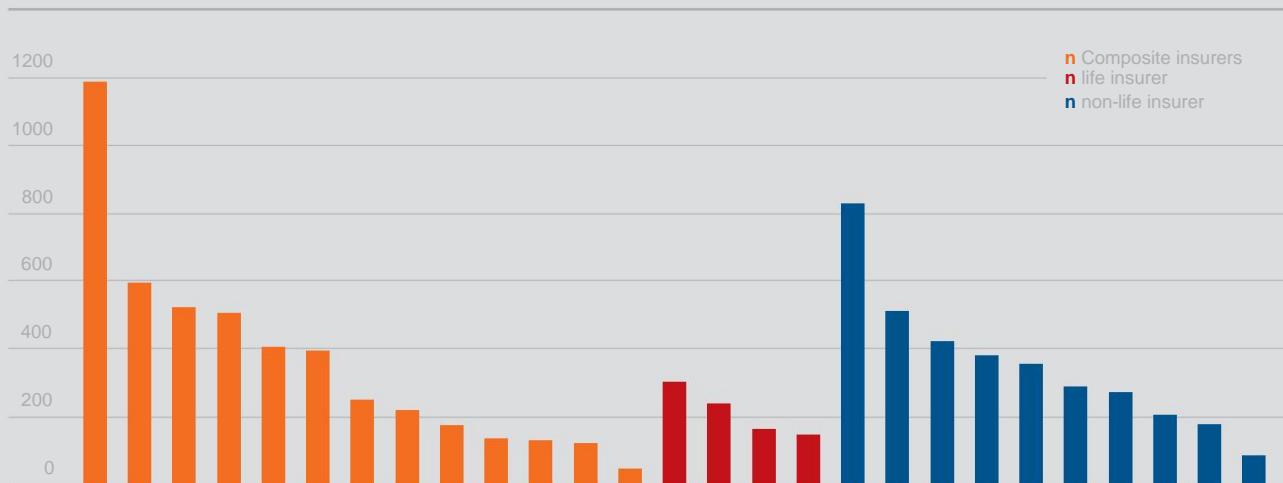
This reduces the degree of solvency in the overall market according to the QIS 4.5 balance sheet compared to the UGB balance sheet. However, this effect is mitigated by the increase in eligible own funds, which is based on the one hand on the valuation adjustment of assets and liabilities at market values, and on the other hand items such as the equalization reserve and the free provision for premium refunds in QIS 4.5 were counted as own funds. Overall, according to QIS 4.5, the solvency capital requirement of the insurance companies included in the analysis is sufficiently covered by eligible own funds.

In the Europe-wide field study QIS 5, which will be carried out in 2010, the effects of the most up-to-date parameters (corresponding to the Level 2

Advice from CEIOPS to the European Commission) tested throughout Europe. Consequently, there are two important reasons for companies to participate in this European to participate in the study agreed by the European Commission:

On the one hand, it once again offers the opportunity to prepare yourself for a current one before Solvency II comes into force To bring the state of knowledge about the procedures and methods of the new own funds regime Solvency II and

Chart 37: Ratio of Solvency II/Solvency I capital requirements (by type of insurance company, in %)



to ensure the preparation of the necessary data. On the other hand, participation should enable men to assess the specific effects of Solvency II and thus to be able to take suitable measures in good time. The FMA he

an even stronger participation of the Austrian insurance industry is therefore waiting. Participation in QIS 5 will be necessary, especially for insurance companies that did not take part in any of the last field studies.

the website of the FMA ([http://www.fma.gv.at/cms/site/EN/query_vers_authorized_inewr.html,area "Provider"/"Insurance company"/"Overview"/"Company Directory"](http://www.fma.gv.at/cms/site/EN/query_vers_authorized_inewr.html,area%20Provider%20Insurance%20company%20Overview%20Company%20Directory)).

Only two foreign insurance companies from third countries (non-EEA) have been licensed in Austria since 1997: Mondial Assistance International AG and Helvetia Schweizerische Versicherungsgesellschaft AG, both with Switzerland as their country of origin.

ONGOING SUPERVISION

The financial supervision of insurance institutions in particular has gained in importance as a result of the repeal of regulatory approval for insurance products, the liberalization of capital investments, the creation of insurance groups, increasing competition and the ongoing difficult economic environment resulting from the financial crisis.

Insurance supervision regularly collects and analyzes extensive information about the business activities of insurance companies.

The net assets, financial position and results of operations of the supervised insurance companies are analyzed on the basis of data to be delivered to the FMA on a standard quarterly or annual basis. Key figure evaluations support the detailed risk-based analyses. In addition, company visits, management talks, inspections and on-site inspections are carried out on an ongoing basis.

In particular, care is taken to ensure that the capital adequacy requirements are always met and that the technical provisions, which represent the obligations to the insured, are calculated correctly and are adequately covered with suitable assets at all times. The aim is to identify potential weaknesses early on so that appropriate measures can be taken. This is done from a risk-based perspective.

SUPERVISORY INFORMATION SYSTEM

The central, standardized data platform for the FMA in the insurance sector that has been in use since 2003 – Insurance Information System Austria

(VA-VISO) – is constantly being further developed. Insurance companies, the Association of Austrian Insurance Companies (VVO) and the software providers involved are discussion partners here. The language "Extensible Markup Language" (XML), which forms the basis for the uniform data exchange format, increases data security and guarantees secure data exchange.

Right from the start, value was placed on extensive data reports, especially in the area of capital investment reporting. The quarterly reporting of accounting data introduced for the accounting reporting group in 2005, which includes values from the income statement and individual balance sheet items on an actual and forecast basis, represents an essential supplement to the data to be reported regularly to the FMA.

ANALYZES

The quarterly and annual data reported by insurance companies to the FMA via VA-VISO form the basis for routine risk-oriented evaluations of the asset, financial and earnings situation of insurance companies. In addition, the FMA can also make use of its right to information at any time in accordance with section 100 para. 1 VAG.

Selected insurance companies were asked about their solvency status over the course of the year and the monthly development of hidden reserves or hidden liabilities in order to be able to identify any potential threat to their own funds more quickly. In addition, a cash flow forecast with a five-year horizon helps to identify whether sufficient liquidity will ensure that the obligations arising from the insurance contracts can be met. It also indicates whether the insurance company will be able (using the moderate lower of cost or market principle) to hold these moderately rated securities until redemption, rather than by selling them early

will have to realize losses.

The information from the standard reporting data and from these additional surveys and the analyzes based on them also serve to Decision-making bases for taking any

to obtain additional supervisory measures in accordance with section 104a of the VAG, which are described below.

n A restructuring plan that contains the planned development for the next three financial years is required by the FMA in accordance with Article 104a (2a) VAG if, due to a deterioration in the financial situation of an insurance company, it has justified reason to assume that the sufficient level of own funds is likely to no longer be guaranteed in the long term. n A solvency plan pursuant to Section 104a (1) VAG must be submitted by the insurance company in the event of insufficient capital resources or is required by the FMA if it has justified reason to assume that an insurance company will no longer have the required level of capital in the foreseeable future. In the solvency plan, which is to be approved by the FMA, the insurance company must explain how it is ensured that the own funds are sufficient

measure up or not fall below this.

n A financing plan to be approved for the short-term procurement of the required own funds is required by the FMA in accordance with section 104a (2) VAG if the own funds of an insurance company do not reach the scope of the guarantee fund. In this case, pursuant to Section 104a (3) VAG, the free disposal of the assets must also be restricted or prohibited and this decision pursuant to Section 104a (4a).

VAG to announce publicly.

ON-SITE ACTIVITIES

With regard to on-site activities, various which types differed according to the degree of intensity the. The following terminology is used here:

- n On-site inspection: Inspections in accordance with § 101 VAG follow the inspection plan defined in advance and approved by the Executive Board. In addition, tests can also be carried out ad hoc if required.
- n Insight: Rather short-term on-site activities on a specific subject of investigation, the results of which are recorded in an internal or external short report.

Table 29: on-site activities 2006-2009

	Number 2006	Number 2007	Number 2008	Number 2009
on-site examinations				
canceled	25	13	19	47
according to the test plan	0	0	0	1
	2	6	2	7
insight				
deleted according to the test plan	13	13	9	4
	3	3	0	1
management talks				
according to the test plan	53	46	32	33
company visits				
deleted according to the test plan	61	59	2*	0*
	0	1	0	0

* Company visits are no longer recorded in the test plan; generally take place annually in the course of processing the annual financial statements

n Management meeting: Company-specific topics are discussed with high-ranking representatives of an insurance company (usually the board of directors, possibly other people as well).

n Company visit: This on-site presence serves to discuss current issues, particularly in connection with regular reporting to the FMA.

In 2009, on-site inspections were carried out, among other things, on the subject areas of risk management for capital investments, auditing and the internal control system, auditing of operational risk in information technology, formation and adequacy of provisions for outstanding claims, actuarial principles, minimum standards for information requirements in life insurance, profit sharing, conclusion of contracts and portfolio management, as well as reporting quality and data availability.

In addition to on-site inspections, insurance companies were inspected in 2009 on topics such as asset management and risk management, allocation of assets, prevention and combating of money laundering and the financing of terrorism, and valuation of real estate holdings.

In addition, the annual financial statements, among other things, were discussed in company visits and management talks

Table 30: License extensions for classes of insurance (source: FMA)

branches of insurance	Number
Illness	1
Land vehicle insurance (excluding rail vehicles)	1
Fire and elemental damage	1
Other property damage	1
Liability for self-propelled land vehicles	1
General Liability	1
assistance services	1
tontine shops	1

Graph 38: ACCOUNTED IN WESTERN EUROPE AND CESEE REGIONS BONUSES FOR CROSS-BORDER ACTIVITIES AUSTRIAN INSURANCE GROUPS 2004–2008 (in E million, source: FMA)

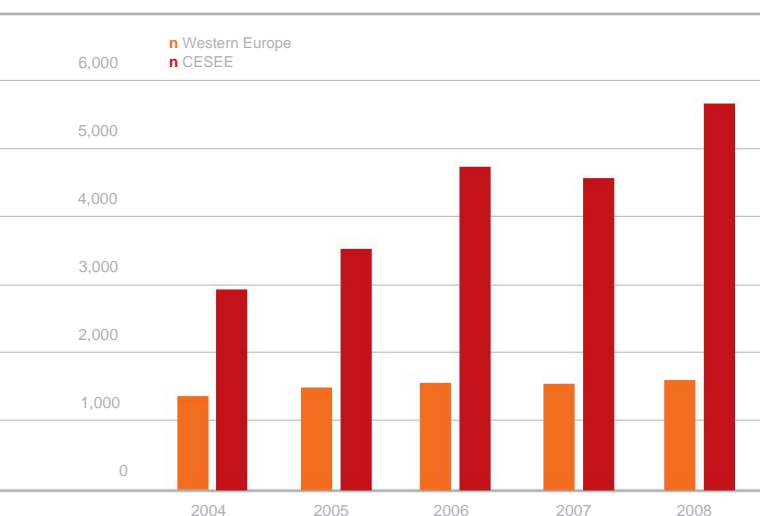
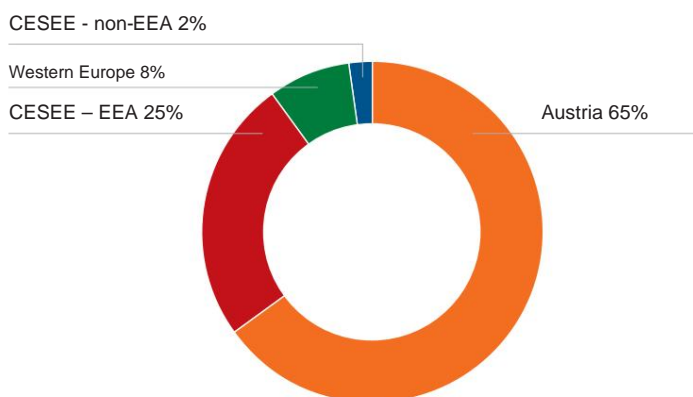


Chart 39: Geographical distribution of the total premium volume Austrian insurance groups 2008 (in %, source: FMA)



of 2008, current developments in 2009 – in particular the effects of the financial crisis – and corporate strategies as well as other company-specific content are discussed.

REGULATORY PROCEDURES

CONCESSIONS

Companies based in Austria and abroad Insurers based outside the EEA (third-country insurers) require a license from the FMA to operate contract insurance in Austria. The license of a domestic insurance company applies to the entire EEA (principle of uniform approval), the license of a third-country insurer only applies to Austria.

In order for the FMA to issue a license, the company applying must meet a number of requirements. For example, it must be set up in the legal form of a stock corporation, a European company or a mutual insurance company and have the necessary equity capital. The members of the Management Board must be personally and professionally suitable

and the shareholders also have certain requirements meet requirements. Furthermore, the area and scope of activities must be specified in a business plan and statements must be made about the planned business activity. Admission to business operations is granted separately for each class of insurance.

In 2009, license extensions were granted for the branches listed in Table 30.

INSURANCE GROUPS , RISK MAP AND BILATERAL CONTACTS

The expansion efforts of the Austrian insurance groups slowed down in 2009. Apart from Austria, the Austrian insurance groups are active in 26 countries through participations.

Compared to the previous year, the number of foreign participations increased by only one company. Of the 109 foreign participations of Austrian insurance groups, 94 are in Central, Eastern and Southeastern Europe.

Chart 39 shows the development of the premium volume of Austrian insurance groups in Western Europe and in the countries of Central, Eastern and Southeastern Europe (CESEE) since 2004. The premium volume in CESEE fell slightly in 2007 compared to the previous year due to the sale of numerous holdings of the Austrian Generali Group. In 2008, on the other hand, a significant increase in premiums in CESEE can be observed again. In 2008, participations in CESEE accounted for 27% of the total premium volume of Austrian insurance groups. The share of the total international business is 35%. In 2004, this share was still 26% (see chart 40).

Table 31 provides an overview of which insurance groups are active in which country. Individual insurance groups are present in certain countries through holdings in several insurers. The Vienna Insurance Group (VIG) and the Uniqa Group hold most of the foreign shareholdings. The GraWe Group is also active abroad. While VIG and the Uniqa Group expanded their business activities to neighboring countries as a first step, the GraWe Group was primarily active in south-eastern European countries right from the start. In recent years were ins

the Romanian and Bulgarian markets in particular are targets of company takeovers. The table thus also shows the key importance of the CESEE region for Austrian insurance groups.

In addition to supervising insurance companies at individual company level, the additional

The supervision of insurance groups is an important part of the supervisory activity. This additional supervision includes the monitoring of sufficient solvency at group level and the development of foreign business against the background of the associated risk exposure.

A regular exchange of information with the national insurance supervisory authorities is essential to ensure efficient additional supervision of cross-border insurance groups. Among other things, this takes the form of supervisory colleges, in which national supervisors of cross-border insurance companies work together. goal of the Su

Table 31: ACTIVITIES OF AUSTRIAN INSURANCE GROUPS in the CESEE region (as of December 31, 2008, source: reports from insurance groups to the FMA)

	vig	Uniqa	GraWe	general	Victoria	Mercury	desert red
Western Europe							
Germany	nn						
Italy		n					
Liechtenstein	nn						
Luxembourg	n						
Switzerland		n					
CESEE countries							
Albania	n						
Bosnia Herzegovina		nn				n	
Bulgaria	nnn						
Estonia	n						
Georgia	n						
Kosovo			n				
Croatia	nnn				nn		n
Macedonia			n				
Moldova			n				
Montenegro		n	n				n
Poland	n	n					
Romania	n	n	n				
Russia				n			
Serbia	n	n	n				n
Slovakia	n	n					n
Slovenia			n		n		
Czech Republic	n	n			n		n
Türkiye	n						
Ukraine	n	n	n				
Hungary	n	n	n		n		
Belarus	n						
Cyprus			n				
Other countries							
Arab Emirates		n					

supervisory colleges is, involving the Market and company knowledge of the local insurance companies supervisory authorities to obtain a comprehensive and solid overview of the business activities and risk profile of an insurance group and to obtain an equivalent level of knowledge under the relevant states competent supervisory authorities. In 2009, Supervisory College meetings were held for VIG, the Uniqa Group and the GraWe Group. Competent Authorities of States

outside the EEA for reasons of trust up to now not involved in the work of the supervisory colleges. A meeting for the Merkur Group is planned for spring 2010, at which supervisory authorities outside the EEA will also be able to do so for the first time should be included as possible. There were also bilateral contacts in 2009. Various study visits by foreign supervisory authorities took place in Austria. Cooperation agreements (Memoranda of Understanding, MoU) were concluded with Serbia, Albania and Montenegro. So-called kick-off meetings were also held for this purpose

Preparation for a more intensive cooperation with the supervisory authorities.

The activities of Austrian insurance groups in Central, Eastern and Southeastern Europe are also considered on an aggregated basis. For this purpose, the country-specific information (e.g. macroeconomic key figures, development status of the insurance market, market structure) is combined with the data of the insurance groups operating in these countries and the resulting risk profiles are analysed.

SUPERVISION OF INVESTMENT FUNDS and capital investment companies

LEGAL BASIS

D he activities of capital investment companies are regulated by the Investment Funds Act (InvFG 1993).

Since the management of capital investment funds is standardized according to the InvFG 1993 as a banking business according to § 1 Para. 1 Z 13 of the Banking Act (BWG), the provisions of the BWG also apply to capital investment companies, unless they are expressly exempted from them.

With the appropriate license, they may also provide securities services in accordance with Section 3 (2) nos. 1 and 2 of the Securities Supervision Act (WAG 2007). In this case, the provisions specified in § 2 Para. 3 WAG 2007 also apply to them.

The Austrian Real Estate Investment Funds Act (ImmoInvFG), which came into force in 2003, made it possible for the first time in Austria to set up open-ended real estate investment funds. Only real estate capital investment companies that have a – restricted – banking license pursuant to Section 1 (1) no. 13a BWG and are subject to the supervision of the FMA are authorized to issue and manage them.

The key points of the law are the application of the calculated value principle, the at least annual valuation of the properties in the fund by two independent experts, minimum distribution requirements, investment in real estate companies, the involvement of a custodian bank, as well as a block on enforcement and bankruptcy security in favor of the unit holders.

Legal order

As banks, capital investment companies are subject to supervision by the FMA; in the case of capital investment companies for real estate, this applies to those whose license is limited to the management of real estate funds and certain related transactions. The legal bases mentioned above

(BWG, InvFG 1993, ImmoInvFG and possibly WAG 2007) and assigned to the FMA

to perceive FMA. Furthermore, the FMA has the 3rd Deri VAT Calculation and Reporting Ordinance, the Derivatives Reporting System Ordinance, the Prospectus Content Ordinance and the Information and Equivalence Determination Ordinance.

In addition, the FMA has issued the Real Estate Fund Prospectus Content Ordinance and the ordinances on the implementation of the ImmoInvFG relating to risk warnings (Risk Warnings Ordinance) and the Ordinance on Determining the Categories of Counterparties in Transactions with OTC Derivatives in Real Estate Funds (Real Estate Fund OTC Derivative Counterparty Ordinance) to perform.

MARKET DEVELOPMENT

The financial crisis, triggered by the US subprime crisis in August 2007, which immediately led to the bankruptcy of the interpreting American investment bank Lehman

Brothers in September 2008 led to a severe economic downturn that affected all major economic regions. In the first quarter of 2009, investment funds were still clearly feeling the effects of the turbulence on the international capital markets. However, the international capital markets have recovered since the low in March 2009.

The total fund volume increased from €126 billion as of December 31, 2008 to €136.7 billion as of December 31, 2009. This corresponds to an increase of 8.5%. For comparison: as of December 31, 2006, total fund assets were €167.3 billion (see chart 40 on the following page). In 2009, investment funds recorded price gains of €13.5 billion, distributions of €2.8 billion and net cash outflows of €41 million.

The investment categories money market funds (– € 75 million),

Chart 40: Assets of capital investment funds 1992–2009 (in billion E)

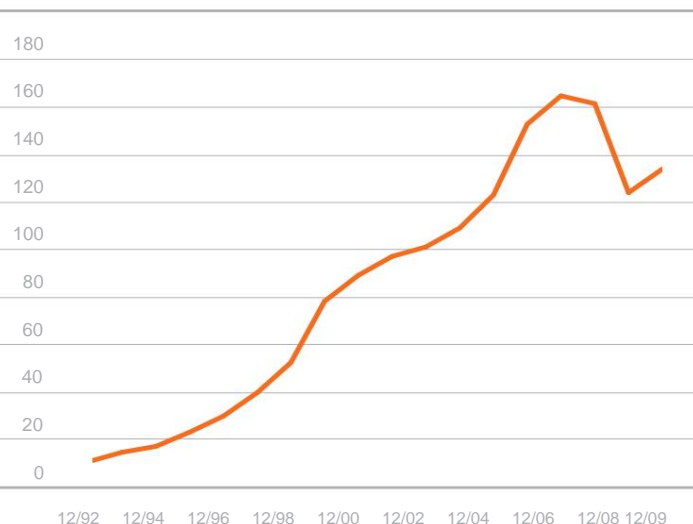


Chart 41: Net assets by fund category (as of December 31, 2009)

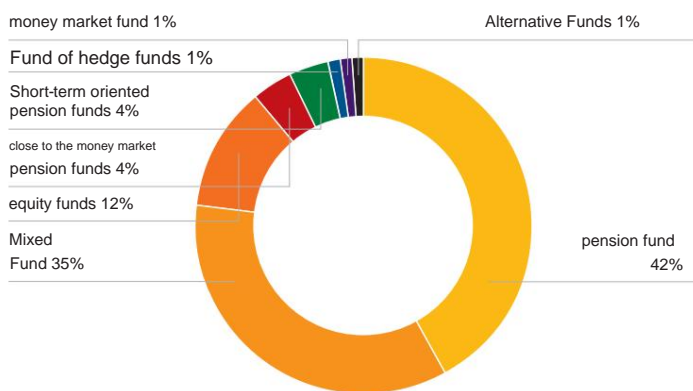
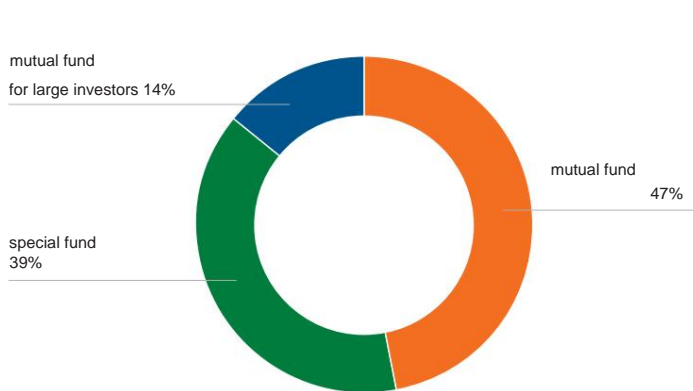


Chart 42: Net assets by target group (as of December 31, 2009)



Money market bond funds (– €1.81 billion) and funds of hedge funds (– €519 million) recorded net outflows of funds in 2009, with money market bond funds and funds of hedge funds being hardest hit. On the other hand, the investment categories bond funds, equity funds, mixed funds and alternative funds – these are funds that are characterized by the increased use of derivative instruments net inflows of €393m, €1.51bn, €315m and €142m booked.

The dominance of the bond fund and mixed fund categories is reflected in the breakdown of the total fund volume, as a total of 77.2% (41.9% and 35.3%) of the volume was invested in these two asset classes as of December 31, 2009.

As of December 31, 2009, 12.5%, 0.8%, 3.6%, 4.3%, 0.9% and 0.8% of the fund volume was invested in the asset classes of equity funds, money market funds, near-money market bond funds, short-term bond funds, funds of hedge funds and alternative investments (see chart 41).

According to target groups, as of December 31, 2009, investors were divided into 47.6% retail funds, 38.8% special funds and 13.6% large investor funds (see chart 42).

The performance winners in 2009 were equity funds. The Austrian equity funds had one average performance of 49.8%, followed by the Euroland equity funds with 29.5% and the US equity funds (on a euro basis) with 24.6%. Among the bond funds, the euro bond funds had an average performance of 7.9%, the dollar bond funds (on a euro basis) of 3.3% and the money market funds of approx. 6.4%.

Due to the free fall of the capital markets in connection with soaring liquidity and risk premiums in the first half of the year, commercial real estate in particular experienced a sharp drop in prices, which, however, stopped in the middle of the year, as did the associated increase in yields. The investment market in the commercial real estate sector, which practically came to a standstill in the first half of the year, recovered continuously from an extremely low level in the third and fourth quarter. However, investor interest focused primarily on first-class properties in the best locations, top quality, best tenant credit ratings and

long lease terms. Second-class real estate, on the other hand, was unable to follow the recent price recovery due to a lack of investor interest, which meant that the yield gap between first-class and second-class real estate widened. Due to the increasing vacancies in the commercial real estate sector, rental income declined over the year as a whole, although here too it stabilized towards the end of the year. The value adjustments on the housing market were comparatively small. Individual markets – such as Vienna – even recorded increases in the value of residential real estate in very good locations, as wealthy people invested more in residential real estate due to fears of inflation or the lack of alternative investments with stable values.

The total fund volume for real estate investment funds as of December 31, 2009 was €1,942.98 million, which corresponds to a decline in assets of 13.37% over the course of the year (fund volume as of December 31, 2008: €1,713.88 million). The total volume of real estate investment funds showed a downward trend up to April 2009, but since May 2009 there has been an upward trend. Chart 43 shows the development of the total volume.

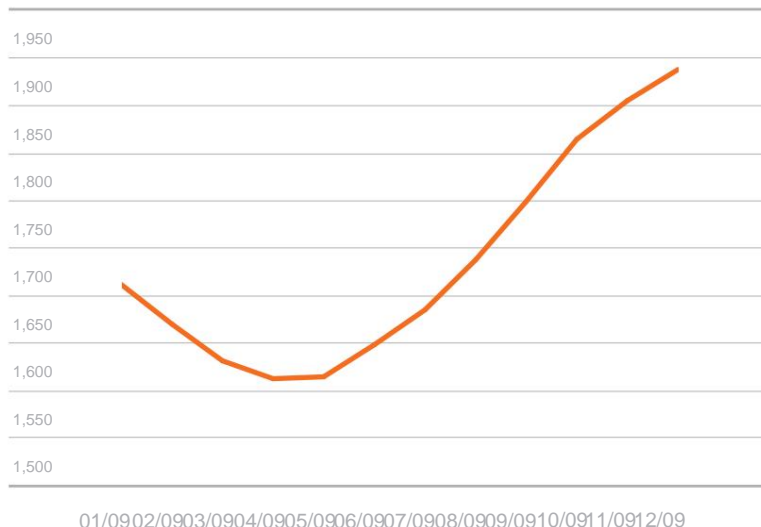
In terms of one-year performance, the real estate investment funds came off negatively, averaging – 4.44%.

Freedom to service and freedom of establishment

Based on the principle of mutual recognition, management companies are authorized to offer the activities for which they are licensed in their home country under the UCITS Directive (concerning Undertakings for Collective Investment in Transferable Securities) throughout the EEA by establishing branches or under the freedom to provide services. The permitted activities essentially include the sale of shares in

harmonized (compliant with the UCITS Directive) investment funds, the performance of all other functions and tasks that are part of the activity of collective portfolio management, as well as individual portfolio management and certain ancillary activities if the management company is authorized to do so (investment advice). For the exercise of

Diagram 43: Fund assets of real estate investment funds
(January to December 2009, in E billion)



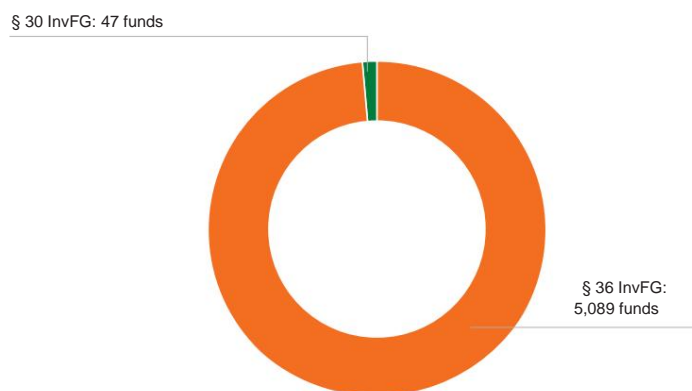
freedom to provide services and freedom of establishment, so-called notification procedures are defined in the InvFG. At the end of 2009, a total of 13 Austrian capital investment companies took advantage of the freedom to provide services (2008: also 13) and went through notification procedures for Germany, France, Luxembourg, Italy, Bulgaria, Greece, Romania, Slovakia, Slovenia, the Czech Republic, Hungary, Cyprus, Poland, Sweden, Spain, Great Britain and Malta. Conversely, in 2009 a total of 36 management companies (2008: 26) from Germany, Denmark, Sweden, Liechtenstein, Great Britain, Luxembourg, Bulgaria, France, Norway and Belgium were active in Austria on the basis of the freedom to provide services. One German, one French and two Luxembourg management companies each operate in Austria under the freedom of establishment.

REGULATORY ACTIVITY

P estigious Companies

As of December 31, 2009, 25 investment companies and five real estate investment companies were licensed. 2,238 funds (December 31, 2008: 2,364) from Austria and 5,136 funds (December 31, 2008: 5,465) from Austria were sold

Chart 44: Number of foreign funds (as of December 31, 2009)



of foreign capital investment companies (management companies) (see chart 44).

Each of the five real estate capital investment companies manages a public fund, one real estate capital investment company also manages a second public fund, and one company also manages a special real estate fund. A real estate capital investment company also manages a second approved retail fund, which it has not set up. In 2009, no new licenses for real estate investment companies were granted. The fund regulations were changed for three real estate investment companies.

Since February 13, 2004, capital investment companies have had the opportunity, in addition to their license for the management of capital investment funds under the InvFG (§ 1 Z 13 BWG - investment business), to obtain a license for the financial service business - namely investment advice with regard to financial instruments (§ 3 Para. 2 Z 1 WAG 2007) and portfolio management through the administration of portfolios on an individual customer basis with a discretionary scope within the scope of a power of attorney from the customer, provided that the customer portfolio contains one or more financial instruments (§ 3 Para. 2 Z 2 WAG 2007). By the end of 2009, twelve Austrian capital investment companies had already taken advantage of this opportunity to extend their licenses.

Supervision of official procedures

The number of official procedures (especially

changes in fund guidelines) continued to rise in 2009 with 6,773 procedures

(2008: 5,403 procedures).

In 2009, as a result of violations of the provisions of the Investment Funds Act, 13 supervisory procedures pursuant to Section 70 (4) BWG were initiated to restore the lawful state of affairs, which were successfully completed in the same year. In the course of the supervisory activity, special attention was paid to compliance with those provisions that relate to (warning) notices in the simplified and full prospectuses and in advertising materials and are therefore of lasting importance for safeguarding the interests of investors in terms of transparent and comprehensive information. In addition, the review of compliance with the legal requirements relating to the creation and publication of the simplified prospectuses was the subject of regulatory procedures.

As a result of violations of the provisions of the ImmoInvFG, two regulatory procedures were initiated in 2009 pursuant to Section 70 (4) BWG to restore the lawful status, which were successfully completed in the same year. In the course of the supervisory activity, a main focus was placed on compliance with the minimum liquidity requirement, which is to be seen as a key element of an open-ended real estate fund, so that investors always have the option of redeeming their shares. In addition to reviewing the implementation of the amendments to the simplified prospectuses required as a result of the Real Estate Fund Prospectus Content Ordinance, advertisements and placements specifically relating to real estate funds were also subjected to a detailed assessment with regard to their legal conformity in terms of raising awareness among market participants and strengthening market integrity and ethics.

In addition, the FMA reported a total of 35 suspensions and redemptions of unit certificates in 2009, with 20 fund suspensions lasting only a few days. For four of the investment funds suspended in 2009, redemptions were not resumed before the turn of the year.

The list of suspended funds is made available on the FMA's website.

Ongoing supervision

reporting / reporting
and sources of information

In accordance with the provisions of the 3rd Derivatives Risk Calculation and Reporting Ordinance, capital investment companies must submit certain information on the derivatives contained in the fund assets to the FMA. The Derivatives Reporting System Ordinance regulates the reporting format used.

publicity obligations

The disclosure requirements of capital investment companies are regulated in the Investment Funds Act and Real Estate Investment Funds Act. The semi-annual report and the audited statement of accounts for each investment fund and the annual financial statements of the investment company are to be published by the latter. The custodian bank must publish the issue and redemption prices each time units are issued and redeemed, but at least twice a month. All capital investment companies are also obliged to submit a simplified and a full prospectus one working day before the offer of a capital investment fund and any major changes to publish domestically.

On-site inspection and on-site inspection

In 2008 random checks of domestic investment funds were introduced. The controls serve to strengthen off-site supervision. The aim is to check compliance with and compliance with the fund regulations, the prospectuses (including publication requirements) and the reports in accordance with the 3rd Derivatives Risk Calculation and Reporting Ordinance of a representative market sample of domestic investment funds.

In 2009, three random checks and one follow-up check were carried out on domestic investment funds (including one of the top 3 capital investment companies).

In 2009, an on-site inspection took place at a capital investment company.

information talks

In the past year were supervised with the

companies held detailed informational talks. In total, informational talks were held with 16 investment companies (including all of the top 3 investment companies) and all five real estate investment companies.

International cooperation

At the international level, the FMA was also in 2009 in the field of investment funds in CESR Expert Group on Investment Management (IMEG). This expert group was founded in April 2004. The main task of the group is to continue the tasks of the former UCITS contact committee at level III of the Lamfalussy process and to produce technical advice at level II of the Lamfalussy comitology process after each mandate. The FMA is also active in a sub-group of the CESR Expert Group on Investment Management, the Operational Task Force (OTF). The OTF has the task of dealing with current issues arising from supervisory practice. Thus, the OTF should provide uniform Inter

representations of the Member States in the area of innovative financial instruments. Common guidelines were also drawn up on the subjects of risk management, risk measurement and money market funds. The aim is to harmonize the standards in the individual countries.

On November 17th, 2009 the revised version of the UCITS Directive, known as UCITS IV (Undertakings for Collective Investments in Transferable Securities) was published. The changes serve to initiate a market-oriented restructuring and to make the dynamic but highly fragmented European funds market more efficient.

Significant changes include simplifying the notification procedure, achieving economies of scale and improving liquidity by encouraging fund mergers and asset pooling, revising the company passport, simplifying and improving investor information, and enhancing cooperation between supervisory authorities.

In the new UCITS directive, in accordance with the

The Lamfalussy principle provided for a large number of Level II authorizations, so that in 2009 CESR's work focused on preparing these measures. CESR received a three based on the draft UCITS IV guidelines in February 2009

partial mandate, with which CESR was commissioned to provide several advices on the Level II measures of the Com to create mission.

The work was carried out within the framework of the IMEG, the OTF and specially formed sub-working groups. Part I of the mandate deals with the management company passport, part II with the key investor document (KID) and part III with fund mergers, master-feeder structures and notification procedure.

Advice on the first part of the mandate (Management Company Passport) was issued in November 2008. Among other things, this related to the distribution of tasks between the authorities concerned, the provision of information and the necessary cooperation between the authorities in the event that the company passport is exercised. It also contained recommendations on the applicable legal provisions and provisions on the custodian bank. The advice has largely found its way into the text of the planned directive of the European Commission.

Also on the Commission's Level II measures relating to the Management Company Passport published a CESR Advice in October 2009. The

This includes requirements regarding risk management, organisation, rules of conduct and cooperation between the supervisory authorities.

CESR has already discussed the form and content of the KID in Fe

Advice was given in April 2008, the second followed in October 2009. The latter recommended the use of a Synthetic Risk and Reward Indicator (SRRRI), the details of which were still controversial, as was a harmonized statement of the fees charged to the fund. Based on the results of a consultation process and a workshop, calculation and presentation methods were developed, which are now published in December 2009 as an annex

on the CESR advice of October 2009 to the commissioners sion were transmitted.

A consultation paper was published in September 2009 on Part III (fund mergers, master-feeder structures and notification procedures). The open hearing took place in early November 2009, Response ten could be sent to CESR by the middle of the month become. In December 2009 the advice was completed and published.

In order to ensure the timely implementation of the UCITS IV directive in all member states, all Level II measures are to be published by the Commission in June 2010 – one year before the directive is applied become public.

In addition to the Level II tasks, the CESR-IMEG 2009 continued to focus primarily on work to promote cooperation between the supervisory authorities, with work on risk management having a high priority had rity.

Another focal point was the draft of the Alternative Investment Fund Managers Directive (AIFM Directive), which is presented as a special topic on the following two pages.

EU initiative on the supervision of alternative investments

A On April 30, 2009, the European Commission published a proposal for a guideline to regulate managers of alternative investment funds (AIFM guideline). This EU paper is part of the Commission's program that aims to subject all actors and activities that pose significant risks to the stability of financial markets to appropriate regulation and supervision.

The need to subject alternative investments to regulation was underlined both by the European Parliament and by the high-level expert group "Financial Supervision in the EU" chaired by Jacques de Larosière.

Alternative investment funds (AIF) include all funds that do not fall under the UCITS Directive (UCITS: Undertaking for Collective Investment in Transferable Securities): These include in particular hedge funds, private equity companies, real estate funds, commodity funds, infrastructure funds and managed futures funds. The financial crisis has shown that alternative investments in particular entail a wide range of risks: Investors, creditors and counterparties can be affected, and the stability and integrity of the financial markets can be shaken.

The risks are of different nature and range from Weaknesses in internal risk management, deficiencies in investor protection, and a lack of market efficiency and integrity. The nature and level of the risks vary depending on the business model and investment strategy. For example, the risks associated with leverage are particularly relevant to hedge and commodity fund characteristic.

According to the European Commission, the cross-border nature of these risks requires a coherent regulatory framework at European level. The different national regulations impede both the cross-border sale of alternative investment funds (AIF) and a uniform and comprehensive recording of the

relevant risks.

The aim of the directive is therefore

n a secure and harmonized EU framework for

the observation and monitoring of the risks al to create alternative investments and

n to allow their managers to provide their services throughout the single market and to market their funds subject to certain conditions.

The key points of the AIFM Directive:

n Introduction of a license requirement for the administration ter of all non-UCITS funds:

However, for reasons of proportionality, according to the first draft, the guideline should not apply to alternative investment fund managers (AIFM) whose funds do not exceed a certain minimum size or who do not use leverage. In order to be able to operate in the EU, all AIFM should require authorization from the competent authority in their home member state and sufficient qualifications

have to prove. In addition, an AIFM

must maintain a certain minimum capital at all times.

n Information for (professional) investors:

From the start of the contract, AIFM should regularly provide their investors with a minimum amount of information, in particular with regard to investment strategy, use of leverage effects, valuation and the like, in order to facilitate due diligence and ensure an appropriate level of investor protection. **n**

Information for regulators:

In order to facilitate system oversight, AIFMs will be required to report regularly to the competent authority, among other information, their main trading markets and instruments, their largest exposures and main risk concentrations.

n Rights of AIFMs under the Directive:

In order to facilitate the development of the internal market, an AIFM authorized in its home member state will be allowed to market its funds to professional investors throughout the EU. member states

AIFMs domiciled in another member state have no right to prescribe additional requirements for marketing to professional investors, there will only be a specific reporting procedure. Authorization for distribution to retail clients can only be granted at the national level and subject to additional legal protections.

n Third countries:

According to the proposed directive, AIFMs should, under certain conditions, also include AIFs domiciled in third parties countries are allowed to market. But this right can be claimed at the earliest three years after the end of the implementation period and is subject to a number of conditions and requirements. In the meantime, member states can (continue to) allow AIFMs at national level to market AIFs domiciled in third countries in compliance with national legislation.

n Cooperation and exchange of information between

the supervisory authorities:

Increased cooperation between the competent authorities of the member states is required to ensure a safe AIFM sector. Given the cross-border nature of risks, timely exchange of relevant data at European or even global level is a prerequisite for effective system oversight. The competent authorities of the home member state will therefore pass on the relevant data in a suitable aggregated form to the authorities of other member states

must.

Time schedule

23. 11. 2009:

The European Parliament's rapporteur on the AIFM Directive, Jean-Paul Gauzès, publishes a draft of his report on the proposed directive.

15. 12. 2009:

The Swedish Council Presidency publishes the preliminary compromise paper for the AIFM Directive.

1. Half year 2010:

The Swedish compromise paper will be further developed by the Spanish Presidency kicks.

Spring 2010:

Trilogue between the European Commission, the European Parliament and the Council Presidency to achieve a final proposal for a directive.

July 2010:

Planned decision of the directive in European Parliament.

2012:

The AIFM Directive applies in the member countries.

The extent to which this schedule can be adhered to ultimately depends on the success of the political negotiations.

Position of FMA to AIFM -

Proposed policy

The AIFM directive has set itself the goal of reducing the systemic risk in the area of alternative investments to capture and limit. In any case, the FMA classifies this as positive. The FMA also fundamentally supports the broad approach of the AIFM Directive, but the peculiarities of the respective AIF styles should be addressed more (e.g. open real estate funds versus private equity funds).

The FMA also endorses the planned regulations regarding the obligation for independent assessment. The FMA also considers the obligation to have the assets held in custody by a custodian bank and the AIFM's disclosure requirements to be a key step towards increased investor protection.

The range of tasks and the responsibility of the FMA to minimize systemic risks in the non-banking sector and in investor protection

significantly increased by the AIFM Directive. In the discussion on the AIFM Directive, the FMA attaches great importance to securing and strengthening the Austrian financial center, taking into account the interests of all stakeholders.

SUPERVISION OVERVALUE PA PIER COMPANIES AND INVESTMENT SERVICES COMPANY

LEGAL BASIS

N Pursuant to Section 3 (2) of the 2007 Securities Supervision Act (WAG 2007), the commercial provision of the following investment services requires a license:

- n investment advice relating to financial instrument (Z 1),
- n portfolio management by managing portfolios on a per customer basis with a discretion leeway within the scope of a power of attorney of the customer, provided that the customer portfolio contains one or more financial instruments (Z 2),
- n the acceptance and transmission of orders, insofar as these activities relate to one or more financial instruments (no. 3),
- n the operation of a multilateral trading system (Z 4).

According to § 1 Z 6 WAG 2007, financial instruments are transferable securities, money market instruments, shares in investment funds, real estate funds or similar institutions, derivative contracts (in particular options, futures, forwards, swaps) in relation to securities, currencies, interest rates, interest income, financial indices, derivative contracts relating to commodities, derivative instruments for the transfer of Credit risks, financial contracts for difference and derivative contracts related to climate variables, freight rates, Emission allowances, inflation rates and official economic statistics.

REGULATORY ACTIVITY

P estious Companies

As of December 31, 2009, a total of 211 investment firms and investment service providers (WPDLU) held a license from the FMA for the provision of investment services. Of these, 211 companies had

108 companies held a license as a securities firm in accordance with Section 3 WAG 2007 and 103 companies held a license as an investment services company in accordance with Section 4 WAG 2007. In contrast, in 2008, 257 companies held still 132 companies have a concession than investment firm and 125 companies with a concession as an investment services company.

A comparison with the data from the previous year makes it clear that there was a 17.5% decline in the number of licensed companies in the year under review. The downward trend on the market becomes particularly clear when you consider that in 2007, out of a total of 308 companies, 145 still held a concession as

investment firm and 163 companies held a license as an investment services enterprise.

Reasons for the declining market development can be given on the one hand as the increased requirements of the WAG 2007 compared to the "old WAG" and on the other hand the financial crisis. Overall, as in the previous year, there were more securities firms than securities service providers in the 2009 reporting year.

In the 2009 reporting year, a total of 53 licenses expired (30 investment firms and 23 investment firms), whereas in 2008 there were a total of 55 investment firms and investment firms. The number of extinct

Concessions has thus remained roughly the same as in the previous year. All 211 entities with the right concession were authorized to provide investment advice in relation to financial instruments, 66 investment firms were authorized to manage portfolios. 208 investment firms and WPDLU were authorized to accept and transmit orders, provided that these activities relate to one or more financial instruments (see chart 45 on the following page).

Chart 45: Number of active concessions 2002-2009

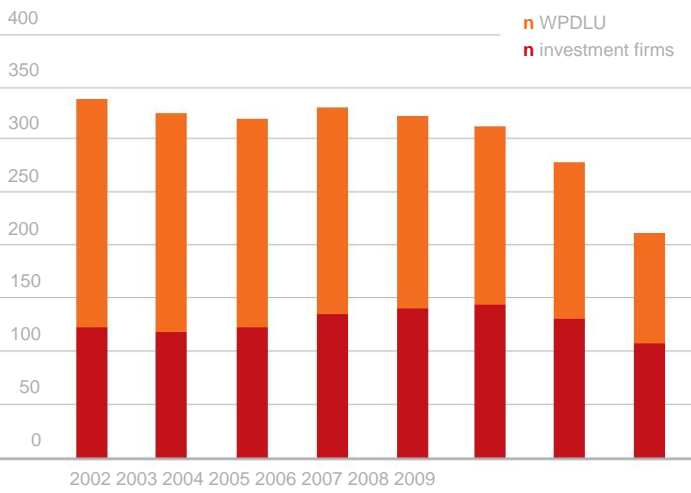


Figure 46: Number of investment firms/WPDLU by federal state in 2009

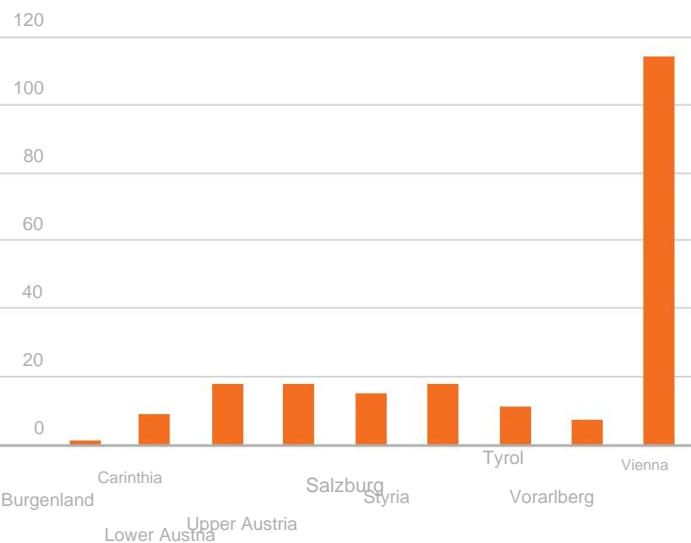
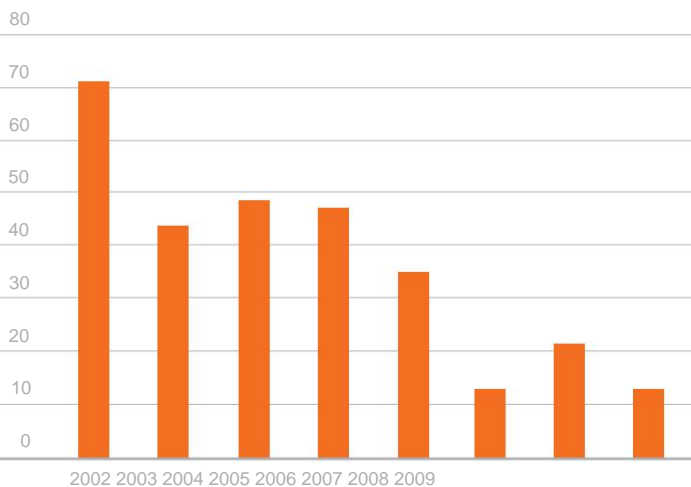


Chart 47: Number of received Concession applications 2002–2009



With regard to the geographic distribution of the licensed investment firms and securities service providers throughout Austria, it should be noted that as of December 31, 2009, 114 companies, ie 54% of all licensed companies, were based in Vienna. Lower Austria, Upper Austria and Styria follow in second place, each with 18 licensed companies (see chart 46).

In the 2009 reporting year, 13 license applications were submitted to the FMA, 38% fewer than in the previous year. As chart 47 shows, the number of new applications is still well below the figures for previous years.

Six licenses were granted in the year under review, two fewer than in 2008.

Five of the six authorizations granted in 2009 for the provision of investment services are final. The significant drop in legally valid licenses compared to previous years – 16 licenses were granted in 2007 and 26 in 2006 – is partly due to the fact that the increased organizational requirements of the WAG 2007, which came into force on November 1, 2007, and the associated increased inspections

expensive also the duration of the concession process extended significantly compared to previous years. It now generally takes six to twelve months to carry out a licensing procedure. On the other hand, the decline in applications for new licenses can also be attributed to the financial crisis become.

In comparison, ten applications were withdrawn in the reporting year, which roughly corresponds to the figures for the previous year, in which nine license applications were withdrawn.

Just one of the seven licensed in 2009

The company was licensed as a securities services company in accordance with Section 4 WAG 2007.

According to Section 4 (2) WAG 2007, various simplifications apply to the WPDLU with regard to the license requirements: It is sufficient to appoint a single manager who can also pursue a main occupation outside of banking or insurance companies or pension funds. Likewise, the free choice of the legal form of the

Table 32: Licenses granted in 2009

Company Name	concession	Advice	Administration	mediation
Centris Capital AG	WPF	yes	Yes /	Yes
Merit Immobilienmanagement GmbH	WPF	yes	Yes	Yes
Pen's Investment Management GmbH	WPDLU	yes	no	Yes
QN Partners Asset Management GmbH	WPF	yes	Yes /	Yes
Sarasin CEE & Austria AG*	WPF	yes	Yes	Yes
WG Finanzservice GmbH	WPF	yes	no	Yes

* not yet legally binding

companies (in addition to corporations, partnerships and sole proprietorships may also offer investment services that require a license), the substitution of the equity capital requirement with professional liability insurance and simplifications in relation to accounting and auditing.

As in previous years, the trend in 2009 was that more and more licenses were applied for for investment firms and not for WPDLU. In contrast to previous years, when it comes to the provision of investment services, the relationship between investment firms within the meaning of MiFID and investment services companies pursuant to Section 4 WAG 2007 is largely balanced.

In the year under review, as shown in Table 32 is – not a concession to a sole proprietorship or awarded to a partnership. With that sets itself – with regard to the person of the concessionaire bers – as in previous years, the trend towards corporations continued.

The FMA enables investors and interested parties to contact the FMA website www.fma.gv.at under “Providers” > “Securities service providers” > “List of licensed securities firms (WPF) and securities service providers (WPDLU)”.

addresses of the licensed companies and In to call up information on the scope of their licence.

EEA NOTIFICATION

The EU directive “Markets in Financial Instruments Directive” (MiFID) forms the basis for that Investment firms from the European Economic Area (EEA) both through branches and

can also operate throughout the EEA under the freedom to provide services. A prerequisite for making use of the freedom of establishment and the freedom to provide services is that, after obtaining a corresponding concession, a notification procedure is carried out by the respective home supervisory authority. The so-called European passport gives investment firms the opportunity to provide those investment services under MiFID that they are entitled to in their home member state based on their license in the other member states indicated in the notification procedure.

As of December 31, 2009, a total of 56 Austrian investment firms were authorized to provide investment services in other EEA member states. Of these 56 companies, twelve investment firms had a total of 22 branch offices in the EEA, nine of which were in Germany, two each in Great Britain and Greece and one each in Finland, France, Italy, Luxembourg, the Netherlands, Sweden, Slovenia, the Czech Republic and Hungary in.

As of December 31, 2009, 53 investment firms were authorized to provide investment services in one or more EEA member states under the freedom to provide services. A comparison with previous years – 71 investment firms held the European passport in 2008 and 74 in 2007 – reflects the importance of providing cross-border investment services through freedom of establishment and the freedom to provide services in the European internal market

contrary.

EMPLOYEES OF VALUE AND VALUABLE PAPER SERVICE COMPANIES

VALUABLE PAPER SERVICE COMPANY

Investment firms and investment service providers (WPDLU) can use tied agents (VGV) and/or financial services assistants (FDLA) to provide investment services.

TIED AGENT

The tied agent can be a natural person or a legal entity subject to the principle of exclusivity. This means that the VGV may only act for one investment firm or one credit institution at a time. It can be used to promote service business, acquire new business, or adopt and over

mediation of customer orders as well as investment advice with regard to the financial instruments and services offered by the legal entity.

An investment firm that employs a tied agent is liable under section 1313a ABGB for any act or omission by the agent when acting on behalf of the legal entity. It must therefore also monitor its activities accordingly. If the VGV is based in Austria, it must have a trade license pursuant to Section 136a GewO (commercial investment advice) and must be entered in a public register maintained by the FMA.

As of December 31, 2009, 32 Austrian investment firms used tied agents to provide investment services.

FINANCIAL SERVICES ASSISTANT

In comparison to a tied agent, the field of activity of a financial services assistant (FDLA) is limited. Only a natural person can be used as an FDLA, who may only work in Germany. He can use the services of investment advice as well as the acceptance and transmission of customer orders with regard to the financial instruments listed in § 1 Z 6 lit. a and c WAG 2007 (transferable securities

and investment fund shares) in the name of and for the account of one or more investment firms, WPDLU, Austrian credit institutions or under certain

Meet the requirements of Austrian insurance companies in Austria. FDLA are subject to the trade regulations and require a trade license for the free trade of financial services

assistants.

Financial service assistants render their services for the respective legal entity as vicarious agents, their conduct is attributable to the respective legal entity. This means that the respective legal entity is liable for the fault of the persons whom it uses to provide investment services in accordance with section 1313a ABGB. Just like tied agents, FDLAs must also be entered in the public register maintained by the FMA.

The use of FDLA for the provision of investment services presupposes that this is approved in the license notice of the investment firm or the WPDLU.

As of December 31, 2009, 127 Austrian investment firms and WPDLU were authorized to operate via FDLA. However, of these 127 companies, only 73 exercised their authority to use FDLAs in the provision of investment services. This means a significant decline compared to the previous year, in which 161 companies still had such authorization and 89 actually used it.

In order for the FMA to be able to fulfill its supervisory duties in full, investment firms and WPDLU are obliged to electronically report the arrivals and departures of contractually bound brokers and FDLA.

Only after these persons have been reported to the FMA may they act in the name and on the account of the licensed company. On December 31, 2009, the FMA had 5,035 people as

FDLA for investment firms and WPDLU and 2,418 persons reported as VGV for investment firms (in 2008 these were 6,445 and 2,371 persons respectively).

In the 2009 reporting year, there were around 22% fewer FDLAs than in 2008, while there was a slight increase in the number of people reported as VGV compared to the previous year is to be recorded.

Current information on the contractually tied agents and financial services assistants reported to the FMA can be found on the FMA website www.fma.gv.at under "Providers" > "Securities service providers" > "Investment firms (WPF), investment services companies (WPDLU)" > "Query of contractually tied agents (VGV) and financial services assistants (FDLA)".

This gives investors the opportunity to inquire whether a specific person is actually considered a VGV or FDLA of an investment firm or a WPDLU is registered with the FMA and authorized to provide investment services.

Ongoing SUPERVISORY OVER PAPER VALUE - COMPANIES AND SECURITIES PAPER SERVICE P COMPANY

All licensed investment firms and WPDLU are supervised by the FMA with regard to compliance with the obligations standardized in the WAG 2007. These obligations include compliance with the extensive organizational requirements of the WAG 2007, such as the obligation to set up an independent compliance function, a risk management function and an internal audit, compliance with recording obligations and rules of conduct, and the classification of customers into private customers, professional customers and suitable counterparties. Furthermore, the obligations of the WAG 2007 include compliance with the license requirements, the scope of the license granted, notification, reporting and submission obligations as well as the provisions on accounting and the audit of the annual financial statements.

Investment firms and WPDLU must commission an auditor once a year to prepare an audit report in accordance with Article 73 or Article 74 WAG 2007. This serves to check compliance with the legal provisions and is to be submitted to the FMA within six months of the conclusion of the Ge

financial year, i.e. by June 30 of each year for most companies. By this date, the reports on sales revenues from investment services transactions must also be submitted in accordance with Section 15 of the FMA Costs Ordinance

pier companies and WPDLU have been transmitted to the FMA. The evaluation of the annual financial statements, audit reports and reporting data provides key indicators for the implementation of and compliance with the legal standards in the provision of investment services as well as starting points for supervisory measures.

Another important supervisory tool is the electronic analysis questionnaire for securities firms and WPDLU, which can be answered online via the FMA website. It consists of six modules and contains 59

Questions divided into the following subject areas: general company information, employees, organization of the company, insurance cover/

Shareholdings, business activities and customer structure.

On the one hand, the evaluation of the analysis questionnaires provides the FMA with important insights into the activities of the supervised companies and the entire capital market and, on the other hand, also provides each analyzed company with points of reference and suggestions for questioning and optimizing internal company processes.

EEA INVESTMENT FIRMS

In 2009, a total of 1,665 investment firms based in an EEA country outside of Austria

Reich has the right to provide investment services in Austria by way of the freedom to provide services and/or via a branch to the extent indicated by the competent foreign sister authority. Compared to the 1,535 companies notified to Austria in the previous year, the number of companies in Austria

active EEA investment firms increased by 8.5%.

In the reporting year, 1,306 companies accounted for around 79% of the companies notified in Austria

from Great Britain. This is followed by Germany with 102, Ireland with 45 and the Netherlands with 38 companies notified to Austria.

On-site audits and management talks

In the 2009 reporting year, a total of 32 on-site inspections were carried out at securities firms and WPDLU, 18 of which were ad hoc. Compared to 2008, in which the 30th

exams – 20 of which were unscheduled – were held increased by 7%.

As part of an on-site inspection, the company and its bodies can request information about all business matters, inspect their books, documents and data carriers, and audit reports and information can be obtained from the auditors. The focus of an on-site inspection is generally on checking compliance with the provisions of the entire WAG 2007, but in particular on compliance with organizational obligations and rules of conduct as well as on monitoring compliance with the scope of the license and any conditions or restrictions issued by notification.

In addition, a total of 81 management talks were held with investment firms and WPDLU, as well as a company visit, in the year under review. This is an increase of 21% compared to 2008, when 67 management meetings were held.

As in the previous year, the licensed securities service providers were rated in the 2009 reporting year using a discriminant analysis and logistic regression using SPSS (Statistical Product and Service Solutions) in order to be able to divide the securities service providers into risk classes.

On the basis of the key figures determined, test candidates can be selected on a risk-based basis using this rating system, which means that the ongoing supervision of companies can be made even more efficient.

SUPERVISION OF Financial Conglomerates

Legal basis

A Due to the increasing trend towards cross-industry activities through cooperation (contractually or through capital ties) between banks, insurance companies and securities service providers, the resulting risk of negative contagion effects and the increased convergence of many financial products, the European Union (EU) passed the so-called Financial Conglomerates Directive (2002/87/EC) in 2002. This was transposed into Austrian national law in 2004 in the form of the Financial Conglomerate Act (FKG), which came into force on January 1, 2005. The FKG mandates the financial market supervisory authority FMA, companies in the banking, insurance and securities services sector that represent a financial conglomerate and exceed the corresponding threshold values, not only within the boundaries of the individual sector

oversight, but also to be subject to additional oversight at conglomerate level.

MARKET DEVELOPMENT

As of the end of 2009, three are still subject Groups of companies undergo additional supervision in accordance with the Financial Conglomerates Act (FKG). the FMA:

- n** Bausparkasse Wüstenrot AG and Wüstenrot Versicherung AG,
- n** Grazer Wechselseitiger Versicherung AG with the Hypo-Bank Burgenland AG credit institution group (including Hypo-Bank Burgenland AG, Sopron Bank Burgenland Rt., Capital Bank – GRAWE Gruppe AG, Brüll Kallmus Bank AG) and

- n** Raiffeisen Zentralbank Österreich AG and their significant interest in Uniqa Versicherungen AG.

Furthermore, the following group of companies forms an ös

Austrian financial conglomerate which, however, is not subject to additional supervision by the FMA:

- n** COFACE Austria Kreditversicherung AG and COFACE Austria Bank AG

The parent company of these two companies is subject to additional supervision at the level of the financial conglomerate in France.

Based on the 2008 annual financial statements, there were EU 59 financial conglomerates. Front runner is France, where eight groups use the bancassurance model Follow EU-RL 2002/87/EG and are subject to additional supervision. A financial conglomerate was also identified in Slovenia, the Czech Republic and Bulgaria. In Hungary, the only financial conglomerate was broken up through the sale of the insurance branch. In addition to these financial conglomerates, there are nine groups that qualify as financial conglomerates under the EU Directive and operate within the EU but have their registered office in Switzerland, the USA or Australia.

Marketshares

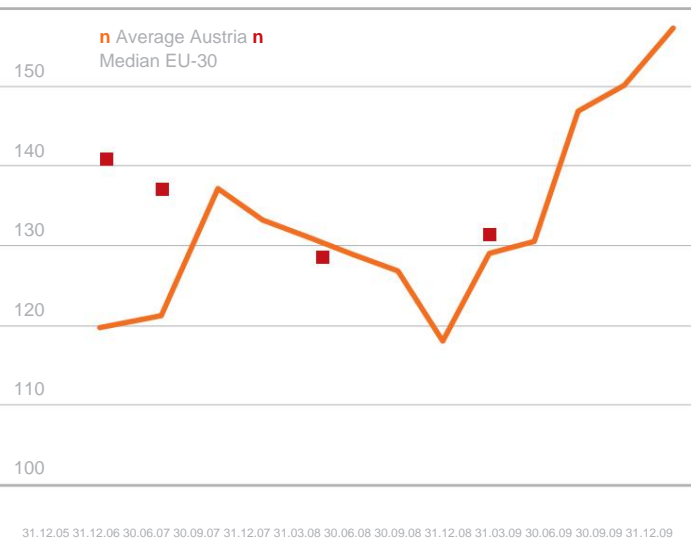
At the end of 2008¹, the market share of the Austrian financial conglomerates in the Austrian financial market was over 20 %². The proportion in the banking and Investment services industry was around 15 %³. The insurance industry continued to show a stable market share of around 29% (2007: 29%). In the "Health" and "Life" segments, the financial conglomerates were able to maintain their market shares at just under 50% and 28% respectively. In the property/casualty line, the value increased slightly to 27% (compared to 26% in 2007).

¹ Data for 2009 are not yet available.

² Calculation follows § 3 Para. 3 Z 2 FKG.

³ Due to the sale of Sparkassen Versicherung AG and the associated loss of the financial conglomerate Erste Bank, the figures for the previous years are only comparable to a limited extent.

Figure 48: Solvency ratio of Austrian financial conglomerates in an EU-wide comparison 2005–2009 (in %)



own funds

The equity situation of Austrian financial conglomerates is as follows (value from 2008 in brackets): The degree of solvency improved in 2009 to 156% (127%). The global financial crisis has therefore not affected the Austrian conglomerates in this respect.

In the period from 2005 to 2008 (reporting date December 31) the solvency ratio of the 30 largest European financial conglomerates (calculated as a median) fell from 141% to 132%. In contrast, the Austrian conglomerates showed an improvement of this value by eight percentage points to 127% in the same period (after 119% in 2005, see chart 48). This effect is due on the one hand to the subprime crisis (which began in the summer of 2007 and by which some European conglomerates were hit very hard) and to the lower-risk (more conservative) business model of the Austrian financial conglomerates. In addition, measures to strengthen equity were taken in the course of 2009 (injection of external funds and restructuring of the groups), which ensured that the Austrian financial conglomerates had a solid and appropriate equity base.

Official activities

With the publication in Federal Law Gazette I 2009/22, the prescribed reporting thresholds for risk concentrations and intragroup transactions changed (determined in Articles 9 and 10 FKG). To date, one of the parameters was the “statutory capital requirement”, on the basis of which the notification thresholds were determined by company-specific notice, now the “eligible capital at the level of the financial conglomerate” is the value that serves as the basis. Since all Austrian financial conglomerates have excess equity, the reporting threshold was lowered for each company to ensure continuity and comparability in the analysis.

Pursuant to Section 15 (1) FKG, the FMA can carry out on-site inspections at companies subject to additional supervision. The focus here is on examining the group structure, group strategy, financial position, organisation, risk management and internal control systems at the level of the respective financial conglomerate. In addition to the sectoral group supervisory regulations (Banking Act, BWG and Insurance Supervision Act, VAG), which already provide for a group-wide risk management, an appropriate risk management is required according to Section 11 (2) FKG, which covers the financial conglomerate as a whole. Against the background of the developments in recent years, the areas of risk management and internal control systems in particular have increasingly become th

Due to the fact that risk managers in the insurance industry use different terms than their colleagues in the banking and investment services industry, there may be difficulties in interpreting and understanding the risk in question when looking at it as a whole. Also it could be due to different workflows and processes in back office

or accounting of the different types of companies in the financial sector, there are operational risks in the group. It is therefore essential to have established written specifications and process definitions. A common language and definitions for risk terms and perspectives that encompass all companies in the group is one reason

prerequisite for internal communication and management of the group. These definitions should include a clear risk strategy, risk principles and responsibilities, and reporting lines.

Furthermore, a group-wide internal risk assessment and a clear capital strategy should be established at conglomerate level.

Reporting has on level

of top management all essential points such as own funds, risk and risk-bearing capacity on conglomerates

Council level and possibly also stress tests and worst

to include case scenarios. A joint (group) treasury, which records the liquidity risk of the financial conglomerate, can also help to minimize the resulting risks and supports the group's uniform strategy with regard to refinancing and investment.

As an independent staff unit, internal auditing at the level of a financial conglomerate has the task of providing all companies in the group (both regulated and non-regulated) with a regular review

to undergo examination. Their recommendations and findings are passed on to top management as information and should result in work orders for the management of the companies affected and examined. As already mentioned, both risk management and internal auditing must be implemented across the group and should be given the appropriate powers over the respective solo companies.

In 2009, the FMA carried out three on-site inspections at financial conglomerate level. The focus here was on the status of integrated risk management at the overall group level and the internal control systems. Furthermore, the processes and procedures for obtaining information

as well as the communication of the companies about the subject to a critical appraisal across the boundaries of the respective industry. As a result, the companies were instructed to take a more integrated approach to implementation.

Compliance oversight

LEGAL BASIS

In the supervision of credit institutions in the sense of the Securities Supervision Act 2007 (WAG 2007) and in compliance supervision, the FMA monitors compliance with Chapter 2 of the WAG 2007 and the FMA Ver

ordinances (e.g. Conflicts of Interest and Information for Customers Ordinance) and on the other hand the compliance provisions of the Stock Exchange Act (BörseG) (Section 48s in conjunction with Section 82 Para. 5 BörseG) to prevent insider abuse and the FMA ordinances based thereon (Issuer Compliance Ordinance).

In relation to the respective norm addressee, the following provisions must be taken into account:

credit institutes

In the case of banks that provide investment services in connection with financial instruments or use auxiliary persons in this regard (contractual intermediaries within the meaning of Section 28 WAG 2007 or financial service assistants within the meaning of Section 2 Para. 1 Z 15 WAG 2007), compliance with Section 2 of the WAG 2007 and the compliance provisions of the Stock Exchange Act (Section 48s in conjunction with Section 82 para. 5 BörseG).

special credit institutes

Other credit institutions within the meaning of section 1 (1) of the Austrian Banking Act (BWG) are supervised in accordance with section 48s BörseG with regard to compliance with the stock exchange compliance provisions of section 82 (5) BörseG. In addition, additional provisions of the WAG 2007 may be relevant.

capital investment companies

In the case of capital investment companies, a distinction must be made between those with a license pursuant to Article 2 Para. 2 No. 2 of the Investment Funds Act (InvFG) in conjunction with Article 3 Para. 2 Nos. 1 and 2

WAG 2007 for the provision of investment advice and portfolio management services on an individual customer basis with a discretionary power of attorney of the customer and those capital investment companies without such a "WAG 2007 additional licence". Capital investment companies within the meaning of Section 1 (1) No. 13 BWG (management of capital investment funds) are only subject to the compliance provisions of the BörseG (Section 48s in conjunction with Section 82 (5) BörseG). Capital investment companies that also have a license pursuant to Article 3 Para. 2 Nos. 1 and 2 WAG 2007 are also subject to the provisions of the WAG 2007 exhaustively listed in Article 2 Para. 3 WAG 2007 with regard to the activities carried out within the scope of the additional license

in accordance with Article 15 of the FMA Costs Ordinance, to report the sales revenues from investment services of the previous year by June 30 of the following year. Furthermore, capital investment companies have recognized their own module (module 7) of the Standard Compliance Code of the Austrian Banking Industry (SCC) as a minimum standard and must comply with it accordingly.

Insurance company

Insurance companies are fundamentally subject to the compliance provisions of the BörseG (Sections 48s in conjunction with Section 82 (5) BörseG). In the case of insurance companies, a distinction must be made between those who broker investment fund shares in accordance with Section 3 (3) of the Insurance Supervision Act (VAG) and those who do not provide this service. With regard to these activities, insurance companies that broker shares in investment funds are also subject to the exhaustive provisions of the WAG 2007 listed in Article 2 (2) WAG 2007. Insurance companies have to report to the FMA, in accordance with Article 15 of the FMA Costs Ordinance, the sales revenue from securities services of the FMA

year by June 30 of the following year.

pension funds

According to Section 48s BörseG, pension funds are supervised with regard to compliance with the stock exchange compliance provisions of Section 82 (5) BörseG.

E middle

Issuers are checked with regard to compliance with the provisions of Section 82 (5) BörseG. In the case of issuers whose shares or securities similar to shares are admitted to trading on a regulated market within the meaning of Section 1 (2) Stock Exchange Act (Vienna Stock Exchange) in Austria, the FMA has made use of the power to issue ordinances under Section 82 (6) in conjunction with Section 48d (11) Stock Exchange Act and in the Issuer Compliance Regulation (last amended in 2007) laid down principles for organizational measures and defined for the transfer of information in the company.

In order to be able to fulfill these statutory mandates, the FMA is authorized under Article 91 (1) to (3) WAG 2007 at any time, among other things, to inspect the books, documents and data carriers of companies and to receive copies, to request information from the companies and their bodies and, in accordance with the Administrative Procedure Act, to summon and question persons and to carry out on-site inspections through its own auditors, auditors or other experts. Furthermore, according to Article 82 (6) in conjunction with Article 48d (11) in conjunction with Article 48q BörseG, the FMA is entitled, among other things, to inspect all types of documents and to request information from anyone, as well as to conduct investigations to be carried out on site.

PUBLIC ACTIVITY

Investors will only invest in the Austrian capital market if they have confidence in it. Compliance makes a significant contribution to fairness towards all market participants. The term compliance is derived from the English "to comply with" or "in compliance with" and in a broader sense means adhering to laws, guidelines, duties of conduct, rules and practices.

Compliance is therefore a management function whose task is in particular to control business and reputational risk. Compliance ("acting in accordance with the law" or - to put it more generally - "with the applicable rules") is intended to avoid administrative sanctions and criminal and civil law consequences.

Legally and technically, compliance oversight is behavioral oversight.

In addition to the provisions of Section 82 (5) BörseG, the WAG 2007 contains for the first time very specific and detailed requirements for the compliance concept and the organization of a company's compliance function. These are no longer limited to the organization with regard to the avoidance of insider trading, control of employee transactions and management of conflicts of interest, but also assume the function of general risk avoidance with regard to non-compliance with the WAG 2007.

BEAU FS AUTHORIZED COMPANIES

As of December 31, 2009, the FMA, within the framework of the supervision of credit institutions within the meaning of WAG 2007 and compliance supervision (for comparison in brackets December 31, 2008): **n** 856 banks (868) **n** 25 capital investment companies (25) **n** 50 insurance companies (54) **n** 18 pension funds (19)

n 201 issuers¹ (185)

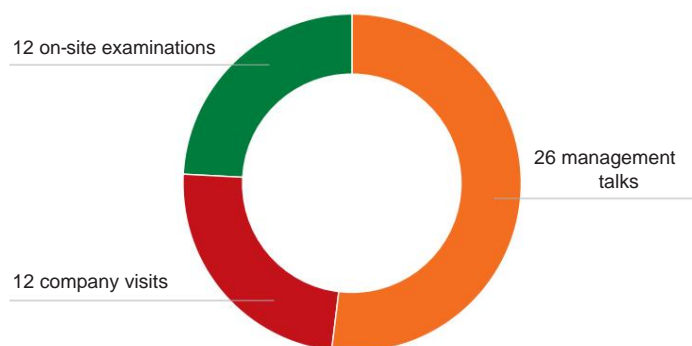
RUNNING OVERVIEW

The FMA has various supervisory instruments at its disposal to ensure compliance with the statutory provisions:

- n** On-site inspections in accordance with Section 91 Para. 3 Z 3 WAG 2007 and Section 48q Para. 1 Z 3 BörseG serve to specifically monitor compliance with legal provisions. As part of an on-site inspection

¹ Pursuant to the Issuer Compliance Ordinance (ECV), 96 issuers whose shares or securities similar to shares are admitted to trading on a domestic regulated market within the meaning of Section 1 (2) BörseG are subject to supervision.

Chart 49: Regulatory measures in 2009



Among other things, information can be requested from the company and its organs, the books, documents and data carriers of the company can be inspected and information can be obtained from auditors. If the suspicion of a violation of the law is substantiated during an on-site inspection, this can lead to the initiation of administrative penal proceedings.

Management talks and company visits serve to ensure ongoing contact with the supervised companies, to raise the market standard in this regard and to cause

to discuss specific problems with the companies. In addition, will

Management discussions used as a "follow-up tool" to an on-site inspection.

In 2009, 50 regulatory measures were taken 13 more than in the same period of 2008. These are broken down into twelve on-site inspections, 26 management talks and twelve company visits (see chart 49).

SUPERVISORY LEGAL MEASURES

In addition, as part of ongoing supervision, the system is analyzed and evaluated in accordance with section 63 (5) and (7) BWG for the audit report. In addition, fit & proper tests are carried out as part of compliance supervision for capital investment companies that have an additional WAG 2007 license

carried out within the meaning of Section 5 Para. 1 No. 8 BWG to assess the professional suitability of the managers with regard to the relevant provisions of the WAG 2007. At the international level, the FMA represents the view of credit institutions within the meaning of the WAG 2007 and of compliance supervision Austrian interests in various CESR expert groups.

OVERVIEW DEVELOPMENT

As a contribution to ensuring legal certainty, but also to further legal development, the FMA has drawn up numerous circulars as part of the development of supervision (e.g. circulars from the FMA on the organizational requirements of the WAG 2007 with regard to compliance, risk management and internal auditing). In addition, self-regulatory frameworks are being developed together with market participants.

For banks, the Wirtschaftskammer Austria and the market participants in together Working with the FMA, the Standard Compliance Code of the Austrian Banking Industry (SCC) in the version of December 28, 2007 was developed. This represents a combination of self-commitment regulations and legal provisions, which have been supplemented by practical examples. The SCC provides for minimum regulations that have been accepted and are to be applied by every credit institution, whereby every market participant is free to make stricter regulations.

The Standard Compliance Code of the Austrian insurance industry in the version of October 8, 2007 was drawn up by the Association of Austrian Insurance Companies in coordination with the FMA

of the Stock Exchange Act.

Likewise, in the area of pension funds from

Association of Pensionskassen, in consultation with the FMA, has drawn up the Standard Compliance Code for Austrian Pensionskassen, which, as a self-binding work, also sets out minimum regulations with regard to the compliance provisions of the BörseG and is currently being revised.

LEGAL SUPERVISION OF STOCK EXCHANGE COMPANIES

G Pursuant to Article 45 BörseG, the FMA must monitor the legality of the exchange organization and the resolutions of the bodies of the exchange operating company (in particular by means of the exchange commissioner to be appointed pursuant to Article 46 BörseG) and the orderly conduct of exchange trading. The FMA's responsibility for the above-mentioned surveillance areas relates to securities exchange activities, while commodity exchange activities are subject to supervision by the Federal Ministry of Economics, Research and Youth. Currently the only stock exchange company in Austria is Wiener Börse AG (WBAG). The main practical application in the context of operational supervisory activities is the official approval of applications by the exchange operating company in connection with intended changes to the general terms and conditions. Several such approval procedures were carried out in 2009, with the main focus being on processing issues, among other things.

In the first half of the year, for example, the settlement period (i.e. the period within which the stock exchange transaction must be settled by delivery or payment) was extended from five days to seven days, after it had been drastically reduced from 13 to the five days mentioned in 2008 in connection with the financial crisis. At the same time, the CCPA (Central Counterparty Austria GmbH) clearinghouse was required to continuously transmit cover purchase statistics to the FMA in order to be able to constantly monitor the delivery discipline among the market participants. The CCPA is about it

This is the clearing house commissioned pursuant to Section 26 (3) BörseG and an independent legal entity whose terms and conditions are subject to the FMA's responsibility in terms of licensing law. The measures mentioned for the settlement periods determination and monitoring of the due not he

The cash settlements carried out after delivery are to be regarded as important accompanying measures for monitoring compliance with short-selling bans. Other topics related to the changes to the settlement conditions were adjustments to the settlement account and custody account management by general settlement participants and the settlement regime in cases of subsequent impossibility for which the trading member who is obliged to deliver is not responsible (e.g. reaching a knock-out threshold for certificates).

As a result of the coordination and preparatory work in connection with the planned start of trading activities in gas products on the stock exchange. The gas exchange itself is operated to the extent that requires a license by Wiener Börse AG as the trading system operator (XE TRA® for spot products, EUREX® for futures market products). The most important cooperation partner (in addition to the commissioned German clearing house Europe an Commodity Clearing AG – a subsidiary of the Leipzig commodity exchange European Energy Exchange AG – for the clearing functions) is the Central European Gas Hub AG (CEGH), in which both WBAG and OMV

Gas & Power GmbH are involved. Another investment in CEGH is currently being examined by the European Commission against a background of competition law. CEGH takes over the area of physical settlement as part of the gas exchange transactions that have taken place and provides a range of collateral services (no-notice storage, back-up services,...).

In connection with the supervision of gas exchange activities, it should be noted that only the intended start of exchange operations in futures products (e.g. gas futures with a term of several months) falls under the supervision of the FMA; the stock exchange business started in December 2009 in

According to national law, cash market products (e.g. day-ahead products) fall under the supervisory responsibility of the Federal Ministry of Economics, Research and Youth. The organizational differentiation depends on the classification of commodity futures transactions as financial instruments in accordance with Article 1 No. 6 of the Securities Supervision Act 2007 and the qualification of commodity spot market transactions as commodities in the classic

senses together. Both institutions plan to work closely together in the context of supervision, whereby the inclusion of the energy regulation authority (E-Control GmbH) in the list of authorities with which mutual administrative assistance is possible pursuant to Section 21 (2) of the Financial Market Supervision Act should bring additional supervisory efficiency.

SUPERVISION OF THE STOCK EXCHANGE AND SECURITIES PA P IERTRADING

LEGAL BASIS

D he task of the FMA as part of the supervision of the stock exchange and securities trading includes monitoring compliance with the provisions of the Stock Exchange Act (BörseG) and the Securities Supervision Act (WAG). The legislator gives the FMA The overriding goal here is to ensure the regularity and fairness of trading in listed securities.

The core tasks of the supervision of the stock exchange and securities trading include:

- n** Detect misuse of inside information and to take criminal prosecution measures in accordance with the legal requirements. Insider trading is a criminal offense to be prosecuted by the public prosecutor's office (StA) and by or is to be punished by the relevant courts. The FMA has to monitor the regularity of trading and, if there is reasonable suspicion of a violation of the ban on insider trading, to report this to the StA. She will then be charged with further marriages by the prosecutor exercises entrusted;
- n** uncovering and punishing market manipulation and violations of the trading rules of the Vienna Stock Exchange. This is administrative criminal offenses to be determined and sanctioned by the FMA are;
- n** to monitor compliance with the statutory disclosure, reporting and information obligations and to prosecute any violations under administrative penal law.

The statutory disclosure, reporting and information requirements are very far-reaching and are aimed at different target groups. Banks and investment firms involved in securities trading are subject to the obligation to report transactions pursuant to Section 64 WAG 2007 (over-the-counter trading), while

such as companies listed on a regulated market that are subject to ad hoc publicity. Shareholders themselves may also have reporting obligations, for example when acquiring and selling significant holdings (Sections 91 in conjunction with Section 93 BörseG) or in the course of directors' dealings pursuant to Section 48d (4) BörseG. With the exception of misuse of inside information all violations mentioned are the subject of administrative penal proceedings.

In order to fulfill the above-mentioned core tasks, the FMA has numerous supervisory powers, including far-reaching information rights, such as viewing all types of documents and requesting information from anyone. In the course of the investigation, persons may be summoned and questioned. On-site inspections are also provided for by law.

MARKET DEVELOPMENT

Since the outbreak of the financial crisis more than two Years of downward trend on the financial markets ten was breached for the first time in 2009 the. Although the leading international indices were showing a weaker trend at the beginning of the year, they were already turning upwards towards the end of the first quarter. The ATX, the leading index of the Vienna Stock Exchange, followed this pattern and ultimately ended the stock market year with a plus of around 43%. In contrast, the DAX, the leading index on the Frankfurt Stock Exchange, gained only 24%, the Dow Jones Industrial Index on the New York Stock Exchange and the Nikkei 225 on the Tokyo Stock Exchange increased by around 20%. The Vienna Stock Exchange thus fared significantly better in 2009 than the major international trading venues.

In the year under review, the leading Vienna index marked its low for the year of 1,379 points at the beginning of March, and the high for the year of 2,775 points was reached at the end of October. The previous all-time high of 4,892 points from 2007 was still a long way off. Among the im

The price increases for the individual stocks represented on the ATX fell

Part very strongly, only three papers had to accept a negative annual performance. Market capitalization rose again with the prices – from €53.1 billion as of December 31, 2008 to around €77.5 billion as of December 28, 2009. In addition, capital market transactions increased again, initially in the form of capital increases. Eleven capital increases brought in fresh capital of €2.53 billion, and there were no IPOs. In retail sales could

fail to dampen the positive mood that has prevailed since March. While the average monthly trading volume was €11.7 billion in the previous year, it fell to around €6 billion in 2009.

The internationalization of Vienna's financial center was at the top of the agenda in 2009 as well. Already since 2007 there have been more international than domestic in Vienna German investment houses admitted to direct trading senior They account for around two thirds of all trade sales. Internationalization is also evident investor side. This is how the USA and Great Britain count one of the largest institutional investors in the ATX Prime Market of the Vienna Stock Exchange.

Table 33: Official trading and Regulated Unofficial Market 2009
(values from the end of 2008 in brackets, source: Wiener Börse AG)

Official trade and Regulated free market	Number issuers		Number listed papers	
Shares abroad	83	(85)	89	(92)
stocks domestic	3	(4)	7	(8th)
profit participation certificates	3	(3)	1,341	(1,704)
warrants	2	(2)	2	(2)
participation certificates	94	(97) (16)	2,658	(2,460)
pensions	16	(4)	2,658	(1,739)
certificates	4		22	(22)
Exchange Traded Funds	184	(185)	6,305	(6,035)
total issuers				
Third Market:				
Shares abroad	10	(9)	10	(9)
stocks domestic	14	(16)	14	(16)
profit participation certificates	7	(8)	7	(8th)
warrants	4	(3)	20	(46)
participation certificates	1	(1)	1	(1)
pensions	184	(191) (11)	980	(1 075)
certificates	12	48	35	(35)
Investment funds	(45)	272 (277)	237	(196)
total issuers			1,304	(1,386)

REGULATORY ACTIVITY

REGULATED ENTITIES

EMITTERS

As of December 31, 2009, official trade and Ge 6,305 securities from 184 issuers are listed on the Regulated Open Market of the Vienna Stock Exchange, and 1,304 securities from a total of 272 issuers have also been listed on the Third Market, which has been run as a Multilateral Trading Facility (MTF) since 2007 (see Table 33).

REPORTABLE GEINSTITUTIONS

According to § 64 WAG 2007, companies (including Austrian credit institutions and domestic branches of foreign credit institutions) which transact business in listed financial instruments close, obliged to report every transaction to the FMA. 2009 were around 900 companies affected by this reporting obligation.

OTHER STOCK EXCHANGE WITH MEMBERS

Exchange members who are not required to report are also supervised by the FMA. Since the implementation of the MIFID in 2007, market participants based within half of the EU report the securities transactions they have carried out on the Vienna Stock Exchange to the authority in their home country, which forwards the reporting data to the FMA.

TRANSACTION REPORTING

In transaction reporting, the reporting system for stock exchange and over-the-counter transactions, the FMA implemented a new standardized procedure for checking the reporting behavior of institutions subject to the reporting obligation. Above all, compliance with the time of reporting required under Article 64 WAG 2007 and the frequency of errors in the content of the report as well as the correction behavior with regard to faulty Transaction reports in focus. In order to be able to evaluate the data received from those subject to the reporting obligation, the FMA has developed its own software application. Criteria were defined for the evaluation, the significant violations of the obligation to properly Mel

ment of securities transactions. The data received in 2009 has already been fully evaluated according to these criteria and the necessary measures have been taken in the event of violations.

At the international level, the FMA within the framework of the TREM (Transaction Report Exchange Mechanism) User Group, a working group of the European Securities and Markets Authority (Committee of European Securities Regulators, CESR), played a leading role in improving data quality in the international exchange of transaction reports. The Instrument Reference Data System (IRDS) was also developed within the framework of this CESR subgroup. This is a database that contains all securities listed on a regulated market in the European Economic Area (EEA) and is intended in particular to implement the reporting requirements in accordance with Regulation (EC) No. 1287/2006, Articles 9, 10 and 11. All affected Austrian securities were transferred to the IRDS by the FMA

transmitted.

In 2009, 17,251,130 securities transaction reports were submitted by the institutions that are required to report to the FMA. Of these around 17 million reports, 3,969,263 were forwarded to the responsible authority. In addition, the FMA, as the competent authority, received 9,429,078 transaction reports from other European supervisory authorities. In total, the FMA had to analyze 22,710,945 reports in 2009, which means a slight decrease (-2%) compared to the previous year (see chart 50).

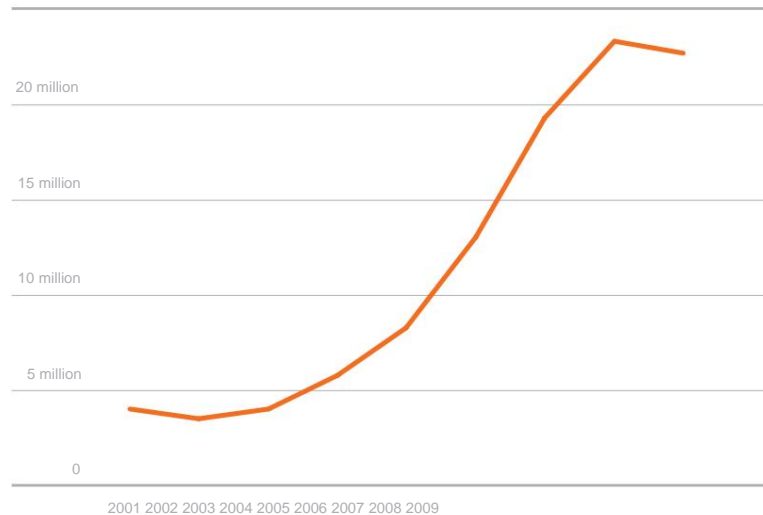
INTERNAL INFORMATION SYSTEM

In the ongoing supervision of the stock exchange and securities trading, the FMA can access extensive data simply because of the statutory reporting requirements. The most important sources of information in ongoing supervision include the transmitted Trans

action data, the trading surveillance system of the Vienna Stock Exchange, the disclosure requirements of issuers and the disclosure requirements of shareholders.

In order to enable an efficient analysis of securities trading, timely and correct transmission of securities transactions to the FMA in accordance with Section 64 WAG 2007 is essential. The transaction mel

Diagram 50: Transaction reports within the FMA's area of responsibility 2001-2009 (according to Article 64 WAG)



ments contain all the key parameters of a securities transaction, making all trading activities traceable and evaluable. Ver

The picture is completed by data logs from XETRA, the trading system of the Vienna Stock Exchange, which serve to reconstruct price formations or order book developments in suspicious cases. In addition, according to the Stock Exchange Act, the Vienna Stock Exchange must operate a monitoring system that completely records exchange trading. All abnormalities in real-time trading are thus automatically documented and are un

forwarded to the FMA immediately. At the FMA, these alarm reports are fed into the computer-aided analysis tool Market Abuse Detector (MADe) and linked to the results of the FMA's internal alarm system, which calculates irregularities in market activity using financial statistical methods.

In order to be able to assess abnormalities in stock exchange trading in a broader context, the MADe tool also collects information resulting from the disclosure requirements of issuers or the reporting requirements of investors. This is particularly important if insider information is suspected of being misused

an evaluation of the transaction data, taking into account the ad hoc reports, is expedient. However, notifications of shareholdings or notifications regarding directors' dealings can also provide valuable information when analyzing abnormalities in the market.

EXTERNAL NOTICES

SUSPICIOUS TRANSACTION REPORTS – OBLIGATION TO REPORT INDIVIDUAL PERSONS

Persons who deal professionally with financial instruments must report this to the FMA without delay if, based on the facts and information that have come to their knowledge, they have reasonable suspicion that a transaction could constitute insider dealing or market manipulation (section 48d para. 9 BörseG). In such cases,

send the FMA all data relevant to the facts of the case information, including a description of the transactions, the reasons for the suspicion of market abuse and information on the person subject to the reporting obligation. The report should only go to the authority. According to Section 48d (10) BörseG, other persons, especially those on whose behalf the transactions in question were carried out, may not be informed become.

The FMA received two such notifications in the year under review. At the end of the year, a practical dialogue was held with the compliance officers of the banks, in the course of which the essential principles and current case studies for reporting suspicious transactions were presented. A newly designed reporting form has since been available on the FMA website callable.

NOTIFICATIONS, COMPLAINTS and INFORMATION FROM THE MARKET

Investigations by the FMA may also be based on other external perceptions. Every tip and every complaint from investors or market participants is recorded in order to check the facts brought up for possible violations of the law. Due to official secrecy, the FMA

however, no conclusions about the progress or the result of the investigations (including the complainants) give information.

MARKET SUPERVISION

The FMA has for fairness and regularity in the trading in listed securities and in particular misuse of insider information

(Section 48b BörseG), market manipulation (Section 48a BörseG) and violations of the trading rules of the Vienna Stock Exchange (Section 18 no. 1 BörseG in conjunction with Section 48 para. 1 no. 7 BörseG) uncover.

Routine analysis

Any anomaly in stock exchange trading that the FMA becomes aware of from its own market surveillance or from third-party perception is initially the subject of a routine analysis. It is checked whether the anomaly can be explained plausibly. If this is not the case, for example after viewing ad hoc publications or media reports and analyzing the market environment, there is reason to suspect a violation of the law, which leads to the initiation of a preliminary investigation.

Preliminary examination

As part of the preliminary investigation, the facts are subjected to a comprehensive analysis. Which investigative steps are taken to substantiate the suspicion is decided depending on the type of abnormality found. For example, trading days before or after a suspicious transaction can be checked, the trading behavior of individual market participants or dealers can be examined, the investment behavior of a client can be evaluated based on the transactions reported to date, and recurring

must be moored. The detailed evaluation of the order and transaction data can be found under Einbe

drawing further information such as professional securities analyses. In any case, the preliminary investigation is limited solely to information available within the FMA. This ensures that the matter is dealt with as promptly and efficiently as possible.

Formal examination

If the preliminary investigation confirms the suspicion that the abnormality under investigation is based on a violation of a legal norm to be supervised by the FMA, it is transferred to a formal investigation.

The FMA then makes use of all information and inspection rights under the WAG and BörseG, inspects various documents, carries out on-site inspections or invites the persons involved to interrogations.

Table 34: Market surveillance 2009 (compared to 2008-2006)

	Routine-analyses	investigations into misuse of insider information, Market manipulation and violation of trading rules					Research reports
	Calculated alarm messages	Preliminary investigations initiated	investigations initiated	investigations to the internal legal editing forwarded	Investigations discontinued/ completed	Complaints forwarded to the public prosecutor's office	receive
1st quarter	314	19	11	4	12	0	186
2nd quarter	301	13	9	2	6	0	194
3rd quarter	291	5	2	7	4	3	192
4th quarter	350	6	4	0	2	1	228
Total 2009	1,256	43	26	13	24	4	800
Total 2008	2,715	37	21	7	16	1	703
Total 2007	2,229	22	14	5	6	1	822
Total 2006	2,472	11	9	4	7	1	826

The market surveillance led 1,256 in the reporting period routine analyses. A preliminary investigation was initiated in 43 cases, and 26 cases were transferred to a formal investigation. A total of 24 investigations were completed in the past year, including four investigations into Miss

need an inside information and 20 investigations market manipulation or breach of trading rules. Compared to the previous year, both the number of initiated and the number of completed investigations increased (see Table 34).

In the year under review, not only the number of investigations but also the number of requests for administrative assistance increased. In 2009, a total of 27 inquiries were made to various foreign authorities. The number of inquiries received from foreign authorities was 32 (see Table 35).

A large part of it came from deut this time as well sister authority BaFin (Federal Financial Supervisory Authority).

As part of its investigative work, the FMA 2009 several special tests carried out. In the case of such priority campaigns, specific abnormalities are not addressed, but thematic areas are analyzed. Cases for special audits

can both the knowledge from the ongoing Market observation as well as inputs or advertisements from the outside. For example, selected market areas are examined, trading in securities of certain industries examined or the Handelsver

Table 35: Administrative assistance market surveillance 2009 (compared to 2008-2002)

	Requests made to foreigners regulators			Received requests from foreign ones regulators		
	BaFin	FSA	other	BaFin	FSA	other
Total 2009	5	6	16	21	1	10
Total 2008	4	2	3	16	0	7
Total 2007	2	2	7	13	0	6
Total 2006	3	3	6	15	0	4
Total 2005	1	0	0	14	1	3
Total 2004	3	2	11	26	0	2
Total 2003	2	2	1	16	0	2
Total 2002	x	x	x	14	0	1

holding of a market participant analyzed over a longer period of time.

M I S S U S E O F I N S I D E R I N F O R M A T I O N

The law defines inside information as one

accurate, publicly unknown information associated with one or more issuers or one or more

is directly related to other financial instruments, which is capable of significantly influencing the price of a security through publication and which an informed investor would probably use as the basis for his investment decision. Pursuant to Section 48b BörseG, the legislator prohibits the misuse of insider information.

The offense includes anyone who uses insider information in order to gain a pecuniary benefit, whether through the purchase or sale of securities

or by passing the information on to third parties. A pecuniary advantage is not only the achievement of a profit, but also the avoidance of one loss. Misuse of inside information is punishable by imprisonment of up to five years.

In 2009, six insider investigations were opened and four investigations were closed. In the following four cases, the FMA submitted a report to the Vienna Public Prosecutor's Office in accordance with Section 48i (3) BörseG regarding the suspicion of abuse of an Insider Information Report handed over to the information and was entrusted with further investigations:

n In one case, four people are suspected, two of them as primary insiders for passing on insider information pursuant to Section 48b (1) BörseG, the other two for exploiting insider information communicated to them pursuant to Section 48b (2) BörseG. They are in close contact with the primary insiders, both of whom were involved with the matter within the group in question. The inside information relates to the acquisition of a

Participation in a foreign competitor. Both secondary insiders pre-purchased

the publication of the inside information shares of this company and bumped into them for a short time later again with considerable price gains.

n Another case of abuse of an insider report pursuant to Section 48b (1) BörseG relates to purchase transactions by a member of the Management Board and his daughter in shares of the company. Here they have before the ad hoc publication of the insider information, in which the earnings forecast for the corresponding financial year was raised significantly, people said they opened a securities account with the same bank and initiated purchase orders with the same number of units. There is a suspicion that the Management Board passed on the insider information and used it itself.

n In another case, the suspicion is directed also against a person who acts as a director of an Austrian listed company is time. The inside information relates to the sale of a significant stake. The Management Board is suspected of having bought shares in its own company before the information was published by means of an ad hoc release

generate the insider trading ban according to § 48b paragraph 1 to have violated.

n The fourth case concerns the offense of "Front running" according to § 48a Para. 1 Z 1 lit c BörseG: Here the trader of a bank first has a customer received the purchase order, the execution of which price of the financial instrument in question significantly has influenced. Information about customer orders constitutes insider information for persons commissioned with the execution of such orders in accordance with Section 48a (1) no. 1 BörseG. Before the customer purchase order was executed, the same trader acquired securities for his bank's nostro account, which were resold at a higher price level after the customer purchase order had been executed were bought.

MARKET MANIPULATION AND VIOLATION

THE TRADING RULES

The law defines market manipulation as any transaction or order to buy or sell that

n false or misleading signals for the supply of financial instruments, the demand for them or their price give or might give or

n the price of one or more financial instruments influence in such a way that an abnormal or artificial price level is achieved.

The dissemination of information, rumors or news via the media that gives or could give false or misleading signals in relation to a financial instrument also constitutes market manipulation. It may also be market manipulation if transactions or buy or sell orders are entered into or commissioned under false pretenses or under deception.

In the year under review, 20 investigations were opened on suspicion of market manipulation, and just as many were concluded. In several cases, the FMA initiated corresponding administrative penal proceedings. A specific situation is briefly described below:

n Routine analyzes revealed a noticeable price movement on the last trading day of the year in a stock listed on the regulated market of the Vienna Stock Exchange. A market participant created with

every buy order resulted in a significant price increase despite weak demand and thus stopped the current downward trend of the security. The investigation revealed that the market participant had committed the offense of market manipulation pursuant to Article 48a Paragraph 1 Z. 2 lit. aa and lit. ab BörseG fulfilled.

INTERNATIONAL AGENDA

Against the background of market developments, cooperation in the individual CESR working groups was expanded and intensified. In the Surveillance and Intelligence Group (S & I), for example, the exchange of experiences regarding investigative practices, analysis tools and cooperation in cross-border supervisory cases was further promoted. The topic of short-selling was also dealt with in a separate task force: the focus was on exchange

about the different regulations for short sales in the member states in order to look for uniform strategies and to develop concrete proposals for regulation.

ISSUER SUPERVISION

Supervision of issuers and shareholders with regard to the publicity provisions enshrined in the Stock Exchange Act generally applies to issuers of securities whose securities are admitted to trading on a regulated market (in Austria: official trading or regulated unofficial market of the Vienna Stock Exchange).

In principle, as a result of the implementation of Directive 2004/109/EC (Transparency Directive), the FMA is only responsible for monitoring compliance with the disclosure provisions of sections 81a et seq. BörseG if the issuer's home member state is Austria.

"Prescribed information" within the meaning of Section 81a (1) no. 9 BörseG must be published by issuers whose securities are admitted to trading on a regulated market, in addition to community-wide publication via electronically operated distribution systems via the storage system (Issuer Information Center Austria) operated by OeKB

be averaged. Essentially, these are financial reports, ad hoc notifications and significant investments. Among the main tasks of the memory

systems of OeKB include the storage and provision of prescribed information from issuers via the OeKB website.

AD HOC - OBLIGATION TO REPORT

A prerequisite for the ad hoc disclosure obligation is the existence of inside information that directly affects the issuer. Before publication, each issuer has to inform the FMA and the exchange operating company of the information subject to disclosure in advance. The issuer of financial instruments has information to publish immediately about circumstances that are not publicly known. These circumstances must already have occurred, or it must be sufficiently probable that they will occur. A further prerequisite is that the circumstances are suitable for significantly influencing the stock exchange or market price of the financial instruments. Irrespective of stock exchange trading hours, the issuer is obligated to provide prior notification and publication, which must be done immediately, ie without culpable hesitation. In view of the promptness that is required, the issuer is obliged to carry out the appropriate preparatory work in order to avoid a delay as far as possible. The issuer must also ensure organizationally that the information is forwarded to a person who is authorized to make a decision without delay.

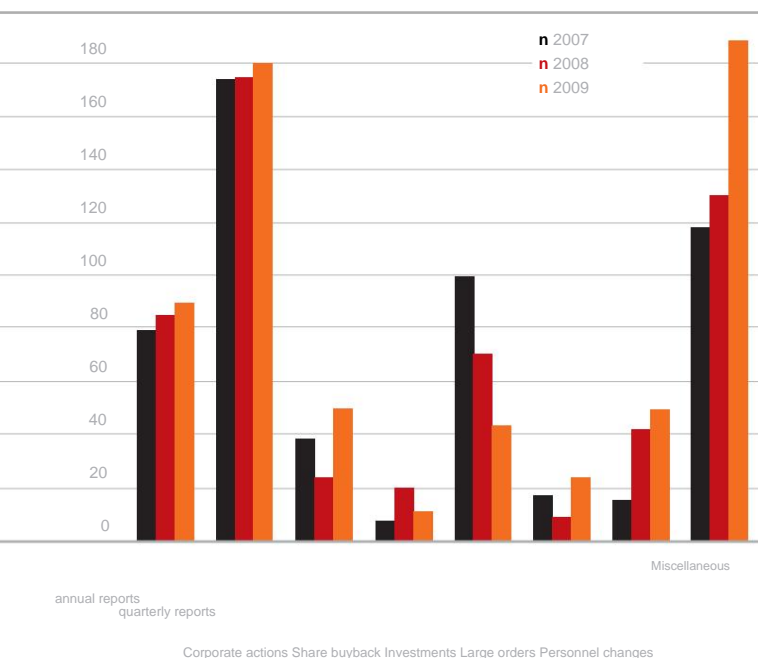
The ad hoc reporting obligation is therefore the regulatory instrument intended to prevent or counteract insider trading, i.e. the misuse of insider information.

Issuers have the right to delay the publication of inside information if it is necessary to protect their legitimate interests, the confidentiality of the information is guaranteed and there is no risk of misleading the public.

Due to a changed macroeconomic environment – the effects of the financial crisis that broke out in early summer 2007 – there was an increase in ad hoc postponements, the legitimate interests of which often lay in ongoing negotiations with lending banks or investors (see chart 51 on the following page).

The FMA investigates if there is a suspicion that a company has insiders who are subject to ad hoc disclosure

Figure 51: Ad hoc notifications by issue 2007-2009



Information not published at all, published late, incorrectly or incompletely. The FMA also examines whether issuers who have made use of the ad hoc deferral had corresponding legitimate interests at the time of the deferral.

OBLIGATION TO REPORT SIGNIFICANT SHAREHOLDINGS – VOTING RIGHTS

Changes in shareholdings in listed companies play a key role in market participants' demands for transparency. Disclosure of shareholdings under stock exchange law obliges natural and legal persons, the FMA

and the listed company the amount of their

Share voting rights as soon as they reach, exceed or fall below one of the threshold values through acquisition, sale or in any other way.

The thresholds are 5, 10, 15, 20, 25, 30, 35, 40, 45, 50, 75 and 90%. In addition to voting rights, since the implementation of the Transparency Directive in April 2007, capital market participants have also had to report if they hold certain financial instruments that entitle their holders to voluntarily own already issued shares associated with voting rights as part of a formal agreement

to acquire from an issuer.

It is also important that the Takeover Act (ÜbG) provides for separate disclosure requirements for takeover constellations. Both disclosure requirements exist side by side. The Takeover Commission is responsible for carrying out the tasks in accordance with the Austrian Takeover Act.

In certain constellations, participants can also Publicity and ad hoc publicity coexist: For example, the acquisition of a stake in another publicly listed company by a listed company can constitute an ad

represent information subject to hoc publicity.

Violation of the disclosure obligation for significant holdings is threatened with an administrative penalty of up to €20,000.00.

OBLIGATION TO REPORT FINANCIAL REPORTS – REGULAR PUBLICITY

With its extensive data, the periodic accounting and reporting obligation provides essential facts for investors, analysts and the entire financial community.

Annual financial reports, half-yearly financial reports and interim reports by issuers of shares that do not prepare quarterly reports in accordance with Regulation 1606/2002/EC fall under the regular disclosure requirements under the Stock Exchange Act. The FMA must be informed of the publication of the notification. In addition, the notices must be

and the financial reports to Issuer Information Center Austria of OeKB¹ : This

is the officially appointed system for the central storage of prescribed information.

In monitoring compliance with financial reporting obligations, the FMA carried out a focused audit in 2009. This clearly showed that when applying the standards of regular publicity in the BörseG, difficulties frequently arise in practice.

The task and goal for 2010 will be to inform the issuers about the interpretation of the specific requirements according to the legal opinion of the FMA directly from the relevant provisions of the BörseG and the Regulations issued by the FMA based on the BörseG

¹ <http://issuerinfo.oekb.at/startpage.html>

Table 36: Issuer supervision 2009 (compared to 2008–2006)

	received Ad hoc messages	rule publicity	Reports according to § 91a BörseG	Messages more important offerings	investigations		
	Ad hoc publicity	received annual and quarterly reports	Directors' dealings	received voting rights messages	investigations initiated	investigations to the internal legal editing forwarded	Investigations discontinued/ completed
1st quarter	140	58	152	44	6	6	6
2nd quarter	174	211	79	16	10	3	6
3rd quarter	153	166	84	29	9	7	6
4th quarter	168	133	121	50	6	4	4
Total 2009	635	568	436	139	33	20	24
Total 2008	555	401	1,005	177	28	6	14
Total 2007	557	233	819	123	11	3	6
Total 2006	473	266	309	139	20	2	13

arise, to be informed in a suitable form. The FMA will therefore continue to specifically monitor compliance with obligations when monitoring financial reporting and prosecute violations of the law in administrative penal proceedings accordingly.

If business results meet the definition of inside information, the ad hoc reporting obligation is triggered. The ad hoc publication obligation exists independently of the regular publicity and cannot be replaced by it. Furthermore, an ad hoc

The obligation to report can be triggered if financial reports that have already been published subsequently turn out to be wholly or partially incorrect.

DIRECTORS' DEALINGS - REPORTABLE

Persons who perform managerial tasks at an issuer of financial instruments, as well as persons closely related to them, must report to the FMA all transactions they have carried out for their own account within five working days.

The decisive factor for the reporting obligation is that the group of people recorded with management tasks can typically influence business decisions due to their position in the company.

According to the wording of the law, all shops are

notifiable. Transactions within the meaning of this provision are all legal transactions (e.g. purchase and sale), whereby donations and acquisitions of securities by way of succession are not included are.

There is an obligation to publish these transactions, whereby the FMA publishes this data on its website www.fma.gv.at with the consent of the persons subject to the reporting obligation.

OTHER PUBLIC OBLIGATIONS

The other publication obligations include n the publication of bond issues and in particular all related guarantees and collateral,

n the publication of changes in the rights attached to the various classes of shares and, in the case of securities other than shares, any change in the rights of the holders of these securities, including changes to the terms or conditions of these securities,

n and the submission of the draft amendment to the FMA if an issuer intends to amend its articles of incorporation or articles of incorporation.

Prospectus supervision

LEGAL BASIS

S Since the implementation of the European Prospectus Directive (RL 2003/71/EG) in the Austrian legal framework, the FMA has been set up as the competent authority for the supervision of capital market prospectuses. The statutory provisions include the Capital Markets Act (KMG), the Stock Exchange Act (BörseG), the associated Austrian ordinances (minimum content, publication and language ordinance, MVSV and filing fee ordinance) and Ordinance 809/2004 as amended regarding the information contained in prospectuses “as well as the presentation, the inclusion of information in the form of a reference and the publication of such prospectuses as well as the dissemination of advertising”.

In its function as the competent authority, the FMA is essentially responsible for the following tasks: **n** Examination and approval of prospectuses and supplements for the public offering of securities (securities prospectuses) or their admission to trading on a regulated market of Wiener Börse AG, whereby the standard of assessment for the FMA pursuant to Section 8a (1) KMG includes completeness, coherence and comprehensibility (more on this in the standard of assessment of the FMA as part of the approval procedure, page 113),

- n** Determination of suspected violations of the KMG and provisions of the BörseG relevant to prospectuses,
- n** Cooperation with other European supervisory authorities, which are responsible for notifications, administrative assistance and the exchange of information as well as the Further development of the European legal framework within the framework of working groups of the Committee of European Securities Regulators (CESR).
- n** Carrying out coordinating, administrative and informational tasks such as the publication of lists of approved securities projects

prospectus or the appropriate prospectus inspector (see www.fma.gv.at).

In addition to the FMA, Austria is also national chische Kontrollbank (OeKB) is responsible for certain prospectus-related tasks. So are about at the OeKB as part of its function as reporting office securities prospectuses (as well as the notified prospectuses) and can also be viewed there by interested investors. Also the how ner Börse AG come within the Austrian legal framework individual powers for prospectus control.

APPROVAL PROCESS

The Austrian and European legal framework specifies the formal procedure as well as the substantive test steps and standards in connection with securities issues. Accordingly, before every public offering of securities and before every listing on a regulated market (Vienna Stock Exchange), a securities prospectus must be drawn up, which contains all the essential information so that an average investor can form a well-founded judgment about the situation of the issuer and the security being offered. In order to be valid, a securities prospectus must be approved by the FMA and must be legally published.

The same applies to supplements to securities prospectuses that have already been approved. Pursuant to Section 6 (1) KMG, such supplements must be prepared by the issuer if important new circumstances arise during the public offer phase or prior to admission to trading or if material errors or inaccuracies are discovered in relation to the information provided in the prospectus.

When submitting the prospectus, a formal application for approval and the original signed prospectus in the appropriate number of copies are required.

As part of improvement orders, comments are then made by the FMA at

Setting an improvement period. The renewed submission of the revised prospectus must contain a black line version (this is a document with visible and comprehensible changes) as well as a written declaration of identity of the person responsible for the prospectus. If the approval requirements are cumulative, the issuer has a legal right to approval of the securities prospectus.

In contrast to the procedure for the approval of securities prospectuses, which is harmonized under EU law, prospectuses for the public offering of investments are subject to the respective national standards. For this reason, investment prospectuses cannot be notified within the framework of the European passport. Investment prospectuses are checked for correctness and completeness by a prospectus inspector and then filed with OeKB. The list of suitable prospectus inspectors is available at www.fma.gv.at. The FMA does not approve any investment prospectuses, but only has the supervisory authority to take action in the event of violations of the law.

INSPECTION SCALE OFF FMA IM FRAME OF THE APPROVAL PROCESS

As part of the test standard, the FMA has to check the cumulative existence of the approval requirements – completeness, coherence (freedom from contradiction) and comprehensibility – of the legal (formal) requirements. The correctness of the content of the prospectus information is explicitly not covered by the FMA's standard of assessment (see Article 8a (1) KMG).

COMPLETE PERMANENCE

Since the FMA does not have to check the content of the information submitted or carry out a credit check on the issuer of the securities, the FMA checks for completeness only on the basis of the minimum requirements of the applicable European legal schemes. These schemes were in the

VO 809/2004 for different securities and issuer categories and contain a wide range of mandatory information and financial information that an issuer must provide in the context of the prospectus.

COHERE NZ

As part of the review of consistency (freedom from contradictions), it is essential that the individual parts of the prospectus do not contain any contradictory statements. The FMA is obliged to carry out further checks if there are concrete indications from the prospectus that require further investigation.

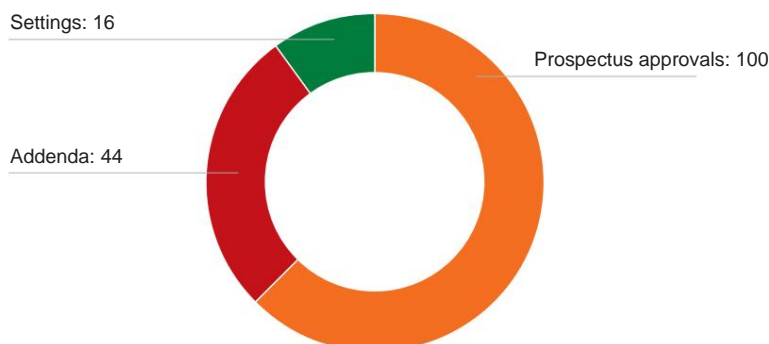
UNDERSTANDABILITY

The benchmark for assessing the comprehensibility of the information is the average reasonable investor. The information in the securities prospectus must be presented in a form that is easy to analyze and understand. This does not mean that technical terms have to be dispensed with, but at least an explanation of them should be included. Also may the technical vocabulary itself is not a significant part of the identify securities prospectuses. In particular, a summary that precedes the prospectus and the description of the risk factors associated with the security must be drafted in plain language.

OFFICIAL ACTIVITIES

As can be seen in chart 52, a total of 160 approval procedures were carried out in 2009, 144 of which were concluded with a positive approval notice. Of the 144 approval procedures, 100 were prospectuses and 44 supplements. The remaining 16 were paid by the issuer through Back

Chart 52: Number of approval procedures in 2009



withdrawal of the application for approval. The significant increase in prospectus procedures is primarily due to the fact that the exemption pursuant to Section 17b (2) KMG, according to which bonds pursuant to Section 3 (1) (3) KMG as amended by Federal Law Gazette I 80/2003 could be freely offered in a prospectus until December 31, 2008, expired on January 1, 2009. After In the view of the FMA, convertible housing bonds were from of these exemptions valid until December 31, 2008.

Since January 1st, 2009, Austrian residential 253/1993, as amended by Federal Law Gazette No. 680/1994 (StWbFG), which provide for a conversion right into shares or securities equivalent to shares (usually participation capital) in order to fall under the tax privileges of the federal law on special tax measures to promote housing construction, BGBl. No. 253/1993, as amended by BGBl. In 2009, this change led to an increase in prospectus approval procedures of around 35%.

EEA NOTIFICATIONS

A key part of the Prospectus Directive was the creation of a European passport for securities prospectuses. Accordingly, a securities prospectus that has been approved in an EEA member state and supplemented by the necessary supplements within the meaning of Section 6 KMG can also be used in all EEA member states for a public offer or admission to trading on a regulated market until its validity expires. This requires the notification of the prospectus and the supplements to the competent authority of the respective host member state. It should be noted that the prospectus must be drawn up in an acceptable prospectus language. Both German and English prospectuses can be submitted and used in Austria (Section 7 (1) and (2) KMG).

Viewed across the EU, Austrian companies have made extensive use of the option of applying for a license approved in Austria in recent years

Prospectuses can also be used for public offerings in other EU countries by means of passporting. A total of 40 notifications were made by the FMA in 2009 of securities prospectuses and 131 notifications of supplements to a securities prospectus. Most of the outgoing notifications went to Germany and various Eastern European countries. Conversely, the FMA was notified of 311 securities prospectuses and 1,468 supplements. The majority of the notifications received were submitted to the FMA by the Luxembourg Commission de Surveillance du Secteur Financier (CSSF) and the German Federal Financial Supervisory Authority (BaFin).

transmitted.

INTERNATIONAL COOPERATION

The international cooperation was completed in 2009 Participation in the meetings of the group of experts on prospectuses of the Committee of European Securities Supervisors (CESR) and intensive collaboration in the subgroup initiated by the Review Panel to evaluate the Prospectus Directive: Questions of interpretation and implementation of prospectus supervision were discussed within the framework of these working groups, some of which were included in the CESR recommendations for the EU Prospectus Directive. Furthermore, the administrative The practice of prospectus supervision in the member states was analyzed. The design of the amendment to the Prospectus Directive expected for 2010 was the subject of consultation meetings with the European ic commission.

DETERMINATION OF PROSPECTUS - AND ADVERTISING VIOLATIONS

In 2009, several priority campaigns were carried out and ongoing supervision of violations in connection with the issuance and advertising of securities and investments was intensified. A total of 73 investigations into suspected violations were initiated.

Fighting Illicit Business Operations

UNAUTHORIZED BUSINESS

D The FMA is responsible for supervising credit institutions, insurance companies, pension funds, occupational provident funds, investment funds, Investment services companies, listed corporations and stock exchanges; it monitors compliance with the strict legal regulations to ensure the stability of the Austrian financial system *finanzmarktes*.

However, more and more providers are appearing on the market who evade this ongoing supervision and offer and provide services that require a license without the appropriate authorisation.

Such providers pose a serious threat to the integrity of the financial market and are likely to shake investor confidence in a functioning financial market. This provision of business that requires a license without the required authorization is referred to as unauthorized business operations.

LEGAL BASIS

With the Financial Market Authority Amendment Act 2005 (Federal Law Gazette I No. 48/2006), Sections 22b to 22e were added to the Financial Market Authority Act (FMABG) under the heading "Unauthorized business operations". These provisions came into effect on March 31, 2006 in force and have meanwhile been made with regard to the entry into force of the Securities Supervision Act 2007 (WAG 2007) and the Payment Services Act (ZaDiG). According to Articles 22b to 22e FMABG, the starting point for the FMA to become active in this area is the suspicion of an administrative violation under the substantive laws (Article 98 para. 1 Banking Act [BWG], Article 66 para. 1 ZaDiG, Article 94 para. 1 WAG 2007, Article 48 para KG) and § 110 Insurance Supervision Act [VAG]).

Section 22b FMABG sets out the special investigative powers of the FMA when prosecuting the violations mentioned. According to this, the FMA is entitled to obtain information from natural and legal persons as well as from other institutions with legal personality and to process the necessary data

work. This right also includes the authority of the FMA to inspect documents and EDP data carriers on site – for example at the business premises of a suspect, but also at third parties take.

The FMA can use the provisions contained in the substantive laws (particularly Section 4 (7) BWG and Section 92 (11) WAG 2007) to inform the public that a person is not authorized to carry out certain transactions requiring a license. In addition to these publication provisions, Section 22c FMABG enables the FMA (taking into account above all the stability of the financial markets and the interests of the person concerned) to publish penal decisions and prohibition notices and to provide information about them.

A crucial and effective instrument of the FMA combating unauthorized business operations is governed by Section 22d FMABG. Even if there is a suspicion of an administrative violation under the substantive laws (Article 98 para. 1 Banking Act, Article 66 para. 1 ZaDiG, Article 94 para. 1 WAG 2007, Article 48 para request arrangement).

If a person concerned does not comply with this request within the set period, the FMA must order the measures necessary to restore the lawful status (up to and including the closure of the business). When a corresponding notice is issued, a

A fine of up to E 30,000 (§ 26a FMABG) is threatened.

In addition to the powers of investigation, publication and prohibition regulated in the FMABG, the FMA regularly conducts administrative penal proceedings for violations pursuant to Section 98 (1) BWG, Section 66 (1) Za DiG, Section 94 (1) WAG 2007, Section 48 (1) no. 1 BörseG, Section 47 PKG and Section 110 VAG in order to combat unauthorized business operations.

DEVELOPMENT

On January 1, 2009, due to the enormous increase in suspicious cases in the fight against unauthorized operations, the FMA appointed the "Task Force Enforcement – gray capital market" set up in 2006 within the "Legal and Procedural Affairs" department

an independent anti-illicit business unit and the number of employees increased from four to eight over the course of the year topped up. A permanent position of 10.5 employees is planned for 2010.

REGULATORY ACTIVITY

A total of 360 investigations were initiated in 2009, of which 164 were completed. About half were the Er

mediation proceedings initiated on suspicion of conducting unauthorized banking transactions and on suspicion of providing unauthorized investment services. In addition, individual cases of the unauthorized provision of insurance transactions and the unauthorized operation of stock exchanges were investigated.

Typical forms of investment fraud

In the course of its investigations, the FMA came across the Cases of unauthorized business operations, however of true financial crime cases. the under

Various forms of commission have shown that there are no limits to the criminal imagination of the perpetrators. However, three types of investment fraud can be observed again and again – also in different forms:

Advance Fraud

In what is known as advance payment fraud, the victims are tricked into making advance payments to the providers using false pretenses and absurd promises of returns (up to 100% and more). Contact is often made via mass emails in which the senders claim to have knowledge of the accounts of former rulers or large corporations in developing countries

zen and to transfer the sums of millions into the off now end up needing the help of the mail recipient. The promised commissions of 10, 20 or 30% of the sum to be transferred are tempting the victims to pay money in advance – ostensibly for fees, bribes, taxes and the like

len. The victim waits in vain for the promised consideration.

Oiler Rooms

Call centers (usually abroad) are referred to as boiler rooms, in which salespeople, who are said to be representatives of well-known financial service providers, try to persuade customers to conclude dubious investment transactions over the phone. The sellers exert great psychological pressure on the customers in order to induce them to buy shares in companies that are mostly dubious but are also often respected. After the money has been transferred, the customer is left with worthless shares or does not receive the promised shares. As a result, the providers are not available.

Phishing

Phishing is a type of online Fraud in which the perpetrators try to spy out access data from online banking accounts (user data, passwords, PIN and TAN) using so-called phishing mails or Trojans in order to subsequently Withdraw funds from these accounts and out to transfer country.

The illegal acceptance of third-party funds for administration or as a deposit (deposit business), the unauthorized implementation of cashless payment and billing transactions for others (giro business), the unauthorized granting of credit (credit business), the unauthorized trading in securities (securities business), the unauthorized lending and the unauthorized transfer of funds (financial transfer business) were prosecuted as illegal banking transactions.

Since the ZaDiG came into force in November 2009

In addition, the first suspected cases of unauthorized provision of payment services.

The provision of unauthorized securities services related in particular to investment advice and brokerage of financial instruments, but also to portfolio management. Former investment firms and investment services companies, which in 2008 and 2009 their license

sion according to WAG 2007 were routinely checked to see whether the activity requiring a license had actually been discontinued by these companies (so-called follow-up checks).

INVESTIGATION PROCEDURE

The suspicion of unauthorized business operations arises regularly due to

- n Advice, inquiries and complaints from market participants,
- n Information provided by the FMA in the course of its ongoing supervision of licensed companies wins,
- n active market observation as well
- n Communications from other authorities.

The FMA begins its investigations with research on the internet, company register, business register, population register and in internal databases and query tools.

Subsequently, individuals are asked to submit a written statement or are invited to the FMA's premises and consent is given there men.

Carrying out on-site inspections has proven to be particularly efficient. In the past year, a total of 31 on-site inspections were carried out in Austria - mainly in the business quite

men of the suspects – carried out. In addition to examining the business documents, the suspects and other persons involved are regularly questioned in the course of these inspections. The interrogation protocols and copies of business documents created form a crucial basis for further proceedings. In addition, to enforce its powers under Section 22b FMABG, it regularly issues orders to the FMA to release documents under threat of a coercive penalty of up to E 30,000 (Section 26a FMABG).

BAN PROCEDURE

Based on the results of the investigation, the FMA initiates prohibition proceedings in accordance with Section 22d FMABG if there is current unauthorized operation. This procedure is characterized by the fact that the suspect is first requested to restore the lawful state by means of a procedural order.

In 2009, 31 procedural orders were issued, which a large proportion of the suspects complied with within the set time limit by ceasing unauthorized business operations. In two cases, the procedural order was not complied with, which is why a prohibition notice had to be issued

was. In this case, the law for non-be the threat of a fine of up to E 30,000.

In the course of such a prohibition procedure, the Internet provider of the website through which the prohibited transactions are offered can use the unauthorized permitted operation. This will make the

Internet provider prompted to put the homepage with the illegal content offline. This has also turned out to be a very tried and tested means of combating unauthorized business operations, since a large part of the business is offered via the Internet.

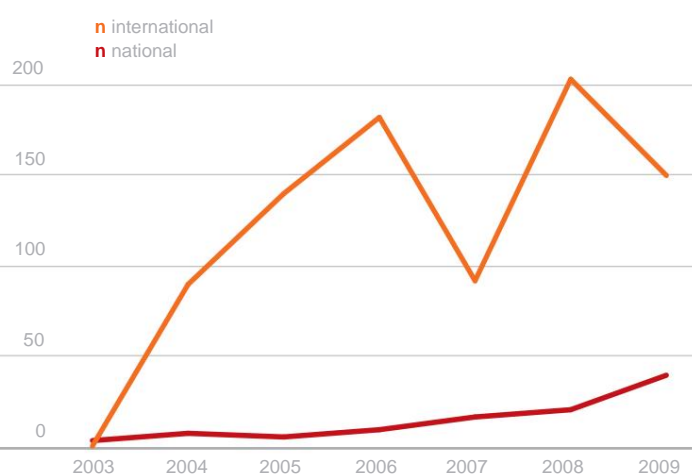
PUBLICATIONS

The provisions contained in the substantive laws (section 4 para. 7 BWG, section 64 para. 9 ZaDiG, section 92 para. 11 WAG 2007 and section 4 para. 11 VAG) enable the FMA to publicize Kundma

Table 37: number of activities against the unauthorized Business operations 2006-2009 (source: FMA)

activity	2006	2007	2008	2009
investigation initiated	76	116	174	360
On-Site Inspections	5	6	4	31
criminal charges	20	16	23	28
Notifications to administrative authorities	0	0	6	20
procedural arrangements	0	0	3	31
prohibition notices	0	0	1	2
administrative penal proceedings	0	2	7	31

Chart 53: Number of warnings 2003-2009 (source: FMA)



information on the Internet, a printout in the Official Gazette of the Wiener Zeitung or in a newspaper distributed throughout Germany that a person is not authorized to carry out certain transactions that require a licence.

To ensure legal protection, Federal Law Gazette I No. 66/2009 standardizes a right of application, which enables those affected by such an announcement to request the review of the legality of the publication. In this case, the FMA has to initiate proceedings, which are to be settled with a decision that can be contested before the courts of public law.

A total of 40 such announcements were made in 2009 (see chart 53). Experience has shown that this is a very efficient means of combating unauthorized operation via the Internet, since dubious providers are met with the same publicity effect.

ADMINISTRATIVE PROCEEDINGS

In any case, an essential pillar of the fight against unauthorized business operations is the rapid conduct of administrative penal proceedings in accordance with the administrative penal provisions standardized in the supervisory laws, with penalties of up to E 50,000 being threatened. These procedures are regularly carried out in parallel with the measures already described. There is also the option of publishing penal decisions in accordance with Section 22c FMABG. In 2009, a total of 38 administrative penal proceedings were conducted for unauthorized operations, with high fines being imposed.

ENFORCEMENTS

Pursuant to Section 22 (1) FMABG, the FMA is responsible for enforcing the notices it has issued (with the exception of administrative penalty notices). In order to enforce them – in particular with regard to coercive penalties – an application is therefore made to the competent court for the initiation of execution proceedings.

The enforcement of the penal decisions issued is carried out by the responsible district administration authority.

A total of 38 administrative penal proceedings were conducted in the year under review, with seven proceedings from 2008 being continued and 31 proceedings initiated in 2009. 17 administrative penal proceedings were concluded, three of which were discontinued and 14 were penal decisions issued. A penal decision was issued in one case for violating designation protection, in one case for illegal operation of the giro business, in five cases for unauthorized operation of the deposit business and in seven cases for unauthorized operation of the money transfer business.

Seven penal decisions remained from the sanctioned unchallenged and thus became legally binding, and an appeal was lodged against seven penal decisions. In four cases, the penal decisions were made by the UVS Vienna Appeals against three penal decisions were still pending at the end of the year. Furthermore, three enforcements of compulsory penalties or Penalties imposed (see Table 38).

Table 38: Administrative penal proceedings closed in 2009 (source: FMA)

2009	jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	total		
Proceedings concluded - by	0	0	0	0	1	1	1	4	0	2	4	2	1	2	17
cessation - by penal	0	0	0	0	0	0	0	3	0	0	0	0	0	0	3
decision	0	0	0	0	1	1	1	1	0	2	4	2	1	2	14
- no appeal	0	0	0	0	0	1	0	0	0	0	3	1	1	1	7
- vocation	0	0	0	0	1	0	1	0	2	1	1	0	1	1	7
- confirmed by the UVS	0	0	0	0	1	0	0	0	0	1	1	1	0	0	4
- canceled by the UVS -	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
pending at the UVS on 31.12. 2009 0			0	0	0	0	0	1	0	1	0	0	0	1	3

CRIMINAL NOTIFICATIONS AND NOTIFICATIONS

TO GOVERNING AUTHORITIES

If an authority or public service of the

She is aware of the suspicion of a criminal offense that affects her legal sphere of activity, she is obliged to report it to the criminal police or the public prosecutor's office according to § 78 Para. 1 StPO. Experience has shown that in the course of investigations into illegal business operations, the suspicion of a criminal offense falling within the jurisdiction of the courts often arises. All administrative penal provisions in connection with unauthorized operation

have a subsidiarity clause. If the to be

If the judging fact constitutes a criminal offense falling within the jurisdiction of the courts, there is no administrative criminal liability.

These circumstances mean that the FMA works closely with the law enforcement authorities and in 2009 filed 28 criminal charges in connection with investigations into unauthorized business operations. On the other hand, after the public prosecutor's office or criminal proceedings have stopped an investigation

the court finds it necessary to initiate or

continuation of administrative penal proceedings by the FMA.

In addition to the criminal charges, the FMA forwards the relevant facts to the relevant telecommunications authority in the case of calls for advertising purposes without the prior consent of the participant ("cold calling") and when sending electronic mail (including SMS) without the prior consent of the recipient. In 2009, 20 reports were made to the telecommunications authorities in connection with investigations into unauthorized business operations.

INTERNATIONAL COOPERATION

A large number of companies operating without permission offer their services across borders, particularly via the Internet. Close cooperation with the sister authorities is absolutely necessary to combat these providers effectively. In order to further improve these, the German Federal Financial Supervisory Authority (BaFin) and the British Financial Services Authority (FSA) were visited in the year under review.

Money laundering and anti-terrorism

D As in the previous year, the past year was characterized by the extended provisions for the prevention of money laundering and the financing of terrorism and the FATF country assessment of Austria.

The current legal provisions in the area of money laundering and terrorist financing came into force on January 1st, 2008. While the first year of its validity was characterized by fundamental implementation issues, the focus in 2009 was on detailed implementation and special issues.

The task of the money laundering team within the FMA as a subject-related center of competence was accordingly characterized by questions relating to the application of the relevant legal provisions. This is how the circular became a risk-based approach for the prevention of money laundering and terrorism finance on December 23, 2009 and published immediately. This circular reflects the legal opinion of the FMA on the statutory due diligence requirements to combat money laundering and the financing of terrorism. It is intended to help the supervised companies to identify those situations in which additional measures and controls appear appropriate in order to effectively comply with the legal requirements.

The active dialog with the market participants was continued in order to cover the need for information about the legal regulations.

The extensive harmonization of money laundering regulations within the EU requires a coordinated interpretation and application of the provisions. This ensures that there are no gaps in the European system that would allow the provisions to be circumvented. This also avoids possible competitive disadvantages. At the European level, this task is performed by two working groups in which the FMA is actively involved.

A working group (Committee on the Prevention of Money Laundering and Terrorist Financing) is led and employed by the European Commission

deals mainly with the implementation of international standards (e.g. the sanctions lists of the United Nations) and the current main topics of the FATF.

The 3L3 Anti-Money Laundering Task Force, a joint working group of the European Association of Supervisors for Banks, Insurance Companies, Private Pensions and the Securities Sector (CEBS, CEIOPS and CESR), pursues an integrated approach that the FMA supports. In 2009, this working group published a "Compendium Paper on the Supervisory Implementation Practices across EU Member States of the Third Money Laundering Directive (2005/60/EC)", which provides an overview and comparison of the implementation of individual aspects of the Third Money Laundering Directive in the EEA member states.

Internationally, the FMA is a member of the Austrian FATF delegation (Financial Action Task Force on Money Laundering). For the Austrian delegation, the past year was largely shaped by the state examination of Austria (see special topic). From the point of view of the FATF, the identification of high-risk jurisdictions is an essential task for financial stability, after the G20 issued a call and mandate to this effect in the so-called Pittsburgh declaration to the FATF. This continues the work of the FATF with non-cooperative states or

States that only inadequately implement international standards for combating money laundering and the financing of terrorism.

In addition, Austria has been a member of Moneyval (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) for a period of two years since September 2009.

Moneyval is a working group of the Council of Europe that reflects the efforts of the FATF at the regional level in Central and Eastern Europe (a so-called FATF-Style Regional Body or FSRB). The FMA is a member of the Austrian delegation.

The fight against money laundering: FATF audit Austria 2008/2009

Dhe Financial Action Task Force on Money Laundering (FATF), as the global standard-setter for combating money laundering and the financing of terrorism, has issued 40 recommendations in the area of money laundering and nine special recommendations in the area of terrorist financing. These recommendations are primarily aimed at the financial sector, but also cover the non-financial sector (legal professionals, traders, casinos, accountants and accountants). To evaluate the degree of application of these international standards in the member countries, the FATF carries out country reviews with the support of the International Monetary Fund (IMF) using a uniform review methodology. Austria was on the FATF audit plan in 2008/2009.

A delegation of five auditors from the IMF visited Austria in September 2008 after the Austrian institutions had carried out an extensive self-assessment using standardized questionnaires. Intensive talks were held for two weeks with all the public authorities concerned – in particular the Federal Ministry of Finance

(BMF), Financial Market Authority (FMA) and Oesterreichische Nationalbank (OeNB) - in which the Austrian legal situation and implementation was explained. To better understand the effectiveness of the Austrian regulations, talks also took place with market participants.

After extensive discussion of the draft report in several rounds of comments, the final report for Austria was adopted at the FATF plenary session in June 2009 and subsequently published simultaneously on the FATF website (www.fatf-gafi.org) and the International Monetary Fund (www.imf.org).

When looking at the overall result, it can be seen that, despite very intensive discussions, the results of the audit of the Austrian system for combating money laundering and the financing of terrorism turned out to be quite critical overall.

Although Austria - so far unique among FATF members - was not rated "non-compliant" (not implemented) for a single recommendation, only half of the recommendations were rated "compliant" or "largely compliant" (implemented or largely implemented); the other half were rated as "partially compliant", which means insufficient compliance with international standards. This result is below the average of the FATF audits.

It is generally criticized that Austria has no comprehensive risk analysis with regard to money laundering and terrorist financing and no national strategy to reduce this risk, although Austria appears to be particularly exposed as a transit country for illegal money flows due to its geographical location and the large involvement of domestic banks in CESE/CEE.

Particularly major shortcomings were identified in the area of criminal law, criminal prosecution and international mutual legal assistance. The mixture of few suspicious transaction reports, an insufficiently equipped "Money Laundering Reporting Office", obstacles in the investigation phase (suspicious transaction reports as criminal reports, banking and professional secrecy, opaque legal entities and instruments), low asset confiscations, a high evidence threshold in criminal proceedings, insufficient criminalization of personal money laundering and low penalties paint a picture of inadequate combating of money laundering and terrorist financing in the area of investigative a
With regard to the current discussions of the OECD and the G 20 to "non-transparent" and non-cooperative
tive financial centers, it is above all the criticism of the bank that stings
secret – the restrictive conditions for access to bank account and transaction data in the
Code of Criminal Procedure (StPO) have a negative impact on the assessment in six recommendations – and the opaque legal entities and instruments (naming of the beneficiary in the supplementary foundation deed,

bearer shares and trusteeship). If you look at the financial sector, however, Austria can point to slightly above-average results refer.

Good progress is being made in prevention in finance area located. The recommendations dealing directly with the FMA were rated as "largely compliant". Nevertheless, gaps must also be closed here through more explicit legal provisions and more circulars from the FMA.

The regulator received a negative assessment due to the possibility for credit institutions to issue bearer shares, too few on-site inspections and too few sanctions. According to the IMF, the anonymous disposal of password savings accounts also harbors a high risk, and the measures taken by financial institutions to prevent money laundering appear strong

needs improvement.

In the non-financial sector (legal professions, traders, casinos, chartered accountants and tax consultants), a large number of laws and authorities make it difficult

Due to supervision and limited resources, a uniform application and enforcement of the preventive measures. There are significant gaps here; Both the legal framework and awareness-raising must be greatly improved.

National cooperation between FMA, BMF and OeNB as well as to other ministries and the Mel destelle money laundering was rated "compliant".

International cooperation, due to international actors involved in money laundering and terrorism

mus financing is of particular importance was also rated positively.

Although the overall result justified the assignment of Austria to the "regular follow-up", there is an urgent need for action due to the action plan of the G-20 on the occasion of the financial crisis. Legislative measures are required in many areas in order to eliminate the criticisms of the FATF. The FMA will actively contribute to the discussion with its experience in its supervisory areas. Insofar as recommendations for action in the audit report are addressed directly to the FMA, the implementation of corrective measures has already begun and will continue unabated in the coming months. The circular

to the risk-oriented approach to the prevention of

Money laundering and terrorist financing is a first essential measure, which will be followed by others. The Federal Ministry of Finance has also

As a result of the FATF report, an extensive legislative package was developed that addresses the main points of criticism addressed.

financial markets

Main topic

International cooperation

Legal development

operational supervision

LEGAL AND PROCEDURE MATTERS

F MA I nternal

Attachment

Legal and Procedural Matters

General

D he FMA, in the enforcement of the supervisory laws, is authorized to conduct administrative criminal proceedings in the first instance in the event of violations of the provisions of the supervisory laws.

At the beginning of 2009, 78 proceedings were pending, and a further 449 administrative penal proceedings were initiated in the course of the year.

As part of the administrative penal proceedings concluded in 2009, 117 penal decisions, 314 penal orders and nine warnings were issued. In 59 cases, the proceedings were discontinued, and in 255 cases criminal proceedings were not initiated beforehand.

With penal judgment is a fine after prescribed by administrative decision in an investigation. A penal order can be issued without further preliminary proceedings if the facts of the case are sufficiently clear. The fine

In this case, it can amount to a maximum of E 365.00. If the fault is low and the consequences of the offense are insignificant, the FMA can refrain from imposing a penalty and admonish the accused, pointing out that his behavior is illegal.

At the end of 2009, 159 cases were pending.

Selected procedures of the FM A in detail

Reporting Violations

Pursuant to Section 73 BWG and Section 21 WAG in conjunction with Section 73 BWG, credit institutions and investment services providers are obliged to notify the FMA immediately of matters relevant to supervision. This includes, among other things, changes to the articles of incorporation, change of manager, onset of insolvency, opening/

Relocation of head office or branches and the like.

Ten penal decisions and 61 penal orders were issued on these offences.

Unauthorized operation by licensed companies

Five penal decisions were issued against those responsible for securities firms for illegal banking transactions through commercial trading in securities. Two of these became final; appeals against the others were pending at the end of the year.

For unauthorized banking through a loan institute, two penal decisions were issued. The bank had traded in securities commercially in its own name and on its own account without the required license. the profession
At the end of the year, decisions were still pending with the Independent Administrative Senate (UVS).

money laundering

Two penal decisions were issued because a bank had failed to ask a customer before establishing a permanent business relationship to disclose whether this business relationship was being operated for their own account or for the account of a third party or on behalf of a third party. Furthermore, the identity of the customer's trustor was not ascertained. The appeals were still pending at the UVS at the end of the year.

Börsegesetz (B ö r s e G)

Seven penal decisions and one warning were issued for violating the regular disclosure obligation under the Stock Exchange Act.

Eight penal decisions were made for market manipulation

tion by concluding sham transactions.

Simultaneous buy and sell orders with the same volume and the same limit for the respective security were issued, which led to the formation of the price. The appeals were still pending at the UVS at the end of the year.

Two penal decisions were made for market manipulation through effective transactions through a credit institution enacted Buy orders were issued with the same number of shares as a respective sell order was already in the order book. The order limits were set in such a way that the orders were executed immediately. As a result of this procedure, the price of the shares concerned was successively pulled up. The appeals were still pending at the UVS at the end of the year.

Four penal decisions were issued for late notification of a change in a significant holding.

Due to the late publication of financial reports, two penal decisions were issued, which are legally binding.

Securities Supervision Act (WAG 2007)

A criminal judgment was issued because an investment firm violated the client's interests by brokering securities that did not match the client's risk profile. The appeal was still pending at the UVS at the end of the year.

Two penal decisions were issued against those responsible at a bank for violating various provisions of the WAG 2007. Appropriate guidelines for dealing with conflicts of interest were lacking; no measures have been taken to ensure that all Client Financial Instruments or Client monies received to process the executed order are promptly and correctly booked to the relevant Client's account; it has not been ensured that when customer orders are processed, they are promptly and correctly registered and allocated, and no reasonable precautions have been taken to protect interests

sens conflicts between the company and the
Recognize customers that arise from the provision of investment services.

Two penal decisions were issued because an investment firm did not set up and continuously apply effective and transparent procedures for the appropriate and prompt handling of complaints from private clients. The appeals were still pending at the UVS at the end of the year.

Two penal decisions were issued because effective and transparent procedures for the appropriate and prompt handling of complaints from private customers in the securities sector were not set up and applied in a credit institution on an ongoing basis and because every complaint and the recording of the procedures used to deal with it were omitted

to keep measures. The findings are final.

Investment Fund Act (InvFG)

Monitoring compliance with the provision of Section 43 InvFG was a focus of supervision in 2009. Due to the lack of reference to the published prospectus and to the fact that past performance does not allow any reliable conclusions to be drawn about the future development of a fund, 25 penal decisions and 83 penal orders were issued

enacted

Pension Fund Act (PKG)

Two penal decisions were issued for unauthorized pension fund transactions (transactions for which there was no approved business plan in the form in which they were carried out).

In addition, four penal decisions were issued for violating the assessment provisions of Section 25 PKG. Two of these findings are final.

Procedure before the UVS

The UVS has the content of penal decisions of the FMA which imposed penalties for market manipulation by spreading a misleading message via an ad hoc announcement in connection with a capital increase. It was communicated that the capital increase had been fully placed, although a large part of the newly issued

securities of an affiliated company was advertised.

The UVS has three further penal decisions from the FMA because of market manipulation, with which a natural person and the traders of a Kreditanstalt were penalized for buying orders on the Vienna Stock Exchange that had a significant part of the transactions of the security in question and in particular to the closing auctions concentrated, had artificially influenced the price of an issuer.

Proceedings before the courts

public law

Complaints to the courts of public

Legal action can be taken against decisions by the UVS in administrative criminal matters that were issued as part of the appeals process. No ordinary legal remedy is admissible against decisions by the FMA in administrative proceedings in accordance with the General Administrative Procedure Act (AVG), only appeals to the Administrative Court (VwGH) or the Constitutional Court (VfGH).

The VwGH dismissed the appeal against the decisions of the UVS, with the penal ruling of the FMA were confirmed due to violation of the ad hoc reporting obligation. The VwGH thus confirmed the legal view

the FMA that the issuer was obliged to publish this at the latest when the Supervisory Board was informed of the additional liquidity requirement. This decision was made on the old legal situation (before the implementation of the Market Abuse Directive); nevertheless, the statements of the VwGH are also relevant for the new legal situation.

The VwGH dismissed the appeal against a decision by the FMA ordering a credit institution to restore the lawful situation by dismissing the manager. The Administrative Court

thus confirmed the FMA's view that legally binding administrative offenses under the BWG and the BörseG give rise to serious doubts about the reliability of the manager of the credit institution and therefore justify the dismissal.

The VwGH and the VfGH dismissed appeals against decisions by the FMA ordering a pension fund to improve pension fund contracts in such a way that they do not contain any specific provisions on the nominal capital guarantee. The two courts ruled in unison

with the legal opinion of the FMA in its notices that the PKG does not allow a capital guarantee with regard to the provisions for the case of the issue of a minimum yield guarantee and that this restriction of the private autonomy of the pension funds is permissible.

financial markets

Main topic

International cooperation

Legal development

operational supervision

LEGAL AND PROCEDURE MATTERS

F MA I nternal

Attachment

Organs

D he organs of the FMA are the Management Board and the Supervisory Board. The Executive Board manages the entire service and conducts the business of the FMA according to the law and the rules of procedure. The Supervisory Board has to monitor the management and business conduct of the FMA.

board of directors

In accordance with the Financial Market Authority Act (FMABG), the Management Board consists of two equal members. One board member is appointed by the Federal Minister of Finance and one by the Austrian National Bank nominated. Both are to be appointed by the Federal President at the suggestion of the Federal Government for a period of five years. Reappointment is allowed.

In the reporting year, Mag. Helmut Ettl and Dr. Kurt Pribil to the Executive Board of the FMA. dr Pribil, founding board member of the FMA, was welcomed by Federal President Dr. Heinz Fischer was appointed on September 29, 2009 in accordance with § 5 Para. 2 FMABG for a further term of office of five years.

supervisory board

The Supervisory Board of the FMA consists of eight members: three voting members each

sent by the Federal Minister of Finance and the Oesterreichische Nationalbank (OeNB), two non-voting co-opted members are proposed by the Austrian Federal Economic Chamber (WKO) as representatives of the supervised entities. You are entitled to information rights. The full members of the Supervisory Board are appointed by the Federal Minister of Finance

The members nominated by the Chamber of Commerce are co-opted by the Supervisory Board itself. Pursuant to section 10 (2) FMABG, the approval of the Supervisory Board is required

- n the financial plan to be drawn up by the Management Board finally the investment and position plan,
- n Investments that are not approved by the investment plan and borrowing that exceed € 75,000 each,
- n the acquisition, sale and encumbrance of real estate,
- n the annual financial statements to be drawn up by the board of directors;
- n the rules of procedure according to § 6 paragraph 2 as well as their change,
- n the compliance regulations according to § 6 paragraph 4 as well as their change,
- n the appointment of FMA employees in management functions directly subordinate to the Executive Board (second management level) as well as their dismissal and dismissal,

Figure 4: Supervisory Board of the FMA

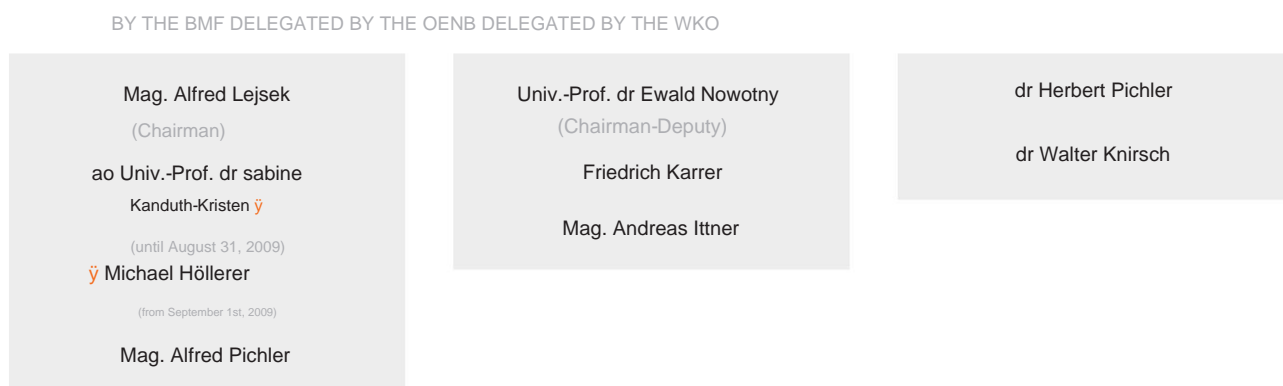
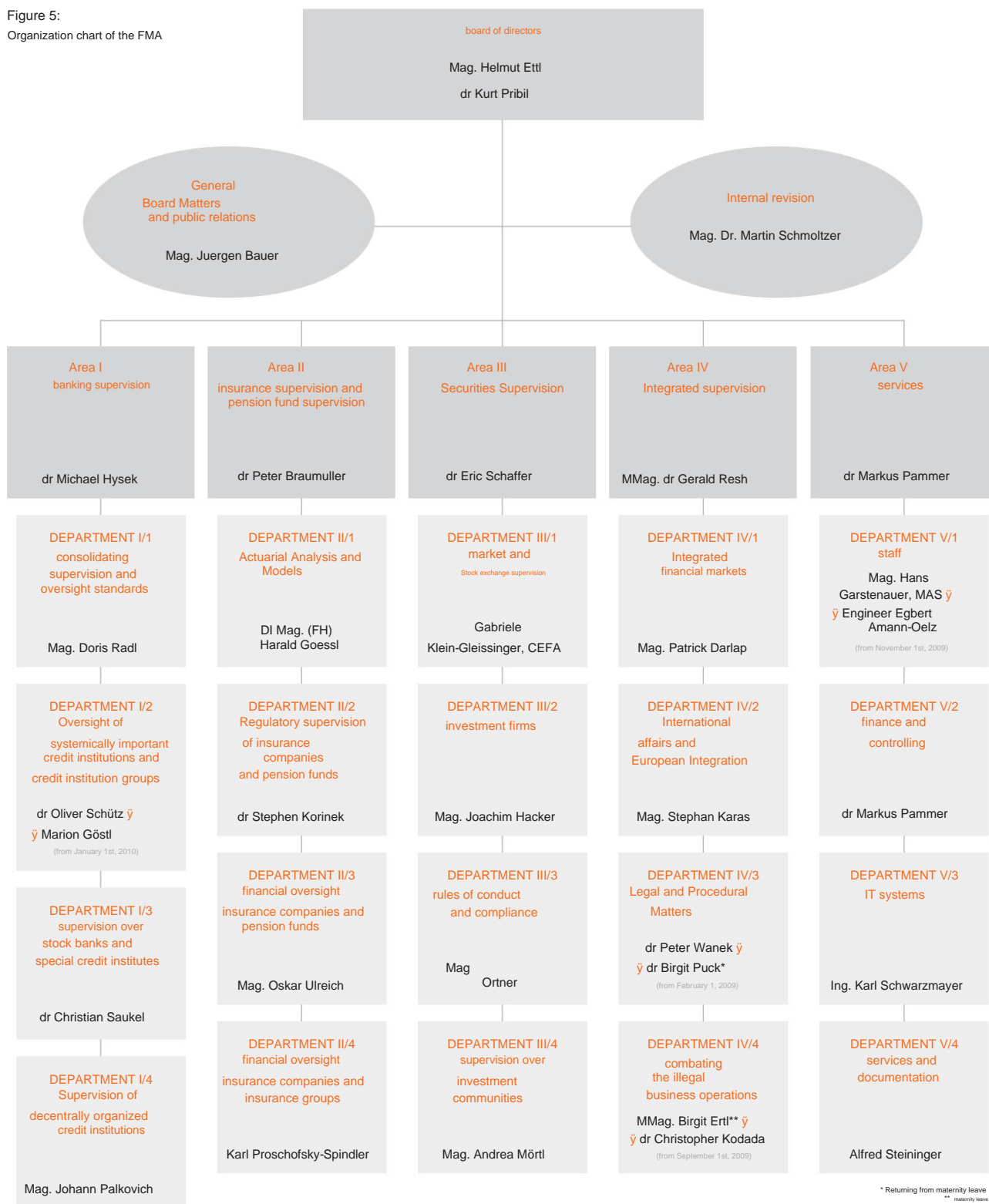


Figure 5:
Organization chart of the FMA



n the annual report to be prepared in accordance with Section 16 (3).
judge

n the conclusion of collective agreements and operating agreement.

Pursuant to Section 9 (1) FMABG, the Supervisory Board meets at least once every calendar quarter

to hold In the year under review, the Supervisory Board met on March 2, June 8, September 14, November 24 and December 9. The discharge of the Management Board in accordance with Section 18 (4) FMABG for the 2008 financial year was unanimously approved at the meeting in June 2009

staff

In 2009 there were three dominant areas of work in human resources management: the largest increase in staff since the FMA was founded, the further development of the training and further education system and a fundamental reform of the FMA salary system.

PERSONAL STAND

The Supervisory Board approved an increase in the number of permanent positions from 241.35 full-time equivalents (FTE) in 2008 to 290.35 full-time equivalents in the year under review. The actual number of employees rose from 219.2 to 275.25 FTEs – an increase of 25.57% at the respective year-end. The distribution of the actual number of employees in the individual areas as of

31. 12. 2009 compared to the approved plan status can be seen in Table 40.

The FMA retention program, which is intended to strengthen employee loyalty after the sharp rise in the turnover rate in 2007 and 2008, had a remarkable effect: in 2009 the turnover rate was just 2.91% (after 15.05% in 2008).

This is the lowest value since the FMA was founded (see chart 54). This decline is due, among other things, to the newly introduced personnel development measures such as the linking of training and further education to concrete perspectives in a specialist career and only to a lesser extent to the currently difficult situation on the labor market, since potential FMA applicants work in sub-areas of the financial sector that are particularly in demand during the crisis.

Table 39: FMA personnel statistics (as of December 31, 2009)

Number of employees organizational unit	Number of employees people	Number of employees full-time equivalents
board area		
including staff departments	13	13,000
area of banking supervision	59	54,325
Insurance supervision department	57	51,975
Securities Supervision Department	77	73,475
Integrated supervision department	45	42,375
Services area	42	40,100
In total	293	275,250

Table 40: FMA position status (as of December 31, 2009)

Position status organizational unit	Position status as of December 31, 2008	Position status as of December 31, 2009
board area		
including staff departments	13.00	13.00
area of banking supervision	56.00	56.00
Insurance supervision department	42.50	55.00
Securities Supervision Department	57.00	81.00
Integrated supervision department	32.75	45.25
Services area	40.10	40.10
In total	241.35	290.35

At the end of 2009, the proportion of civil servants assigned to the Federal Ministry of Finance was 21.1 FTE (7.67% of all employees); that of assigned contract employees fell to 6.5 FTE (2.36%) because eight contract employees accepted the offer to switch to the new FMA salary system for ASVG employees.

As of the reporting date, the proportion of female employees in the total workforce was 53.24% (see chart 55), the proportion of university graduates was 69.62%. Every fifth FMA employee has an additional qualification: a second degree, postgraduate training, the bar exam or tax consultant exam or something similar. In total, the FMA employees speak 13 foreign languages, in particular languages from Central, Eastern and Southeastern Europe in addition to English and French.

The average age of all employees was 35.96 years.

Furthermore, 14.33% of the workforce took advantage of the flexible options for part-time employment (including statutory parental part-time work).

The first two apprentices trained at the FMA

as an office clerk were able to successfully complete their training and were subsequently taken on as permanent employees. currently are two more apprentices in training.

HOLD TSS Y ST EM NEW

Since the number of FMA employees is a critical size exceeded and at the same time the supervisory activities of the FMA and Oesterreichische Nationalbank (OeNB) were very closely interlinked, it was necessary to fundamentally reform the FMA's salary system, which is based on individual service contracts within the framework of a hierarchy and specialist career concept. In the old system, according to the function and task, individual salaries were only performance-related within salary ranges

determined and the annual salary increases are determined individually on the basis of target agreements and appraisal interviews. In 2009, a schema reference system was used. According to a qualification-related classification into function types, the employees are assigned to four salary scale systems (A, B, C, D) with initially annual and later two-year advancements. In addition, two career paths, management and specialist careers, are promoted through graduated allowances. Clearly defined criteria such as appropriate training and passed exams are a prerequisite for a change in the type of function or a higher qualification in a specialist career

setting.

After a detailed presentation of the new system, each ASVG employee (ASVG: General Social Insurance Act) received an individual offer to transfer to the new system. Contract employees under civil service law received transfers

offers on request. Ultimately, 99.5% of all ASVG employees accepted the offer. Eight contract employees also switched to the FMA salary system new.

INITIAL AND CONTINUING EDUCATION

F MA - BASIC COURSE

The previous three modules of the FMA basic training were linked to form the FMA basic course.

Figure 54: Employee turnover 2003–2009

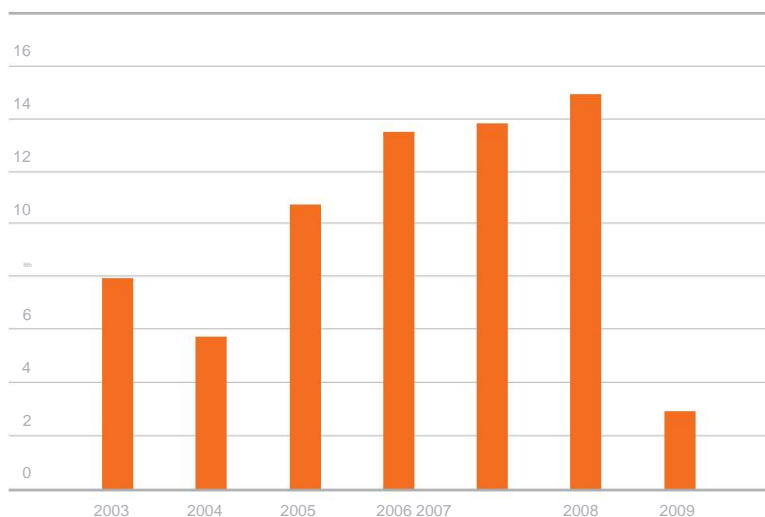
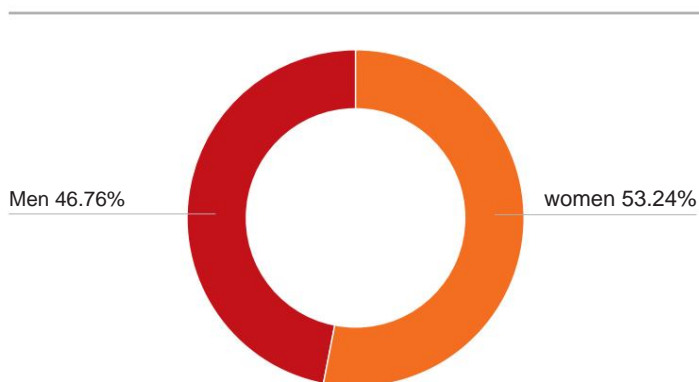


Chart 55: Percentage of female employees in 2009



F MA - ACADEMY

As part of the FMA Academy, in 2009

130 events held with almost 2,000 participants.

In accordance with the high number of new employees, in addition to the technical training and further education training offers, in particular integrative training offers and team development measures. In addition, area-related focal points (e.g. Solvency II curriculum) were set in the FMA Academy training program. Based on IT system changes, all employees were made familiar with the new office systems and the new version of the Fabasoft program ELAK (Electronic File). All managers and employees were trained in their own workshops on the changes to the appraisal interview.

Parallel to the dovetailing of the supervisory activities of the FMA and OeNB, a new joint training platform for both institutions was developed, the "Supervision Academy", which will start in 2010. As a first step, a tailor-made basic training was designed.

With this financial market supervisor course to the financial market supervisor will be a uniform one Qualification level guaranteed for the optimal fulfillment of tasks within the framework of financial market supervision. The aim is to establish the job profile of a certified financial market supervisor (with know-how in all areas of supervision). The course comprises 46 seminar days plus three seminar days as an elective module, which must be completed within two years four are.

PROFESSIONAL CAREER

As part of the reorientation of the salary system, the opportunities for development in a specialist career were further specified and improved.

Experts: The Expert function type represents the top of the professional career and means a special end drawing. In 2009 there were no renewals tion.

Specialists: In 2009, eight employees qualified from consultant to specialist. They successfully completed a demanding assessment, in which it was important to have both relevant technical knowledge and also demonstrate soft skills at a high level. The

The required quality assurance is guaranteed by the selection and competence of the specialist assessors (renowned university professors, top experts).

Speakers: 14 employees passed specially created

Technical examinations for reclassification from the clerk/trainee function type to the consultant function type.

INTERNATIONAL COOPERATION

In accordance with the FMA's strategic focus of promoting international cooperation with sister authorities, special emphasis was also placed on the mutual exchange of experience and know-how in the year under review. To this end, a large number of employees in particular were given the participation in exchange programs and training measures.

Just a few are listed here as examples: An employee of the FMA's Integrated Supervision was sent to the English sister authority FSA for an exchange of experiences lasting several weeks, an employee from the insurance supervisory authority was able to gain valuable experience with the Luxembourg supervisory authority (Commissariat aux Assurances) as part of a study visit. In return, a colleague from the Hungarian Financial Market Authority (PSZÁF) worked in the area of insurance supervision at the FMA, a colleague from the Czech National Bank in integrated supervision and another colleague from the Hungarian supervisory authority – im As part of a short-term secondment – also in the insurance supervision.

As in previous years, two employees were entrusted to international committees as national experts sends: a staff member as deputy general secretary to the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) in Frankfurt am Main, a staff member to the Committee of European Banking Supervisors (CEBS) in London.

FINANCES AND CONTROLLING

FINANCIAL G

D he financing of the FMA is fed by three Sources:

n The FMA receives a statutory lump sum of €3.5 million from the federal budget every year.

n As an authority, it can, among other things, for certain collect fees for legally defined services (other income).

n The remaining balance is based on the user transferred to the supervised.

In order to allocate the cost contribution of the supervised institutions to the responsible parties, four accounting groups must be formed in accordance with Section 19 FMABG: banking, insurance, securities and pension fund supervision. The allocation of the supervisory costs must be as direct as possible: **n** The direct costs must be allocated directly to the accounting group,

n the costs that cannot be directly allocated are the ratio number representing the proportion of each accounting group on the direct costs, to assign.

After deducting the federal share and other income from the total costs, the share of each accounting area in the remaining costs can be determined. This is to be assigned and prescribed to each individual supervised entity in accordance with the legally prescribed standard.

TIME AND PERFORMANCE MEASURING

The FMA's time and performance recording system is the central instrument for the statutory cost-causing allocation of personnel costs to the accounting groups. Terminals are available to employees for time recording, which ensure that time is recorded to the minute. The products recorded in this way can be

active working hours of each employee in 30-Minute units are assigned to a product catalog specially tailored to the activities of the FMA and subsequently to an accounting group. The performance evaluations are subjected to a quarterly review and form the basis for the causation-related cost allocation and for the res

source control.

COST REGULATIONS

The costs of a transaction incurred by the FMA 19 FMABG are to be replaced by the supervised companies. The basis for determining the costs is the annual financial statements together with the cost accounts for the individual accounting groups.

The data reports from the supervised companies themselves or the reporting data from the Vienna Stock Exchange are used to calculate the individual cost contributions per party liable to pay the fee. In 2009, due to concession surrenders, the number of those liable to pay the costs fell compared to the Be reference period 2008 by around 100 to 2,200. She is

Cost allocation (reimbursement of supervisory costs) and the offsetting of advance payments per accounting group and per party liable for costs, including prescription dates and payment deadlines, are regulated in the FMA's Costs Ordinance (KVO).

In December 2009, the notices for the Ver calculation of the actual costs of the FMA for the 2008 financial year and the advance payments for the 2010 financial year. According to the 2008 annual financial statements, the 2008 cost statement resulted in an additional payment by those liable to pay a total of around €5 million.

AUTO M ATISI E RT PAYMENT TRAFFIC

In 2009, the suppliers' (creditors') master data was revised and updated, and an automatic

tized linking of financial accounting with electronic payment transactions in the telebanking system. With this implementation, the payment details of the vendors already recorded during the upstream posting of the incoming invoices can be automatically exported to the telebanking system. In addition, by importing the generated file, the reconciliation and booking of the bank transfers regarding vendors could be automated

be tized.

The master data sheets are printed out for all newly created suppliers and signed according to the four-eyes principle. In addition, the created, edited and pre-checked payment proposal list is also signed after a final check according to the four-eyes principle.

YEARS SA CLOSING

The FMA prepares its annual accounts in accordance with Article 18 FMABG for the past financial year in the form of an annual balance sheet and a profit and loss statement

Statement including appendix in accordance with Section 236 of the German Commercial Code (UGB). Accordingly, the Supervisory Board is to be informed within a period of five months after the end of the financial year (i.e. by 31 May) the annual financial statements audited and confirmed by an auditor or an auditing company, including a statement of costs from the Executive Board of the FMA

to be submitted for approval. The resolution of the Supervisory Board on the approval of the annual financial statements including the statement of costs must be made in such a way that within six months after the end of the respective financial year (i.e. by June 30) the Executive Board of the FMA submits the annual financial statements including the costs

Submit the statement to the Federal Minister of Finance and on the FMA website as well as through a may publish notices in the Wiener Zeitung.

After examining the annual accounts for 2008 and the Cost accounting 2008 regarding the share of Chargeable 2008 issued the HLB Intercontrol Wirtschaftsprüfungsgesellschaft mbH issued an unqualified audit opinion and confirmed the Compliance with the legal provisions when preparing the profit and loss account, the balance sheet

and the liquidity calculation. The audit report prepared by HLB Intercontrol Wirtschaftsprüfungsgesellschaft mbH for the 2008 annual financial statements was carried out as planned including the management report, was presented to the Executive Board of the FMA on May 20, 2009 and sent to the Supervisory Board in a timely manner. The approval of the annual financial statements by the Supervisory Board took place on June 8, 2009, whereby the Executive Board of the FMA was granted discharge for the 2008 financial year. Subsequently, the certified and from Auf

FMA annual accounts 2008 approved by the Supervisory Board submitted to the Federal Minister of Finance and the Court of Auditors in good time. The legally required publication of the annual financial statements on the website of the FMA and through an announcement

Announcement in the Wiener Zeitung was also carried out properly.

FINAN ZPL ANUN G

Pursuant to Section 17 FMABG, the FMA must submit a financial plan, including an investment and staffing plan, to the Supervisory Board by October 31 for the following financial year. The financial plan must be approved by the Supervisory Board by December 15 at the latest.

In addition to the statutory requirements, the medium-term targets developed by the FMA itself each year serve as the basis for financial planning. Building on these targets, a rough concept for costs, investments and income was drawn up with the Executive Board in the summer of 2009, which controlling, in cooperation with those responsible for planning, maps to the cost centers and accounts

died Controlling reported to the Executive Board in ongoing coordination talks and implemented the change measures.

Controlling planned the personnel expenses centrally according to the specifications of the Management Board. In the planning year 2010, in addition to the new staff, only

The new salary system is also taken into account for the whole year for the first time.

The material expenses include the year-round rental of the office space at Otto-Wagner Platz and the relocationi

tion.

The planned costs and income were submitted to the FMABG

allocated accordingly to the accounting groups, so that it was possible to estimate the proportion of those liable to pay costs per accounting group.

In order to be able to guarantee effective cash management, Controlling drew up a liquidity calculation that includes all expenditure and income for the planning year 2010.

The financial plan for 2010 was discussed at the Supervisory Board meeting on November 24, 2009 and the changes suggested by the Supervisory Board were accepted. At the Supervisory Board meeting on December 9, 2009, the Supervisory Board approved the 2010 financial plan. Pursuant to Section 17 FMABG, the Supervisory Board is to be reported quarterly on compliance with the financial plan, including the investment and staffing plan.

PROJECT CONTROLLING

In addition to the ongoing tasks of the FMA, there are also activities that are defined as projects due to their time limit, their novelty, complexity and the commitment of corresponding resources in the FMA. There is a project standard with corresponding criteria for this. The projects defined in this way are subject to the project controlling of the FMA,

which provides for a regular target/actual comparison.

Here, the progress and achievement of goals as well as compliance with human resources and costs for third-party services are checked on a quarterly basis.

IMPLEMENTATION OF THE INVOICE SHOF -EMP MISSING GEN

The recommendations made by the Court of Auditors in its audit in 2006 and 2007 on the conduct of the FMA, with a focus on evaluating the establishment of the FMA, division of tasks between the FMA and OeNB, strategy, organization and personnel development of the FMA as well as instruments for banking and securities supervision, including market and stock exchange supervision, were implemented by the FMA in the form of a special project. The Executive Board received quarterly reports on the progress of implementation, which in turn reported to the Supervisory Board and the Finance Committee of Parliament. In the

The special project was completed in the summer of 2009 and the results presented to the Court of Auditors, which in autumn 2009 examined the implementation of the recommendations it had made.

FINANCIAL STATEMENTS FOR 2009

B By May 31, 2010, the Executive Board of the FMA the audited 2009 financial statements of the FMA including the cost statement, to the Supervisory Board for approval. At the time of going to press, the 2009 annual financial statements had not yet been certified by the appointed auditor (HLB Intercontrol Wirtschaftsprüfung GmbH) due to the deadlines, so the FMA's 2009 annual financial statements cannot be published in this annual report. The audited annual financial statements will be presented to the Supervisory Board meeting in June 2010 for approval. In order to nevertheless get an initial overview of the financial and

In order to provide the FMA's earnings situation in the 2009 reporting year, the balance sheet and the profit and loss account (G + V) of the FMA are presented in a preliminary version.

When comparing the G + V 2009 with the previous year's figures, a few points should be noted separately: The available figures have not yet been confirmed by the auditor, which means that changes to the 2009 annual financial statements are still possible.

Compared to 2008, the proportion of those liable to pay costs increased by around €5.6 million. The main reasons for this are increased personnel expenses (around €4.8 million) and other operating expenses (around €0.6 million).

Other operating income increased by around EUR 0.1 million compared to 2008 due to higher approval fees, income from the prospectus review and income from the OeNB for ELAK support.

Preliminary balance sheet as of December 31, 2009 (preliminary amounts in R)

assets

Previous year
kEUR

A. Fixed assets

I. Intangible assets			
licenses		410,586.93	264
II. Tangible assets			
1. Buildings on third-party land	558,983.56		195
2. Other equipment, operating and stationery	924,668.95		868
		1,483,652.51	1,063
III. financial investments			
Securities held as fixed assets		0.00	55
		1,894,239.44	1,382
B. Current Assets			
I. Services not yet billable to payers			
		25,963,597.91	20,378
II. Receivables and other assets			
1. Trade receivables 2. Other receivables and assets	1,466,356.57		1,189
	1,065,397.31		724
		2,531,753.88	1,913
III. Cash on hand, bank balances			
		3,642,576.96	3,437
		32,137,928.75	25,728
C. Prepaid expenses			
		818,415.14	737
		34,850,583.33	27,846

n The increase in staff costs of around €4.8 million wand is mainly due to the inclusion of approx. 56 full-time equivalents, salary adjustments and the introduction of the new salary system in 2009.

n Other operating expenses increase by around €0.6 million to around €10.8 million. B. travel expenses, education and training as well as information and data services. A provision due to

Change of location is not yet taken into account
gt, since the height is first evaluated.

The 2009 financial statements of the FMA are published according to subsequent examination by the auditor and after

published in full on the FMA website www.fma.gv.at after approval by the Supervisory Board. The audited annual financial statements for 2008 can be found in the appendix to this annual report.

Table 41: Preliminary balance sheet 2009

Previous year KEUR		passive
A. Reserve pursuant to Section 20 FMABG		1,325,949.26 1,052
B. Provisions		
1. Provisions for severance payments	713,774.18	574
2. Other provisions	<u>4,218,721.94</u>	<u>3,619</u>
		4,932,496.12 4.193
C. Liabilities		
1. Advance payments received in accordance with Section 19 FMABG	16,292,997.75	15,397
2. Trade Payables and services	9,520,443.57	5.126
3. Other Liabilities		
a) of which from taxes	353,859.88	213
b) of which in the context of social security c) of	457,774.75	279
which from actual settlement of previous	300,898.70	370
years d) other	<u>1,197,703.30</u>	<u>848</u>
	<u>2,310,236.63</u>	<u>1,710</u>
		28,123,677.95 22,233
D. Accruals and Accruals		<u>468,460.00</u> 369
		34,850,583.33 27,846

Table 42: Preliminary income statement 2009

Income statement for the financial year from January 1 to December 31, 2009 (preliminary result, amounts in R)			
Previous year kEUR			
1. Federal contribution in accordance with Article 19 FMABG		3,500,000.00	3,500
2. Other operating income a) Income from the reversal of provisions b) Miscellaneous	390,333.12 3,063,786.75		407 2,927
		3,454,119.87	3,334
3. Personnel expenses			
a) Salaries	-17,015,144.27		-13,177
b) Expenses for severance payments and payments to company provident funds c)	-320,122.74		-236
Expenses for pension schemes d) Expenses for statutory social security contributions and wage-related taxes and compulsory contributions e) Other social security expenses	-414,461.75 -3,205,483.83 -175,411.95		-302 -2,452 -123
		-21,130,624.54	-16,290
4. Depreciation of intangible assets and property, plant and equipment		-792,918.17	-703
5. Other operating expenses Miscellaneous		-10,777,762.44	-10,216
6. Subtotal from Z 1 to Z 5		-25,747,185.28	-20,375
7. Income from other securities held as financial assets		1,181.37	2
8. Other Interest		59,767.94	219
9. Income from the disposal of financial assets		42.35	0
10. Interest		-3,071.36	0
11. Subtotal from Z 7 to Z 10		57,920.30	221
12. Allocation to the reserve pursuant to Section 20 FMABG		-274,332.93	-224
13. Share of payers		25,963,597.91	20,378
14. Balance sheet result		0.00	0

Table 43: Provisional fixed assets 2009

Development of fixed assets according to § 226(1) UGB (preliminary result, amounts in R)

Status Additions Disposals January 1, 2009	Acquisition or production costs			As of December 31, 2009
I. Intangible assets				
licenses	1,510,208.50	351,721.95	26,529.77	1,835,400.68
II. Property, plant and equipment				
1. Buildings on third-party land	325,914.38	398,410.99	0.00	724,325.37
2. Other equipment, fixtures and fittings 3. Low-value assets	2,807,122.91 0.00	493,708.48 116,722.58	421,547.48 116,722.58	2,879,283.91 0.00
	3,133,037.29	1,008,842.05	538,270.06	3,603,609.28
III. Financial assets				
Fixed asset securities	58,052.50	0.00	58,052.50	0.00
	4,701,298.29	1,360,564.00	622,852.33	5,439,009.96

Budget 2010 at a glance

Table 44: Budget 2010
at a glance

Is financial plan Income (in EUR thousand) 2009	2008		preliminary actual 2009	financial plan 2010
Federal share (§ 19 para. 4 FMABG)	3,500	3,500	3,500	3,500
Income from those liable to pay fees	20,378	33,779	25,964	37,083
Income from fees, other income	3,555	2,449	3,512	2,293
	27,433	39,728	32,976	42,876

- The federal share of EUR 3,500k has remained constant over the years.
- The income of those liable to pay the costs depends on the expenses of the FMA.

Is financial plan Expenses (in EUR thousand) 2009	2008		prev. is 2009	financial plan 2010
personnel expenses	16,290	24,236	21,131	26,639
material expenses	10,216	14,201	10,778	14,849
Depreciation, other expenses	928	1,291	1,067	1,388
	27,433	39,728	32,976	42,876

- The increase in personnel expenses in 2010 is primarily due to the addition of seven new employees each year 2010 as well as the full-year calculation of the employees taken on during the year 2009.
- The increase in material expenses in the 2010 financial plan is due to the planned change of location and the associated associated costs.

Is financial plan Investments (in kEUR) 2009	2008		prev. is 2009	financial plan 2010
Intangible assets	221	450	352	165
Property, plant and equipment	466	904	1,009	1,204
financial investments	0	0	0	0
	687	1,354	1,361	1,369

- In terms of intangible assets, investments are primarily made in software licenses.
- In the case of tangible assets, the necessary investments for the facility area (e.g. office furniture) and IT (e.g. hardware) expelled.

Is financial plan Employees 2009	2008		prev. is 2009	financial plan 2010
Employees at the end of the year in full-time equivalents	219,200	290,350	275,250	297,350

- For 2010, 7 new admissions (FTE) are planned.

accumulated depreciation	Book value 12/31/2009	Book value depreciation of December 31, 2008 financial year	
1,424,813.75	410,586.93	263,910.37	205,045.39
165,341.81	558,983.56	194,525.91	33,953.34
1,954,614.96	924,668.95	868,157.33	437,196.86
0.00	0.00	0.00	116,722.58
2,119,956.77	1,483,652.51	1,062,683.24	587,872.78
0.00	0.00	54,957.65	0.00
3,544,770.52	1,894,239.44	1,381,551.26	792,918.17

IT SYSTEMS

VALUABLE PAPER SERVICE PERFORMANCE DATA BANK

In the course of 2008 and 2009, a new application developed to manage the data of securities service providers. The new securities services database (WPDL-DB NEW) is used to record and process a wide variety of data on companies that offer securities services.

The last part was completed in mid-2009. This completely replaced the old application.

The WPDL-DB NEW includes the following modules:

- n Management of the license data of Austrian investment firms and investment service providers,
- n Collection of notifications for action in other countries,
- n Recording of the course of concession procedures
- ren,
- n Administration of the sales revenues to be reported, which are subsequently used to calculate the payments
Costs Ordinance (KVO) are used,
- n Compilation of the annual financial statements to be reported
pay,
- n Illustration of the checklists of the separate test
judge,
- n Display of reported contracted
intermediaries and financial services assistants,
- n Management of notifications of EEA securities
pier companies.

The new application takes into account the legal requirements of the MiFID financial market directive (Markets in Financial Instruments Directive) and the German Securities Supervision Act (WAG 2007). An important feature is the close connection to the FMA website. For example, in the event of changes to the licenses of securities service providers, the information on the website can be updated immediately. In addition, the data reported by the companies on the web portal can be used

proceeds or annual financial statements can be viewed internally immediately. Since these reports can be accepted at the push of a button, they must be sent internally by the FMA can no longer be entered manually. That's only one from many points that reduce the amount of work and increase user-friendliness. Tied agents and financial services assistants to an investment services enterprise are reported via a WPDL-DB web portal. This da

ten are available to the FMA and interested visitors to the FMA website available immediately. By networking the internal application with the web portal, all responsible employees of the FMA are immediately provided with the latest information.

INSTRUMENT REFERENCE DATA SYSTEM

The Instrument Reference Data System (IRDS) is a central repository of master data operated by the Committee of European Securities Regulators (CESR). It contains data on all financial instruments that are traded on regulated markets within the European Union (EU). It is also recorded which supervisory authority is the relevant (competent) authority for which financial instrument. This routing information is used by the CESR member states to forward Transaction Reports (TRs) to the competent authority via the Transaction Reporting Exchange Mechanism (TREM). The master data of all financial instruments that are listed on a regulated market in the respective national state are uploaded to the IRDS system by the supervisory authorities on a daily basis. The entire database is also made available for download daily from the central system. The IRDS system is

in operation since 07/01/2009 and currently contains data to over 800,000 financial instruments. This data is integrated into the analysis systems of securities supervision and are therefore available on a daily basis.

INCOMING - PLATTFORM - the official electronic mailbox of the supervisor

B Supervised companies are required by law to submit a large number of data, reports and documents to the supervisory authority on an ongoing basis. Previously, these had to be sent by post and in some cases both to the Financial Market Authority authority (FMA) and the Austrian National Bank (OeNB). Now that the legal basis for this has been created, the FMA and OeNB have developed a joint electronic platform on which these data, reports and documents can also be transmitted exclusively electronically, with both institutions being reported at the same time in accordance with the law.

The development and implementation of the "Incoming Platform" (IP) software solution offers the supervised credit institutions and payment institutions the opportunity, in a first step, to offer the contributions in accordance with the Austrian Banking Act, MundelSicherheitsVO, SparkassenG, InvFG, ImmoInvFG and ZaDiG in electronic form to submit supervision.

On the one hand, this electronic transmission saves the supervised entity time and resources, as there is no need for hard copies or post, and on the other hand, it increases efficiency and effectiveness in supervision, since the electronically transmitted data is entered and processed directly in the joint Electronic File (ELAK) of the FMA and OeNB. The incoming platform automatically assigns the corresponding contributions to the employees responsible for an institution at the OeNB and FMA, the so-called SPOCs (single point of contact).

The templates provided by the supervisory authority – integrated into the incoming platform – increase the quality of the notifications and reduce the effort previously required for emergencies. The software used also ensures that the data transmitted meets the legal requirements

become right.

The incoming platform is a web-based application that can be accessed via the websites of the OeNB and FMA

is reachable. When the contribution is transmitted, a digitally signed PDF document is created from the metadata and the templates stored in the database, which is offered to the user for download and serves as confirmation of the transmission. The recorded metadata and the signed contribution are stored in a database in order to be able to guarantee a complete history.

In order to ensure the highest security standards when transferring the contributions, the FMA and OeNB have strictly adhered to the specifications of ÖNORM A 7700 ("Security requirements for web applications"). In the EU area, this is the first certifiable standard for the safety of

web applications. It guarantees a high level of security through a multi-stage, complete source code audit during certification.

The following security requirements were implemented as part of this certification:

- n** Encryption of the data exchange: The client (web browser) communicates with the application exclusively via the Hypertext Transfer Protocol Secure (HTTPS).
- n** Redundant systems: All systems relevant to the application (Internet provider, web server, database server, ...) are designed redundantly to ensure the greatest possible availability.
- n** Registration of users for the IP: In general, the login (registration) via the web application is freely accessible to every Internet user. For this reason, each registration is checked by the Bank Supervision employee responsible for the company in question. For approval, the e-mail address of the registrant must match the e-mail domain of the institute. in case
le a deviation must be a corresponding
Evidence of Eligibility from the Registrant
be provided.
- n** Registration of an already registered user:
The registration for the use of the IP takes place via

a two-stage login logic. First, the user must identify himself by entering his username (the e-mail address provided during registration) and his password. Before logging in for the first time (or if he has forgotten his password), the user must enter his password himself via the web application.

The password assigned in this way is then stored in encrypted form in the database using the Secure Hash Algorithm (SHA1) method and can therefore no longer be reconstructed, even by system administrators. After successfully entering the access data, the user still has to enter a mobile transaction number (mTAN) in order to gain access to the system. The mTAN is sent to the user by email and is only valid for a limited time. This procedure ensures, among other things, that employees who have left a company can no longer log on to the system.

n Failed login attempts: After a be correct number of failed login attempts becomes a registered user on a predefined time disabled. Only after this time has expired another login is possible for this user. In the event of a "brute force attack" (automated invalid login attempts using hacker software), the entire IP application is deactivated for a predefined period of time activated.

n Authorization concept: An authorization concept coordinated with the banking industry takes into account the special requirements of the sectoral institutes and their auditing associations. In addition, a Main person responsible for the contribution of an institute

view all contributions – his own and those of his colleagues – and manage the list of contributors from his institute himself. This ensures maximum transparency within the supervised institution.

After a report has been submitted, this – with all the associated documents and meta data – is converted fully automatically by an internal application into a format that can be further processed and the

Chancellery made available for filing in the ELAK.

An internal organizational process ensures that the file created in this way is assigned to the respective processors in the FMA and the OeNB. The list of Single Points of Contact (SPOC), which is constantly coordinated between the OeNB and FMA, forms the basis for communication via the incoming platform. In addition to the FMA and OeNB internal contact persons, the responsible contact persons of the supervised institution are also recorded in order to ensure the further processing workflow in the Electronic File (ELAK) operated by the FMA

place.

The entire IP software package has been in use since July 1, 2009. Within a one-year parallel phase, contributions can be sent either via the IP or in the conventional form (by post) (dual phase). After that, submissions will only be accepted via the IP. The functionalities of the incoming platform are constantly being expanded. From 2010 onwards, communication between state commissioners and supervisors and between

German bank auditors, auditing firms, auditing associations and supervisors to be processed in a standardized way via the incoming platform.

PUBLIC RELATION

V strengthened by the financial market crisis, that was public interest in the work of finance market supervision particularly large in the year under review. In particular, the effects of the crisis on the domestic financial market, the lessons to be learned from the crisis and the corresponding discussion about global or European regulation and financial control view were the focus of media interest. The FMA contributed through several packages of claims Optimization of the system of supervision and its legal framework were highly regarded and constructive contributions to the discussion

ME DI E SCAR IT

In its media work, the FMA is committed to strengthening the confidence in the Austrian financial market an open communication policy. In its operational supervisory activities, however, the statutory obligation to maintain official secrecy imposes very narrow limits on the communication of the FMA. In the year under review, the media work of the FMA therefore focused very strongly on the further development of the system of supervision, both nationally and internationally, as well as on fundamental and structural questions in the individual cases areas of supervision. She uses the klas Technical instruments of media work such as press releases meetings, press conferences, background discussions as well as individual interviews by the board of directors. Moreover Of course, all inquiries from journalists are answered quickly and competently, insofar as this is permitted by the obligation to maintain official secrecy. This intensive dialogue with the media also serves as an important source of information for BaFin itself for its operational activities.

In the reporting year, the FMA published 31 press releases, which were distributed via the Austria Press Agency (APA), Reuters and the FMA press mailing list, which anyone can register for via the website, and made available promptly on the FMA website

became. The main topics were the short-selling ban, the discussions on the new European supervisory architecture and on the supervision of kommu nifying official measures against supervised companies. In addition, the FMA published 40 notifications in 2009 made in the official gazette of the Wiener Zeitung. These are investor warnings that indicate that a named provider is not authorized to offer certain financial services that require a license in Austria. This information was also made available to the public at the same time on the website.

At the press conferences and background discussions, the focus in 2009 was also on crisis-related topics. In total, the FMA held seven press conferences in the year under review, two of them jointly with the Oesterreichische Nationalbank (OeNB), on the following subject areas: **n** 22 January: "Lessons learned" from the financial market crisis; situation of Austrian banks in Central, Eastern and Southeastern Europe (CESEE)

- n** 15 April: The new European supervisory architecture – opportunities and challenges; Focused review of the prohibited holding of customer funds by securities service providers
- n** May 20th: Balance sheet press conference: Financial market Austria Austria in crisis; claims and Suggestions for improvement by the FMA
- n** 1 September: European Forum Alpbach: Developments to create a new European supervisory architecture; new regulatory projects and new EU directive
- n** October 2nd: The fight against illegal business operations
- n** November 18: Ban on short selling: experiences with the ban on naked short selling in some financial stocks; Circular on prohibited incentives in the remuneration system when selling financial products

n Nov 26: Too big to fail? A special bankruptcy law is needed for banks, and how should it be structured
All events met with great interest from journalists and were widely reflected in media reports.

EVENTS

The Executive Board and employees of the FMA also took part in 2009 as a discussion partner or lecturer at a large number of events, in order to carry out tasks and

Objectives of supervision as well as subject and topic-specific Transport aspects to selected target groups to be able to

At the same time, the FMA itself organized a series of events on subject-specific topics. As part of a joint event with the OeNB for the banking industry at the end of January

In 2009 the guidelines for the reform of banking supervision ("Banking Supervision in Austria") were presented. In addition, the workshop "Cross Border Financial Regulation and Supervision Implementation Framework" was held together with the World Bank, the 37th CESR-Pol-Meeting organised, a practical dialogue for securities service providers on the subject of "The new supervision according to WAG 2007" carried out and another practical dialogue held by the FMA for compliance officers on issues relating to the subjects of "obligation to report suspicious transactions in accordance with the BörseG" and "conflict of interest management in accordance with WAG 2007".

PUBLIC ATIONS EN

The FMA's 2008 annual report was published in May 2009 published. As a print version he was in German

The electronic version is available in two languages - in German and English - interactively via the website or on CD-ROM.

In January of the year under review, the publication "Bankenaufsicht in Österreich" (Banking Supervision in Austria) was published in cooperation with the OeNB. It contains guidelines that describe the organization of banking supervision after the reform that came into force on January 1, 2008 in a generally understandable way. In addition, the two institutions published one flyer of the same name. The "Incoming Platform" flyer was created to support the credit institutions in connection with the newly introduced option of electronic data transmission in the reporting system.

WEB SIT E / M ITAR BE IT ERP ORTA L

The degree of use of the FMA website, which has risen sharply in recent years, was further increased in the year under review. In order to achieve the greatest possible user-friendliness, the website underwent a thorough usability test in 2009, the results of which will be implemented when the website is relaunched in 2010.

The FMA employee portal was implemented as planned in the year under review. The aim was to provide FMA employees with a modern, clear tool that users

friendly facilitates the work and the internal information information exchange supported. Ongoing adjustments and expansions are intended to further improve the status of the employee portal.

Central complaints system and consumer information

A Enquiries, information and complaints are an important source of knowledge for the FMA's supervisory, investigative and auditing activities. In this way, the FMA receives information on how to check whether a specific company to be supervised behaves in a legally correct manner towards its customers and whether there are grievances in a company which the FMA can counteract through supervisory measures.

COMPLAINTS

The FMA already had a central Be in 2006 Severity management set up, which receives all inquiries and information and the timely Processing and replying coordinated and over takes.

It proves to be a special challenge to inform the complainants about the legally assigned to clarify the role of the FMA in consumer protection s: The role of supervision in protecting consumers is solvency, market and behavioral supervision.

The FMA is not a consumer protection organization in the classic sense that can help complainants in enforcing any claims for damages and claims against supervised companies. Damaged consumers have to sue for any claims for damages in civil courts. As the supervisory authority, the FMA must and may maintain equidistance from all market participants

never take sides. All bodies and employees of the FMA are also subject to the legal obligation of official secrecy. Since complainants do not have party status in the FMA's administrative proceedings, it is also not permitted to provide them with any information about the progress or outcome of the proceedings. If, however, a possible damage is sued in a civil court, the court can gain access to the files by way of administrative assistance. There

by taking into account the need for legal protection of injured parties.

In 2009, the number of consumer inquiries and complaints about regulated entities continued to rise: it did in 2006 and 2007

around 4,500 inquiries and complaints each and 7,400 in 2008, so there were already more in 2009 than 9,300.

Thematically they concerned

n in the area of banking supervision in particular

publications on deposit protection, the position of the FMA on granting foreign currency loans to private individuals, the Payment Services Act (ZaDiG) that came into force on November 1, 2009, and the consumer protection provisions of the Banking Act (BWG),

n primarily deficient in insurance supervision

performance or non-performance by the insurer, Doubts about the correctness of calculations that Termination of contract as well as premium exemption and reduction,

n in securities supervision, above all non-compliance with the code of conduct, inadequate advice, inadequate protection of investor interests and investment that is not risk-based.

n There has been a dramatic increase in inquiries and complaints about illegal business operations draws.

REQUESTS

In addition to the strong An

As consumer contact with the FMA increased in general, the focus shifted noticeably from complaints about specific providers to inquiries about general financial market issues, such as the legal provisions of banks' deposit protection and the cover pool of insurance companies, as well as questions about the legal structure of certain financial products.

What is particularly striking in connection with numerous consumer inquiries and investor complaints is that a large number of consumers are still very poorly informed about money matters and have hardly dealt with the financial products before purchasing them. They are serious de

fizite in economic and financial fundamentals know to the detriment of consumers.

It is therefore very important to step up measures to provide consumer information and increase financial education.

financial markets

Main topic

International cooperation

Legal development

operational supervision

LEGAL AND PROCEDURE MATTERS

F MA I nternal

Attachment

List of abbreviations

3L3 3 Level 3 Committees (CEBS, CEIOPS, CESR)

A

ABS Asset Backed Securities; specially secured bond

ABGB General Civil Code

aF old version

AHG Official Liability Act

AIF Alternative Investment Funds

AIFM Alternative Investment Funds Manager

Stock Corporation Act

AMA advanced measurement approach; advanced operational risk measurement approach

APA Austria press agency

AP-VO Ordinance regarding the attachment of the audit report on the annual financial statements

ARÄG Stock Corporation Law Amendment Act

ASVG General Social Insurance Act

ATX Austrian Traded Index; Austrian stock index

AVG General Administrative Procedures Act

AWLB beneficiaries and beneficiaries

azp Attachment to the audit report

B

BaFin Federal Financial Supervisory Authority (German supervisory authority)

Federal Law Gazette
Federal Law Gazette

GDP gross domestic product

BMF Federal Ministry of Finance

BMSVG Company Employee and Self-Employed Pensions Act (according to amendment)

Stock Exchange Act
Stock Exchange Act

BPG company pension law

BSCEE Group Banking Supervisors from Central and Eastern European Countries; Group of Central and Eastern European regulators

BSCR Basic Solvency Capital Requirement; Basic Solvency Capital Requirement

BWG Banking Act

C

CAD Capital Adequacy Directive; EU directive on capital adequacy

CCP.A Austria Central Counterparty (processing office for stock exchange transactions)

CDO Collateralised Debt Obligations (Financial Instruments)

CDS Credit Default Swaps; Loan Default Protection

CEBS Committee of European Banking Supervisors; Committee of European Banking Supervisors

CEE Central and Eastern Europe; Central and Eastern European countries

CEIOPS Committee of European Insurance and Occupational Pensions Supervisors; Committee of European Insurance and pension fund supervisor

CESEE Central, Eastern and South-Eastern Europe; Countries of Central, Eastern and Southeastern Europe

CESR Committee of European Securities Regulators; Committee of the EU Securities and Exchange Commission

CESR Pol Permanent working group "Policy" set up at CESR

CHF Swiss franc

CIS Commonwealth of Independent States; Commonwealth of Independent States (CIS)

CRD Directive Capital Requirements Directive

CSSF Commission de Surveillance of the Financier Sector; Luxembourg Financial Market Authority

D

DAX German stock index

E

EBA European Banking Authority; European Banking Supervision

ECOFIN Council of Economics and Finance Ministers of the EU

ECV Issuer Compliance Regulation

EFC	Economic and Financial Committee; European Economic and Financial Committee
EC	European Community
EIOPA	European Insurance and Occupational Pensions Authority; European Insurance Supervision
EC	European Commission
EKV	Owner Control Ordinance
ELAK	electronic act
EPC	European Payment Council; European Payments Committee
ERC	European Regional Committee
ESA	European Supervisory Authorities; European supervisory authorities
ESFS	European System of Financial Supervision; European Financial Supervision System
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board; European Systemic Risk Board
ESTG	Income Tax Act
ESCB	European System of Central Banks
EU	European Union
EUR	euros
EURIBOR	Euro Interbank Offered Rate; Three Month Money
Euro Stoxx 50	Stock index of the 50 largest listed companies in the euro zone
EEC	European Economic Community
EEA	European Economic Area
ExCo	Executive Committee
ECB	European Central Bank
f	
FATF	Financial Action Task Force on Money Laundering; Working group to combat money laundering
FDLA	Financial Services Assistant
FKG	Financial Conglomerates Act
FMA	Financial Market Authority
FMABG	Financial Market Authority Act
FMA-FX-MS	Minimum standards for granting and managing foreign currency loans
FMA-GebV	Financial Market Authority Fee Ordinance
FMA-KVO	Financial Market Supervision Costs Ordinance
FSA	Financial Services Authority (British regulator)
FSAP	Financial System Action Plan; Financial Services Action Plan
FSRB	FATF Style Regional Bodies; FATF working groups at regional level
FTSE 100	Financial Times Stock Exchange Index; British stock index
FWK	foreign currency loans
G	
G-20	Group of Twenty; Association of the 20 most important industrialized and emerging countries
G + V	income statement
GAAP	Generally Accepted Accounting Principles; Generally accepted accounting principles
GBP	Great Britain Pound
GBVVU	Profit Sharing Ordinance
GewO	trade regulations
GPVVU	Profit Plan Ordinance
H	
HTM	held to maturity (securities)
HTTPS	HyperText Transfer Protocol Secure; Secure hypertext transfer protocol
HICP	Harmonized Index of Consumer Prices
HWWI	Hamburg Institute for World Economics
I	
IAIS	International Association of Insurance Supervisors; International Association of Insurance Authorities
IASB	International Accounting Standards Board; International body of accounting experts
idgF	in the current version
IFRS	International Financial Reporting Standards; International accounting standards
IMD	Directive on Insurance Mediation; EU Brokers Directive
IMEG	CESRExpert Group on Investment Management
ImmoInvFG	Real Estate Investment Fund Act
InvFG	Investment Fund Act
IOPS	International Organization of Pension Supervisors; International Association of Pension Fund Supervisors
IORP	Institutions for Occupational Retirement Provision; activities and the supervision of facilities of the company national pension scheme
IOSCO	International Organization of Securities Commissions; International Association of Stock Exchange Commissioners
IP	incoming platform (web-based data transmission platform of the FMA)

International Private Law Law

IRB approach Internal Ratings Based Approach; Formula for calculating capital adequacy for credit risks – Basel II
in connection with

IMF IMF
iZm relating to

J

JPY Japanese yen

K

KAVO Capital Investment Ordinance

KID Key Investor Information Disclosure

CMM Capital Markets Act

SMEs small and medium-sized businesses

KVO cost regulation

L

LVV Short Selling Ordinance

M

MADe Market Abuse Directive; Market Abuse Policy

MADe Market Abuse Detector; Analysis system of the FMA

MiFID Markets in Financial Instruments Directive; Markets in Financial Instruments Directive

CEEC Central and Eastern European countries

MoU memorandum of understanding; cooperation agreement

MTF Multi Trading Facility; multilateral trading system

MVSV Minimum Content, Publication and Language Ordinance

MVVU Ordinance on the reports to be submitted to the Financial Market Authority

N

Nikkei 225 Stock Index of the Tokyo Stock Exchange; calculated daily by the business newspaper Nihon Keizai Shimbun

O

OECD Organization for Economic Cooperation and Development; Organization for Economic Cooperation and Development

OeKB Austrian Control Bank AG

OeNB National Bank of Austria

UCITS schemes for collective investment in transferable securities; see UCITS

ONA regulatory standard ID

ÖNORM Austrian standard

OTF Operational Task Force

OTC Over The Counter; over the counter

P

PF pension fund

PKG Pension Fund Act

PRIPS Packaged Retail Investment Products (financial instruments)

PSD Payment Services Directive; Payment Services Policy

PSZÁF Pénzügyi Szervezetek Állami Felügyelete; Hungarian Financial Market Authority

Q

QIS Quantitative Impact Study; Quantitative impact study of Basel II on banks' capital requirements

R

approx. around

RL directive

ROA return on assets; return on assets

ROE return on equity; return on equity

S

SCC Standard Compliance Code

SCR solvency capital requirements; Solvency Capital Requirement

SEE South East Europe; Southeastern Europe

SEPA Single European Payment Area; uniform European payment area

SPOC single point of contact

SPSS Statistical Product and Service Solutions (software)

SPV Special Purpose Vehicle; special purpose entity

SREP Supervisory Review and Evaluation Process; Bank supervisory review and evaluation process
 SRRI Synthetic Risk and Reward Indicator
 StPO Code of Criminal Procedure
 StWbFG Federal law on special tax measures to promote residential construction

T

kEUR Thousand euro
 TR (Technical provisions
 TREM Transaction Report Exchange Mechanism; regulates the exchange of data between the national supervisory authorities
 TT repayment vehicle
 TTK repayment vehicle loans

U

Takeover Act
 UCITS undertakings for collective investments in transferable securities; see UCITS
 UGB Corporate Code
 USD U.S. dollar
 UVS Independent Administrative Senate

V

VAG Insurance Supervision Act
 VA-VISO Insurance Supervision Information System Austria
 VDAX volatility index
 VERA statement of assets, success and risk
Constitutional Court Constitutional Court
 VGV Tied Agents
 --- last year
 VO regulation
 VRG investment and risk sharing groups
 VVaG mutual insurance companies
 VVMGL Ordinance on the content and structure of the actuarial bases
 VVO Association of Austrian Insurance Companies
Administrative Court Administrative Court
 FTE full-time equivalents

W

WAG 2007 Securities Supervision Act 2007
 WBAG Vienna Stock Exchange AG
 WIFO Economic Research Institute
 WKO Austrian Chamber of Commerce
 WPDL-DB securities services database
 WPDLU securities services company
 WPF investment firms

X

XML Extensible Markup Language; extended range of languages for Internet communication

Z

ZADIG Payment Services Act
 ZAPV ordinance on the annex to the test report for payment institutes
 ZIMV Payment Institution Reporting Ordinance
 ZÜB future profit participation

List of graphics, tables and figures

graphics

Figure 1: GDP growth rates	2
Chart 2: Development of consumer prices	5
Chart 3: Development of the crude oil price per barrel of the "Brent" variety	5
Chart 4: Development of selected share indices	6
Chart 5: Development of European sector indices	6
Chart 6: Implied volatility of selected equity indices	6
Chart 7: Development of ten-year reference bonds	7
Figure 8: Development of short and long-term interest rates in the euro zone	7
Diagram 9: Development of selected exchange rates	7
Diagram 10: Development of the equity-market.at segment of the Vienna Stock Exchange	8th
Figure 11: Residential real estate prices in selected major US cities	11
Figure 12: Development of US mortgage default rates	12
Figure 13: Number of bank failures in the USA	12
Diagram 14: Government debt of selected EU countries in relation to GDP	13
Diagram 15: Spreads of ten-year government bonds compared to German government bonds	14
Figure 16: Credit default swap premiums for selected countries	14
Chart 17: Market shares	41
Diagram 18: Earnings situation	41
Chart 19: Overview of foreign currency loans in Austria	50
Figure 20: Regions' share of the total CESEE banking market	55
Chart 21: Distribution of Austrian banks' assets in CESEE	55
Figure 22: Total assets as a percentage of total CESEE exposure per country	55
Chart 23: Breakdown of period result in CESEE	56
Figure 24: Shares of Austrian banks in CESEE foreign subsidiaries	56
Diagram 25: Total assets of company provident funds	57
Chart 26: Number of Accession Agreements	58
Diagram 27: Dispositions of the beneficiaries	58
Diagram 28: Investment instruments of company provident funds	58
Figure 29: Pension funds' market shares	61
Chart 30: Pension fund assets	61
Diagram 31: Persons entitled to future and benefits	62
Chart 32: Equalization provision	64
Diagram 33: Premiums generated by insurance companies from the EEA in Austria through the provision of services and branch offices	69
Diagram 34: Ratio of technical provisions according to Solvency II to those according to UGB by balance sheet department	73
Diagram 35: Spread of future profit participation	74
Chart 36: Composition of the basic solvency capital requirement before and after diversification	74
Diagram 37: Ratio of equity capital requirement Solvency II/Solvency I	75
Diagram 38: Premiums written in Western Europe and in the CESEE region by cross-border Austrian insurance groups	78
Figure 39: Geographical distribution of the total premium volume of Austrian insurance groups	78
Diagram 40: Fund assets of the capital investment funds	82
Chart 41: Net Assets by Fund Category	82
Chart 42: Net assets by target group	82
Diagram 43: Fund assets of real estate investment funds	83
Chart 44: Number of foreign funds	84
Chart 45: Number of concessions in force	90
Chart 46: Number of investment firms/WPDLU by federal state	90
Diagram 47: Number of license applications received	90
Chart 48: Degree of solvency of Austrian financial conglomerates in an EU-wide comparison	96
Chart 49: Regulatory measures	100
Diagram 50: Transaction reports in the area of responsibility of the FMA	105
Diagram 51: Ad hoc notifications by subject	110
Chart 52: Number of approval procedures	113
Graphic 53: Number of warning messages	118
Diagram 54: Employee fluctuation	131
Chart 55: Percentage of female employees	131

tables

Table 1: Economic indicators Austria	3
Table 2: International economic indicators	4
Table 3: Key figures of the financial sector	9/10
Table 4: Country ratings of EU countries for foreign currency liabilities	13
Table 5: Completed bilateral memoranda of understanding	29
Table 6: Concluded multilateral memoranda of understanding	29
Table 7: Number of credit institutions	41
Table 8: Information sources	45
Table 9: Audit assignments to the OeNB	45
Table 10: Official measures pursuant to Section 70 and Section 97 BWG	47
Table 11: Newly licensed credit institutions	48
Table 12: Licensing procedures	48
Table 13: Notifications and permits pursuant to Sections 20 and 21 BWG	51
Table 14: Model approvals	52
Table 15: Fully consolidated operational subsidiary banks	54
Table 16: Number of beneficiaries and beneficiaries	61
Table 17: Performance of the pension funds	62
Table 18: Performance according to the OeKB investment classes	62
Table 19: Insurance data	63
Table 20: On-site activities	65
Table 21: Insurance density	68
Table 22: Insurance Penetration	68
Table 23: Premiums written	69
Table 24: Asset structure of cover pool and other cover assets	70
Table 25: Life insurance asset structure	71
Table 26: Legal forms of domestic insurance companies	71
Table 27: Business areas of insurance companies	71
Table 28: EEA insurers in Austria	72
Table 29: On-site activities	77
Table 30: License extensions for insurance classes	78
Table 31: Activities of Austrian insurance groups in the CESEE region	79
Table 32: Licenses granted	91
Table 33: Official trading and regulated unofficial market surveillance	104
Table 34: Market surveillance	107
Table 35: Administrative assistance market surveillance	107
Table 36: Issuer supervision	111
Table 37: Number of activities against unauthorized business operations	118
Table 38: Concluded administrative penal proceedings	119
Table 39: FMA personnel statistics	130
Table 40: FMA position status	130
Table 41: Preliminary Balance Sheet 2009	138
Table 42: Preliminary income statement for 2009	138
Table 43: Provisional fixed assets 2009	139
Table 44: Budget 2010 at a glance	139
Table 45: Balance sheet 2008	154
Table 46: Profit and Loss Account 2008	156
Table 47: Fixed assets 2008	158

illustrations

Figure 1: Outline of the new European supervisory architecture	19
Figure 2: Development of trade in services and establishments in the EEA	70
Figure 3: Implementation of the country of origin principle in the Europe-wide approval of insurance companies for business operations	72
Figure 4: Supervisory Board of the FMA	128
Figure 5: Organizational chart of the FMA	129

Annual financial statements 2008

Confirmation

We have the annual accounts of the financial market audited by the supervisory authority for the financial year from January 1, 2008 to December 31, 2008, including the accounting. The bookkeeping, the preparation and the content of these annual financial statements and the management report in accordance with Austrian commercial law are the responsibility of the board of directors of the financial market supervisory authority. Our responsibility is to express an opinion on these financial statements based on our audit and to state whether the management report is consistent with the financial statements.

The cost accounting according to § 19 para. 1 FMA BG was also the subject of our audit.

We conducted our audit in accordance with the statutory regulations and principles of proper auditing applicable in Austria. These principles require that the audit be planned and performed in such a way that a sufficiently reliable assessment can be made as to whether the annual financial statements are free from material misstatements and a statement can be made as to whether the management report is consistent with the annual financial statements.

When determining the audit procedures, knowledge of the business activity and the economic and legal environment of the authority so how expectations about possible errors are taken into account. As part of the audit, the evidence for amounts and other information in the accounts and

Balance sheet as of December 31, 2008 (amounts in EUR)

assets

Previous year
kEUR

A. Fixed assets

I. Intangible assets			
licenses		263,910.37	190
II. Tangible assets			
1. Buildings on third-party land	194,525.91		227
2. other equipment, operating and stationery	868,157.33		926
		1,062,683.24	1,153
III. financial investments			
Securities held as fixed assets		54,957.65	55
			1,398
B. Current Assets			
I. Services not yet billable to payers			
		20,378,228.01	15,724
II. Receivables and other assets			
1. Trade receivables 2. Other receivables and assets	1,188,821.00		1,373
	723,696.73		274
		1,912,517.73	1,647
III. Cash on hand, bank balances			
		3,436,780.28	2,881
			20,252
C. Prepaid expenses			
		737,381.94	618
			22,268
		27,846,459.22	22,268

assessed in the annual financial statements primarily on the basis of spot checks. The audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the annual financial statements.

We believe that our review of the Jah financial statements as of December 31, 2008

supervisory authority provides a sufficiently reliable basis for our audit opinion. Based on the result of the audit we carried out, we issue the following unqualified audit opinion for all unabridged publications of the annual financial statements audited by us in the version shown in Annexes I to IV:

Our audit has not led to any reservations. On the basis of the knowledge gained during the audit, in our opinion, the annual financial statements comply with the statutory provisions and provide a true and fair view of the assets and financial position of the financial market supervisory authority as of December 31, 2008 and

the results of operations of the financial market supervisory authority for the financial year from January 1, 2008 to December 31, 2008 in accordance with Austrian generally accepted accounting principles. The management report is consistent with the annual financial statements. The cost accounting according to § 19 para. 1 FMABG corresponds to the legal regulations.

Vienna, April 17, 2009

HLB intercontrol
auditing company ltd

Mag. Cornelia Spitzer

dr Markus Green

Auditors

Table 45: Balance sheet 2008

Previous year KEUR		passive
A. Reserve pursuant to Section 20 FMABG		827
B. Provisions		
1. Provisions for severance payments	573,890.00	496
2. Other provisions	<u>3,618,832.70</u>	<u>3,143</u>
		3,639
C. Liabilities		
1. Advance payments received in accordance with Section 19 FMABG	15,397,122.25	14,660
2. Trade Payables and services	5,126,087.30	1,140
3. Other Liabilities		
a) of which from taxes b)	212,900.69	245
of which within the scope of social		
Security	278,928.28	299
c) of which from actual settlement of previous	370,295.63	616
years d) other	<u>847,946.04</u>	<u>286</u>
	<u>1,710,070.64</u>	<u>1,446</u>
		17,246
D. Accruals and Accruals		
		368,840.00
		556
		<u>27,846,459.22</u>
		<u>22,268</u>

Table 46: Profit and Loss Account 2008

Income statement for the fiscal year from January 1 to December 31, 2008 (amounts in EUR)		
Previous year kEUR		
1. Federal contribution in accordance with Article 19 FMABG		3,500,000.00
		3,500
2. Other operating income a) Income		
from the disposal of fixed assets	0.00	
with the exception of financial assets		16
b) income from the reversal of provisions c) other	407,015.38	255
	<u>2,926,676.32</u>	<u>2,798</u>
		3,333,691.70
		3,069
3. Personnel expenses		
a) Salaries	-13,177,449.21	-13,010
b) Expenses for severance payments and payments to company provident funds c)	-235,692.75	-179
Expenses for pension schemes d) Expenses for statutory	-301,905.34	-338
Social security contributions and wage-dependent Taxes and compulsory contributions e)	-2,452,348.41	-2,308
other social expenses	<u>-122,801.01</u>	<u>-69</u>
		-16,290,196.72
		-15,904
4. Amortization of intangible assets of fixed assets and tangible assets		-703,108.93
		-637
5. Other operating expenses other		<u>-10,215,579.27</u>
		<u>-5,691</u>
6. Subtotal from Z 1 to Z 5		-20,375,193.22
		-15,663
7. Income from other securities held as financial assets		2,200.00
		2
8. Other Interest		219,173.56
		145
9. Subtotal from Z 7 to Z 9		221,373.56
		147
10. Allocation to the reserve pursuant to Section 20 FMABG		-224,408.35
		-208
11. Share of chargeable persons		20,378,228.01
		15,724
12. BALANCE SHEET RESULT		0.00
		0

Appendix pursuant to Section 236 UGB (amounts in EUR, previous year's amounts in EUR thousand)

A. GENERAL DISCLOSURES

1. The FINANCIAL MARKET AUTHORITY (FMA) is an institution under public law and was established on October 22, 2001 by the Financial Market Authority Act FMABG (Federal Law Gazette 97/2001). The official responsibility of the FMA began on April 1, 2002. The FMA is entrusted with the implementation of banking supervision, insurance supervision, securities supervision and pension fund supervision. It does not have any commercial operations. There is therefore no corporate income tax, sales tax or municipal tax liability.

As of March 31, 2002, the Federal Securities Supervision Act passed to the FMA by way of universal succession pursuant to Article 1 WAG.

2. The annual financial statements were prepared in accordance with the principles of proper bookkeeping and the general standard of providing a true and fair view of the company's assets, finances and earnings. Pursuant to Section 18 FMABG, the provisions of the UGB were applied accordingly to the present annual financial statements.

3. The accounting, valuation and disclosure of the individual items in the annual financial statements were made in accordance with the general provisions of §§ 193 to 211 UGB, taking into account the special provisions for medium-sized corporations.

4. The annual financial statements were prepared according to the going concern principle.

B. EXPLANATIONS OF THE BALANCE SHEET, INCLUDING THE PRESENTATION OF THE ACCOUNTING AND VALUATION METHODS**1. Fixed assets**

The development of fixed assets and the breakdown of annual depreciation according to individual items can be seen in Appendix III/page 11 (development of fixed assets).

1.1. Property, plant and equipment

Scheduled depreciation is carried out on a straight-line basis.

The framework of the useful life for the individual investment groups is:

1. Licenses	3 years
2. Installations in third-party buildings	8 to 20 years
3. Other facilities, fixtures and fittings	3 to 10 years

A devaluation requirement according to § 204 Para. 2 UGB did not exist due to the lack of impairment.

The low-value assets (according to § 13 EStG) with individual acquisition values of less than EUR 400.00 each were reported as disposals in the year of acquisition.

1.2. financial investments

No unscheduled depreciation was made on financial assets.

2. Services not yet billable to payers

This item includes the expenses of EUR 20,378,228.01 to be borne by those liable to pay the fees pursuant to Section 19 FMABG (previous year EUR 15,724 thousand). The cost accounting is based on the procedure regulated in § 19 FMABG.

In this context, the FMA has set up four accounting groups, which share the costs as follows:

	2008 (EUR)	2007 (TEUR)
1. Costs of banking supervision	9,339,750.34	6,244
2. Costs of insurance supervision 3.	4,885,568.58	4,319
Costs of securities supervision 4.	5,480,538.22	4,558
Costs of pension fund supervision	672,370.87	603
total	20,378,228.01	15,724

The allocation of the costs to the individual parties liable to pay the costs and the offsetting against the advance payments made by the parties liable to pay the costs for the 2008 financial year are based on the reference data listed in the relevant substantive laws and reported to the FMA, which are only available after the annual financial statements have been prepared.

3. Receivables from services

The receivables were recognized at their nominal values and have a remaining term of less than one year. When evaluating the claims recognizable risks were taken into account through individual devaluations.

A receivable of EUR 1,260,767.36 (previous year EUR 1,377 thousand) from the actual settlement of previous years is still on the books. For the claims from Ist Individual valuation allowances of EUR 71,946.36 (previous year: EUR 5 thousand) were set off.

4. Other Claims

Other receivables mainly include receivables from notices of charges, penalty notices, penalty interest, fiduciary function fees and refunds of salary costs and receivables from onward charging relating to the electronic file (ELAK). The individual value adjustment for other receivables amounts to EUR 2,340.00 (previous year EUR 2 thousand).

An amount of EUR 1,018.63 (previous year: EUR 1,000) was capitalized as other receivables for interest income from long-term securities, coupon date July 15, 2009.

5. Prepaid expenses

The active prepaid expenses consist in particular of expenses for rent, insurance, usage and maintenance fees as well as membership fees.

6. Reserve according to § 20 FMABG

In accordance with Section 20 FMABG, a reserve of 1% of the total costs of the FMA based on the most recent annual financial statements as of December 31st was established. Established in 2007 (1% of the total costs of the FMA from 2007 in the amount of EUR 22,440,835.45, i.e. EUR 224,408.35).

The entire reserve according to § 20 FMABG amounts to 31.12. 2008 to EUR 1,051,616.33.

7. Provisions

The formation took place in accordance with the principle of prudence in accordance with Section 211 (1) UGB.

7.1 Provisions for severance payments

Development:	2008 (EUR)	2007 (TEUR)
As of January 1st, 2008	496,582.46 –	448
use	11,802.69	– 3
feeding	89,110.23	52
As of December 31, 2008	573,890.00	497

The provisions for severance payments were calculated using the principles of financial mathematics. The calculation was an interest rate rate of 3.5% and a retirement age of 65 (men) and 60 (women).

Fixed assets according to § 226(1) UGB (amounts in EUR)

Status	Acquisition or production costs			As of December 31, 2008
	Additions	Disposals	January 1, 2008	
I. Intangible assets				
licenses	1,307,488.34	220,960.16	18,240.00	1,510,208.50
II. Property, plant and equipment				
1. Buildings on third-party land	324,341.65	1,572.73	0.00	325,914.38
2. Other equipment, factory and office equipment	2,440,233.14	395,302.34	28,412.57	2,807,122.91
3. Low-value assets	0.00	68,939.68	68,939.68	0.00
	<u>2,764,574.79</u>	<u>465,814.75</u>	<u>97,352.25</u>	<u>3,133,037.29</u>
III. Financial assets				
Fixed asset securities	58,052.50	0.00	0.00	58,052.50
	4,130,115.63	686,774.91	115,592.25	4,701,298.29

7.2 Other Provisions

stand use	1/1/2008	resolution	feeding	12/31/2008
anniversary bonuses	301,293.00	34,534.00	28,987.00	257,096.00
premium accrual	781,966.93	752,237.93	29,729.00	817,544.41
vacation not taken	1,001,108.01	0.00	0.00	1,209,185.23
open overtime	47,836.72	47,836.72	0.00	83,274.77
good hours	91,212.74	0.00	0.00	7,600.68
RST for pension fund contributions	5,200.00	5,200.00	0.00	3,500.00
Other provisions	616,508.88	98,896.72	50,550.15	379,112.83
RST ACTUAL clearing 2006 BA	297,749 22nd	0.00	297,749 22nd	0.00
RST ACTUAL clearing 2007 BA	0.00	0.00	0.00	303,244.04
	<u>3,142,875.50</u>	<u>938,705.37</u>	<u>407,015.38</u>	<u>1,821,677.95</u>
				<u>3,618,832.70</u>

The calculation of the provision for anniversary bonuses was carried out according to the principles of financial mathematics. The calculation was based on an interest rate of 3.5%, a retirement age of 65 (men) and 60 (women) and a non-wage labor cost rate of 4.5% for contract employees.

Other provisions break down as follows:

Back pay Proceedings Labor Court Litigation risk Proceedings	400,000.00
Regional Court St. Pölten Expenses FMA Annual Report	19,200.00
Energy costs (electricity, gas)	56,400.00
operating cost	190,000.00
handicap compensation tax	50,000.00
toner consumption	18,318.00
Copying work, printed matter	30,958.00
Electronic file (ELAK)	15,000.00
consulting effort	27,696.00
Various	30,000.00
	8,602.83
	<u>846,174.83</u>

Re the provision for actual offsetting 2006 BA:

The provision set up in a financial year pursuant to Article 69a must be reversed in the next annual financial statements of the FMA, ie the provision set up in the 2007 annual financial statements for the 2006 actual offsetting was reversed in the 2008 annual financial statements of the FMA; In derogation of Section 19 (4) FMABG, the resulting income is only to be deducted from the costs of accounting group 1.

Re the provision for actual offsetting 2007 BA:

According to § 69a BWG, the difference between the calculated cost shares and those to be paid by the banks Minimum amounts (EUR 1,000 per bank) from 2007 to a provision in 2008.

Table 47: Fixed assets 2008

accumulated depreciation	Book value 12/31/2008	book value 31.12.2007 financial year	Depreciation of the
1,246,298.13	263,910.37	190,556.70	147,606.49
131,388.47	194,525.91	226,906.52	33,953.34
1,938,965.58	868,157.33	925,982.81	452,609.42
0.00	0.00	0.00	68,939.68
2,070,354.05	1,062,683.24	1,152,889.33	555,502.44
3,094.85	54,957.65	54,957.65	0.00
3,319,747.03	1,381,551.26	1,398,403.68	703,108.93

8. Liabilities

The liabilities are determined with the repayment amount taking into account the principle of prudence. All Binding Items have a remaining term of up to one year.

8.1 Advance payments received pursuant to Section 19 FMABG

For the 2008 financial year, advance payments of EUR 15,378,386.00 (previous year: EUR 14,635 thousand) were prescribed by administrative decision. Of the prescribed advance payments, EUR 91,134.00 (previous year: EUR 81 thousand) had not yet been paid by the balance sheet date. Individual valuation allowances of EUR 21,368.00 (previous year: EUR 1 thousand) were made for the amounts not yet paid.

The prepayments for 2008 are compared with the share of costs to be borne by those liable to pay the costs as part of the cost accounting. The resulting difference will be requested from the payer or reimbursed to them.

As of December 31, 2008, EUR 88,502.25 (previous year: EUR 105,000) had already been paid in advance for the 2009 financial year.

8.2 Trade Payables

With the reform of the financial market supervisory authority in Austria, which came into force on January 1, 2008, there was a clear division of tasks between the FMA and the Oesterreichische Nationalbank in the area of banking supervision, with the FMA remaining the sole authority and responsibility for testing and analysis (including reporting and model approvals) being concentrated at the Oesterreichische Nationalbank. In this context, the FMA has to reimburse the Oesterreichische Nationalbank for the direct costs of the on-site inspection and the individual bank analysis (section 19 para. 5a FMABG). The reimbursement amounts are to be calculated on the basis of the direct costs reported to the banking supervisory authority for the previous financial year in accordance with Section 79 (4b) BWG and amount to a maximum of four million euros. Reimbursement is made by the end of March of the following financial year at the latest.

The reimbursement amount is to be reimbursed to the Oesterreichische Nationalbank for the first time for the 2008 financial year due to the direct costs reported in 2009 in accordance with Section 79 (4b) BWG in the 2010 financial year (thus by March 31, 2010 at the latest).

8.3 Other Liabilities

A liability of EUR 370,295.63 (previous year: EUR 616,000) is still recorded from the actual offsetting of previous years.

9. Contingent Liabilities

As of December 31, 2008, there were no contingent liabilities or contingent liabilities.

10. The obligations from the use of property, plant and equipment not shown in the balance sheet amount to around EUR 1,376,510.00 for the following year (PY: EUR 1,324k) and for the following five years a total of around EUR 2,379,950.00 (PY: EUR 3,596k).

C. NOTES TO THE PROFIT AND LOSS ACCOUNT

1. Income Federal grant

Pursuant to Section 19 (4) FMABG, an advance payment from the federal government for the 2008 financial year totaling EUR 3,500,000.00 (previous year EUR thousand 3,500), which is used to cover part of the costs for the 2008 financial year.

2. Share of payers

In this regard, reference is made to point B. 2. "Not yet billable services to payers" of the appendix.

3. Personnel expenses

In the income statement, under item 3b, payments to company provident funds in the amount of EUR 126,487.07 (previous year: EUR 118 thousand) expensed. The remaining amount of EUR 109,205.68 (previous year EUR 60 thousand) relates to expenses for severance payments.

D. OTHER INFORMATION

1. Average number of employees according to § 239 UBG

	2008	2007
Officer	24	26
Employees (incl. contract employees)	203	202
<hr/>		
workers overall	227	228
<hr/>		

2. Management of the FMA in accordance with Article 6 FMABG

For the 2008 financial year, Dr. Kurt Pribil and Helmut Ettl appointed as members of the Management Board.

On 10/22 In 2004 dr. Kurt Pribil for the period from October 22, 2004 to October 21, 2009 and on February 14, 2005 Dr. Heinrich Traumüller for the time Appointed from February 14, 2005 to February 13, 2008 as a member of the Executive Board of the Financial Market Authority.

On February 14, 2008, Helmut Ettl was appointed as a member of the Board of Directors of the Financial Market Authority by the Federal President for the period from February 14, 2008 to February 13, 2013.

With regard to Section 241(4) UGB, the information pursuant to Section 239(1) Z 3 and 4 UGB is omitted.

3. Members of the Supervisory Board pursuant to Section 8 FMABG

The remuneration granted to members of the Supervisory Board in the 2008 financial year amounted to EUR 15,300.00 (previous year: EUR 15 thousand).

Members of the Supervisory Board reappointed by the BMF on September 1, 2006: _____

– MR Mag. Alfred LEJSEK (Chairman), Federal Ministry of Finance

- dr Klaus LIEBSCHER (Deputy Chairman, member until August 31, 2008), Governor of the Oesterreichische Nationalbank

– Univ.-Prof. dr Ewald NOWOTNY (Deputy Chairman, member since September 1, 2008), Governor of the Oesterreichische Nationalbank

– Univ.-Doz. Mag. Dr. Josef CHRISTL (member until November 19, 2008), member of the Governing Board of the Oesterreichische Nationalbank, responsible for the Department of Economics and Financial Markets

– DHA Friedrich KARRER (member since November 20, 2008), Head of the Accounting Department of the Oesterreichische Nationalbank

– Mag. Andreas ITTNER, Director of the Department of Financial Market Stability, Banking Supervision and Statistics at the Oesterreichische Nationalbank

– ao Univ.-Prof. dr Sabine KANDUTH-KRISTEN, University of Klagenfurt

– MR Mag. Alfred PICHLER, deputy head of the budget section in the Federal Ministry of Finance

The ~~co-opted members were~~ proposed by the Austrian Chamber of Commerce.

- dr Walter KNIRSCH (co-opted member), chartered accountant and tax advisor

– General Counsel Dr. Herbert PICHLER (co-opted member), Federal Section Bank and Insurance, Austrian Federal Economic Chamber

Vienna, April 17, 2009

dr Kurt Pribil

uh

Mag. Helmut Ettl

uh

MANAGEMENT REPORT

Major developments:

1. Orders _____

~~dr Birgit Puck~~ returned from parental leave on 1.2. In 2009 he again took over as head of department IV/3 (legal and procedural matters).

~~MMag. Birgit Ertl~~ was dismissed with effect from January 1st. Appointed Head of Department IV/4 (combating illegal business operations) in 2009 for a period of five years (initially limited to one year).

~~Mag. Magdalena Ortner~~ was resigned effective July 26. 2008 interim until 30.9. Appointed Head of Department III/3 (Code of Conduct and Compliance) in 2009.

~~Mag. Jürgen Bauer~~ was temporarily suspended with effect from June 12, 2008 until October 31. Appointed Head of Staff Department 1 (General Executive Board Matters and Public Relations) in 2009.

~~dr Markus Pammer~~ was temporarily suspended with effect from June 12, 2008 until October 31. Appointed Head of Division V (Services) in 2009.

~~dr Christian Saukel~~ was appointed head of department I/3 (supervision of joint-stock banks and special credit institutions) for a period of five years (prior to a one-year limitation) with effect from June 1, 2008.

~~dr Peter Wanek~~ was resigned with effect from December 1st. 2007 appointed interim head of department IV/3 (legal and procedural matters) until January 31, 2009.

2. Order Renewals _____

~~Mag. Dr. Martin Schmöltzer~~ was reappointed as Head of Staff Department 2 (Internal Audit) for a period of five years effective March 1, 2009.

Mag. Barbara Nößlinger was resigned effective January 1st. 2009 reappointed for a period of five years as Head of Division V (Services). (Mag. Nößlinger is on maternity leave until October 31, 2009 – the position will be held by Dr. Pammer on an interim basis).

dr Michael Hysek was resigned effective December 1st. 2008 reappointed for a period of five years as Head of Division I (banking supervision).

Mag. Patrick Darlap was resigned effective January 1st. Reappointed as head of department IV/1 (integrated financial markets) in 2009 for a period of five years.

Mag. Andrea Mörtl was resigned with effect from 1.1. Reappointed as head of department III/4 (supervision of collective investment schemes) in 2009 for a period of five years.

Mag. Joachim Hacker was resigned with effect from 1.1. 2009 after the expiry of the one-year limitation until the end of the planned period of five years, thus until December 31. 2012, appointed head of department III/2 (securities firms).

3. The financial situation of the FMA

fiscal year 2008

Development of expenses and income in 2008:

Compared to the previous year, the proportion of those liable to pay the fee increased from around EUR 15.7 million to around EUR 20.4 million. The increase in this item by around EUR 4.7 million is primarily due to the fact that, for the first time, a cost reimbursement to the OeNB in the amount of EUR 4 million for on-site inspections and individual bank analyzes is taken into account under other operating expenses.

Other operating income increased by around EUR 0.3 million to around EUR 3.3 million, particularly due to higher fee income from investment funds.

Personnel expenses increased by only around EUR 0.4 million to around EUR 16.3 million compared to 2007 due to salary adjustments.

The increase in other operating expenses by around EUR 4.5 million to around EUR 10.2 million is due to the reimbursement of costs to the OeNB and above all to higher facility costs due to the first full-year lease of office space in the Galaxy Tower, bad debt allowances and inflation-related price increases.

Liquidity development in 2008

The initial liquidity for 2008 was around EUR 2.9 million. In the year under review, income amounted to around EUR 21.8 million, expenses of around EUR 22.5 million and additional payments by those liable to pay costs from offsetting pursuant to Section 19 (5) FMABG amounting to around EUR 1.3 million, resulting in a final liquidity position as of December 31. 2008 of around EUR 3.4 million.

As a result of higher payments by those liable to pay the costs, the income from advance payments rose by around EUR 0.7 million to around EUR 15.3 million compared to the previous year. Other income increased by around EUR 0.4 million compared to 2007, as penalty interest pursuant to Section 48t BörseG (transit item for the FMA) accrued more.

Compared to 2007, expenses increased by around EUR 0.6 million to around EUR 22.5 million. The increase in personnel expenses (approx. EUR 0.5 million) and material expenses (approx. EUR 0.4 million) are partially offset by the decrease in capital expenditure (approx. EUR 0.3 million).

The actual settlement for 2006 in accordance with Section 19 (5) FMABG resulted in an additional payment for those liable to pay costs of around EUR 1.6 million, of which around EUR 0.6 million was received at the beginning of 2008. On the basis of the actual settlement for 2007 (around EUR 1.1 million), around EUR 0.7 million was paid in by those liable for payment in the fourth quarter of 2008.

Outlook 2009

The FMA targets for 2009 and intensive planning discussions with the Board of Directors and the executives of the FMA formed an important part of the financial planning.

After the supervisory reform at the beginning of 2008 successfully established a reorganization of banking supervision, in 2009 it is important to pay more attention to the new challenges that the FMA has to face in order to meet its legal requirements and the expectations of the market and in particular of the supervised entities; these are in particular:

- the necessary strengthening of supervisory activities in the field of securities,
- the intensified fight against the unauthorized operation of licensed shops,
- the successful implementation of the new major EU project Solvency II.

On the basis of capacity planning with external support, the Supervisory Board approved the hiring of an additional 49 employees (full-time equivalents).

The Supervisory Board also approved the establishment of a fourth department – combating unauthorized business operations – in the area of integrated supervision.

The Austrian Banking Act stipulates that the OeNB must maintain a database ("information network system") for bank supervisory analyses, which the OeNB and FMA can access and in which both institutions must enter relevant information. The FMA is currently operating an integrated solution based on the "ELAK im Bund".

From 2009, a practicable and (revision)-safe solution will be used that meets the technical requirements. It is technically possible to restrict the data to be entered in both houses to "relevant information" (according to BWG). The aim of the solution is to provide the best possible support for data exchange and cooperation between the FMA and the OeNB, while maintaining the established and proven method of cross-divisional business case processing at the FMA.

3. Quarterly report according to § 6 para. 5 FMABG for the 4th quarter of 2008

The FMA's quarterly report for the fourth quarter of 2008 on the FMA's ongoing activities and the liquidity report with explanations of the FMA's income and expenditure and the additions to assets were presented to the Supervisory Board at its meeting on March 2, 2009. As requested, the Supervisory Board also received an outlook on the figures for the 2008 annual financial statements.

4. Annual report pursuant to Section 16 (3) FMABG

The FMA's 2008 Annual Report is submitted to the FMA's Supervisory Board for approval in accordance with Section 16 (3) FMABG. After approval by the Supervisory Board, the annual report is sent to the Finance Committee of the National Council and the Federal Minister of Finance. Furthermore, the annual report will be published on the FMA's website and by means of an announcement in the Wiener Zeitung within six months of the end of the previous financial year (thus by June 30, 2009).

5. Liability for the activities of the FMA (Section 3 FMABG in the version of Federal Law Gazette I No. 136/2008)

The federal government is liable for damage caused by organs and employees of the FMA in the execution of the federal laws mentioned in Article 2 in accordance with the provisions of the Official Liability Act (AHG), Federal Law Gazette No. 20/1949. Damages within the meaning of this provision are those that are directly inflicted on legal entities that are subject to supervision under this federal law. The FMA and its employees and bodies are not liable to the injured party (Art. 3 para. 1 FMABG). If the federal government has compensated an injured party for the damage pursuant to para. 1, it can request reimbursement from the bodies or employees of the FMA in accordance with the provisions of the Official Liability Act (AHG) (Art. 3 para. 3 FMABG). However, the law does not provide for a recourse claim by the federal government against the FMA (819 B1gNR 22nd GP).

Vienna, April 17, 2009

dr Kurt Pribil
uh

Mag. Helmut Ettl
uh