



# Orderly resolution of the former Hypo-Alpe-Adria-Gruppe concluded successfully. The new European resolution regime has proven itself.

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The orderly resolution of the former HYPO-ALPE-ADRIA-GRUPPE (HAA-Gruppe) has basically now been concluded. The Austrian Financial Market Authority (FMA) today determined in an administrative decision in its capacity as the resolution authority that following the disposal of all assets that the operations of “HETA ASSET RESOLUTION AG (HETA)” the successor entity to HAA-Gruppe as a wind-down unit pursuant to Article 84 para. 12 of the Bank Recovery and Resolution Act (BaSAG) have now finished. This was two years earlier than originally planned. The FMA’s competence as resolution authority therefore ends, with ownership rights until HETA is expunged from the commercial register under company law now again being exercised by its owner, the Republic of Austria, and HETA will now be liquidated in accordance with the Stock Corporation Act (AktG; Aktiengesetz).

## The new resolution regime has proven itself

“The failure of the Hypo Alpe Adria banking group as a result of criminal activities was a painful one that was saddled with losses. The resolution that was initiated in 2015 of its successor and resolution entity, HETA, in accordance with the rules of the then new European resolution regime, has made a substantial contribution towards limiting the financial damage. The resolution is now viewed as a text book example in the EU about how a failed bank is to be removed in an orderly manner from the market,” remarked the FMA’s Executive Directors, Helmut Ettl and Eduard Müller. “As the competent resolution authority, we have made use of the new tools such as suspending maturities (moratorium), bail-in using haircuts (write down of capital instruments) as well as cancellation of interest payments in an efficient and effective manner. Consequently, we have created a basis through which assets were able to be disposed of in an orderly manner, actively and for the best possible prices. We have created legal clarity and also enabled business flexibility.” Asset deleveraging has been conducted primarily by selling loan receivables on to other lenders, arranging early repayments or refinancing by the borrower, selling off of subsidiaries and majority shareholdings as well as bundling of assets as part of portfolio transactions.

While the expert opinion originally expected proceeds from the disposal of assets of approximately € 6 billion, whereas ultimately following the orderly resolution, € 10.8 billion has already been distributed to date to the creditors holding eligible non-subordinated liabilities. Any residual proceeds following the liquidation under stock corporation law will by and large also be distributed to the creditors of eligible non-subordinated liabilities.

## Almost twice as high a fulfilment quota compared to insolvency

The opinion of an independent external auditor, who was required to check whether a resolution under BaSAG was actually more beneficial than insolvency proceedings, came to a clear outcome: (fictional) insolvency proceedings would have yielded a fulfilment quota of 45.3 % for eligible HETA creditors, in contrast to the quota of 86.3% that has hitherto already been yielded by the resolution under BaSAG.

## A model example for the EU of how to remove a failed bank from the market

“The resolution of HETA was the first case in Europe that was conducted in accordance with legal rules of the new European resolution regime. To a large extent, we have entered uncharted territory in terms of Union law, which we had to apply and enforce on both a national and cross-border basis. How clearly, correctly and in a trend-setting manner the FMA has acted in its function as the national resolution authority, is proven by the fact that there has not been a single ultimately successful appeal and lawsuit against administrative decisions issued by the FMA in relation to this procedure,” remarked Ettl and Müller: “We have achieved the objectives set out by the new European resolution regime – to ensure financial market stability, protecting the taxpayer as far as possible as well as bailing-in creditors in solving the problem.”

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