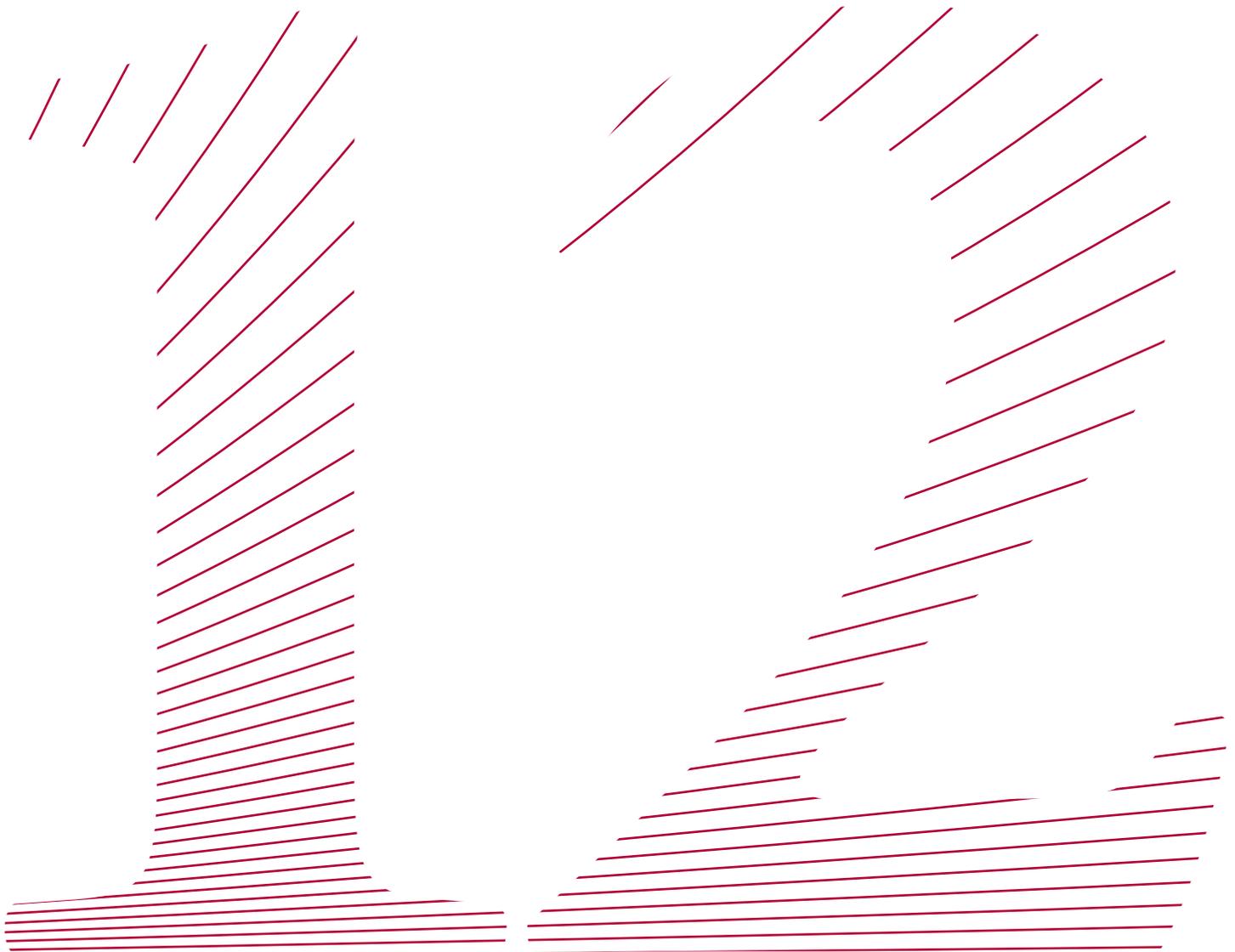




# FMA

Financial Market Authority  
Liechtenstein





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The FMA is the independent financial market supervisory authority of Liechtenstein, ensuring the stability and credibility of the financial market, the protection of clients, and the prevention and prosecution of abuse.

**We supervise efficiently, consistently, and effectively.**

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**We stand for sustainable regulation.**

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**We pursue active dialogue.**

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**We think and act entrepreneurially.**

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**We respect and value each other within our team.**

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- – We are independent in the fulfillment of our supervisory mandate.
- We grant licenses in a responsible and speedy manner, and our supervision is risk-based, close to the market, comprehensible, and fair.
- We orient ourselves by the best methods and practices of an integrated supervisory authority.
- We fight abuse and consistently punish violations of regulations and laws. In this way, we protect the clients of the financial center and contribute to its good reputation and credibility.

- – We define minimum standards through regulation and further specify laws and ordinances with guidelines and instructions. For this purpose, we especially involve the professional and industry associations.
- We implement and enforce international standards. In doing so, we take account of the competitiveness and development of the financial center.
- We stand for a good regulatory framework for the financial center and advise the Government on questions relating to financial market strategy.

- – We engage in dialogue with our national and international stakeholder groups. We ensure that we are recognized as a competent and reliable supervisory authority in Liechtenstein and abroad.
- We contribute to international bodies and promote cooperation with other supervisory authorities. We represent Liechtenstein's interests in this regard.

- – We always follow the rules and practices of responsible and modern corporate governance. We employ our financial resources cost-effectively and efficiently.
- We offer our employees an environment where they enjoy to work for the long term, and we promote their skills through basic and continuing training.
- We communicate in a businesslike, transparent, and speedy manner as an enterprise.

- – We are a team, actively valuing each other in our interactions, and we identify with our goals and responsibilities.
- We are proud to make a contribution to the success of the FMA and the Liechtenstein financial center.

Dr. Urs Philipp Roth-Cuony  
Chairman of the Board of Directors



By guaranteeing stability, protecting clients, combating abuse, and implementing international supervisory standards, the FMA Liechtenstein performs basic functions for the financial centre that have a decisive impact on its reputation. With the profound changes on the financial markets and stricter regulation, the importance of supervisory authorities has even increased as a location factor. With the FMA, Liechtenstein has a recognized and internationally integrated supervisory authority at its disposal, serving as a positive location factor during the transformation phase of the financial centre and accompanying and supporting the reorientation.

#### **Activities of the Board of Directors**

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The Board of Directors met for ten regular meetings during the reporting period. Additionally, a Strategy Day took place in July, during which the Board of Directors defined the strategic goals for the coming year on the basis of a prior analysis of the economic and regulatory developments.

Apart from its strategic leadership function, the Board of Directors advises the Government on questions relating to financial market strategy. The Board of Directors is moreover represented in the Government's Expert Group on Financial Stability and on the Government's Advisory Council of the Project Organization for an Integrated Liechtenstein Financial Centre Strategy. Urs Philipp Roth-Cuony also took part in the visit by the Liechtenstein Government and business delegation to Japan, where he held talks with high-level representatives of the Ministry of Finance, the financial market supervisory authorities, and the central bank.

The Board of Director's oversight of the FMA's operational level is supported by a management information system (MIS). The MIS ensures that the Board of Directors always has the necessary information about the operational level at its disposal. The Chairman also maintains an intensive dialogue with the Chief Executive Officer.

#### **Achievement of strategic goals and outlook**

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The priority goal in the year under review was to guarantee the stability of the Liechtenstein financial market. The instabilities in the worldwide financial systems, first and foremost in the Eurozone, also entail stability risks for the Liechtenstein financial centre, given its strong international links. The FMA paid particular attention to the development of Liechtenstein's real estate and mortgage market. Given that the balance sheet totals of Liechtenstein financial institutions are very high in relation to the country's gross domestic product, financial stability takes on even greater importance.

A second strategic goal in the year under review was to strengthen the financial centre's reputation. A good reputation is fundamental for a successful transformation process, since financial services rely on the client's trust in the provider, the financial centre, and the State. The FMA strengthens reputation by providing effective supervision of financial market participants and by rigorously combating abuse. In this way, the supervisory authority itself serves as a significant reputation factor for the financial centre.



Securing access to international markets has been a third strategic goal. Because of the international orientation of the Liechtenstein financial centre and its limited domestic market, such access is the financial centre's lifeblood. With the current flood of regulations in the financial centre, this topic is becoming even more relevant, since the threshold for the right to penetrate a market is being set higher and higher. Apart from numerous EU directives to be implemented into national law, Liechtenstein financial intermediaries in future must also implement technical standards, guidelines, and recommendations of the European Supervisory Authorities. Also important for international access is the FMA's integration into international supervisory organizations and bodies, which was further developed during the reporting period. The International Forum of Independent Audit Regulators (IFIAR) admitted the FMA as a member in October 2012. Also in October, the FMA signed the Multilateral Memorandum of Understanding with the International Association of Insurance Supervisors (IAIS). The FMA then served as the host of the annual meeting of German-speaking financial market supervisory authorities.

The three strategic goals of the FMA, namely guaranteeing stability, strengthening reputation, and securing market access, will remain timely and urgent in 2013. The risks of instability in the international financial systems continue to be high. Building up and securing an excellent reputation is a permanent task, requiring considerable education and persuasion work. Finally, the flood of regulations and the trend toward more protectionist policies entail further risks to market access, which must be countered at an early stage and in a forward-looking manner through targeted observation.

### Corporate governance

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Additionally to the corporate governance requirements in the Law on the Control and Oversight of Public Enterprises (COPE Act), the Government published its recommendations on the governance and control of public enterprises in Liechtenstein. They contain guidelines for internal organization, on the roles and responsibilities of strategic and operational management, and also on management compensation. The recommendations entered into force on 1 January 2013. In light of the great relevance to supervisory bodies, the FMA already reviewed its corporate governance structure in 2010 and has since adapted it to the new requirements. The Board of Directors was therefore able to confirm already at the end of 2012 that the FMA is in compliance with all recommendations on the governance and control of public enterprises in Liechtenstein.

### Corporate identity

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After revising the core principles in the previous year, the FMA has now adopted an additional code governing the understanding of its role and self-conception to further specify the core principles. The FMA understands itself as an important location factor for the financial centre, is consistent in substance and service-oriented in conduct, exercises sound judgement when carrying out supervision, is willing to engage in dialogue, and is dedicated to finding solutions. This basic attitude places high demands on employees, since they must put service mentality into practice without compromising rigorous supervision.

### Information technology

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With the revision of the FMA's website and the introduction of a high-performance intranet, important milestones were laid during the reporting period for implementation of the IT Strategy adopted in 2010. The website and the intranet have been built on a future-oriented technological foundation. The website is the FMA's central communication channel for making information available to supervised financial intermediaries and other groups. The English-language content was also heavily expanded. Online communication is becoming increasingly important. The information flow between financial intermediaries and the FMA as well as between the FMA and the European Supervisory Authorities will continue to move more and more to the web. In 2013, a platform is being developed for this purpose. During the reporting period, the establishment of a central master database and document management system was also pursued. Both systems will be introduced in the first half of 2013, leading to efficiency gains.

### FMA funding

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In the year under review, the Constitutional Court found a legal provision governing the FMA's funding model to be unconstitutional. By 1 July 2013, a constitutionally sound provision must enter into force. Further court proceedings on the funding model were still pending the end of 2012. To fulfil its mandate assigned by the State, the FMA relies on financial planning security and a permanent funding base. The legislative power is accordingly called upon to create such a base, otherwise higher costs and damage to reputation may be the consequence. Through the reorganization in 2010 and the associated efficiency gains, the Board of Directors cut the FMA's costs to a level at which supervision of the financial market in accordance with international standards can still be guaranteed. But given the stricter regulation of the financial market and the passage of new laws, the supervisory authority's responsibilities are steadily increasing.



## BOARD OF DIRECTORS

FMA Annual Report 2012



### Pension Insurance for State Employees

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The FMA commented on the Government's consultation report on funding the coverage gap in the Pension Insurance for State Employees. The FMA welcomes the planned funding of the shortfall. This will be able to ensure the security of the pension scheme and continued retirement provision.

### Changes to the composition of the Executive Board

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On 1 January 2012, Marcel Lötscher took over as the new Head of the Securities Division and Member of the Executive Board. Robert Rastner resigned as Head of the Other Financial Intermediaries Division and Member of the Executive Board in November 2012. The Board of Directors assigned interim management of the division to Patrick Bont, Head of Legal/International Affairs in the Executive Office. On 22 February 2013, the Board of Directors permanently named Patrick Bont Head of the Division and at the same time appointed him Member of the Executive Board.

### 2012 financial statement

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In its meeting of 6 December 2011, the Government approved the 2012 FMA budget with a state contribution of CHF 9,000,000 and expenses totalling CHF 19,320,000. The actual expenses for the 2012 business year amounted to CHF 18,249,159 and were thus CHF 1,070,841 (5.5%) lower than the approved budget.





Mario Gassner  
Chief Executive Officer

## Supervision

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The supervisory environment in 2012 was shaped by the transformation in the Liechtenstein financial sector, an increase in international supervisory standards, and risks arising from instabilities in the international financial systems.

In financial market supervision, the focus is traditionally on enterprise-specific monitoring of risks. This approach assumes that the financial centre is stable when each individual financial institution is solvent. This supervisory approach at the FMA is supplemented by macroprudential supervision, which is guided by the stability of the entire financial system and accordingly identifies systemic risks. The instabilities especially in countries of the Eurozone as well as the real estate and mortgage market in Liechtenstein where the focus of macroprudential supervision during the reporting period.

In the year under review, Banking Supervision for the first time carried out colleges of supervisors with foreign partner authorities. These are part of the expansion of consolidated supervision of internationally operating financial institutions. Another priority of Banking Supervision was credit risks. Banking Supervision verified how banks deal with these risks in quantitative and qualitative terms. Credit risks are one of the most significant risks to the stability of a bank. A greater focus was placed on compliance with legal requirements that banks must fulfil in their function as depositary banks and custodians. With 46 requests by foreign authorities to the FMA, administrative assistance continued at a very high level.

The Securities Division dealt with the transition of funds to the new Law on Certain Undertakings for Collective Investment in Transferable Securities (UCITS Act). At the same time, the supervision and authorization processes for alternative investment fund managers (AIFMs) were developed. Starting 1 April 2013, the FMA accepts applications for authorization of AIFMs.

The Insurance and Pension Funds Division prepared for the new Solvency II supervision rules. The division also defined the minimum requirements on the head offices of insurance undertakings in Liechtenstein. These requirements further specify the legal provisions governing the substance of an undertaking that must be present in the country. In 2012, the FMA took a particularly close look at pension schemes with a shortfall in their funding ratio. At the end of 2012, two schemes had gaps in coverage, compared with seven such schemes at the end of 2011.

The supervisory divisions continued to focus on reputation and legal risks arising from cross-border business of financial intermediaries, especially banks and life insurance undertakings.

During the reporting period, the Other Financial Intermediaries Division for the first time conducted due diligence audits of dealers in goods and real estate brokers. The division also concluded its conceptual work on the ongoing supervision of auditors and audit companies. With transposition of the European Statutory Audit Directive into Liechtenstein law, supervision of Liechtenstein auditors and audit companies has been strengthened. Starting in 2013, the FMA will exercise disciplinary powers over auditors and audit companies, in addition to its money laundering supervision, and will carry out regular quality controls of statutory audits.

### Regulation

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The strong push for new regulation in the financial sector at the global and European level after the financial crisis is increasingly having an impact on the FMA's supervisory work. Areas of business are also being placed under supervision that previously were not or only partially regulated, such as market/trading. Industrial enterprises may also be affected by the regulations. While the European Supervisory Authorities were still heavily engaged in setting themselves up in 2011, the authorities have gained considerable momentum in the second year of their existence. Their main contact partners are the national supervisory authorities of the EU and EEA countries. They have already enacted numerous secondary rules in the form of technical standards, guidelines, and recommendations to be implemented in the individual countries, entailing considerable efforts for supervisors and financial intermediaries. Ultimately, Liechtenstein must incorporate and implement the regulatory standards in order to maintain its access to international markets.

With a view to the country evaluation by the IMF and MONEYVAL of Liechtenstein's efforts to combat money laundering and terrorist financing scheduled for June 2013, various legislative adjustments were made in 2012. These remedied remaining deficits identified in the last country report.

A regulatory project requiring considerable work in the year under review was transposition of the European AIFM Directive into national law. In another project, the FMA together with the Liechtenstein Association of Professional Trustees (THV) prepared a draft law for the attention of the Government on the supervision of professional trustees. By amending the

Professional Trustees Act, the THV and the FMA aim to strengthen the reputation of the Liechtenstein trustee sector and improve international acceptance. During the reporting period, the legislative work on regulation and supervision of persons subject to article 180a of the Law on Persons and Companies (PGR) also continued. By instituting supervision with the appropriate penalty and withdrawal mechanisms, Liechtenstein is closing a gap in its supervision system.

### External relations

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The FMA further deepened its international integration during the report period. Membership in the International Forum of Independent Audit Regulators (IFIAR) is significant especially in view of ongoing supervision of auditors and audit companies. At the same time, a cooperation agreement was concluded with the Swiss Federal Audit Oversight Authority (FAOA), to be signed in spring 2013. In autumn 2012, the FMA Liechtenstein signed a memorandum of understanding with the International Association of Insurance Supervisors (IAIS) governing international cooperation among supervisory authorities. This strengthens the integration and recognition of the FMA as well as the attractiveness of the Liechtenstein insurance sector.

Within the means at its disposal, the FMA makes its expertise available to international supervisory organizations. An FMA employee has been appointed as one of five scientific experts of MONEYVAL, the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism. The FMA also contributes its expertise to two IAIS committees. The two committees deal with questions of financial stability.

In autumn 2012, the FMA conducted the meeting of the EU Passport Experts Group. 35 specialists from 26 EEA countries took part. The annual four-country meeting of the German-speaking supervisory authorities also took place in Vaduz. Bilateral contacts with the supervisory authorities of Switzerland, Austria, and Germany are of special importance to the FMA's supervisory work, since these countries are significant markets for Liechtenstein's financial intermediaries.

### Enterprise and team

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At the end of 2012, the FMA had 79 employees. Of these, 16 worked part-time. The number of employees in the previous year was 80. Unlike foreign supervisory authorities, which recorded a strong increase in staff across the board, the FMA's workforce remained stable. But as with the foreign authorities, the work entailed by the numerous new regulations is increasing also at the FMA. Steady efficiency gains are able to cover this additional work to some extent.

Given its supervisory mandate, the FMA has a very high share of employees with academic training. 43% of employees are lawyers, 25% economists, and 12% specialists such as auditors, banking experts, or actuaries. The FMA competes on the labour market with the financial sector. Attractiveness as an employer is crucial for the FMA to be able to recruit sufficiently qualified employees and to carry out its supervisory work at the high level of quality demanded.

The organizational structure of the FMA continued to prove effective in 2012. Cross-divisional cooperation is becoming increasingly important, given that numerous new regulations such as the European Market

Infrastructure Regulation (EMIR) affect the entire financial market and not just individual categories of financial intermediaries.

FMA funding must be governed by new rules in 2013, entering into force on 1 January 2014. To ensure planning security and efficient administration, the FMA requires a permanent funding solution. Apart from constitutionality and transparency, the goals include easy applicability.

SUPERVISION  
FMA Annual Report 2012

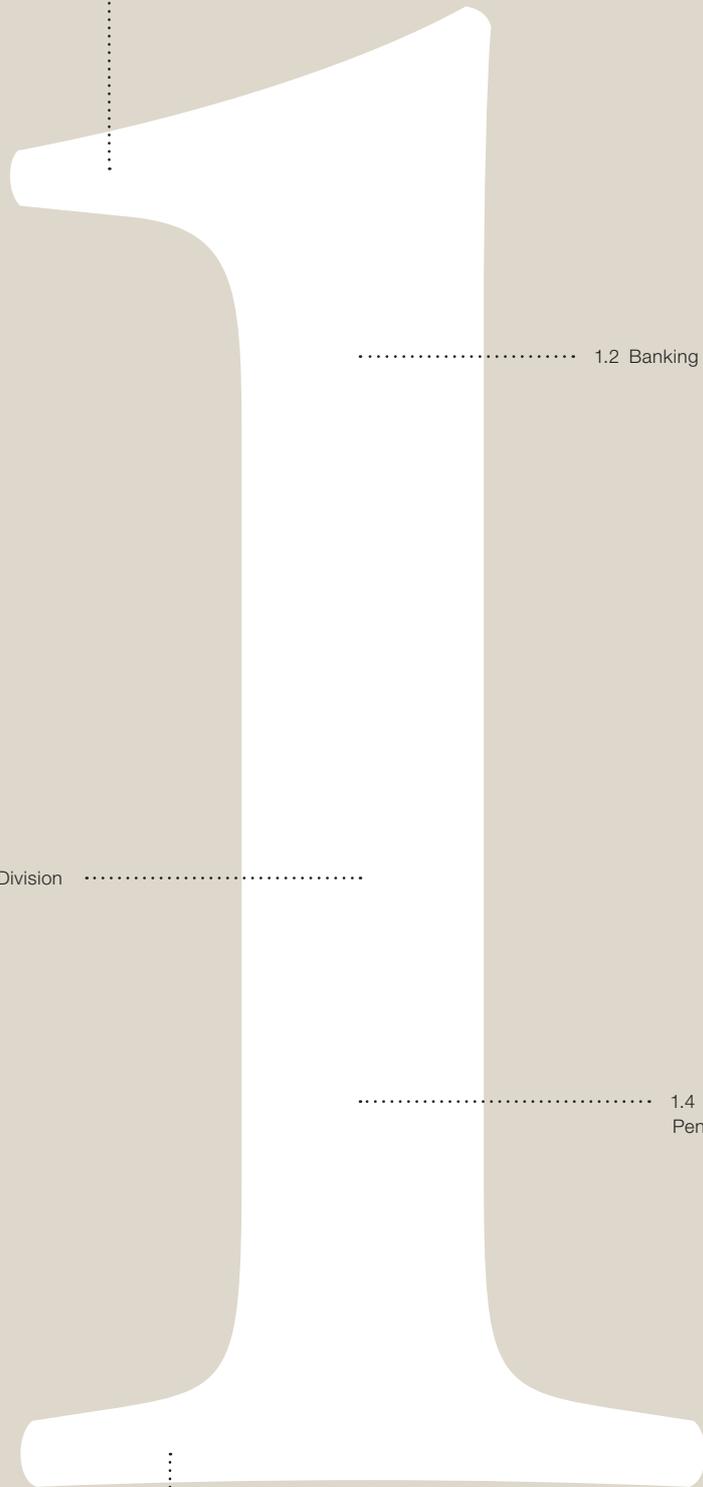
1.1 Macroprudential supervision

1.2 Banking Division

1.3 Securities Division

1.4 Insurance and  
Pension Funds Division

1.5 Other Financial Intermediaries Division



## 1.1 Macroprudential supervision

Macroprudential supervision is a form of supervision that is still evolving, identifying systemic risks at an early stage and introducing measures to reduce them. It supplements traditional microprudential supervision. While the latter focuses on individual financial intermediaries and assumes that the financial system is stable if each individual financial intermediary is solvent, macroprudential supervision is guided by the stability of the entire financial system.

The task of macroprudential supervision is to identify systemic risks in order to prevent them before they occur or to mitigate their consequences. When such a risk is identified, a warning or recommendation is made to the Executive Board. The supervisory divisions comment on that warning or recommendation, and the Executive Board decides – where appropriate after consulting the Board of Directors – on measures to mitigate the identified risks.

### Ongoing supervision

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In its macroprudential supervision, the FMA relies on reports submitted through regular reporting channels, information received through cooperation with national and international organizations, and publicly available data and information on the development of the economy and the financial markets.

During the reporting period, four reports were prepared on the development of the Liechtenstein financial centre. These contain a basic description of current developments, a more detailed description of two to three risks, and a summary assessment of the short- and medium-term outlook.

Additionally, four reports on the overall economic development were prepared. These contain a description of the national economic trends, an assessment of the significant risks to the overall economy, and a summary evaluation of the short- and medium-term outlook.

During the reporting period, the FMA issued two internal warnings on systemic risks and discussed recommendations for mitigating these risks. One of these concerned counterparty risks, which had risen in light of the worsening European debt and banking crisis; the second concerned risks appearing on Liechtenstein's real estate and mortgage market.

### Priority areas

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The FMA prepared a report on Liechtenstein's real estate and mortgage market. In this connection, interviews with bank representatives and other market participants such as brokers, investors, and public officials were conducted. The report aims to improve transparency by compiling the available data on Liechtenstein's real estate and mortgage markets and using it to identify risks associated with the real estate and mortgage market and to describe possibilities for the FMA to deal with those risks.

For identifying and prioritizing systemic risks, a sound quality of risk monitoring is indispensable. The key challenge remains, however to design the scope of action for macroprudential supervision in such a way that the risk of failure to act is minimized and to create the right incentives both for market participants and for the public.

## 1.2 Banking Division

### 1.2.1 Licences

Swissbankers Prepaid Services (Liechtenstein) AG, Vaduz, was granted a licence as an e-money institution during the reporting period. This means the first company in Liechtenstein under the E-Money Act is now operational. The FMA implemented the appropriate reporting procedure and established the internal audit processes.

Additionally, numerous enquiries – some of which concrete – regarding the formation of a bank or investment firm were received by the FMA in 2012.

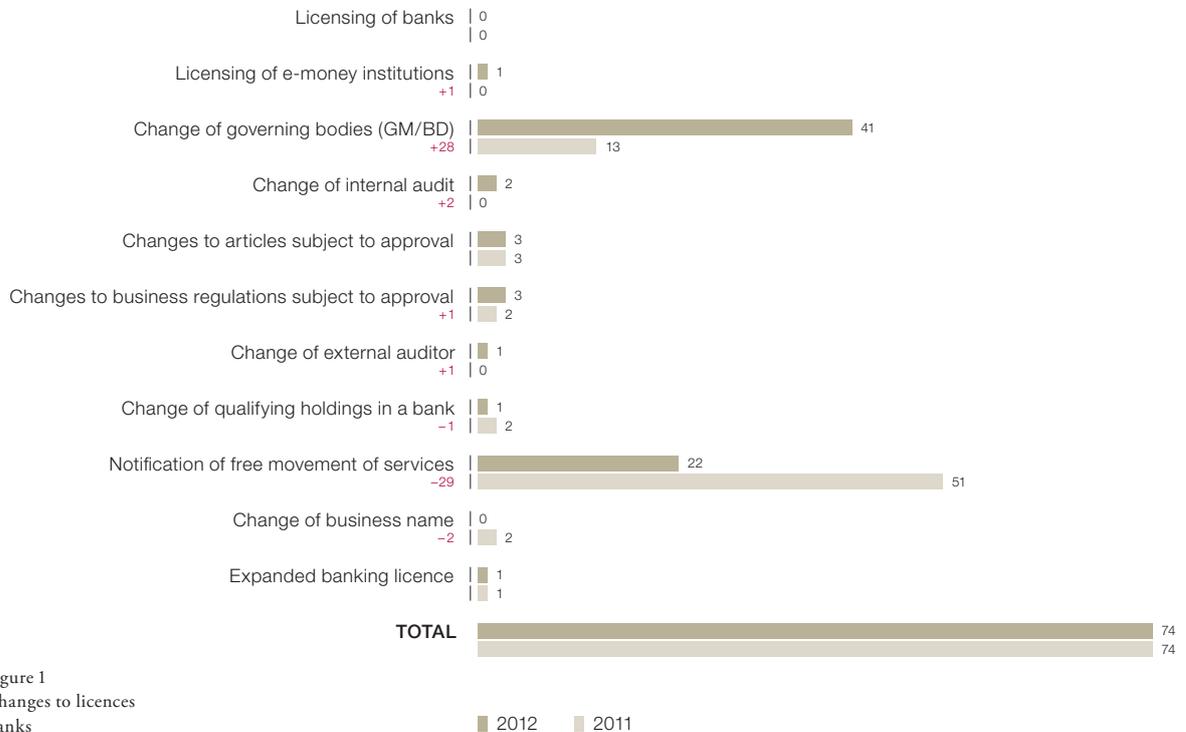


Figure 1  
Changes to licences  
Banks

Various questions regarding establishment of a payment institution or e-money institution were also addressed to the FMA.

The liquidation of Alpe Adria Privatbank AG, Schaan, voluntarily decided in 2009, will continue to be accompanied closely by the FMA until it is brought to an end.

### 1.2.2 Ongoing supervision

#### Auditing

In its supervision of banks and investment firms under the dualistic supervision system, the FMA relies predominantly on reports by external auditors. Nevertheless, the FMA increasingly carries out its own audit activities at the financial intermediaries' premises. The analysis of audit reports under the Banking Act as of 31 December 2011 indicated that external auditors identified and objected to 23 deficiencies. This corresponds to ten objections more than in the previous year. One reason for this is that the auditors have been sensitized to several topics (e.g. ICAAP, real estate financing).

#### Supervision of external auditors

Because of the great importance of external auditors under the Banking Act for banking supervision, the FMA has been expressly responsible for supervision of external auditors since 1 February 2011. As part of this responsibility, the FMA is able to carry out quality controls and accompany the external auditors in their audits of banks and investment firms. The FMA accompanied the audits of selected external auditors, verified their sample selections, and requested work-

ing papers upon conclusion of the audit. The FMA then discussed conspicuous points with the external auditors and initiated appropriate measures.

#### Management meetings

The FMA conducted a management meeting with each bank, in which a member of the general management and a member of the board of directors of the bank took part. Focus areas were current topics such as the business development of the bank, risks in the mortgage market, risks arising from the cross-border activities of banks such as serious tax offences as a predicate offence of money laundering, the European Market Infrastructure Regulation (EMIR), MiFID II and retrocessions, the status of FATCA implementation, a review of two years of activity of the European Banking Authority (EBA), and regulatory developments in Liechtenstein and the European Economic Area.

#### Inspections under the Due Diligence Act

Pursuant to the Due Diligence Act, regular inspections on behalf of the FMA are carried out by the external auditors. The number of objections fell considerably since the previous year from 29 to 19.

#### Auditor workshops

The annual bank auditor workshop took place in May. The topics discussed were the reporting duties of external auditors, the new supervision of auditors pursuant to special legislation, the impact of transposition of the Statutory Audit Directive on special legislation, dealing with the Internal Capital Adequacy Assessment Process of banks, and real estate financing in Liechtenstein. Additionally, new regulatory frameworks were presented, especially Basel III, MiFID II and the Market Abuse Ordinance.

## Reporting

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Again in 2012, the risk assessment process within the divisions was based substantially on regular reporting. Special attention was paid to the development of the real estate markets, in order to recognize overheating of the markets at an early stage. On the basis of the reports submitted, internal stress tests were also carried out, which showed that the situation of Liechtenstein institutions continues to be stable with respect to capital adequacy and liquidity. Most of the institutions already met the Basel III requirements in the year under review.

A new reporting requirement was introduced in 2012. As part of ongoing supervision, banks must now report the level of assets under management and the net inflow and outflow of new assets, broken down by country of origin of the contracting party and of the beneficial owner. This lets the FMA estimate any legal risks the banks might be exposed to in light of their client structure. Regular reporting was supplemented by extraordinary reports on this topic.

### **Outlook on the development of reporting**

The electronic reporting platform ensures that banking supervisors have timely information at their disposal. The supervisor evaluates this information to identify critical developments early on, both at the level of the bank and at the level of the banking market. Where necessary, the FMA can quickly take effective measures.

As an EEA member, Liechtenstein will in future also exchange institution-related information with the other member states pursuant to EU rules, to the extent such exchange of data does not violate any existing legal provisions in Liechtenstein.

## Supervisory practice

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If, in the course of its ongoing supervision activities, the Banking Division gains knowledge of violations of law in force or deficient implementation of banking law provisions, the necessary measures are seized to restore a normal, lawful state of affairs.

Measures were triggered last year primarily by objections raised in audit reports, enquiries by other supervisory authorities, relevant indications of possible grievances in media articles, reports to the FMA, and the supervision activities of other divisions within the FMA. Investigations were carried out in 2012 relating to violations of the Due Diligence Act as well as suspicion of market abuse. The Internal Capital Adequacy Assessment Process (ICAAP), which was carried out under a new system in 2011 for the first time, was incorporated into the regular supervision process in 2012.

Supervision of external auditors pursuant to special legislation was again carried out in 2012 through accompanied audits and quality controls. Supplementary discussions with the head auditors on the audit reports as well as workshops on various supervisory topics are intended to help harmonize the activities of the external auditors.

Workshops for market participants were held in the year under review. One topic concerned the new regulatory developments relating to the new European Supervisory Authorities.

The Banking Division did not impose any fines during the reporting period. However, several violations were reported to the Office of the Public Prosecutor.



### 1.2.3 Combating abuse

Providing banking services as referred to in article 3 of the Banking Act is subject to approval in Liechtenstein. These services may accordingly not be provided without an appropriate licence. Violations are punished by the Court of Justice. The FMA monitors compliance with these provisions. For this purpose, it pursues all indications of activities by non-licensed financial service providers. In particular, the FMA also receives reports by the individual financial market participants and takes the necessary supervisory measures. Through interventions by the FMA, contacts with foreign authorities, and warnings published on its own website, the FMA is able to combat the abuses coming to its attention.

The FMA carried out numerous clarifications on the basis of external indications or its own observations in regard to suspicion of abuse. During the reporting period, the FMA found several violations by persons conducting banking activities without a proper licence. 16 cases of market abuse and activities without a licence were investigated, and several measures were taken including criminal complaints and the involvement of other authorities.

### 1.2.4 Operational focus areas

#### **Consolidated supervision**

Ongoing supervision of financial groups, especially also in the case of cross-border activity, is being strengthened not only in Liechtenstein, but also internationally. More and more, this development is reflected in legislative rules or agreements between authorities. The FMA has strongly intensified cooperation with the competent supervisory authorities of the foreign group companies of Liechtenstein banking groups. The focus has been on establishing yearly colleges, at which all banking supervisors competent within a group exchange information. The international cooperation intensified in previous years has also facilitated various cross-border inspections of group companies of Liechtenstein banking groups.

#### **Credit risks**

Credit risk is one of the most significant risks of a bank. For this reason, credit institutions are also required by law to ascertain, limit, and monitor their risks in this regard. To verify compliance with obligations and to assess the credit risks assumed by Liechtenstein institutions not only quantitatively, but also qualitatively, the FMA conducted investigations, interviews, analyses, and also on-site inspections. The focus in this regard was on dealing with mortgage loans. The FMA has already been able to brief the banks on initial aggregate findings and, where necessary, has ordered adjustments within the framework of risk management.

### **Systemic stability**

As in other countries, the question arises in Liechtenstein as to the systemic relevance of banks, especially since the banks' balance sheet total in Liechtenstein is especially high compared with GDP. In cooperation with the relevant offices at the level of the authorities and the market, the topic is being addressed comprehensively in order to ensure the systemic stability of the financial centre.

### **Cross-border risks**

Given the limited scope of the local market, all banks in Liechtenstein are heavily oriented toward cross-border financial services. The resulting risks may, however, as various examples in recent years have shown, threaten the existence of individual institutions or even the prosperity of a state. The FMA therefore regularly draws banks' attention to these risks and communicates its expectations in connection with the provision of cross-border services. Despite this, action within the scope of the FMA's responsibilities was once again required during the reporting period. In one major supervision case, measures had to be initiated to remedy the deficiencies identified.

### **Depositary bank/custodian function**

Banks also have a great responsibility as part of their function as depositary banks and custodians. The FMA therefore focused also on ensuring compliance with legal requirements in this area. Both banks and auditors were made aware of their obligations, and on-site inspections were carried out.

### **1.2.5 Outlook**

The economic and regulatory environment for financial institutions continues to be very challenging. The new orientation of the financial centre is also a challenge for banks. The Liechtenstein banking centre is proving to be very robust in this environment. The banks have high equity ratios. The FMA is called upon to monitor compliance with legal provisions on an ongoing basis and to make financial intermediaries aware of possible new risks. Client protection and the stability of the financial centre must be preserved as key values during this reorientation. In 2013, measures are being implemented to further strengthen systemic stability.

The flood of European regulation continues. Apart from the major regulatory projects such as Basel III and MiFID II, the FMA continuously receives new European implementing provisions and binding technical standards which must be applied to the banking centre. Implementation of these new provisions is a great challenge for both the FMA and the banks.

Bilateral cooperation with foreign supervisory authorities within the framework of consolidated supervision is being supplemented by international colleges in 2013. By way of agreements among the participating supervisory authorities, the preconditions are being established to improve information exchange among the authorities and accordingly also supervision of internationally operating banking groups.

With respect to anti-money-laundering, enactment of the 4th EU Money Laundering Directive will require the FMA as well as the banks to implement the new provisions and to monitor compliance. Especially the expansion of the list of predicate offences of money laundering to include serious tax offences will entail additional work for the banks.

**1.2.6 Administrative assistance**

In the second year after introduction of the new administrative assistance rules in the Financial Market Authority Act (FMA Act), the developments in the previous years have been confirmed. The number of requests for administrative assistance received by the FMA remained stable at a high level. In 2012, as in 2010 and 2011, 46 requests for administrative assistance were transmitted to the FMA by foreign supervisory authorities. The Administrative Court approved execution of administrative assistance in all requested cases. The main reasons for this are the high quality demanded of incoming requests by the FMA, the good cooperation with the requesting authorities, and the competence of the approval body. The formal administrative assistance procedure under Liechtenstein law is unique in the field of international securities supervision, but it has met with recognition not least of all thanks to the stronger cooperation between the FMA and key international partners.

Compared with the previous year, the number of information exchanges increased again in 2012. While a total of 39 administrative assistance proceedings (including requests from the previous year) were concluded in 2011, 48 requests for administrative assistance were answered or completed in 2012. This improvement is in part due to the increasing routine in dealing with the new procedure, but also the intensive cooperation with foreign partner authorities. It is again gratifying that the FMA meets the



Figure 2  
Number of requests  
for administrative assistance received

Figure 3  
Reasons for procedural requests

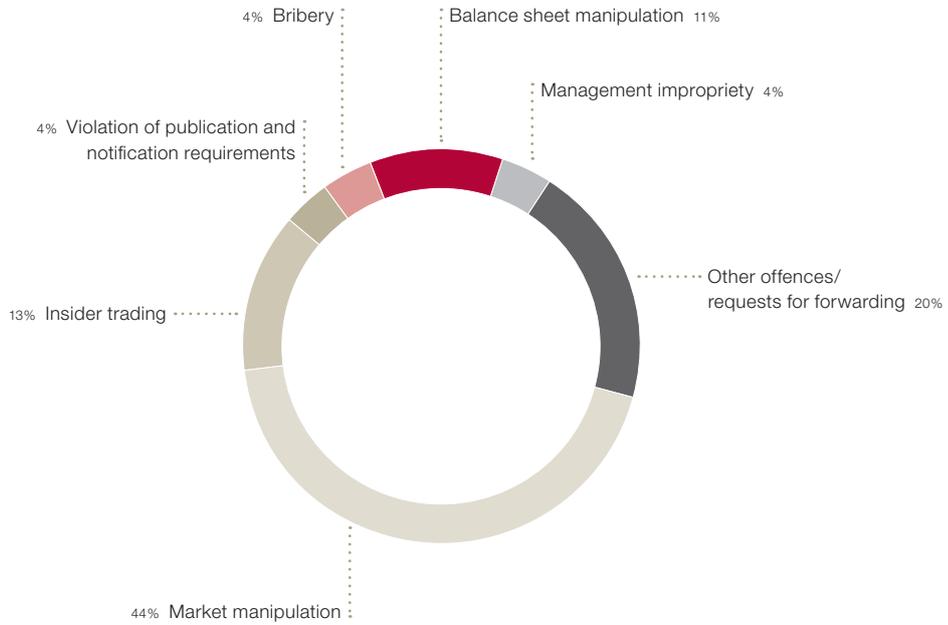
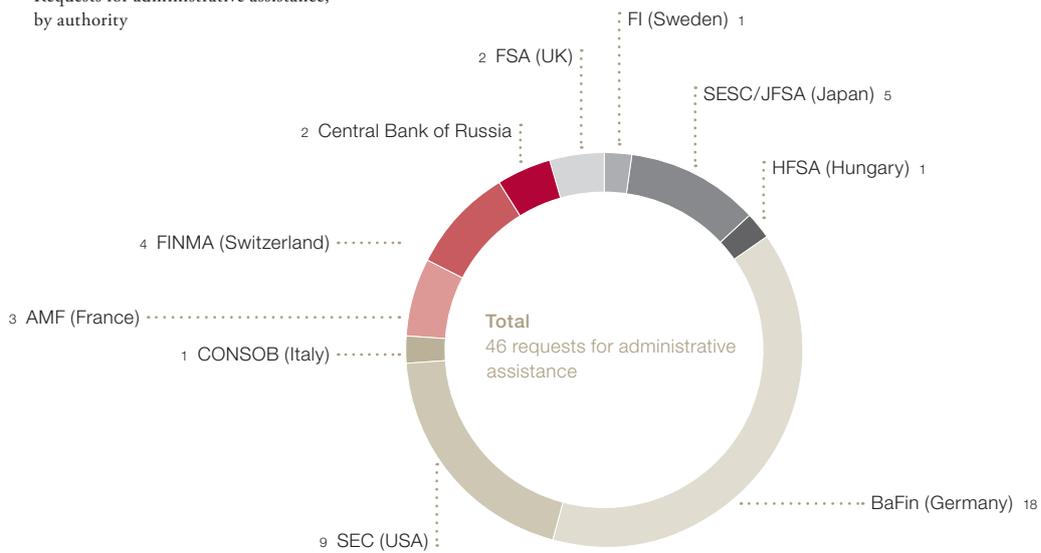


Figure 4  
Requests for administrative assistance, by authority



time limit deemed appropriate by the International Organization of Securities Commissions (IOSCO): As a rule, the foreign authority receives the requested information within eight weeks. The average transmission speed – which fell significantly due to the transition of the administrative assistance procedure from the Market Abuse Act (MAA) to the FMA Act – remained stable even as the complexity of cases increased. This overall development was acknowledged positively by most foreign authorities.

## 1.3 Securities Division

### 1.3.1 Investment undertakings

#### Licences and certifications

##### Licensing of domestic investment undertakings

The FMA issued 36 licences for domestic investment undertakings (IUs), including one for an investment company with variable capital (SICAV), the others as investment funds in the legal form of a collective trust. No new fund management applied for a licence during the reporting period.

Taking liquidations and deletions into account, the number of Liechtenstein IUs rose by 22 to 557 as of the end of 2012. The 557 IUs were made up of 368 funds under the Investment Undertakings Act (IUA) and 189 under the Law on Certain Undertakings for Collective Investment in Transferable Securities (UCITS Act). Some of the 557 domestic IUs had

| Category                             | 31.12.2008 | 31.12.2009 | 31.12.2010 | 31.12.2011 | 31.12.2012 | +/-  |
|--------------------------------------|------------|------------|------------|------------|------------|------|
| Active MCs                           | 28         | 27         | 24         | 22         | 20         | -2   |
| of which fund managements            | 21         | 21         | 21         | 21         | 19         | -2   |
| of which investment companies        | 7          | 6          | 3          | 1          | 1          | 0    |
| Domestic IUs*                        | 363        | 411        | 469        | 535        | 368        | -167 |
| of which IUs for securities          | 127        | 127        | 153        | 177        | 6          | -171 |
| of which IUs for other values        | 157        | 173        | 171        | 177        | 171        | -6   |
| of which IUs for qualified investors | 79         | 111        | 145        | 181        | 191        | 10   |
| Foreign IUs                          | 219        | 191        | 193        | 198        | 177        | -21  |
| Audit companies                      | 12         | 11         | 11         | 11         | 10         | -1   |

\*Since 2012, undertakings for collective investment in transferable securities (UCITS) have been reported separately.

Figure 5  
Number of management companies  
and investment undertakings  
under the IUA

segments, so that a total of 791 individual funds were licensed as of the end of the year. These were managed by 19 fund managements and one self-managing investment company, i.e. a total of 20 management companies (MCs).

394 changes to prospectuses were approved. Compared with the previous year, in which 162 changes were approved, this means more than twice as many. This is due especially to the transition from UCITS III to UCITS IV.

| Category                      | 31.12.2012 | +/- |
|-------------------------------|------------|-----|
| Active MCs                    | 14         | 14  |
| of which fund managements     | 14         | 14  |
| of which investment companies | 0          | 0   |
| UCITS                         | 189        | 189 |

Figure 6  
Number of management companies and undertakings for collective investment in transferable securities (UCITS) under the UCITS Act

### Authorization of foreign investment undertakings

The number of foreign IUs authorized for marketing in Liechtenstein declined, taking account of mergers, non-launches, and liquidations. At the end of 2012, 177 (previous year: 198) foreign IUs with a total of 1,026 individual funds were authorized for marketing. They encompassed 95 UCITS-compatible IUs and 82 non-UCITS funds from the EEA or third countries. Meanwhile, nine foreign MCs have notified their free movement of services in Liechtenstein.

### Authorization of persons entitled to market units

In addition to the persons entitled to market fund units in Liechtenstein that are enumerated in the Investment Undertakings Act (IUA) and hold a licence under that special legislation, 12 legal persons and one natural person were likewise entitled to market units at the end of 2012 pursuant to explicit authorization.

### Ongoing supervision

#### Auditing

As part of indirect supervision, 200 audit reports under the IUA and 128 audit reports under the UCITS Act were evaluated. The reports contained 89 objections, more than in the previous year (45). These were processed as part of ongoing supervision, and appropriate measures were implemented. This is done in part by demanding restoration of a lawful state of affairs, through on-site inspections, or by discussing the objections in management meetings with the persons responsible at the MC. The FMA carefully follows the development of the number and type of objections. By combining supervisory and preventive measures, it aims to prevent supervision cases and to reduce the number of objections in audit reports.

#### Reporting

In addition to the audit reports, MCs must submit additional periodic reports to the FMA on the funds and undertakings for collective investment in transferable securities (UCITS) they manage or publish such reports. These include semi-annual and audited

annual reports. The quarterly reporting at the fund level previously required has been changed to semi-annual reporting as of 2012. In doing so, the FMA aimed to reduce the reporting work for MCs without any significant compromises in the intensity of supervision.

**Supervisory practice**

In 2012, Securities Supervision developed the foundations for implementation of effective risk-based supervision, which has been implemented in a practice-oriented way with the help of a computer-assisted supervision application. The application permits substantial efficiency gains in supervisory practice.

**Supervision cases**

The supervision cases from 2011 continued to be accompanied in 2012; in the case of MS Invest AGmvK, the investor money was paid out.

The challenging overall economic situation meant that two MCs fell below the required equity ratio. The FMA required these two MCs to restore a lawful state of affairs. One of the affected companies corrected the shortfall, while the other decided to give up its business activities.

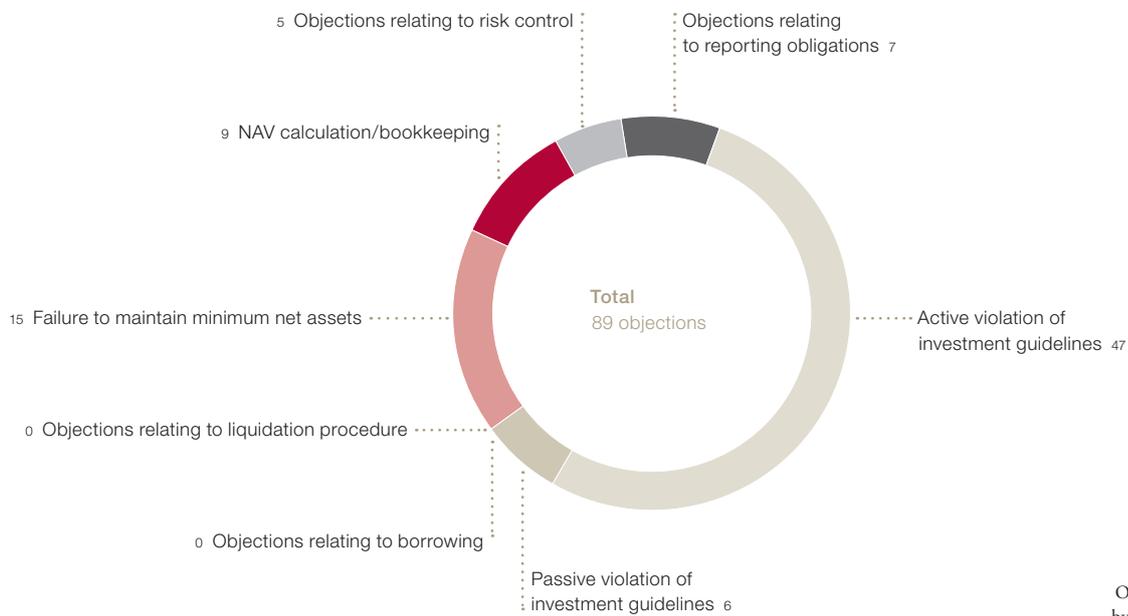


Figure 7  
Objections  
by category

Additionally, the FMA was able to conclude a case involving an IU. Uncertainties existed concerning the investment policy of that IU, which went beyond a pure investment purpose. The IU was liquidated.

Finally, the FMA initiated two supervision proceedings in regard to several IUs making investments in illiquid financial instruments that were difficult to value.

### Combating abuse

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In the context of combating abuse relating to IUs, the FMA dealt with ongoing market supervision as well as clarifications whether certain business models fall within the scope of fund law and thus require a licence under the IUA or the UCITS Act. In 2012, the FMA did not find any misuse of fund structures or fund names.

### Operational focus areas

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#### Transition to UCITS

In the year under review, all existing IUs for securities were transitioned to UCITS-conformity pursuant to the UCITS Act and the associated UCITS Ordinance. The tight audit deadlines required by law were a major challenge in this regard. In addition to IUs, this transition also applied to MCs managing UCITS funds.

#### AIFM Act project

Apart from transposition of the UCITS Act, the FMA on behalf of the Government worked on development of the Alternative Investment Fund Managers Act (AIFM Act). The FMA took part in the relevant ESMA meetings and participated intensively in the project group at the national level on drafting of

the AIFM Act. Consequently, an internal project on implementation of the AIFM Act into ongoing licensing and supervisory practice was launched.

#### Liquidation process

In September 2012, the instructions on liquidation/dissolution of an IU under the IUA and on dissolution of a UCITS under the UCITS Act were revised and published. These instructions contain a general overview of the individual steps of the liquidation and dissolution process as well as a list of the documents to be submitted to the FMA. Release of final payments no longer needs to be confirmed by the FMA; this is now the responsibility of the MC or the liquidator.

#### Audit process

Guideline 2012/01 on the reporting of audits by audit companies for MCs established a uniform audit and reporting standard. The guideline makes a crucial contribution to enshrining risk-based supervision by demanding consistent risk analysis and an audit strategy built on that analysis.

### Outlook

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#### AIFM Act

On 22 July 2013, the AIFM Act and the associated ordinance entered into force. By law, the FMA is required to receive and review licensing applications already starting 1 April 2013. This means for the FMA that by that time, all authorization processes for any licence holders and fund products must be set up and ready for execution, along with the necessary supervision processes. Since implementation of this project must occur alongside operational daily business, the resources of the affected departments will come under considerable strain.

## MiFID II

Additionally, the new version of MiFID II (Markets in Financial Instruments Directive) will entail further need to adjust Liechtenstein legislation. For this purpose, a project group has already been established to deal with future implementation.

### 1.3.2 Asset management companies

#### Licences

At the end of 2012, 109 asset management companies (AMCs) were licensed in Liechtenstein. This means the total number of AMCs operating in Liechtenstein increased by two since 2011. After entry into force of the Asset Management Act (AMA) as part of transposition of Directive 2004/39/EC (MiFID) on 1 January 2006 and strong growth in the number of companies in the following years, the number of AMCs has remained stable since 2009.

In 2012, the FMA issued six licences for AMCs, two applications were withdrawn, and four licences expired. In total, the AMCs applied for or notified 59 changes to existing licences. These were mostly changes of qualifying holdings and of governing bodies. 70 applications for notification of free movement of services were submitted to the FMA, and the corresponding notification procedures were carried out. No new applications for establishing branches in the EEA were submitted during the reporting period.

The main focus of the FMA in its licensing procedure for AMCs was on the following points:

- Requirement of substance: Fulfilment of licensing condition that the company must have an appropriate place of business in terms of personnel and structure;
- Shell problem: Guarantee that the head office of the company is in Liechtenstein. The head office must be where decisions are actually made;
- Qualification/training (fitness and properness): Examination of general managers in terms of their experience and qualifications;
- Organization: A sustainable business plan, especially in regard to organization and financial planning.

#### Ongoing supervision

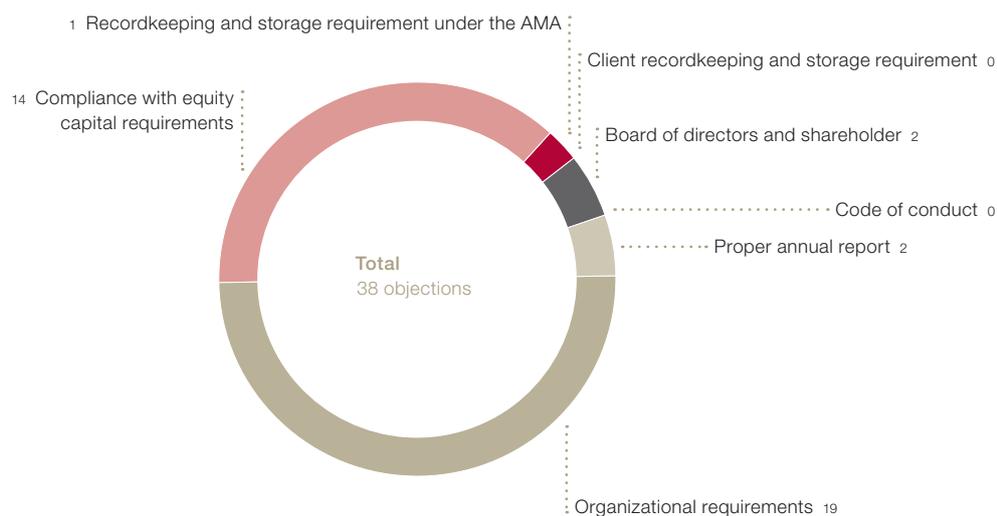
##### Regular audits pursuant to the AMA

In the context of AMC supervision, 99 audit reports were evaluated pursuant to the AMA. In total, objections were made in the case of 22 AMCs.

The objections generally referred to deficiencies in regard to organizational requirements. The main issue is compliance with the requirement that the head office be in Liechtenstein.

Additionally, the higher number of objections concerning capital requirements reflects the challenging economic environment in which the intermediaries must compete.

Figure 8  
Objections  
as of 31 December 2012



### Reporting

The AMCs' reporting discipline was stable in 2012. Only a few AMCs did not meet their reporting obligations. They were warned accordingly.

Seven AMCs failed to meet their capital requirements in the year under review. The FMA called upon the AMCs to restore a lawful state of affairs. As already in the previous year, some AMCs failed to meet their reporting obligations with respect to changes to the general management or external auditors. These AMCs were warned by the FMA, and the changes already published in the official notices of the Office of Land and Public Registration were retroactively approved.

### Supervision cases

No major new supervision cases in the asset management field occurred in 2012. However, several AMCs voluntarily renounced their licence, so that in two cases, lengthy supervision proceedings by the FMA could be concluded.

## Combating abuse

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When combating abuse, Securities Supervision investigates whether activities subject to a licence, such as asset management or investment advice, are being carried out without a licence in or from Liechtenstein. In addition to actively combating abuse of its own accord, the FMA also relies on indications from the market. In 2012, the FMA investigated several indications of companies carrying out activities without a proper licence. Usually, this involved the misuse of terms suggesting the performance of activities requiring a licence. In this regard, the FMA is in permanent contact with the Commercial Register Division of the Office of Justice.

## Operational focus areas

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### Licensing procedure

In consultation with the Association of Independent Asset Managers (VuVL), the FMA has developed uniform licensing forms and published them on the FMA website. The goal of these forms is to achieve faster licensing procedures while taking account of the risk-based approach. The forms were published in the first quarter of 2012.

### Organizational requirements under the AMA and the AMO

The minimum organizational requirements for AMCs continue to lead to discussions between intermediaries and the FMA. Considered from an overall perspective, the company must have an appropriate place of business in terms of personnel and structure. It must be ensured in particular that the registered office and the head office of the company are both in Liechtenstein. To achieve more clarity, a communication in consultation with the VuVL is planned.

## Outlook

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Securities Supervision will deal with questions relating to organizational requirements and aim to achieve more clarity in this regard. The two-stage approach in supervision will be further strengthened: firstly the supervision process, which will be streamlined together with the auditors, and secondly the risk-based supervision introduced in the previous year will be systematically deepened. The goal of the approach is to identify the intermediaries who might damage investors and the country. The FMA pursues a clear, consistent, and predictable policy in regard to abuse and violations of the law. At the same time, it takes advantage of the available room for manoeuvre in favour of financial intermediaries to the extent possible.



### 1.3.3 Securities prospectuses

#### Approvals

Approval activities relating to securities prospectuses under the Securities Prospectus Act (SPA) were again of minor significance in 2012. As in the previous year, only one application for approval was submitted.

Offers of foreign structured products notified by EU countries in Liechtenstein declined in 2012 compared with 2011. The final conditions for a total of 233 structured products (previous year: 348) were submitted to the FMA. In 2012, one issuer in particular submitted documents for numerous products to the FMA for public offers in Liechtenstein.

The notification by foreign supervisory authorities for basic prospectuses of issuers of structured products was within the range of the previous years. In many cases, however, no subsequent public offer was undertaken in Liechtenstein.

## 1.4 Insurance and Pension Funds Division

### 1.4.1 Insurance undertakings

#### Licences

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At the end of 2012, a total of 41 (previous year: 40) insurance undertakings with registered offices in Liechtenstein were active (22 life insurers, 14 non-life insurers, and five reinsurers). 12 undertakings were registered as captives, seven of which as direct insurers and five as reinsurers.

In 2012, an additional life insurance undertaking received a supervisory licence to pursue insurance activities under the Insurance Supervision Act (ISA). Two insurance undertakings were granted expansions of their licences to include additional classes of insurance. At the end of the year, a preliminary application for establishment of an insurance undertaking was being processed. The FMA is also responsible for the recognition of external auditors pursuant to special legislation. In 2012, one new audit company was recognized as an external auditor pursuant to the ISA.

#### Cross-border provision of services

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At the end of 2012, 316 insurance undertakings from various EEA countries and Switzerland had notified the FMA of their cross-border provision of services in Liechtenstein via their home country supervisory authorities.

## Ongoing supervision

### Audits pursuant to the ISA

As of 30 April 2012, the insurance undertakings were called upon to submit their documents to the FMA for reporting on the 2011 business year. Only about one third of the insurance undertakings submitted complete documents by that time. The other two thirds were again requested by the FMA to submit them subsequently. This caused a greater workload for the FMA. In the case of three insurance undertakings, restrictions in the audit reports led to further measures and direct inspections by the FMA. In the case of two other insurance undertakings, insufficient capitalization was found during the audit, so that the FMA ordered measures and steps to improve capital resources. Additionally, in the case of six undertakings, the audit report contained a supplement drawing attention to essential facts without affecting the audit opinion. In the course of the FMA audit, conspicuous facts were also found, which could be remedied already in the course of the audit. The FMA made the undertakings aware of these aspects by noting them in its letter of completion. In one

case, for instance, the solvency ratio was calculated incorrectly, while in other cases incorrect information was supplied on the minimum guarantee fund, the actuary's report, or the notes. Additionally, the quarterly reports were audited.

### On-site inspections and management meetings

In 2012, the FMA conducted on-site inspections at six insurance undertakings. Apart from the regular topics (business model, corporate strategy, and financial situation), the focus was on reinsurance policy, marketing organization, the risk management system, the internal control system, and cross-border risks. At the same time, sample audits were conducted of building security and administrative systems. The results of the on-site inspections were predominantly positive.

Supplementing the on-site inspections, five management meetings were held with selected insurance undertakings. Here again, the business model, the corporate strategy, and the financial situation were key topics, with a focus on legal risks in cross-border business and the status of preparations for Solvency II.

| Licensing categories  | 2002      | 2003      | 2004      | 2005      | 2006      | 2007      | 2008      | 2009      | 2010      | 2011      | 2012      |
|-----------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Non-life insurance    | 5         | 6         | 7         | 9         | 13        | 13        | 14        | 14        | 14        | 14        | 14        |
| Life insurance        | 12        | 12        | 15        | 17        | 17        | 19        | 23        | 22        | 21        | 21        | 22        |
| Reinsurance           | 4         | 5         | 6         | 5         | 5         | 5         | 5         | 5         | 5         | 5         | 5         |
| <b>TOTAL licences</b> | <b>21</b> | <b>23</b> | <b>28</b> | <b>31</b> | <b>35</b> | <b>37</b> | <b>42</b> | <b>41</b> | <b>40</b> | <b>40</b> | <b>41</b> |

Figure 9  
Number of insurance undertakings

### **Audits pursuant to the Due Diligence Act (DDA)**

Article 3(1)(d) of the DDA makes insurance undertakings with a licence pursuant to the ISA subject to money laundering legislation to the extent they offer direct life insurance.

In the year under review, regular due diligence inspections were carried out at 19 life insurance undertakings. An extraordinary inspection was additionally conducted at one life insurer. Up to 12 objections were made in the case of the individual life insurers. Again, insufficient delegation agreements, PEP checks, and organizational measures were criticized. But deficits also exist especially in regard to plausibility checks of the origin of assets and their proper documentation.

The life insurance undertakings must compile a profile for every business relationship, which serves to monitor the business relationship and contains information on the origin and economic background of the assets to be paid into an insurance contract. The intensity of the measures required to check the plausibility of the origin of assets is governed by the risk category into which the business relationship falls. The definition and characteristics of each risk category must be defined using a risk-based approach as part of the insurance undertaking's risk management process.

### **The FMA as a complaints body**

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In the year under review, 69 complaints were filed with the FMA by policyholders or their representatives. This means a reduction in the number of complaints compared with the previous year by about 17% (2011: 83 complaint cases). Most of the complaints concerned lacking or delayed communication of the insurance undertakings with the policyholder, followed by complaints about discrepancies relating to the provision of non-life insurance benefits. The complaints regarding surrender value and asset development rose slightly by 4% and 5%, respectively, compared with the previous year. In contrast, the number of complaints about the calculation of costs and fees fell from 27% to 10%.

The FMA reviews the complaints for their relevance to supervision law and takes the necessary measures. In the case of disputes under civil law, the FMA is not competent and refers such cases to the regular courts.

### **Compulsory building insurance**

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As of 31 December 2012, 16 insurance undertakings were offering compulsory building insurance in Liechtenstein. Of these insurance undertakings, three were domiciled in an EEA member state and 13 in Switzerland. The building insurers operating in Liechtenstein must make a contribution to fire protection and the prevention of damages arising from natural hazards for the purposes of article 13 of the Building Insurance Act. The basis for calculating these contributions is the fire insurance sum of the individual undertakings.

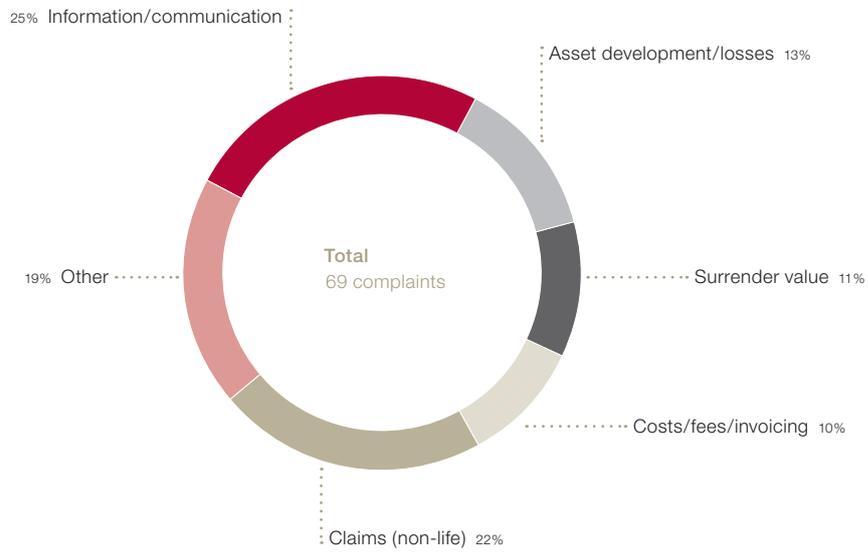


Figure 10  
Complaints

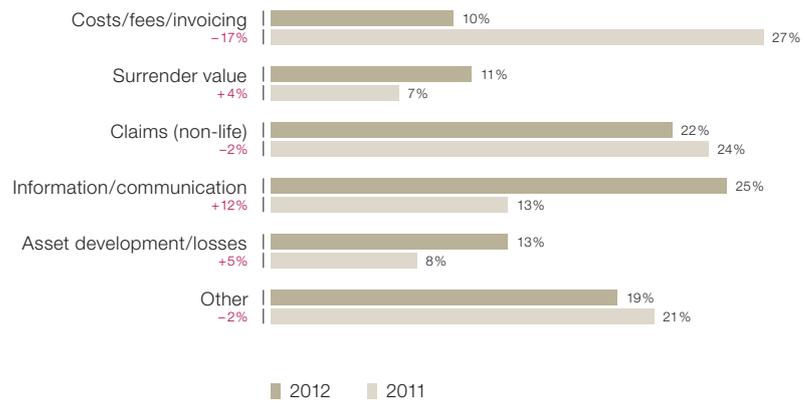


Figure 11  
Comparison of frequency  
of complaints

## Operational focus areas

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### Solvency II

The main focus of operational activity was preparing for Solvency II. Intensive efforts were made in this regard to transposing the European requirements into national law, and at the same a project was launched to implement the new requirements into operational supervisory work. In this connection, the FMA is analysing its current supervisory practice and identifying any need for action. The FMA is also being evaluated in various peer reviews at the European level to assess its status of implementation.

### Head office

Another focus area was the issue of head offices of insurance undertakings in Liechtenstein. After intensive discussions with the Liechtenstein Insurance Association (LVV) and affected undertakings, the instructions on the minimum requirements for the head office were finalized and published on the FMA website in the 3rd quarter. Insurance supervision legislation provides that both the registered office according to the articles and the head office of an insurance undertaking must be in the Principality of Liechtenstein. Additionally, even where functions are intended to be outsourced, the head office including accounting must remain in Liechtenstein. The published instructions aim to specify the supervisory requirements in more detail and to define a minimum standard. Subsequently, the FMA will verify in the course of reporting on the 2012 business year via the external auditors and through on-site inspections whether the undertakings meet these minimum requirements.

### Cross-border risks

After conducting intensive talks and analyses in the previous year on the issue of risks in cross-border business, a reporting form was developed. Using this form, the key risks in the cross-border business of life insurance undertakings and the measures taken by the undertakings in this connection to limit these risks will be recorded. Apart from issues specific to insurance, the reporting will also include aspects of tax law and the resulting legal and reputation risks as well as implementation of the Liechtenstein Declaration of March 2009. The form is being discussed with the LVV and is planned to become part of annual reporting starting in 2013.

### Outlook

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Again in 2013, preparation for Solvency II will be an important focus area. Despite the delays currently being communicated at the European level, subareas will be specified in further detail over the coming year and presumably will be implemented in part at an earlier stage. For instance, a “Long-Term Guarantee Assessment” will be carried out at the European level already in the first half of 2013 to measure the impact of various interest rate curves on business with long-term guarantees. From Liechtenstein, six undertakings are expected to participate in this assessment, which will be very work-intensive both for the FMA and for the undertakings.

Another focus area will be the risks in cross-border business, since the international pressure on the Liechtenstein financial centre will continue to increase in this regard. The findings gained from FMA analyses over the past few years will be integrated into regular supervisory work in 2013.

## 1.4.2 Insurance intermediaries

### Licences

#### Licences issued/withdrawn

A total of five licences were issued in 2012. Additionally, one licence was granted subject to a condition precedent, which is expected to be met in the first quarter of 2013. Seven licence holders discontinued their activities as insurance intermediaries during the year 2012. As of 31 December 2012, the FMA thus supervised a total of 65 licensed and registered insurance intermediaries, of which 58 were legal persons, four sole proprietorships, and three natural persons. Of the 65 registered insurance intermediaries, 55 work as insurance brokers and ten as insurance agents.

#### Cross-border provision of services

Cross-border activities under the free movement of services were primarily carried out in Germany (44% of all insurance intermediaries) and Switzerland (32%). 20% of the insurance intermediaries worked in Austria and 4% in Italy. So far, one insurance intermediary has operated pursuant to freedom of establishment in Switzerland.

### Ongoing supervision

#### Reporting

As of 31 March 2012, the insurance intermediaries were requested to submit their annual reporting for the 2011 business year. A higher workload was incurred by the FMA because 51 insurance intermediaries submitted incomplete documents and had to be asked by the FMA to submit further documentation. The audit of the reports resulted in the following findings:

- 11 registered intermediaries did not engage in mediation activities in 2011;
- three intermediaries operated in cross-border business, even though no prior notification was made to the FMA. The notification was subsequently submitted in the course of reporting;
- five intermediaries did not notify a change of licence pursuant to article 19(2) of the IMA;
- 13 insurance intermediaries were unable to provide evidence of adequate continuing training as referred to in article 2(5) of the IMA; the FMA called upon the insurance intermediaries in question to take appropriate continuing education measures;
- one insurance agent concluded a new cooperation agreement with an insurance undertaking indicating activity as a broker. This made an adjustment of the agreement necessary.

### Regular audits pursuant to the DDA

Insurance brokers with a licence pursuant to the Insurance Mediation Act (IMA) are subject to the Due Diligence Act (DDA) to the extent they broker life insurances and other services with an investment purpose. Already when receiving the licence for mediation activities relating to life insurances, appropriate organizational measures must be taken to ensure implementation of the DDA and its implementing ordinance (DDO) at all times.

In the year under review, eight insurance brokers were subject to a regular due diligence inspection by the audit companies. Again, deficiencies were identified relating to organizational requirements, especially proper documentation of due diligence monitoring. Overall, the internal organization must be designed in accordance with the circumstances, depending on the type and size of the operation as well as on the number, type, and complexity of the business relationships. Certain minimum requirements on internal organization must necessarily also be met even when no life insurance is brokered during the audit period.

### Regular on-site inspections

The FMA conducted regular on-site inspections of eight insurance intermediaries. In addition to compliance with the licensing requirements, the internal organization, and the business model, the focus of the on-site inspections – as in the previous year – was on verifying compliance with information and advisory obligations and the DDA. The verification was carried out on the basis of samples. The results of the on-site inspections showed that deficits continue to exist in terms of compliance with the information and advisory requirements and the DDA.

### Combating abuse

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Insurance mediation is subject to a licence in Liechtenstein pursuant to article 5 of the IMA. This service may accordingly not be offered without an appropriate licence. Violations are punished by the Court of Justice.

In the year under review, the FMA audited whether two undertakings carried out insurance mediation activities covered by the IMA. No violation of the Insurance Mediation Act was found.

### Operational focus areas

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Apart from the inspection of annual reporting, the DDA inspections, and the on-site inspections, the FMA together with the University of Liechtenstein and the Liechtenstein Insurance Brokers Association (LIBA) held the Liechtenstein Insurance Broker Forum. The event took place in this form already for the second time and is considered continuing education for purposes of the IMA. The focus of the event was on current developments on the insurance mediation market, future regulation at the European level, the planned comprehensive revision of the Swiss Insurance Contract Act and its significance for insurance intermediaries, the legal aspects of cross-border business, the duties and liabilities of insurance intermediaries, and risk management.

A further focus area was implementation of the information sheet for insurance intermediaries domiciled in the EEA on cross-border activities under the free movement of services and/or freedom of establishment, defining requirements for insurance mediation in Liechtenstein.

### Outlook for 2013

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In July 2012, the European Commission presented the draft revised Insurance Mediation Directive 2002/92/EC already announced for autumn 2011. With the help of the revised directive, regulation of the insurance market is to be improved in an effective manner for private clients. The goal is to ensure equal conditions of competition for all parties involved in the marketing of insurance products and to improve the protection of policyholders. Due to additional delays at the European level, entry into force of the directive is not expected before 2014/15. The FMA is represented in the relevant European working group.

Another focus will be on the basic and continuing training of insurance intermediaries. In this context, a continuing education event for insurance brokers is planned in cooperation with the LIBA on due diligence.

#### 1.4.3 Pension schemes

### Licences

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At the end of 2012, 29 (previous year: 29) pension schemes were under the supervision of the FMA, of which eight were collective foundations, 20 company pension schemes, and the Pension Insurance for State Employees. Seven of these schemes were in liquidation. Most of these were company foundations or employers deciding to join a collective scheme.

The entire liquidation procedure is under the supervision of the FMA. In the case of total liquidations, the FMA must verify whether the preconditions and the procedure are met. It also approves the distribution plan.

### Ongoing supervision

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#### Auditing

##### Audits pursuant to the Occupational Pensions Act

The pension schemes were required to submit their report on business activities in the 2011 business year to the FMA by 30 June 2012. The documents were audited in detail, and compliance with the legislative and regulatory provisions was verified. In most cases, the reports were submitted on time. However, nine schemes were issued a warning. In the case of eight pension schemes, additional clarifications were necessary during the audits. The audit work was completed by the beginning of October. Additionally, semi-annual reporting was subject to an audit.

Despite a solid financial situation of the pension schemes in most cases, seven schemes had a funding ratio of less than 100% at the end of 2011. While in five cases, the shortfall was insignificant, recovery measures were closely accompanied and supervised by the FMA in two cases. At the end of 2012, two schemes still failed to meet the required funding ratio, and in one of these cases the shortfall was substantial. The pension schemes of three major employers in Liechtenstein are domiciled in Switzerland. They are thus subject to Swiss supervision. In these cases,

reports are also submitted to the FMA in coordination with the Swiss authority. The audit results are reconciled between the two supervisory authorities.

#### **On-site inspections and management meetings**

The FMA conducted regular on-site inspections and management meetings at the pension schemes. Apart from meetings on the development of the funding ratio, the focus was on auditing organization and administration, business management, and the asset situation. In addition, sample audits of the administrative system and of reporting to the Guarantee Fund were conducted during the on-site inspections. The audits and meetings were satisfactory, though there was a need for adjustments in some cases.

#### **Vested benefits accounts**

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The FMA is responsible for processing cash payout applications pursuant to the Occupational Pensions Act (OPA). The FMA reviews whether a precondition for cash payout is met.

The FMA received a total of 226 (previous year: 274) applications for cash payout in 2012, of which 97 (previous year: 122) received a positive response and 57 (previous year: 74) a negative response. 56 applications were still pending at the end of 2012. The main reasons for cash payout were departure from the Liechtenstein/Swiss economic area and assumption of self-employed work. In total, the FMA decided on vested benefits in the amount of CHF 7.19 million (previous year: CHF 8.32 million).

#### **Combating abuse**

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##### **Verification of association with occupational pension scheme**

Pursuant to article 4a(1) of the OPA and FMA Guideline 2008/1 (verification of association requirement pursuant to the OPA), the Old Age and Survivors' Insurance Authority (AHV) verifies whether the employers subject to its jurisdiction are properly associated with a pension scheme. The AHV reports those employers to the FMA who do not meet their association obligation despite being demanded by the AHV to do so. The FMA likewise calls upon the reported employer to bring about a lawful state of affairs. If the employer does not subsequently join a pension scheme, the FMA retroactively imposes the employer's association with a pension scheme for the purpose of insurance. In the year under review, the FMA imposed six such associations. In most cases, a solution was found in agreement with the employer in the form of a voluntary retroactive association.

Under the OPA, the pension schemes must notify the FMA if an association contract with an employer is cancelled. In 2012, the FMA was notified of 158 cancellations of association contracts. After receiving notice of cancellation of an association contract, the FMA requests the employer to communicate whether it still employs persons subject to the insurance requirement and to indicate the pension scheme with which a new association contract has been concluded. If necessary, the FMA imposes the employer's association with a pension scheme in such cases as well. In the year under review, all of these cases were concluded without imposed associations.

### Measures where employers fail to contribute

If an employer is late in paying the required contribution to the pension scheme, the pension scheme must report this to the FMA within three months in accordance with the OPA. In 2012, the FMA received 137 (previous year: 146) notifications of contribution defaults. In such cases, the FMA calls upon the employer to remedy the default under threat of punishment. As a consequence of such contribution defaults, the FMA submitted a total of ten (previous year: 11) notifications of such situations to the Office of the Public Prosecutor.

### Operational focus areas

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Supervision focused especially on pension schemes failing to meet the required funding ratio. These undertakings had to submit quarterly reports to the FMA on the development of the funding ratio and the effectiveness of the measures taken. While seven pension schemes still had a shortfall at the end of 2011, only two remained by the end of 2012. Another focus in this connection was on the restructuring of the Pension Insurance for State Employees. Since revision of the Pension Insurance Act in 2009, the Pension Insurance has been subject to FMA supervision. The FMA carried out an in-depth special audit and situation analysis when it assumed supervisory responsibilities. The audit extended to the financial situation as well as governance aspects such as management, provision, and investment activities. The

derived measures and reorganization under existing law have been closely accompanied by the FMA since it took over supervision. In March 2012, the Government appointed a working group to prepare a consultation draft on reorganizing and securing the Pension Insurance. The FMA commented in detail on the proposed measures from a supervisory perspective.

### Outlook

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In 2013, the FMA will continue to assess any need to amend Liechtenstein legislation on occupational retirement provision in light of the changes to the legal bases for occupational provision pursuant to the structural reform of the Swiss Federal Law on Occupational Retirement.

Apart from inspecting the financial situation of pension schemes and monitoring recovery measures in the case of failure to meet the required funding ratio, supervision of the liquidation process of several pension schemes will take up additional resources.

#### 1.4.4 Pension funds

##### Licences

As of the end of 2012, six pension funds were licensed in Liechtenstein, of which four pension funds are engaged in cross-border business in the EEA. No new licence was granted during the reporting period.

##### Ongoing supervision

As part of the regular audit, the pension funds domiciled in Liechtenstein were called upon to submit their report on business activities in the year 2011 to the FMA by 30 April 2012 at the latest. The FMA reviewed the submitted documents and monitored compliance with the legislative and regulatory provisions. The audit round for the 2011 business year was concluded in October 2012. Additionally, the semi-annual reporting of the pension funds was inspected.

##### Operational focus areas

In addition to inspections of the annual and semi-annual reports, the peer review by the European Insurance and Occupational Pensions Authority (EIOPA) was another operational focus areas. In this connection, the FMA responded to comprehensive questionnaires on its supervision activity in regard to pension funds. Additionally, a telephone conference with persons responsible for the EIOPA Review Panel was held at the end of November 2012, during which additional detailed questions were discussed in depth. On the basis of the information obtained, the Review Panel decided in December 2012 to waive an on-site peer review of the FMA Liechtenstein.

##### Outlook for 2013

At the European level, Directive 2003/41/EC of the European Parliament and the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision continues to be under revision. It is currently planned that the European Commission will present a proposal for revision of the directive by mid-2013. The preparatory work for the proposal has been underway since the beginning of 2011. EIOPA was asked to comment on specific questions as part of a call for advice. EIOPA's response was published on 15 February 2012, but subject to the results of a quantitative impact study (QIS) still to be performed. The European Commission expects initial preliminary results in January 2013.



## 1.5 Other Financial Intermediaries Division

The FMA is responsible for the due diligence supervision of professional trustees, lawyers, patent lawyers, and auditors as well as their examination and professional qualifications for carrying out their activities in the financial centre. Supervision also covers persons with a certification under article 180a PGR, dealers in goods, real estate brokers, and other persons subject to due diligence. The FMA also exercises disciplinary powers over auditors in accordance with the Auditors and Audit Companies Act (AACA) and enforces the Gambling Act with regard to due diligence.

### 1.5.1 Admission to examinations/Licences

#### **Admission to examinations**

Three persons registered for the qualifying examination for lawyers from the European Economic Area. One person passed the examination. Ten persons registered for the licensing examination under the Lawyers Act. Seven candidates passed the lawyers' examination.

One person registered for the examination under the Patent Lawyers Act (PLA) for 2012, but did not pass the examination. Nine applications for the licensing examination under the Professional Trustees Act (PTA) and one application for the supplementary examination for lawyers were registered. One participant passed the licensing examination, and one passed the supplementary examination for

lawyers. 15 applications for the qualifying examination under the AACA and five applications for the licensing examination were registered; eight candidates passed the qualifying examination and four the licensing examination. One candidate withdrew from the examination.

#### **Licences**

In 2012, 55 licences were granted to natural or legal persons to carry out the corresponding activities on the financial market. Additionally, changes to already existing licences were carried out upon application in 36 cases. In most cases, these were changes to the business name, changes of the responsible general manager, and extensions of licences for apprentice lawyers. 57 licences were cancelled (2011: 47).

#### **Lawyers and other categories**

As of 31 December 2012, a total of 346 persons were licensed under the Lawyers Act. This number includes lawyers (168), Liechtenstein lawyers eligible for registration (69), European lawyers established in Liechtenstein (22), apprentice lawyers (54), law firms (29), branches of law firms (1), and legal agents (3). The total number increased again slightly compared with the previous year (2011: 342).

#### **Professional trustees and trust companies**

The number of trust companies declined by four, and the number of trust companies with a restricted licence by one. The number of professional trustees declined by nine, and the number of professional trustees with a restricted licence remained the same. As of 31 December 2012, the total number of licences under the PTA was 378 (2011: 392).

### Patent lawyers and patent law firms

The number of patent lawyers declined by one, and the number of patent law firms stayed the same. The total number of persons with a licence under the PLA was 11 as of 31 December 2012.

### Auditors and audit companies

As of 31 December 2012, 33 domestic auditors, three foreign auditors established in Liechtenstein, and 24 audit companies were under the supervision of the FMA. The number of licensed auditors engaging in free movement of services was 37, the number of such audit companies 22.

| Other financial intermediaries                                    | 2009        | 2010        | 2011        | 2012        | +/-       |
|---|-------------|-------------|-------------|-------------|-----------|
| Professional trustees   | 83          | 77          | 79          | 70          | -9        |
| Professional trustees with a restricted licence                   | 26          | 23          | 21          | 21          | 0         |
| Trust companies   | 262         | 264         | 263         | 259         | -4        |
| Trust companies with a restricted licence                         | 24          | 28          | 29          | 28          | -1        |
| Auditors  | 24          | 25          | 23          | 33*         | 10        |
| Auditors established in Liechtenstein                             | 0           | 0           | 0           | 3           | 3         |
| Audit companies   | 26          | 26          | 24          | 24          | 0         |
| Lawyers   | 147         | 150         | 164         | 168         | 4         |
| Liechtenstein lawyers eligible for registration                   | 60          | 66          | 61          | 69          | 8         |
| European lawyers established in Liechtenstein                     | 25          | 25          | 27          | 22          | -5        |
| Law firms   | 28          | 28          | 29          | 29          | 0         |
| Branches of EEA law firms   | 1           | 1           | 1           | 1           | 0         |
| Apprentice lawyers  | 66          | 67          | 56          | 54          | -2        |
| Legal agents  | 5           | 4           | 4           | 3           | -1        |
| Patent lawyers  | 10          | 9           | 9           | 8           | -1        |
| Patent law firms  | 3           | 3           | 3           | 3           | 0         |
| Persons with a certification under article 180a PGR <sup>1)</sup> | 532         | 546         | 533         | 535         | -2        |
| Exchange offices <sup>2)</sup>                                    | 0           | 0           | 0           | 0           | 0         |
| Real estate brokers <sup>2)</sup>                                 | 24          | 25          | 7           | 7           | 0         |
| Dealers in goods <sup>2)</sup>                                    | 42          | 42          | 11          | 4           | -7        |
| Casinos   | 0           | 0           | 0           | 0           | 0         |
| Other persons subject to due diligence <sup>2)</sup>              | 32          | 35          | 32          | 29          | -3        |
| <b>TOTAL</b>  | <b>1420</b> | <b>1444</b> | <b>1376</b> | <b>1370</b> | <b>-6</b> |

\* This includes the auditors eligible for registration not included on 31.12.2011.  
1) No guarantee of correctness  
2) Information based especially on the notification requirement under article 3(3) DDA

Figure 12  
Other financial intermediaries supervised  
by the FMA

### 1.5.2 Supervision pursuant to the DDA

Supervision pursuant to the DDA focuses on planning, carrying out, accompanying, and evaluating the due diligence inspections, carrying out extraordinary inspections, imposing penalties and measures, answering questions of law and interpretation, and identifying and investigating cases of suspicion in order to combat abuse.

Accompanying of inspections by the FMA allows the supervisory authority to become closely familiar with the practice of financial intermediaries and to identify problems and needs. Doing so also takes account of the IMF requirement that the FMA should be involved more frequently in on-site inspections.

#### **Regular due diligence inspections**

In the 2012 audit round, a total of 399 financial intermediaries were approached, of which 242 claimed to have carried out activities relevant to due diligence law. 83 regular due diligence audits were then carried out (some of them consolidated audits), in which 1,200 business relationships were audited. Of the 83 inspections carried out, 22 were accompanied by the FMA, which corresponds to 26.5% of all regular due diligence inspections.

Two of the regular due diligence inspections had to be ordered by decree. The FMA accompanied these inspections. Other measures to remedy the deficiencies identified during the regular inspections had to be taken in the case of three financial intermediaries. Criminal complaints were filed for instance due to non-retention of due diligence files.

In general, however, a high degree of awareness regarding compliance with and implementation of due diligence obligations was noted among financial intermediaries. The FMA sees this as a sign that persons subject to due diligence continuously strive to improve quality and accordingly to make a contribution to strengthening and maintaining the reputation of the financial centre.

There is room for improvement with regard to the meaningfulness and currentness of the profiles of business relationships. Upon conclusion of the audit round, the affected financial intermediaries and the participating due diligence auditors were informed in writing of the overall results of the 2012 audit round.

#### **On-site inspections of additional financial intermediaries**

In 2012, dealers in goods and real estate brokers (to the extent they were engaged in business relevant to due diligence) were systematically considered for the first time. A total of six on-site inspections were carried out at three dealers in goods and three real estate brokers; no further measures had to be taken on the basis of these inspections.

### Extraordinary due diligence inspections

Additionally, two extraordinary due diligence inspections were carried out. Such an inspection occurs when there are indications of doubts concerning compliance with due diligence obligations or when circumstances make the reputation of the financial centre appear at risk. One of these inspections resulted in a report to the Financial Intelligence Unit (FIU) and a criminal complaint. In the case of eight other fact patterns, clarifications did not result in well-founded indications calling for performance of an extraordinary due diligence inspection.

#### 1.5.3 Combating abuse

Combating abuse involves taking steps pursuant to supervisory law against natural and legal persons carrying out an activity subject to a licence under special legislation or employing a professional or business term or business name reserved under special legislation, without having a corresponding licence. Interventions must be carried out to combat abuse where the preconditions for engaging in the activity or activities are not or no longer met.

Combating abuse makes an important contribution to protecting clients and securing trust in the Liechtenstein financial centre. When combating abuse, the Other Financial Intermediaries Division relies on preventive measures in the form of cooperation with other authorities of the National Public Administration, awareness-raising, media monitoring, and other measures.

In 2012, several demands were made to adjust the undertaking's purpose. The objections made were remedied by those concerned in a timely manner. Moreover, several companies were called upon to adjust their website, since they contained indications of activities subject to a licence or gave the impression they were subject to money laundering legislation. All objections were remedied at the request of the FMA. One licensed company was asked to comment, since the previous general manager had been deleted from the Public Register without a replacement having been appointed. In the case of two licensed companies, supervision proceedings were carried out pursuant to notifications by insurers regarding cancelled liability insurances. In two of the disciplinary proceedings initiated in 2011, the FMA was involved as a complainant, and judgements were reached by the Supreme Court.

#### 1.5.4 Operational focus areas

Focus areas in supervision were the accompanying of regular due diligence inspections and the performance of inspections at dealers in goods and real estate brokers. Relating to supervision of auditors and audit companies, the FMA became a member of the International Forum of Independent Audit Regulators (IFIAR) in autumn 2012. Membership strengthens the FMA's international network and recognition, allowing it to obtain important information and ensuring that supervision activities meet international standards.

Levy of the supervision tax caused a substantial workload for the Other Financial Intermediaries Division in 2012. The persons subject to the tax were sent a forecast of the projected supervision tax for 2012. The reporting form was supplemented to clarify open questions before it was sent, in consultation with the professional associations. Additionally, many reminders were sent, the reporting forms were evaluated, assessments were made, and bills for the final 2011 supervision tax and the provisional 2012 supervision tax were prepared and sent. Numerous enquiries had to be answered, and applications for changes and repayments were processed. Both for the provisional and final bills for 2011 and the provisional bills for 2012, persons subject to the tax submitted applications for decrees. Several appeals were lodged with the FMA Complaints Commission (FMA-CC) against the issued decrees. In one case concerning the basic tax to be paid by a lawyer, the Constitutional Court in its judgement of 3 September 2012 (StGH 2012/83) found article 30a(2)(d) of the FMA Act unconstitutional and article 16(1)(b) of the FMA Tax and Fee Ordinance unconstitutional and unlawful, voiding the two provisions effective 1 July 2013.

Other focus areas were participation in Government working groups, responding to questionnaires of the EU Commission, the regulatory projects to improve supervision of professional trustees (comprehensive revision of the Professional Trustees Act), supervision of persons with certifications under article 180a PGR

(creation of a supervision law), liability insurance, the MONEYVAL package of measures, the implementing ordinance for the AACA, and preparation of a memorandum of understanding (MoU) with the Swiss Federal Audit Oversight Authority (FAOA).

In regard to the comprehensive revision of the Professional Trustees Act, the Government adopted a consultation report on 30 April 2012. The aim of the proposal is to strengthen the reputation of professional trustees through internationally compatible regulation and effective supervision, thus enhancing the international recognition of the trustee sector. The legislative proposal was prepared for the attention of the Government in collaboration between the Liechtenstein Association of Professional Trustees (THV) and the FMA.

#### 1.5.5 Outlook

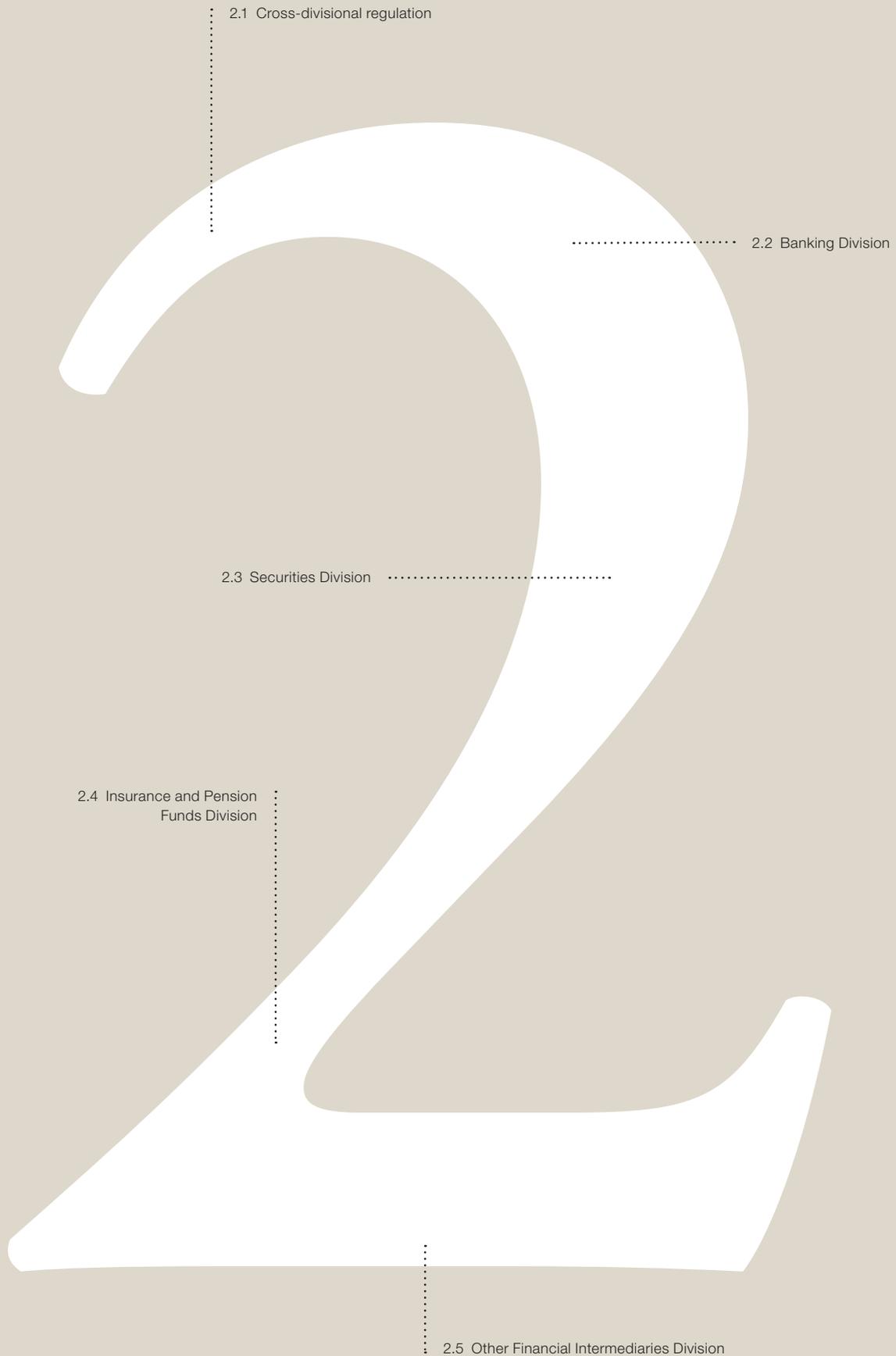
Carrying out regular due diligence inspections is a key element of supervisory work. Henceforth, dealers in goods and real estate brokers will also be systematically included in audits, to the extent they are engaged in business relevant to due diligence. With the finalization of the implementing ordinance for the AACA, consolidated due diligence and quality inspections of auditors and audit companies will be

conducted for the first time. Additionally, the work on an MoU with the Swiss FAOA has progressed to the extent that conclusion is expected in 2013.

The work on establishing a supervision system for persons with a certification under article 180a PGR must be continued so that supervision of those persons can be ensured once the new supervision law enters into force.

As already last year, the levy of supervision taxes and the associated processes will entail an additional workload in 2013. Moreover, a further judgement by the Constitutional Court on the constitutionality of the supplemental tax is expected, and the consequences thereof will have to be assessed.

In regulation, the projects on improvement of supervision of professional trustees, supervision of persons with certifications under 180a PGR, liability insurance, the MONEYVAL package of measures, the implementing ordinance for the AACA, and amendment of the FMA Act in connection with the levy of fees and taxes will continue, among others.



The financial crisis was the trigger for numerous regulatory projects at the global and European level. These were comprehensively reflected for the first time during the reporting year in EU regulations and directives. Over the coming two to three years, rules will have to be implemented that affect all sectors of the financial system. Liechtenstein, as a member of the EEA and as a financial centre with strong international links, must undergo this transformation. Liechtenstein is currently transposing numerous EU directives into national law, and numerous other regulations are coming up soon.

Moreover, sectors and areas of business which previously had not or only partially been regulated are now subject to supervision. For instance, the area of market/trading is subject to stronger regulation, and short sales of shares and sovereign debt in the territory of the European Union must be notified to the regulator as from November 2012. Starting in mid-2013, OTC derivative contracts must be cleared through a central counterparty authorized in the territory of the EEA. Derivative contracts entered into must generally be notified to “trade repositories”.

In addition to the flood of regulatory projects, a further wave of secondary regulation is on the horizon. These are binding technical standards as well as guidelines and recommendations that further specify regulatory provisions and their technical implementations.

These binding technical standards are developed by the new European Supervisory Authorities and submitted to the EU Commission for adoption as a Commission regulation or decision. They accordingly are immediately applicable to the entire territory of the EEA. Currently, about 250 binding technical standards covering all sectors are expected to be ready for implementation over the coming two years. These standards must be verified and implemented by the financial intermediaries. The national financial market supervisory authorities in turn must ensure compliance with the standards. Some of these standards were published during the reporting period.

In addition to the binding technical standards, the European Supervisory Authorities issue guidelines and recommendations that de facto also have a binding character, since their timely implementation and compliance are verified using a strict “comply-or-explain” regime, subject to reprimand where necessary. Here again, each of these enactments causes more work for the affected financial intermediaries and also the national supervisory authorities. The supervisory authorities already issued the first guidelines in 2012. The FMA publishes such guidelines through FMA Communications on its website.

## 2.1 Cross-divisional regulation

### Completed regulatory projects

#### **MONEYVAL package of measures**

The FMA participated actively in the implementation of the MONEYVAL package of measures adopted by the Government, under the leadership of the Financial Intelligence Unit (FIU). In view of the upcoming country assessment of Liechtenstein in June 2013 by the International Monetary Fund (IMF) and MONEYVAL, the required measures included a partial revision of the Due Diligence Act and Due Diligence Ordinance to remedy remaining deficits noted in the last country report. Already in 2012, revision of all relevant instructions relating to due diligence was commenced, and a first draft of a new FMA Guideline on the risk-based approach was prepared. All work was done in close cooperation with the FIU and the professional associations. Paralleling the work with the affected organizations, a response to the relevant questionnaire was already begun the end of 2012.

#### **New rules for bearer instruments**

As part of a working group appointed by the Government, the FMA participated in implementation of the international standards governing bearer shares. The revision was triggered by country assessments of Liechtenstein by various international bodies on implementation of the international anti-money-laundering standards (IMF/MONEYVAL assessment) and international tax standards (Global Forum Peer Review). The goal was to create a greater degree of transparency for bearer shares. For this reason, bearer shares have been converted into real

property by amendment of the Law on Persons and Companies (PGR). According to the new rules, bearer shares must henceforth in principle be deposited with a custodian to be appointed and entered in the Commercial Register, and the custodian must in turn maintain an appropriate register and comply with the necessary requirements under the PGR. The bearer shares must in principle be deposited by 1 March 2014.

### Pending regulatory projects

#### **Stronger regulation of market/trading**

In the wake of the financial crisis, the G20 and accordingly also the EU moved toward placing areas of the financial market under stricter supervision that previously had not or only partially been regulated. This affects especially also the area of market/trading.

Short sales of shares and sovereign debt have already been subject to notification to the regulator on the territory of the European Union since November 2012. Starting mid-2013, OTC derivative contracts must be cleared through a central counterparty authorized in the territory of the EEA. Derivative contracts entered into must generally be notified to “trade repositories”. ESMA implementing regulations have already been enacted for this purpose, and more will follow. Additional comprehensive regulations in this field (such as MiFID II) are coming up. For Liechtenstein, the new EU rules apply equally – at least once they have been incorporated into the EEA Agreement – and must be implemented accordingly or are even directly applicable. The undertakings involved in these business areas are therefore called upon to deal at an early stage with the new regulatory circumstances and to make the operational adjustments – some of which are extensive – early on in order to continue to participate in the cross-border market.

These new regulations may affect not only licensed financial institutions, but rather all undertakings engaged in this business to a relevant extent. In addition to banks, funds, asset managers, insurance undertakings, pension schemes, and pension funds, the regulations may also cover industrial enterprises with trading departments.

## 2.2 Banking Division

### Completed regulatory projects

#### Banking Act

On 22 June 2012, article 63(3)(l) and (n) of the Banking Act were amended and introduced. Subparagraph (n) makes non-compliance with obligations under the Banking Act by the external auditor or the head auditor subject to penalties by the FMA, analogous to other financial market legislation.

#### FMA Guideline 2009/1

In November 2012, FMA Guideline 2009/1 on Due Diligence Inspections by Mandated Due Diligence Auditors was amended. The background to the amendments is an optimization of due diligence inspections through new rules governing the selection of samples. Previously, the selection of samples under this FMA Guideline was a 50/50 mix of random sampling and a risk-based approach. Now, the due diligence auditor can decide to what extent random sampling should apply and how many business relationships should be selected according to the risk-based approach.

### Pending regulatory projects

#### Implementation of CRD IV and CRR rules

With the upcoming major banking regulation, which will incorporate the international standards known as Basel III into EU law, the EU banking sector is to be made more resilient. For this purpose, new rules on capital resources, a new governance framework, and a uniform regulatory framework are being created. These comprehensive rules will be instituted in the form of a directive (CRD IV) to be transposed into national law and a directly applicable regulation (CRR), replacing Directives 2006/48/EC and 2006/49/EC. The CRD IV rules were originally planned to enter into force at the EU level on 1 January 2013. However, the decision has been delayed several times, so that the start of implementation at the end of the year is still open. By 1 January 2019, the new rules are to be fully applicable.

#### Implementation of crisis management rules

The goal of these rules is a comprehensive, uniform regulatory framework for crisis management (restructuring and orderly dissolution) in respect of banks and investment firms. The rules will be implemented in the form of a directive. On 12 June 2012, the European Commission published a proposal for a directive for the attention of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms. Prevention, early intervention, and also the resolution of banks and investment firms are to be harmonized by law for the first time, creating a European standard.

With implementation of the directive, banks will be called upon to establish a recovery plan. The recovery plan must set out the measures to be taken by the general management of the institution or a group company to restore financial stability if the financial situation worsens. The recovery plan must contain a broad range of recovery options. Recovery plans should be seen as a tool of corporate governance and a component of preventive stability measures. Resolution plans are also required, to be established by a resolution authority. The resolution plans must include resolution measures serving in the event of crises as a guideline for separating out and securing the continued existence of systemic functions and the remaining components of the company. The resolution tools set out in the directive are sale of business, bridge institution, asset separation (good bank/bad bank), and bail-in. These tools can be employed on their own or jointly.

#### **Implementation of market abuse rules**

With these rules in the form of a directive and a regulation, the existing framework for ensuring market integrity and investor protection, established by the Market Abuse Directive 2003/6/EC, are to be adjusted to the current market reality and strengthened. An important component of the new rules will be an expansion of the scope (such as inclusion of spot markets) and the competences of the competent authorities as well as European harmonization and tightening of penalties. Adoption is planned for mid-2013.

#### **Implementation of the Mortgage Directive**

The sustained crisis on the financial markets has exposed weaknesses in the regulation of lending. For these reasons, a new directive is intended to expressly improve the protection of borrowers. The new rules govern issues such as solicitation, pre-contractual information, advising, credit assessments, and early repayment. Adoption is planned for 2013.

#### **Foreign Account Tax Compliance Act (FATCA)**

This comprehensive US legislation provides that foreign financial intermediaries must identify their US clients and deliver information concerning them to the US tax authorities. Non-cooperative financial intermediaries are threatened with a 30% withholding tax on income from US financial instruments and on income from the sale thereof. At the beginning of 2013, the US Treasury and the Internal Revenue Service (IRS) published the Final Regulations, defining various key points such as the registration portal of the IRS, information reporting, and first-time deductions on certain payments starting 1 January 2014.

#### **Partial transposition of Directive 2009/14/EC (deposit guarantee, 2nd phase)**

In the 2nd phase of implementation of the Deposit Guarantee Directive, the time periods for determining claims and making payouts under the deposit guarantee scheme are to be reduced and the coverage amounts slightly increased. The implementation draft is available and is planned for transposition into Liechtenstein law at the beginning of 2014.

### **Bankruptcy law as part of banking legislation**

Bankruptcy of a bank in Liechtenstein must currently be handled according to the Bankruptcy Code. Only supplementary provisions have been included in the Banking Act so far. In the year under review, a draft consultation report on the creation of a modern bankruptcy law in Liechtenstein within the Banking Act was prepared. The draft focuses on three core areas: protective measures to prevent a case from arising, a recovery procedure in the event of indebtedness or insolvency, and resolution.

Following the Swiss model, the competence for measures to be taken when a case arises, such as failure of a bank to maintain its required equity capital or payment difficulties, would now be assigned to the FMA (and no longer the Court of Justice). Implementation of this regulation is planned the beginning of 2014.

## 2.3 Securities Division

### **Completed regulatory projects**

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#### **Securities Prospectus Act (SPA) and Disclosure Act**

The FMA participated in transposition of the changes to the Prospectus Directive and the Transparency Directive. The partially revised SPA and the partially revised Disclosure Act were adopted by Parliament on 25 April 2012. The amendments entered into

force on 1 August 2012. The amendments promise to enhance the efficiency of securities issues by making the requirements easier to understand, reducing the administrative costs for issuers and financial intermediaries, giving the issuer's employees access to a complete range of investment opportunities, and making it easier for small investors to analyse prospectuses and risks of securities more effectively before making an investment decision. Apart from transposition of the directive, individual adjustments to the SPA were made that are deemed generally advantageous in light of practical experience in securities law.

### **Pending regulatory projects**

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#### **Transposition of the AIFM Directive**

On 19 December 2012, Liechtenstein adopted the Law on Alternative Investment Fund Managers (AIFM Act). The AIFM Act and the associated ordinance (AIFM Ordinance) will enter into force on 22 July 2013. Liechtenstein has accordingly transposed the AIFM Directive 2011/61/EU of the European Union into national law before the deadline applicable to EU member states. For European market access, EEA/EFTA states must incorporate the AIFM Directive into the EEA Agreement. The EU passport, which is necessary for cross-border management and marketing of alternative funds throughout Europe, will become part of the authorization only once the incorporation is completed. The AIFM Ordinance is expected to be ready by the end of January 2013.

### **Regulation on European venture capital funds**

The goal of the proposed regulation on European venture capital funds is to harmonize the term “qualifying venture capital fund”. By creating a common regulatory approach to venture capital funds, a uniform framework for marketing is to be achieved. The financing of small and medium-sized enterprises (SMEs) is to be promoted by way of cross-border fundraising. The regulation clearly specifies the conditions under which specialized fund managers may use the term “European venture capital fund”. Of interest is the expansion of the group of investors to include wealthy private individuals, who may invest in these funds where the conditions are met.

### **Regulation on European social entrepreneurship funds**

The goal of the proposed regulation on European social entrepreneurship funds is to support the market for social enterprises by improving the effectiveness of fundraising through investment funds whose target group consists of such companies. Social enterprises are organized almost exclusively as SMEs. Most of their financing is covered by financial aid, whether from foundations, individuals, or the public sector. The regulation aims to create a uniform legal framework tailored to these specialized investment funds for financing of social entrepreneurship. The regulation clearly specifies the conditions under which specialized fund managers may use the term “European Social Entrepreneurship Fund (ESEF)”. Analogously to the European venture capital fund, the group of investors for ESEFs has been expanded to optimize contributions to such fund structures.

### **Short sales**

On 14 March 2012, the European legislative power adopted the Regulation on short selling and certain aspects of credit default swaps. Uncovered short sales of shares and sovereign debt of the EU states and the EU are now prohibited. Additionally, credit default swaps on such government bonds that do not serve a hedging purpose are also prohibited. The regulation entered into force on 25 March 2012, and its essential parts have been directly applicable since 1 November 2012. The process of incorporation into the EEA Agreement is underway.

### **EMIR**

On 4 July 2012, the European legislative power adopted the Regulation on OTC derivatives, central counterparties and trade repositories (EMIR). EMIR provides that starting in 2013, standardized OTC derivative contracts may no longer be concluded bilaterally, but must necessarily be cleared through central counterparties and reported to trade repositories. The reporting obligation applies from the end of the 2nd quarter of 2013, with retroactive reporting for a specified preceding period. Both the central counterparty and the trade repository must be authorized in the EEA by ESMA. The regulation entered into force on 17 August 2012 and is directly applicable. The process of incorporation into the EEA Agreement is underway.

Apart from this, new regulatory projects such as UCITS V and investment products for small investors are on the horizon. At the ESMA level, another 200 regulations in the form of guidelines and recommendations as well as technical advice are expected.



## 2.4 Insurance and Pension Funds Division

### Completed regulatory projects

#### **Instructions on the head office**

By way of instructions, the FMA has defined the requirements for the head office of an insurance undertaking or pension fund in Liechtenstein. The FMA was repeatedly asked what organizational requirements apply in regard to the legal demands on a head office. The instructions serve to further specify the supervisory requirements and set out a minimum standard. They were published in September 2012 and have since been incorporated into the FMA's regular supervisory practice.

#### **Amendments to the Insurance Supervision Ordinance (ISO)**

As part of the completed revision of the ISO, amendments were made to the provisions governing group and conglomerate supervision. The minimum guarantee fund in life, non-life, and reinsurance was also increased to take account of the changes to the European index of consumer prices published by Eurostat (Notice of the European Commission 2011/C 365/06). The amendments to the ordinance entered into force on 1 January 2013.

#### **Guidelines on Complaints-Handling by Insurance Undertakings**

To create coherent, efficient, and effective supervisory practices, EIOPA has the possibility of enacting guidelines for the purpose of ensuring common, harmonized, and coherent application of EU law (Level 3).

The Guidelines on Complaints-Handling by Insurance Undertakings aim to ensure that all insurance undertakings domiciled in the EEA handle complaints from policyholders uniformly in application of these guidelines. According to article 16(3) of the EIOPA Regulation, the competent authorities and financial institutions must make every effort to comply with these guidelines.

The aforementioned EIOPA Regulation as a basis for the enactment of such guidelines is in the process of being incorporated into the EEA Agreement. Because of Liechtenstein's membership in the EEA and to ensure the cross-border activities of insurance undertakings in the EEA, Liechtenstein has also participated in the envisaged "comply-or-explain" procedure and made a relevant "comply" declaration to EIOPA.

At the national level, the guidelines are to be understood as a best practice whose implementation must be ensured by the affected financial intermediaries and whose compliance is to be monitored by the FMA. The guidelines are a further specification and disclosure of supervisory practice. Implementation and execution in the EEA member states are verified by EIOPA.

The affected insurance undertakings were informed in advance. The guidelines are applicable pursuant to the FMA Communication of 15 January 2013 and must be implemented accordingly.

### Pending regulatory projects

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#### **Transposition of the Solvency II Directive 2009/138/EC**

Solvency II is intended to establish a new European supervisory system providing appropriate qualitative and quantitative tools to the supervisory authorities so that they can sufficiently evaluate the overall solvency of an insurance undertaking. Methods for the risk-based control of the overall solvency of insurance undertakings are to be created. The existing static system for determining capital resources is to be replaced by a risk-based system. Additionally, new requirements relating to governance, risk management, and reporting are being defined.

Already at the end of 2011, an official consultation took place in Liechtenstein on the comprehensive revision of the Insurance Supervision Act and the partial revision of other special laws (International Insurance Contract Act, Insurance Contract Act, Insurance Mediation Act, Pension Funds Act, and Law on Persons and Companies).

A first reading in Parliament was planned for autumn 2012, but had to be rescheduled due to delays of Solvency II at the European level. There continue to be differences of opinion among the European

Commission, Council, and Parliament regarding the question of which rules should be included in the Level 1 provisions. EIOPA is conducting an assessment on long-term guarantees, the outcome of which should not be expected before mid-2013.

Because of this, the schedule for adoption of the Omnibus II Directive is also being delayed, with which the powers of the European Supervisory Authorities are to be further specified and the Framework Directive is to be amended, along with the enactment of implementing measures. Because of the delay, EIOPA is currently preparing implementation of individual elements of Solvency II already at an earlier stage by way of recommendations and guidelines (interim measures).

#### **Transposition of Financial Conglomerates Directive 2011/89/EU**

The EU has adopted an amendment to Directive 2011/89/EU as regards the supplementary supervision of financial entities in a financial conglomerate. In light of the lessons learnt in the financial crisis, the national supervisory authorities are to be endowed with new competences to supervise financial conglomerates (especially parent companies such as holding companies). This should allow the supervisory authorities to simultaneously apply the rules governing banking supervision, insurance supervision, and supplementary supervision of financial conglomerates and in this way to eliminate loopholes in supervision that became evident during the financial crisis. If the financial conglomerate is in difficulty, the

supervisory authorities should in this way be given more and better information at an earlier stage in order to intervene as early as possible.

To transpose the directive, amendments to the Law on the Supplementary Supervision of Undertakings of a Financial Conglomerate (Financial Conglomerates Act), the Law on Banks and Investment Firms, the Asset Management Act, and the Alternative Investment Fund Managers Act are envisaged. The amendments relating to the Solvency II insurance directive are to be taken into account during the ongoing comprehensive revision of the Insurance Supervision Act. A report and application in this regard have been submitted to the Government. Entry into force of the amendments is scheduled for 1 August 2013.

## 2.5 Other Financial Intermediaries Division

### Completed regulatory projects

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#### **Working group on article 905 PGR**

Because of infringement proceedings initiated by the EFTA Surveillance Authority concerning article 905 PGR (co-trustees), the Government appointed a working group that included the FMA. In its final report, the working group recommended that the Government amend the legal bases at issue. After the consultation procedures, the FMA pointed out that, from a supervisory perspective and on grounds of

reputation, it would be useful for every trust to have at least one person with a licence as a professional trustee. Otherwise, the trustee would not be subject to supervision under either the Professional Trustees Act or the Due Diligence Act. Despite concerns voiced by the Association of Professional Trustees, the Chamber of Lawyers, and the FMA, this proposal for professionalization was not adopted, especially in light of the predominant opinions expressed during consultations. The PGR was amended in such a way that article 905 PGR was repealed without being replaced. Additionally, article 180a PGR was expanded to include legal persons, and the exemption clause in paragraph 3 of that article was amended. The last two points had previously been discussed in the working group on article 180a PGR. These amendments entered into force on 1 March 2013.

### Pending regulatory projects

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#### **Improvement of the supervision of professional trustees (comprehensive revision of the Professional Trustees Act)**

The work on the regulatory project to improve the supervision of professional trustees was continued intensively by the FMA in cooperation with the Liechtenstein Association of Professional Trustees (THV). The FMA discussed the proposed draft law with the Board of Directors of the THV, which subsequently had the opportunity to comment in writing on the revised draft. Before the consultation procedure, the Government held a media conference with the participation of the THV and the FMA at the beginning of April. After the consultation procedure,

the Government mandated the FMA to prepare the report and application on comprehensive revision of the Professional Trustees Act. The goal was to analyse the numerous responses received and to include them where possible in the report and application.

The consultation proposal met with a predominantly positive response. The need for the proposed comprehensive revision was recognized. The joint approach of the THV was FMA was also expressly welcomed. In talks with the THV, the Ministry of Finance, and Government Legal Services, individual issues were discussed and taken into account accordingly. Already in September, the draft report and application were handed over to the responsible ministry.

The purpose of the comprehensively revised Professional Trustees Act is especially to protect clients, strengthen trust in the financial centre, promote international market access, and strengthen competitiveness. The focus of the planned amendments is on strengthening supervision by the authority with regard to licensing, permanent compliance with licensing conditions, enforcement of supervision, and withdrawal of licences. Additionally, various new reporting obligations are being introduced to ensure ongoing supervision. This is intended to keep the workload on the part of professional trustees and trust companies as well as the FMA reasonable. Moreover, the disciplinary system is being reorganized, for which a new professional ethics committee for disciplinary matters will be responsible. The creation of an extrajudicial mediation office is also envisaged.

The remaining open points are scheduled to be decided by the responsible ministry in the 1st quarter of 2013. The first reading in Parliament is planned for June 2013. Entry into force is envisaged for 1 January 2014.

#### **Creation of a law on the supervision of persons under article 180a of the Law on Persons and Companies (PGR)**

Again this year, the FMA participated in the working group on the supervision of persons under article 180a PGR, which was appointed by the Government already in 2010. Numerous workshops took place. During preliminary consultations, the FMA submitted several comments regarding the important and central points for effective supervision. The Government adopted the consultation report the end of March 2012. The FMA again submitted comments containing important points for effective supervision that had not yet been taken into account. Subsequently, the FMA repeatedly deposited important concerns with the FMA (including harmonization with the draft comprehensive revision of the Professional Trustees Act). Several discussions with the representative of the responsible ministry and Government Legal Services then took place. In October, the Government decided to integrate the expansion of article 180a PGR to include legal persons and the new version of the exemption clause in paragraph 3 of that article into the report and application on amendment of article 905 PGR. The ministry then indicated to the working group that harmonization with the comprehensive revision of the Professional Trustees Act would be necessary in regard to the rather extensive question of supervision.

In December, the Ministry of Justice announced that the Ministry of Finance would now be responsible for continuing and finalizing the supervisory system.

The creation of the law is intended to establish a comprehensive supervision system for persons under article 180a PGR. As is the case with the comprehensive revision of the Professional Trustees Act, the focus is on stronger supervision by the FMA, including with respect to licensing, permanent compliance with licensing conditions, enforcement of supervision, and withdrawal of licences. Additionally, two publicly accessible directories are envisaged, containing entitled persons not previously disclosed as well as newly approved persons. This enhances transparency in the interest of clients (client protection) and strengthens the reputation of the financial system.

The remaining open points are scheduled to be decided by the responsible ministry in the 1st quarter of 2013. The first reading in Parliament is planned for June. Entry into force is envisaged for 1 January 2014.

#### **Liability insurance**

In regard to new rules governing liability insurance for lawyers and law firms, patent lawyers and patent law firms, professional trustees and trust companies, and auditors and audit companies, the appointed working group – after receiving comments – developed a solution providing for adjustment of the existing laws to the current international standards. Draft new rules governing liability insurance for professional trustees and trust companies were already taken into account as part of the regulatory project

to improve the supervision of professional trustees. The comprehensive revision of the Lawyers Act and future amendments to the Patent Lawyers Act and the Auditors and Audit Companies Act are in principle to be guided by this solution.

#### **Comprehensive revision of the Lawyers Act**

As part of the consultation procedure on the comprehensive revision of the Lawyers Act, the FMA submitted comments to the Government. The comments contain a detailed proposal for new rules governing liability insurance for lawyers and law firms. An important amendment to the Lawyers Act concerns supervision of lawyers, which is to move from the Liechtenstein Chamber of Lawyers (LIRAK) to the FMA. The scope of the right to represent is now also to be regulated: A lawyer's invocation of his or her power of attorney is to replace documentary evidence thereof before all courts and authorities. The first reading of the report and application is scheduled for spring 2013. Entry into force is envisaged for 1 January 2014.

#### **Implementing ordinance for the Auditors and Audit Companies Act (AACA)**

In close consultation with the Liechtenstein Association of Auditors (WPV), the implementing ordinance for the AACA was prepared. The ordinance provides detailed rules governing quality assurance audits conducted by the FMA. The jointly prepared draft ordinance was handed over to the Ministry of Justice in December. This new ordinance is to be adopted by the Government in the first quarter of 2013. Entry into force is planned for 1 May 2013.

**Memorandum of understanding (MoU)  
with the Swiss Federal Audit Oversight  
Authority (FAOA)**

In 2012, the FMA developed a memorandum of understanding (MoU) with the Swiss Federal Audit Oversight Authority (FAOA). The object of the MoU is the mutual recognition of the supervisory activities of the two authorities, thus securing consistent official supervision of auditors and audit companies engaged in the cross-border provision of services. It is expected that this will ensure the desired simplifications, especially also efficient supervision of Swiss auditors and audit companies.

3.1 National external relations

3.2 International external relations

3.3 Bilateral cooperation



### 3.1 National external relations

In the year under review, the FMA's national external relations were strongly influenced by the numerous regulatory projects relating to the financial market. For this purpose, the FMA is a member of the Government's various working and project groups. The FMA's participation in regulation is based on an agreement with the Government. Through these activities, the FMA contributes its expertise to the State's regulatory work. In doing so, it aims to achieve regulation appropriate to the market while ensuring efficient and effective supervision.

The exchange with professional and industry associations was especially intensive. In June, the FMA invited the heads of the associations to discuss the developments in European financial market regulation and their impact on the Liechtenstein financial centre. Due to preparation of the draft law on improved supervision of professional trustees, cooperation during the reporting period was especially close with the Liechtenstein Association of Professional Trustees.

The FMA engages in a regular dialogue with the Government, which has ultimate oversight of the FMA. Additionally, the FMA advises the Government on questions of financial market strategy. The FMA also supported the Government in its public outreach, e.g. by participating in events abroad. In December 2012, Urs Philipp Roth-Cuony held a speech on the Liechtenstein financial centre before Swiss guests in Bern at the invitation of Ambassador Hubert Büchel. Discussions took place with the Finance Committee and the Supervisory Committee of the Liechtenstein Parliament on the developments in financial market supervision and their impact on the FMA.

### 3.2 International external relations

The international external relations of the FMA were characterized by the work of the European Supervisory Authorities (EBA, ESMA, EIOPA), which gained considerable momentum in the second year of their existence. Their main responsibilities include ensuring a consistent and equivalent implementation and application of the European regulatory framework in the area of financial supervision throughout Europe ("supervisory handbook") and in this way developing a uniform supervisory practice ("single rule book"). In this field, financial market supervision and financial market participants are facing a veritable regulatory tsunami. In banking supervision alone, the enactment of about 250 binding technical standards is expected over the next two years, which must also be complied with in Liechtenstein.

At the beginning of October 2012, the FMA Liechtenstein was admitted to the International Forum of Independent Audit Regulators (IFIAR). IFIAR encompasses authorities from a total of 44 countries. Membership gives the FMA access to important information regarding the supervision of statutory audits and ensures that the national supervisory approach meets international standards.

An important event in insurance supervision was the signing of the Multilateral Memorandum of Understanding (MMoU) of the International Association of Insurance Supervisors (IAIS). This MMoU constitutes a uniform framework for international information exchange and has so far been signed by 34 jurisdictions. Signature is a strong sign of the FMA's international recognition.

### 3.2.1 Global cooperation

#### **MONEYVAL**

MONEYVAL is the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism. The main responsibility of this “FATF-style regional body (FSRB)” is to conduct mutual assessments of the member states. According to this mandate, on-site assessments of five member states took place during the reporting period (LT, PL, BG, HR, MC) and the final evaluation reports of seven countries (AD, MT, GE, HS, LV, LT, MD) were adopted in the MONEYVAL plenaries, which take place three times a year. By taking part in the country assessments, the FIU and the FMA again were actively involved in this mechanism. During the reporting period, one employee of the FMA participated in the assessment of the Vatican/Holy See, which was evaluated by MONEYVAL for the first time. This assessment attracted global media interest, contributing substantially to the public image of this work by the Council of Europe committee.

Liechtenstein’s active participation in this body was recognized through the appointment of an FMA employee as one of five scientific experts of the committee. The responsibility of this independent panel of experts is to support MONEYVAL and its chairman on technical issues. The experts are in particular responsible for quality assurance of the country reports and their consistency.

Also Liechtenstein’s anti-money-laundering measures will again be evaluated by the IMF together with MONEYVAL (as part of the 4th evaluation round). A positive evaluation result is important for the international recognition of Liechtenstein’s measures in this field. To further improve Liechtenstein’s defensive measures, individual requirements of the FATF standard were more clearly enshrined in Liechtenstein law during the reporting period by amending the Due Diligence Act and the Due Diligence Ordinance. They form the basis for Liechtenstein to be able to demonstrate its appropriate implementation of international standards in the coming country evaluation.

Apart from the country evaluations, MONEYVAL conducts typological studies on methods, trends, and techniques of money laundering and terrorist financing. In 2012, MONEYVAL continued its work on criminal payment flows on the internet (cyber-crime), online gambling, anti-money-laundering in countries with high cash volumes in commerce, and the deferment of financial transactions and monitoring of bank accounts.

#### **International Organization of Securities Commissions (IOSCO)**

The International Organization of Securities Commissions (IOSCO) defines the internationally valid regulatory standards relating to securities. Liechtenstein’s membership of IOSCO strengthens the global integration of the financial centre and facilitates access to foreign markets for Liechtenstein financial intermediaries. The trend toward increasing internationalization of supervision continued again in 2012.

The FMA participated in the 37th Annual Conference of IOSCO, which took place in May 2012. The focus of the IOSCO Annual Conference was on adopting a resolution to further strengthen international cooperation and information exchange among supervisory authorities. The Multilateral Memorandum of Understanding (MMoU) in effect since 2002 is thus being revised and strengthened. The FMA actively represented Liechtenstein in the relevant workshops and panels. At the Annual Conference, ESMA was also admitted as an affiliate member of IOSCO. This is an important element for ensuring the consistency of European regulatory efforts and international standards.

#### **International Association of Insurance Supervisors (IAIS)**

The International Association of Insurance Supervisors (IAIS), which meanwhile represents more than 190 insurance supervisory authorities, defines international standards for insurance supervision. The IAIS promotes cooperation among supervisory authorities, offers training courses for its members, and ensures intensive exchange with international insurance industry organizations.

In October 2012, the FMA Liechtenstein and the IAIS signed a Multilateral Memorandum of Understanding (MMoU) creating a uniform framework for the exchange of information. Signature of this MMoU is another step in the FMA's strategy to secure international market access for Liechtenstein financial intermediaries.

The Insurance Core Principles (ICPs) developed by the IAIS are of significant importance to national supervisory practices. Implementation and application of the ICPs by the member authorities are regularly verified by the IAIS in assessments. Moreover, they are used by international organizations such as the IMF as a benchmark for evaluating the stability of national and international financial markets. The IAIS's work is largely carried out in committees and working groups.

The FMA is represented on two IAIS committees, in which it actively participates and contributes its expertise. These are the Financial Stability Committee (FSC), whose responsibility is to develop the IAIS's strategy for contributing to global financial stability, and the Macroprudential Policy and Surveillance Working Group (MPSWG), which develops a framework for macroprudential supervision in the insurance sector. This includes the development and evaluation of tools for identifying, assessing, and mitigating systemic risks in the insurance sector. The MPSWG is a subcommittee of the FSC.

#### **International Organisation of Pension Supervisors (IOPS)**

The International Organisation of Pension Supervisors (IOPS) headquartered in Paris is an organization comparable to the IAIS in the field of occupational pensions with more than 70 members. The FMA is also a member of the IOPS. The goal of the IOPS is to optimize the quality and effectiveness of supervision of private pension systems worldwide by way of international standards.

The application of the IOPS Principles of Private Pension Supervision by its members is verified regularly using self-assessments. The findings of the last assessment round are currently being evaluated and discussed in the various bodies of the organization to identify needs for adjustment and to close existing gaps in supervisory practice.

#### **International Forum of Independent Audit Regulators (IFIAR)**

In its plenary meeting of 2 October 2012, the International Forum of Independent Audit Regulators (IFIAR) confirmed the FMA's admission as a member. IFIAR is a worldwide group of independent national audit supervisory authorities. The forum serves to exchange knowledge and experience and promotes international cooperation. In the context of globalized capital markets and the associated international orientation of the markets for audit services, high demands on ensuring internationally consistent supervision must be met. In this regard, IFIAR offers its members the possibility to obtain important information on developments in the fields of audit supervision and auditing and to base their national supervisory practice on modern international standards.

At the end of 2012, 44 audit supervisory authorities belonged to IFIAR. These include supervisory authorities from countries that are important target markets for Liechtenstein financial intermediaries. By joining, the FMA has taken a further step toward securing international market access for Liechtenstein financial market participants. This also underscores the FMA's international recognition.

#### **Enlarged Contact Group on Supervision on Collective Investment Funds (ECG)**

The annual meeting of the Enlarged Contact Group on the Supervision of Collective Investment Funds was held this year in Luxembourg. In addition to discussions of current regulatory developments and questions arising in supervisory practice, the 28 delegates from 20 national supervisory authorities of countries such as South Africa, Brazil, Singapore, the United States and numerous European countries including Liechtenstein got to know the Luxembourg financial and fund centre better and were able to strengthen informal contacts with each other.

### **3.2.2 European cooperation**

#### **Level 2**

The "Level 2" committees (EBC, ESC, EIOPC) support the European Commission in the elaboration of technical implementing provisions for the framework legislation enacted by the EU bodies at Level 1. These committees also advise the Commission on technical questions. As an EEA member, Liechtenstein has observer status in the committees. This allows the FMA to gain first-hand background information about ongoing regulatory projects at the European level.

#### **European Insurance and Occupational Pensions Committee (EIOPC)**

The European Insurance and Occupational Pensions Committee (EIOPC), set up under Directive 2004/9/EC, assists the commission in adopting implementing measures for EU directives. It exam-

ines questions relating to the application of EU rules in the fields of insurance and occupational pensions, and it advises the Commission on proposals for new legislation in those fields.

The committee consists of representatives of the insurance supervisory and regulatory authorities of the 27 EU countries as well as observers from Norway, Iceland, and Liechtenstein. The FMA ensures Liechtenstein's representation in the meetings of the committee. The priority topics in 2012 were especially Solvency II and revision of the IORP and Insurance Mediation Directives.

#### **Committee on the Prevention of Money Laundering and Terrorist Financing (CPMLTF)**

The CPMLTF assists the European Commission on questions relating to the prevention of money laundering and terrorist financing. The focus of the committee's work in 2012 was especially on joint preparation of the draft 4th EU Money Laundering Directive, which is intended especially to implement the new FATF standard published in February 2012 and to remedy the weaknesses identified in the 3rd EU Money Laundering Directive. The new directive proposed by the Commission is scheduled for publication in spring 2013. The final directive will again have to be implemented into national law by Liechtenstein as a member of the EEA. Moreover, the CPMLTF again considered the question of third-country equivalence and revised the list of equivalent third countries developed by the member states.

#### **Level 3**

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The main responsibilities of the European Supervisory Authorities (EBA, ESMA, EIOPA) include ensuring a consistent and equivalent implementation and application of the European regulatory framework in the area of financial supervision throughout Europe ("supervisory handbook") and in this way developing a uniform supervisory practice ("single rule book"). These steps are intended to prevent possibilities for regulatory arbitrage. But also the "gold plating" of national requirements and the associated distortions of competition are to be limited. This goal is to be achieved primarily through legally binding technical standards as well as guidelines and recommendations.

Technical standards govern technical questions of application of EU law and do not contain any strategic or political decisions. They enter into force only once they have been enacted by the EU Commission by way of a regulation or decision. The observation of guidelines and recommendations, which in principle are non-binding, is ensured through political pressure.

The European Supervisory Authorities may only intervene directly if Union law is violated, in crises, and where differences of opinion arise between national supervisory authorities in cross-border cases.

#### **European Banking Authority (EBA) and banking union**

The European Banking Authority (EBA) was mainly occupied with the enactment of technical regulatory and implementing standards, recapitalization of European banks, participating in and advising cross-border colleges, as well as data gathering and risk analysis.

The EBA has already published six guidelines and recommendations to be subsequently implemented by members states. Compliance with these guidelines is also expected of EEA member states including Liechtenstein, which are represented in EBA bodies as observers without voting rights. It should therefore be expected that EBA enactments will also have direct and indirect legal consequences for the legal structure of Liechtenstein's banking legislation. Especially the technical standards become directly applicable once they are adopted by the EEA states and thereby become part of national supervisory law. Additionally, the aforementioned guidelines and recommendations must be taken into account.

After publication of the European CRD IV package (Basel III), the EBA will publish more than 60 such enactments. According to the work programme of the EBA, far more than 100 regulations will enter into effect in the next two years alone, all of which must be evaluated for impact on the Liechtenstein financial centre. Accordingly, a flood of regulations must be expected, requiring strong commitment of personnel resources both for the supervisory authority and the affected financial intermediaries.

In summer 2012, the countries of the Eurozone decided to establish a banking union. Such a union will not affect the core responsibilities of the EBA, however. Firstly, this banking union is an authority covering only the euro countries and accordingly not the entire European Union. Secondly, the main responsibilities of the EBA will continue to be the following: harmonization of supervisory rules in the EU (single rule book), harmonization of supervisory practices in the EU (supervisory convergence), mediation activity when differences among EU countries arise, and performance of pan-European stress tests.

The banking union is primarily intended to consolidate supervision of Eurozone banks at the ECB, leading to acceleration of supervisory convergence. According to the agreement reached by EU heads of government on 13 December 2012, the banking union is to be adopted by the EU bodies by the second quarter of 2013 and become active in 2014.

### **European Securities and Markets**

#### **Authority (ESMA)**

2012 marks the second year of existence of ESMA. It was characterized by a striking expansion of its scope of activities. The FMA has observer status on the Board of Supervisors (BoS), the committees, and working groups. The direct involvement of the FMA in ESMA's regulatory process has quickly become the most important reference point of its supervisory and regulatory activity. During the reporting period, the FMA took part in four meetings of the BoS. The FMA was also represented in several meetings of subcommittees.

The ESMA Investment Management Standing Committee, which is of particular importance to Liechtenstein, dealt with the development of technical standards, guidelines, and recommendations to further specify the UCITS Directive and especially the AIFM Directive. The committee also created a legal framework for cooperation agreements with the supervisory authorities of third countries. Other topics included draft guidelines for the remuneration policies of AIFMs and draft guidelines on ETFs and structured UCITS. The FMA also took part in meetings of the ESMA Review Panel, whose main responsibility is to identify need for harmonization in national legislation. This platform was of relevance to the FMA especially for transposition of the AIFM Directive.



### **European Insurance and Occupational Pensions Authority (EIOPA)**

The European Insurance and Occupational Pensions Authority (EIOPA) is part of the European financial market supervisory system.

While the ongoing supervision of undertakings remains mainly at the national level, EIOPA is intended to ensure greater harmonization and more coherent application of rules for insurance and pension institutions in the EEA. In this way, it aims to guarantee the integrity, efficiency, and functioning of the insurance and pension market and to strengthen depositor and investor protection.

The FMA has observer status at EIOPA. It is represented on the Board of Supervisors and the most important committees and working groups in order to participate in the development process of many different rules and to ensure their coherent implementation.

The most important topic in the year under review was the preparation of transposition of Solvency II, the supplementary Omnibus II Directive, and the associated implementing regulation. Other topics in the area of pensions and occupational provision are the upcoming revision of the IORP Directive and in the area of insurance the revision of the Insurance Mediation Directive (IMD).

### **Anti-Money Laundering Committee (AMLC)**

The Anti-Money Laundering Committee (AMLC) established by the Joint Committee of the European Supervisory Authorities assists the European Supervisory Authorities in the performance of their duties to ensure coherent application of EU law. During the reporting period, the AMLC adopted two reports on national implementation of certain areas of the 3rd EU Money Laundering Directive (definition of beneficial owner and simplified due diligence). The reports showed significant differences in implementation among individual member states. The findings from these reports were included in the EU Commission's proposal to revise the EU Money Laundering Directive.

Additionally, the AMLC has developed a protocol on cooperation between the authorities of the home country and host country in regard to money laundering supervision of agents and branches of payment institutions. The protocol is intended to improve cooperation and coordination between the authorities. It also addresses certain problems under supervisory law that arise in part from unclear specifications in the 3rd Money Laundering Directive and the Payment Services Directive.

The AMLC also analysed application of due diligence by e-money issuers and e-money agents in the various member states. A report on this topic showed where national differences in implementation might weaken the European defensive measures against money laundering. It contains recommendations to the European Commission to eliminate these deficits as part of revision of the E-Money Directive and the Money Laundering Directive.

Furthermore, the AMLC offers an important platform for exchange of experience in supervision law. The member states inform each other on a regular basis of their questions and activities in supervision law. Informal surveys of the member states on specific questions of supervision offer the opportunity to subject the national supervision approach to European benchmarking.

#### **EU Passport Experts Group**

On 26 September 2012, the FMA hosted the meeting of the EU Passport Experts Group. 35 specialists from 26 EEA countries took part. They discussed current questions regarding the EU passport. The informal meeting of experts takes place each year in a different EEA country. The meeting is under the aegis of the German Federal Financial Supervisory Authority (BaFin).

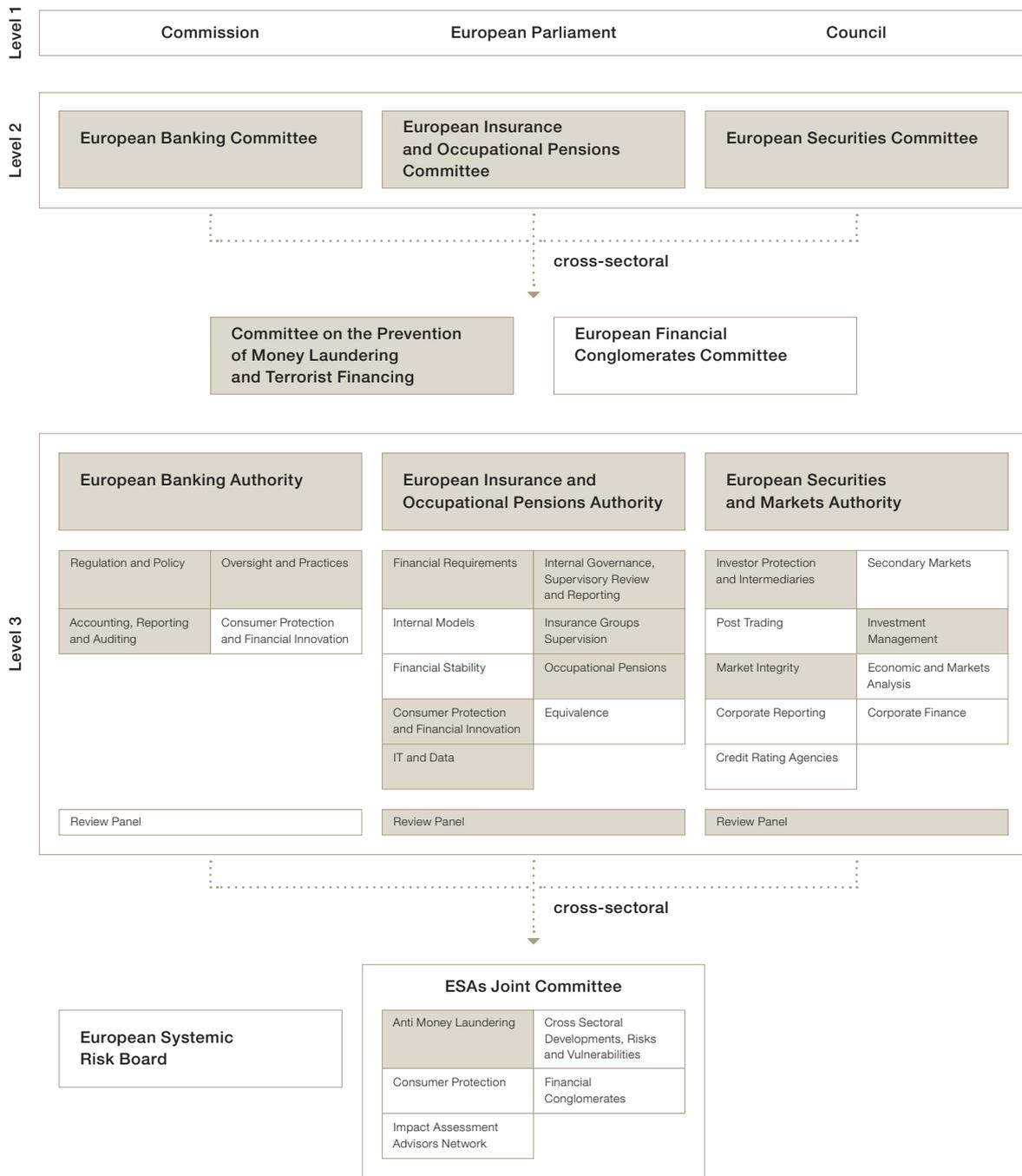
The EU passport allows Liechtenstein financial market participants to market their services and products throughout the entire territory of the EEA by way of notification to the FMA. In return, foreign financial service providers from EEA countries with the EU passport may offer their services and products in Liechtenstein. Without an EU passport, market access is possible only by way of a branch in the country in question.

#### **EFTA Working Group on Financial Services (WGFS)**

The FMA regularly took part in the meetings of the EFTA WGFS. The working group dealt especially with coordination of the incorporation of numerous EU rules issued by the European Supervisory Authorities into the EEA Agreement. The high level of complexity of some of the technical and legal issues has necessitated close cooperation among the EEA/EFTA states.

#### **Four-country meeting**

The annual four-country meeting of the German-speaking supervisory authorities took place in Vaduz. The financial market supervisory authorities from Switzerland, Germany, Austria, and Liechtenstein dealt with topics including the euro and government debt crisis, EU financial market regulation, financial market stability, and cross-border aspects of bank recoveries and bankruptcies.



■ Regular participation    □ No regular participation

Figure 13  
European cooperation

### 3.3 Bilateral cooperation

#### **Banking Division**

The close links with the Swiss banking centre are also reflected in cooperation with the competent Swiss authorities. Bilateral meetings took place between Liechtenstein and Swiss banking supervisors in which information was exchanged regarding joint banking groups. Also in daily business, common themes emerged with the Swiss Financial Market Supervisory Authority (FINMA).

Since the overwhelming majority of audit companies authorized to audit Liechtenstein banks are from Switzerland, cooperation with FINMA is supplemented by a regular exchange with the Swiss Federal Audit Oversight Authority (FAOA). Through a constructive exchange of experiences, the FMA is also able to take appropriate measures to further enhance the quality of bank audits.

Numerous contacts also occurred with banking supervision in Austria, since some Liechtenstein banking groups are also represented in Austria and Austrian bank subsidiaries operate in Liechtenstein. The good cooperation was further strengthened and is planned to be expanded through additional agreements.

#### **Securities Division**

Again in 2012, Securities Supervision was in bilateral contact with different national supervisory authorities. The AIFM Directive also provides for the conclusion of cooperation agreements with the securities supervisory authorities of third countries. ESMA has already approved cooperation agreements with FINMA and the Comissão Mobiliários do Brasil (CVM). ESMA negotiates these agreements on behalf of all competent national securities supervisory authorities of the EU and EEA. For the agreement to enter into force, it must be ratified by the European countries which ratify them bilaterally. The cooperation agreements cover the exchange of information, cross-border on-site inspections, and mutual support in enforcing supervisory rules. Cooperation extends to alternative investment fund managers (AIFMs) managing and marketing alternative investment funds (AIFs) in the EU and EEA and to EU/EEA AIFMs managing and marketing AIFs in third countries. Cooperation also extends to cross-border supervision of custodians and the delegation of AIFMs. Liechtenstein will consider ratification of the two MoUs in 2013.

The content of these MoUs follows the IOSCO Principles on Cross-Border Supervisory Cooperation (2010) and supplements the conditions set out in the IOSCO Multilateral MoU Concerning Consultation and Cooperation and the Exchange of Information (2002).

### **Insurance and Pension Funds Division**

As part of the existing agreement between Liechtenstein and Switzerland on direct insurance and insurance mediation, regular working groups take place between the FMA and FINMA. The focus of the discussions in the working groups and the Joint Committee of the agreement was natural hazards insurance and equivalency review of the two supervision laws.

A joint working meeting takes place every year with the participation of the Swiss Federal Social Insurance Office, the Swiss LOB Guarantee Fund, and the FMA pursuant to the agreement between the Swiss Federal Council and the Government of Liechtenstein on performance of the duties of the Liechtenstein Guarantee Fund. At this meeting, the current developments in the pension scheme market, legal developments in Switzerland and Liechtenstein, and the activities of the Guarantee Fund are discussed.

### **Other Financial Intermediaries Division**

The FMA and the Swiss Federal Audit Oversight Authority (FAOA) began talks in 2012 on establishing a memorandum of understanding (MoU) on cooperation in the supervision of statutory auditors. The FAOA is an independent institution under public law. It supervises auditors of publicly held companies and is responsible for the authorization of persons and companies to carry out the legally required audit services.

In light of the internationally oriented structure of the statutory audit market, there is a need for cooperation so that both the FMA and the FAOA can mutually rely on each other's supervisory activities. This cooperation also prevents duplications in supervisory practice and an excessive burden for the supervised statutory auditor. In the context of the high number of Swiss auditors and audit companies operating in Liechtenstein under the free movement of services, special importance must also be attached to ensuring consistent cross-border supervision.

The talks will presumably be brought to a close in the 1st quarter of 2013. The MoU is intended to enter into force on the day of its signature.

## EXTERNAL RELATIONS

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## 4.1 Organization

### 4.1.1 Organizational structure

The FMA encompasses the following supervisory divisions: Banking, Securities, Insurance and Pension Funds, and Other Financial Intermediaries. The Executive Office covers the following functions: Legal, International Affairs, Communications, and Macroprudential Supervision. Central Services perform the cross-divisional services of Finance and Human Resources, IT and Projects, Infrastructure, and Reception.

The FMA thus has an organizational structure at its disposal to take up and meet the increasingly complex demands on supervision of the financial market. Especially cross-divisional cooperation and the horizontal functions are becoming more important, since numerous regulations affect the financial markets as such and no longer only individual categories of intermediaries.

### 4.1.2 Corporate governance

In November 2009, the Law on the Control and Oversight of Public Enterprises (COPE Act) entered into force in Liechtenstein. Additionally, the draft recommendations on the governance and control of public enterprises in Liechtenstein (Public Corporate Governance Code) were published. The goal of these reforms was to keep step with the international developments in public corporate governance and to intro-

duce an appropriate, uniform, and efficient system for the governance and control of public enterprises in Liechtenstein.

This is achieved through a three-part structure, namely (i) the COPE Act as a framework law governing all areas of public corporate governance that must necessarily be observed by all public enterprises; (ii) modification of the special laws governing only enterprise-specific matters; and (iii) the Public Corporate Governance Code with concrete recommendations for action.

The Public Corporate Governance Code contains guidelines for public enterprises in regard to internal organization, roles and responsibilities of strategic and operational management, and also on management compensation. Although the Code is not legally binding, enterprises are called upon to observe the recommendations. Should this not be possible, reasons must be given. In July 2012, the Government adopted its final recommendations on the governance and control of public enterprises in Liechtenstein and scheduled entry into force for 1 January 2013.

The Board of Directors of the FMA already reviewed the corporate governance structure in 2010 and adapted it to the new requirements. The corporate strategy, the core principles, the articles, and the organizational regulation as well as numerous internal regulations and instructions were revised. Special importance was attached early on to compliance and implementation of the Public Corporate Governance Code. The FMA was therefore able to confirm already at the end of 2012 that it is in compliance with all recommendations on the governance and control of public enterprises in Liechtenstein.

Risk management is of special importance to the FMA. The work of a supervisory authority involves numerous risks. The Public Corporate Governance Code calls for the strategic governance level to ensure adequate risk management. This concerns both the financial centre and financial system as well as the FMA as an enterprise. At the beginning of 2012, the FMA's internal control system (ICS) therefore became operational. It was designed in accordance with the FMA's size and risks. Its purpose is to identify and monitor risks in operational processes and workflows on a regular basis and to define appropriate measures to minimize such risks. At the strategic governance level, the Board of Directors compiles an annual list with the main risks. The list contains the most important internal and external risks and defines the associated measures for dealing with each risk. The FMA's risk management is embedded in the existing management process of the enterprise in this way.

In the performance of their duties, FMA employees may gain knowledge of confidential information. An important component of the FMA's corporate governance is therefore dealing with conflicts of interest. This is done on the one hand through the FMA staff regulation, on the other hand through a disclosure regulation issued additionally by the Board of Directors. The Board of Directors, the Executive Board, and the employees of the FMA must for instance regularly disclose mandates with or investments in supervised financial intermediaries and have them approved. The internal competence for enforcing and monitoring this regulation has been assigned to the Executive Office serving as the compliance office.

#### 4.1.3 FMA funding

On 1 February 2011, the revised provisions on the current funding model of the FMA entered into force. The FMA implemented the new legal requirements in a timely manner. Pursuant to a complaint, the Constitutional Court in September 2012 found a legal provision on the funding model to be unconstitutional and called upon the legislative power to have a constitutionally sound rule enter into force by 1 July 2013. In light of a further case pending before the Constitutional Court, there is a risk that the FMA's current funding model as a whole will be found unconstitutional and voided by the Constitutional Court. Additionally, implementation of the funding model has turned out to be very complex and work-intensive.

In 2013, the legislative power will therefore have to provide a new legislative basis for the FMA's funding. A first formal legislative amendment, without material consequences for the amount of the tax, will have to be adopted by Parliament in the first half of the year already so that the FMA does not lose an important component of its funding base. This loss would necessitate a temporary, non-usage-related cross-subsidy of the FMA by other financial intermediaries not covered by the judgement. Additionally, the FMA would incur high administrative costs. To fulfil the mandate it has been assigned by the State, the FMA relies on financial planning security and a permanent funding base. In addition to constitutionality, the goals of the new funding model are transparency, predictability, and maximum simplicity in application of the rules.

#### 4.1.4 Occupational retirement provision

As an establishment under public law, the FMA Liechtenstein is associated with the Pension Insurance for State Employees for its occupational retirement provision. The FMA commented on the Government's consultation report on funding the coverage gap. In the interest of secure provision, the FMA welcomes the planned funding of the shortfall. The proposed measures lead to a substantial loss of benefits in future retirement provision for insured employees, however.

## 4.2 Corporate development

#### 4.2.1 Human resources management

Coaching sessions and a management event were held in the year under review to further strengthen the management skills of management staff. Internal training is available to transfer expertise and build up knowledge among employees on technical, enterprise-specific, and Liechtenstein-specific topics. The courses are generally offered and taught by internal employees. External experts are invited to speak on current topics relating to supervision.

#### 4.2.2 Corporate identity

Corporate identity is made up of the enterprise's conduct and that of its employees, corporate communication, and visual presentation. After the revision of the FMA's core principles, an understanding of the FMA's role and self-conception was prepared and introduced during the reporting period. It builds on the core principles and creates a uniform understanding of the FMA's role and of the conduct of employees toward market participants, professional associations, and authorities. Supervisory work demands a high degree of social competence from employees, since they must put service mentality into practice without compromising rigorous supervision. The FMA has accordingly expanded its training offerings in this regard.

#### 4.2.3 Corporate communication

The internet is a central and efficient communication channel for the FMA. During the reporting period, the FMA website site was completely revised in terms of technology, visual appearance, and content, and it went online the beginning of October. The content is clearly structured and presented and can be found with just a few clicks. The FMA thus has a modern portal at its disposal for making information available to the financial sector and other user groups. The strong expansion of English-language content takes account especially of the growing interest of foreign users in information provided by the Financial Market

Authority. With its newsletter, the FMA briefs about 1,200 subscribers on current developments and new content. Simultaneously with the website, the FMA has also built up a high-performance intranet as a key internal communication channel. The intranet also began operating the beginning of October.

#### 4.2.4 Information and communication technologies

A focus in IT was preparing the new FMA website. The FMA website has been placed on a modern and future-oriented technological basis. In parallel with the FMA website, a high-performance intranet has been set up on the same platform as the website in order to optimize internal distribution of information. With the launch of the new website and the intranet, an important milestone has been achieved in implementation of the IT Strategy.

In 2012, the FMA worked intensively on the establishment of a central master database to replace division-specific solutions. This work is already well advanced, and introduction is scheduled for the 1st quarter of 2013. The new solution for maintaining master data will not only improve the quality of the data, but also improve efficiency in daily work. Also in 2012, the conceptual work for establishment of a document management system (DMS) began. Implementation of this DMS is planned for the second half of 2013 and is subsequently intended to serve as the basis for implementation of the archiving requirements.

The growing reporting requirements imposed by the European Supervisory Authorities (ESAs) create new challenges also for the FMA's IT. To manage the growing demands with the existing resources, the FMA plans to create an e-SERVICE platform as a new interactive communication channel with the financial intermediaries. Using this platform, all reports from the financial intermediaries to the FMA will in future be processed and – where required – forwarded to the ESAs. Later on, the electronically available services on this platform will be expanded on an ongoing basis.

In addition to these major, cross-divisional IT projects, applications in the individual supervisory divisions must continuously be implemented, adjusted, or expanded. In 2013, for instance, the supervision system in the Securities Division had to be expanded due to implementation of the AIFM Act. Similar projects are coming up in the other divisions as well.

#### 4.2.5 Infrastructure and security

Since moving to the new location at Landstrasse 109 in Vaduz in December 2010, all FMA employees have been under a single roof, and modern infrastructure is now at their disposal. The building meets the Minergie standard supported by Liechtenstein, resulting in low energy consumption. During the reporting period, the security measures were evaluated by an external company. The findings of the audit were very good. The FMA has a security system that ensures the protection of data and information in an effective manner. The visitor and office zones are strictly separated from each other in terms of rooms and security technology. This allows visitors to experience an open FMA.

### 4.3 Finances

Pursuant to article 28 of the Financial Market Authority Act (FMA Act), the FMA is funded by a State contribution, supervision taxes and fees, and income from the provision of services.

In its meeting of 6 December 2011, the Government approved the 2012 FMA budget with a State contribution of CHF 9,000,000 and expenses of CHF 19,320,000. The actual expenses for the 2012 business year were CHF 18,249,159. This corresponds to CHF 1,070,841 (5.5%) less than the approved budget.

Income amounted to CHF 18,502,822 and is thus CHF 682,822 (3.8%) higher than budgeted. Income from licensing fees (+ CHF 378,500) and other fees (+ CHF 260,150) was higher than expected. Minus the total expenses of CHF 18,249,159, the accounts closed with an annual profit of CHF 253,663, which is allocated to reserves.

Personnel expenses in the 2012 business year amounted to CHF 13,191,516 and were thus CHF 518,484 (3.8%) lower than budgeted. The main reason for this is that filling vacant positions took longer than expected and certain resignations were not anticipated.

Material expenses at CHF 4,196,090 were CHF 458,910 (9.9%) lower than budgeted. These savings were achieved especially because the two publicly advertised major IT projects turned out to be significantly less expensive than budgeted. Moreover, expert fees/opinions, premises, public outreach, events and representation, membership fees for associations/institutions, and other expenses came in below budget.

Write-downs totalled CHF 861,552. Thanks to the less expensive IT projects than budgeted, the write-downs on IT equipment were also lower than expected. In contrast, the write-downs on debtors were higher than budgeted. Because of the pending proceedings and applications for decrees concerning levy of the annual supervision taxes, a del credere of 10% was for the first time set aside for the debtors still outstanding. An additional del credere was set aside for those debtors where the outstanding amount appears at risk or non-collectable.

In the 2012 business year, the FMA recorded an annual profit of CHF 253,663. This profit has been allocated to reserves. The reserves accordingly amounted to CHF 9,496,542 as of 31 December 2012. This means the legally defined maximum amount of reserves has nearly been exhausted.

The new funding solution has been in effect since 1 February 2011. All invoices for the final supervision taxes for 2011 and all invoices for the provisional supervision taxes for 2012 were sent out in the year under review. Most of the invoices were paid without problems. In the Other Financial Intermediaries Division (OFI), some financial intermediaries (especially lawyers, professional trustees, and persons under article 180a PGR) requested a decree concerning the invoice for the final 2011 supervision taxes and the provisional 2012 supervision taxes. The basic tax and the amount of the supplemental tax are being contested. In some cases, inspection of the records was also requested. The balance of outstanding invoices as of 31 December 2012 was CHF 480,273. The FMA expects most of this outstanding amount to be paid.

On 3 September 2012, the Constitutional Court found article 30a(2)(d) of the FMA Act (definition of the supervisory division OFI subject to the tax) and article 16(1)(b) of the FMA Tax and Fee Ordinance (basic OFI tax of CHF 500) to be unconstitutional and unlawful and voided them (StGH 2012/83). The annulment enters into effect on 1 July 2013. The Constitutional Court also ruled that it would initiate second review proceedings to review the constitutionality of the supplemental tax. This requires a revision of the legal provisions governing the funding model. The revision will be carried out in two phases. In a first phase, the legal provisions voided by the Constitutional Court effective 1 July 2013 will be adjusted. In a second phase, a complete revision of the funding model is envisaged. The amendments relating to the complete revision should enter into force by 1 January 2014.



Balance sheet as of 31 December 2012 (in CHF)

| <b>Assets</b>            |   | <b>2012</b>          | <b>2011</b>          |
|--------------------------|---|----------------------|----------------------|
| <b>Fixed assets</b>      |   |                      |                      |
| Tangible assets          | – IT equipment                                  | 717,071.39           | 147,039.95           |
|                          | – Furnishings                                   | 179,457.19           | 290,230.37           |
|                          | – Operating equipment                           | 1,285,969.30         | 1,459,112.12         |
| <b>Current assets</b>    |   |                      |                      |
| Liquid assets            | – Cash  | 76.00                | 517.55               |
|                          | – Bank  | 13,030,684.25        | 9,794,795.67         |
| Receivables              | – Debtors                                       | 480,273.15           | 1,771,546.30         |
|                          | – Del credere                                   | –77,898.65           | –32,400.00           |
| <b>Accrued items</b>     |   |                      |                      |
|                          | – Accounts paid in advance                      | 356,405.60           | 1,025,824.21         |
| <b>TOTAL ASSETS</b>      |   | <b>15,972,038.23</b> | <b>14,456,666.17</b> |
| <b>Liabilities</b>       |   | <b>2012</b>          | <b>2011</b>          |
| <b>Equity capital</b>    |   |                      |                      |
|                          | – Endowment                                     | 2,000,000.00         | 2,000,000.00         |
|                          | – Reserves as of 1 January                      | 9,242,878.44         | 9,346,856.60         |
|                          | – Dissolution of/allocation to reserves         | 253,663.31           | –103,978.16          |
|                          | – Own funds                                     | 11,496,541.75        | 11,242,878.44        |
| <b>Provisions</b>        |   |                      |                      |
|                          | – Provisions                                    | 50,000.00            | 50,000.00            |
| <b>Accounts payable</b>  |   |                      |                      |
|                          | – Creditors                                     | 838,886.16           | 1,492,741.51         |
|                          | – National Public Administration offset account | 3,417,919.90         | 1,670,168.23         |
| <b>Deferred items</b>    |   |                      |                      |
|                          | – Accounts received in advance                  | 168,690.42           | 877.99               |
| <b>TOTAL LIABILITIES</b> |   | <b>15,972,038.23</b> | <b>14,456,666.17</b> |

Income statement from 1 January 2012 – 31 December 2012 (in CHF)

| Expenses   | 2012                 | Budget 2012          | Deviation            | 2011                 |
|--|----------------------|----------------------|----------------------|----------------------|
| <b>Personnel expenses</b>                        |                      |                      |                      |                      |
| Wages  | 10,014,977.67        | 10,300,000.00        | -285,022.33          | 9,330,900.52         |
| Social security contributions                    | 1,948,576.76         | 2,115,000.00         | -166,423.24          | 1,746,543.50         |
| Insurance (sickness daily allowances)            | 125,138.75           | 130,000.00           | -4,861.25            | 102,134.45           |
| Insurance benefits (sickness daily allowances)   | -142,496.10          | -85,000.00           | -57,496.10           | -85,346.50           |
| Other personnel expenses                         | 325,564.00           | 300,000.00           | 25,564.00            | 404,027.22           |
| Basic and continuing training                    | 285,790.61           | 300,000.00           | -14,209.39           | 223,446.01           |
| Board of Directors                               | 633,964.68           | 650,000.00           | -16,035.32           | 671,501.66           |
| <b>Total personnel expenses</b>                  | <b>13,191,516.37</b> | <b>13,710,000.00</b> | <b>-518,483.63</b>   | <b>12,393,206.86</b> |
| <b>Material expenses</b>                         |                      |                      |                      |                      |
| Office expenses                                  | 212,522.83           | 195,000.00           | 17,522.83            | 182,322.37           |
| Travel expenses                                  | 415,648.38           | 410,000.00           | 5,648.38             | 334,677.92           |
| Expert fees/opinions                             | 497,997.37           | 625,000.00           | -127,002.63          | 733,151.86           |
| Audit companies                                  | 7,537.30             | -                    | 7,537.30             | 1,480,979.10         |
| Reimbursements from audit companies              | -7,537.30            | -                    | -7,537.30            | -1,480,979.10        |
| Premises   | 1,951,930.46         | 1,985,000.00         | -33,069.54           | 1,981,852.10         |
| Insurance  | 51,673.20            | 55,000.00            | -3,326.80            | 51,790.35            |
| IT costs   | 594,707.18           | 840,000.00           | -245,292.82          | 666,102.50           |
| Public outreach                                  | 113,018.42           | 130,000.00           | -16,981.58           | 122,816.47           |
| Events and representation                        | 47,954.80            | 65,000.00            | -17,045.20           | 71,658.84            |
| Membership fees for associations/institutions    | 150,051.34           | 180,000.00           | -29,948.66           | 128,893.21           |
| Audit expenses                                   | 76,127.30            | 70,000.00            | 6,127.30             | 84,391.20            |
| Other expenses                                   | 84,458.62            | 100,000.00           | -15,541.38           | 89,460.72            |
| <b>Total material expenses</b>                   | <b>4,196,089.90</b>  | <b>4,655,000.00</b>  | <b>-458,910.10</b>   | <b>4,447,117.54</b>  |
| <b>Write-downs</b>                               |                      |                      |                      |                      |
| Write-downs on IT equipment                      | 432,497.87           | 650,000.00           | -217,502.13          | 120,985.87           |
| Depreciation on furnishings                      | 119,425.63           | 115,000.00           | 4,425.63             | 117,695.09           |
| Depreciation on operating equipment              | 173,142.82           | 170,000.00           | 3,142.82             | 173,142.82           |
| Write-downs on debtors                           | 104,086.05           | 20,000.00            | 84,086.05            | 23,975.50            |
| Write-downs on external costs of audit companies | 32,400.00            | -                    | 32,400.00            | 1,139,625.15         |
| <b>Total write-downs</b>                         | <b>861,552.37</b>    | <b>955,000.00</b>    | <b>-93,447.63</b>    | <b>1,575,424.43</b>  |
| <b>TOTAL EXPENSES</b>                            | <b>18,249,158.64</b> | <b>19,320,000.00</b> | <b>-1,070,841.36</b> | <b>18,415,748.83</b> |
| <b>Annual profit (allocated to reserves)</b>     | <b>253,663.31</b>    | <b>-</b>             | <b>253,663.31</b>    | <b>-</b>             |
|  | <b>18,502,821.95</b> | <b>19,320,000.00</b> |                      | <b>18,415,748.83</b> |
| <b>Income</b>                                    |                      |                      |                      |                      |
| Licensing fees                                   | 1,078,500.00         | 700,000.00           | 378,500.00           | 782,700.00           |
| Supervisory taxes                                | 8,002,389.55         | 7,997,000.00         | 5,389.55             | 7,086,020.60         |
| Audit fees                                       | 76,127.30            | 45,000.00            | 31,127.30            | 84,391.20            |
| Other fees                                       | 300,150.00           | 40,000.00            | 260,150.00           | 104,542.20           |
| Other income                                     | 45,655.10            | 38,000.00            | 7,655.10             | 23,116.67            |
| Income related to other periods (reimbursements) | -                    | -                    | -                    | 231,000.00           |
| <b>Total income</b>                              | <b>9,502,821.95</b>  | <b>8,820,000.00</b>  | <b>682,821.95</b>    | <b>8,311,770.67</b>  |
| State contribution                               | 9,000,000.00         | 9,000,000.00         | -                    | 10,000,000.00        |
| <b>TOTAL INCOME</b>                              | <b>18,502,821.95</b> | <b>17,820,000.00</b> | <b>682,821.95</b>    | <b>18,311,770.67</b> |
| <b>Annual loss (dissolution of reserves)</b>     | <b>-</b>             | <b>1,500,000.00</b>  | <b>-1,500,000.00</b> | <b>103,978.16</b>    |
|  | <b>18,502,821.95</b> | <b>19,320,000.00</b> |                      | <b>18,415,748.83</b> |

## Notes on the 2012 financial statement

### Financial accounting principles

According to article 32 of the FMA Act, the supplementary provisions for specific company forms set out in the Law on Persons and Companies (PGR) apply to the preparation of the business report (financial statement and annual report). The FMA uses the provisions for large companies in this regard. These provisions demand essentially that the financial statement give a true and fair view of the asset, financial, and income situation.

### Balancing and valuation methods

Tangible assets are valued at acquisition costs, reduced by depreciation. Depreciation is linear, based on the acquisition costs. The depreciation guideline sets out the following durations of use:

| Category            | Duration of use |
|---------------------|-----------------|
| IT equipment        | 3 years         |
| Furnishings         | 5 years         |
| Operating equipment | 10 years        |

Figure 14  
Duration of use

Receivables are calculated at par value, minus any required value adjustments.

Provisions are to be calculated so as to take sufficient account of all recognizable risks according to a reasonable commercial assessment.

Accounts payable are valued at par value or at the repayment amount, whichever is higher.

### Foreign exchange rates

The FMA only invoices in CHF. Liabilities in currencies other than CHF are booked at the applicable daily exchange rate and accounts paid/received in advance at the monthly average exchange rate for December 2012 as calculated by the Swiss Federal Tax Administration.

### Receivables

All receivables have a maturity of less than one year.

### Fixed assets

The development of the individual fixed asset items is presented separately in the assets analysis:

| Tangible assets     | Acquisition costs          |                     |              |                              | Depreciation      |                   |              |                     | Amortized value     |                     |
|---------------------|----------------------------|---------------------|--------------|------------------------------|-------------------|-------------------|--------------|---------------------|---------------------|---------------------|
|                     | Acquisition costs 1.1.2012 | Acquisitions        | Divestitures | Acquisition costs 31.12.2012 | Balance 1.1.2012  | Acquisitions      | Divestitures | Balance 31.12.2012  | Balance 1.1.2012    | Balance 31.12.2012  |
| IT equipment        | 362,957.60                 | 1,002,529.31        | 0.00         | 1,365,486.91                 | 215,917.65        | 432,497.87        | 0.00         | 648,415.52          | 147,039.95          | 717,071.39          |
| Furnishings         | 588,475.45                 | 8,652.45            | 0.00         | 597,127.90                   | 298,245.08        | 119,425.63        | 0.00         | 417,670.71          | 290,230.37          | 179,457.19          |
| Operating equipment | 1,731,428.20               | 0.00                | 0.00         | 1,731,428.20                 | 272,316.08        | 173,142.82        | 0.00         | 445,458.90          | 1,459,112.12        | 1,285,969.30        |
| <b>TOTAL</b>        | <b>2,682,861.25</b>        | <b>1,011,181.76</b> | <b>0.00</b>  | <b>3,694,043.01</b>          | <b>786,478.81</b> | <b>725,066.32</b> | <b>0.00</b>  | <b>1,511,545.13</b> | <b>1,896,382.44</b> | <b>2,182,497.88</b> |

Figure 15  
Assets analysis

### **Provisions**

As part of accounting under the Law on Persons and Companies (PGR), all provisions are reassessed each year, justified, and adjusted where necessary. The provisions include litigation risks in the amount of CHF 50,000.

### **Long-term liabilities**

The FMA has a rental contract with the Liechtenstein Old Age and Survivors' Insurance Authority (AHV), concluded in December 2010 with a rental term of 20 years. The annual rent amounts to approximately CHF 1.8 million (including ancillary costs and renter investments especially in security).

### **Remuneration of the Board of Directors and Members of the Executive Board (article 1092(9)(a) PGR)**

#### **a) Board of Directors**

Remuneration for the Board of Directors of the FMA in the 2012 business year, including social security contributions, was CHF 633,965. Dr. Ivo Furrer was elected effective 1 July 2011 as a Member of the Board of Directors of the FMA and Dr. Urs Philipp Roth-Cuony effective 1 January 2012 as the new Chairman of the Board of Directors for a term of five years. The other Members of the Board of Directors were elected by Parliament in its meeting of 17 December 2009 for a term from 2010 to 2014.

In its decisions RA 2011/1264-0660 of 25 May 2011 and RA 2011/2351-0314 of 27 September 2011, the Government specified the following remuneration:

- Basic compensation for the Chairman
- Basic compensation for the Vice Chairman of the Board of Directors
- Basic compensation for other members
- Flat-rate meeting compensation per meeting day

#### **b) Executive Board**

The gross remuneration of the Members of the Executive Board in the 2012 business year was CHF 1,651,458 without social security contributions.

The Members of the Executive Board are appointed by the Board of Directors. The Executive Board was composed of the following Members as of 31 December 2012:

- Mario Gassner, Chief Executive Officer
- Dr. Alexander Imhof, Deputy of the CEO and Head of Insurance and Pension Funds Division
- Rolf Brüggemann, Head of Banking Division
- Dr. Marcel Lötscher, Head of Securities Division
- Patrick Bont, Head of Other Financial Intermediaries Division (ad interim)

Effective 1 January 2012, the Board of Directors appointed Marcel Lötscher as the new Head of the Securities Division and Member of the Executive Board. Robert Rastner resigned as Head of the Other Financial Intermediaries Division and as Member of the Executive Board effective 9 November 2012. Patrick Bont served as Head of the Other Financial Intermediaries Division ad interim until 21 February 2013. Effective 22 February 2013, the Board of Directors appointed Patrick Bont as the new Head of the Other Financial Intermediaries Division and Member of the Executive Board.

### Workforce

As of 31 December 2012, the FMA had a total of 79 employees (previous year: 80). 63 employees had full-time contracts and 16 had part-time contracts. In total, the FMA had 72.5 full-time equivalents (previous year: 73.9) as of 31 December 2012.

| Category                      | Persons   | Positions   |
|-------------------------------|-----------|-------------|
| Permanent full-time           | 63        | 63          |
| Permanent part-time           | 16        | 9.5         |
| <b>TOTAL positions filled</b> | <b>79</b> | <b>72.5</b> |
| Temporary appointments        | 0         | 0           |
| Workforce as of 31.12.2012    | 79        | 72.5        |
| Vacant positions              |           | 4.1         |
| <b>TOTAL FMA</b>              | <b>79</b> | <b>76.6</b> |
| Interns                       | 3         | 2.8         |

Figure 16  
Workforce  
as of 31 December 2012

## Attestation of the National Audit Office



FINANZKONTROLLE  
FÜRSTENTUM LIECHTENSTEIN

Report of the National Audit Office to the Government of the Principality of Liechtenstein concerning  
**the Financial Market Authority (FMA) Liechtenstein**

As the Audit Office within the meaning of article 19 of the Law on the Financial Market Authority (FMA Act), we have audited the accounting, the annual financial statement (balance sheet, income statement, and notes) and the annual report of the Financial Market Authority (FMA) Liechtenstein for the business year ending 31 December 2012.

The Board of Directors is responsible for the annual financial statement and the annual report, while our task consists in auditing and evaluating them.

Our audit was conducted in line with the principles of the profession, according to which an audit must be planned and carried out so that significant false statements in the annual financial statement and the annual report are recognized with appropriate certainty. We audited the items and information contained in the annual financial statement by means of analyses and surveys on the basis of samples. Moreover, we evaluated the application of the relevant accounting principles, the significant valuation decisions, and the presentation of the annual account statement as a whole. We are of the view that our audit constitutes a sufficient foundation for our judgment.

According to our evaluation, the annual account statement conveys a picture of the asset, financial, and income situation that corresponds to the actual facts, in compliance with Liechtenstein law. Furthermore, the accounting, the annual financial statement, and the annual report comply with Liechtenstein law, the Law on the Financial Market Authority (FMA Act), and the statutes.

The annual report is in accordance with the annual financial statement. We recommend that the present annual financial statement be approved.

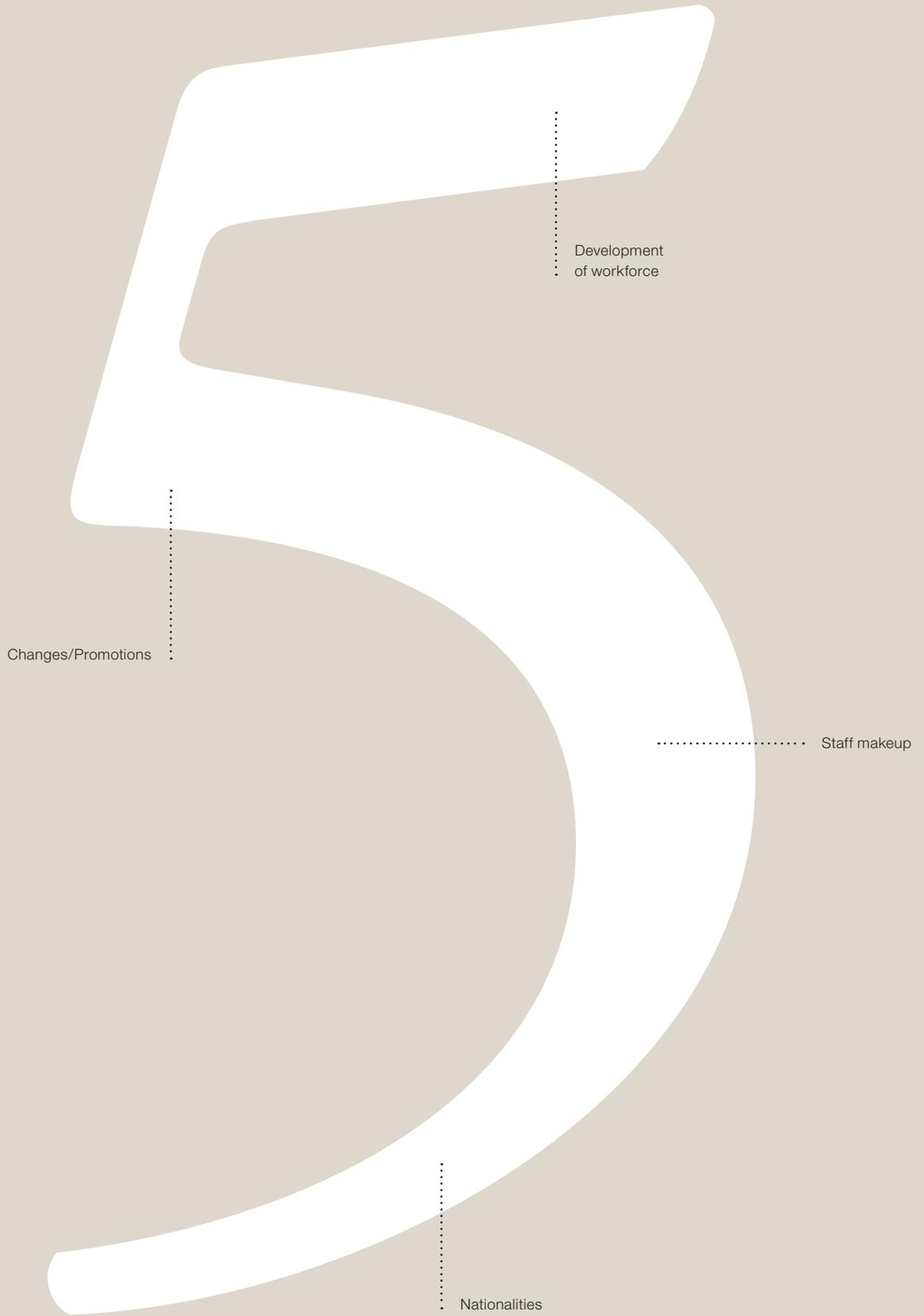
**NATIONAL AUDIT OFFICE**  
of the Principality of Liechtenstein

  
Cornelia Land  
Director

  
Oliver Hermann  
Deputy Director

Vaduz, 22 March 2013

LIECHTENSTEIN



Development  
of workforce

Changes/Promotions

Staff makeup

Nationalities

### Development of the workforce

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As of 31 December 2012, the FMA had 79 employees (previous year: 80). The share of women was 40.5%. 63 employees were full-time and 16 part-time. An equivalent of 72.5 full-time positions were filled as of 31 December 2012. 15 employees left the FMA. The fluctuation was thus slightly higher than in the previous year.

### Changes/Promotions

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Effective 1 January 2012, the Board of Directors appointed Marcel Lötscher as the new Head of the Securities Division and Member of the Executive Board. Robert Rastner resigned as Head of the Other Financial Intermediaries Division and as Member of the Executive Board effective 9 November 2012. Patrick Bont served as Head of the Other Financial Intermediaries Division ad interim until 21 February 2013. Effective 22 February 2013, the Board of Directors appointed Patrick Bont as the new Head of the Other Financial Intermediaries Division and Member of the Executive Board.

### Staff makeup

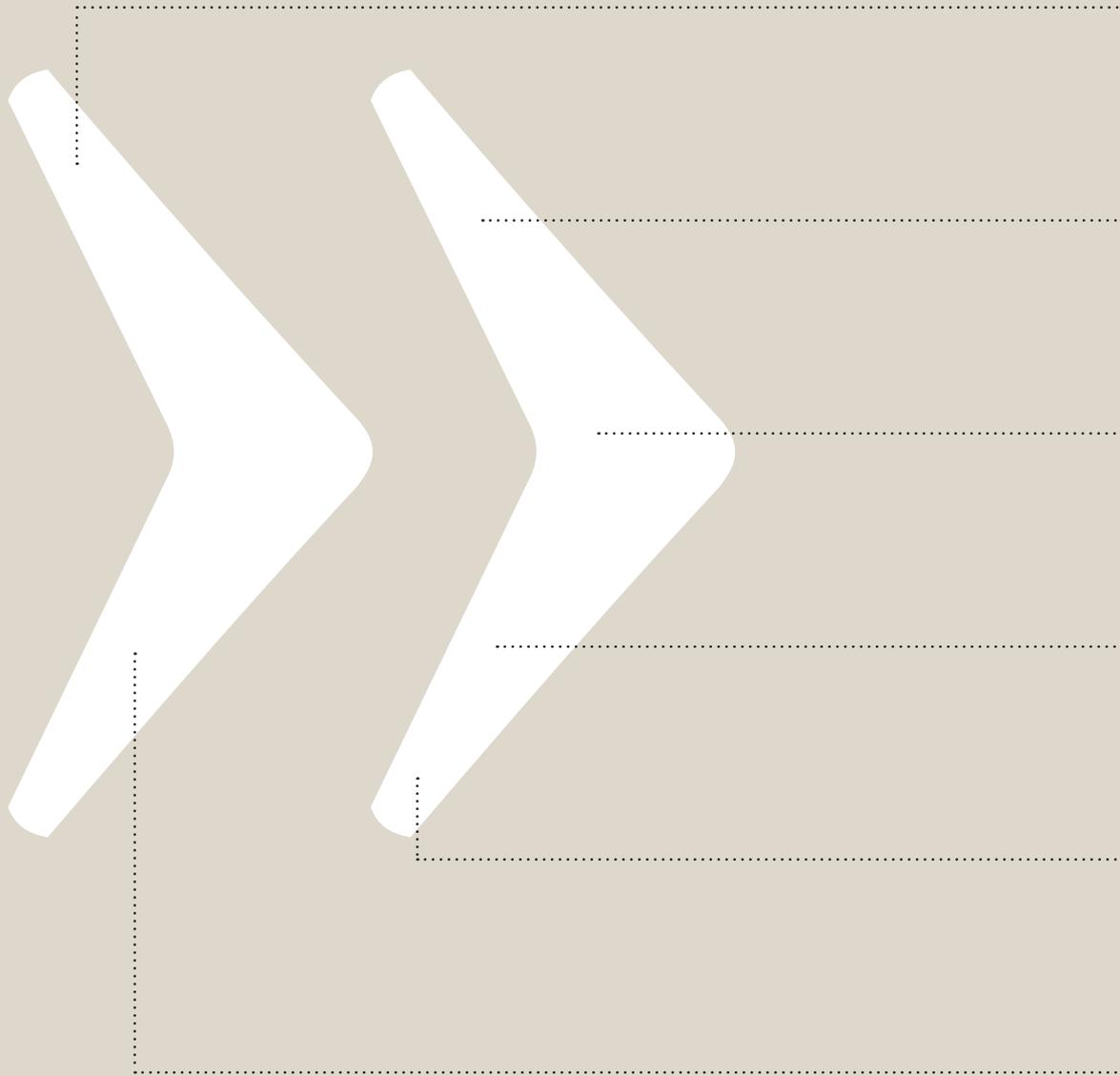
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The staff is made up of 43% lawyers and 25% economists; 12% are specialists such as auditors, banking experts, and actuaries. 20% of the employees are officers or have a different academic background.

### Nationalities

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27% of employees are Liechtenstein citizens, 34% Swiss citizens, 28% Austrian citizens, and 10% German citizens. One employee is a French citizen. The share of Liechtenstein employees fell slightly since the previous year from 28% to 27%.



..... Financial market participants supervised by the FMA

..... Financial market participants supervised by the FMA  
under the free movement of services

..... Laws subject to supervision and enforcement by the FMA

..... Organizational chart

..... Governing bodies

..... Abbreviations

## Financial market participants supervised by the FMA as of 31 December 2012

|  | 2006        | 2007        | 2008        | 2009        | 2010        | 2011        | 2012        | +/-       |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-----------|
| <b>Banks/investment firms/Liechtenstein Postal Service</b>                 |             |             |             |             |             |             |             |           |
| Banks  | 16          | 16          | 15          | 16          | 17          | 17          | 17          | 0         |
| Investment firms (from 1.11.2007)  | –           | 0           | 0           | 0           | 0           | 0           | 0           | 0         |
| Payment institutions (from 1.11.2009)                                      | –           | –           | –           | –           | 0           | 0           | 0           | 0         |
| Liechtenstein Postal Service   | 1           | 1           | 1           | 1           | 1           | 1           | 1           | 0         |
| Audit offices pursuant to the Banking Act                                  | 9           | 10          | 8           | 8           | 8           | 7           | 6           | -1        |
| E-money institution  |             |             |             |             |             |             | 1           | 1         |
| <b>Asset management companies</b>  |             |             |             |             |             |             |             |           |
| Asset management companies (from 1.1.2006)                                 | 48          | 90          | 102         | 102         | 107         | 107         | 109         | 2         |
| <b>Investment undertakings</b>   |             |             |             |             |             |             |             |           |
| Active management companies  | 28          | 27          | 28          | 27          | 24          | 22          | 20          | -2        |
| of which fund managements  | 19          | 20          | 21          | 21          | 21          | 21          | 19          |           |
| of which investment companies  | 9           | 7           | 7           | 6           | 3           | 1           | 1           |           |
| Domestic investment undertakings/funds                                     | 208         | 303         | 364         | 411         | 469         | 535         | 557         | 22        |
| Domestic subfunds/segments   |             |             |             |             |             | 791*        |             |           |
| Foreign investment undertakings with third-country marketing authorization | 137         | 136         | 112         | 95          | 82          | 84          | 82          | -2        |
| Foreign subfunds/segments  | 48          | 89          | 92          | 98          | 114         | 109         | 109         |           |
| Audit offices pursuant to the IUA  | 10          | 10          | 10          | 11          | 11          | 10          | 10          | 0         |
| Entitled to market units pursuant to the IUA (from 1.9.2005)               | 6           | 8           | 11          | 12          | 14          | 13          | 13          | 0         |
| <b>Insurance undertakings</b>  |             |             |             |             |             |             |             |           |
| Insurance companies domiciled in Liechtenstein                             | 35          | 37          | 42          | 41          | 40          | 40          | 41          | 1         |
| Audit offices pursuant to the ISA  | 10          | 9           | 9           | 9           | 10          | 11          | 12          | 1         |
| <b>Insurance intermediaries</b>  |             |             |             |             |             |             |             |           |
| Insurance intermediaries (from 1.7.2006)                                   | 3           | 35          | 64          | 70          | 71          | 68          | 65          | -3        |
| <b>Pension schemes</b>   |             |             |             |             |             |             |             |           |
| Pension schemes  | 39          | 36          | 34          | 33          | 33          | 29          | 29          | 0         |
| Audit offices pursuant to the OPA  | 0           | 12          | 12          | 13          | 14          | 14          | 14          | 0         |
| Pension insurance experts pursuant to the OPA                              | 0           | 10          | 13          | 13          | 14          | 13          | 14          | 1         |
| <b>Pension funds</b>   |             |             |             |             |             |             |             |           |
| Pension funds  | 0           | 2           | 4           | 5           | 5           | 6           | 6           | 0         |
| <b>Other financial intermediaries</b>                                      |             |             |             |             |             |             |             |           |
| Professional trustees  | 84          | 88          | 85          | 83          | 77          | 79          | 70          | -9        |
| Professional trustees with restricted licence                              | 27          | 27          | 28          | 26          | 23          | 21          | 21          | 0         |
| Trust companies  | 277         | 257         | 260         | 262         | 264         | 263         | 259         | -4        |
| Trust companies with restricted licence                                    | 15          | 17          | 19          | 24          | 28          | 29          | 28          | -1        |
| Auditors <sup>1)</sup>   | 24          | 23          | 23          | 24          | 25          | 23          | 33          | 10        |
| Auditors established in Liechtenstein <sup>1)</sup>                        | 0           | 0           | 0           | 0           | 0           | 0           | 3           | 3         |
| Audit companies <sup>1)</sup>  | 25          | 24          | 26          | 26          | 26          | 24          | 24          | 0         |
| Lawyers  | 124         | 128         | 133         | 147         | 150         | 164         | 168         | 4         |
| Liechtenstein lawyers eligible for registration                            | 55          | 63          | 64          | 60          | 66          | 61          | 69          | 8         |
| European lawyers established in Liechtenstein                              | 19          | 20          | 27          | 25          | 25          | 27          | 22          | -5        |
| Law firms  | 26          | 25          | 26          | 28          | 28          | 29          | 29          | 0         |
| Branches of EEA law firms  | 0           | 0           | 1           | 1           | 1           | 1           | 1           | 0         |
| Apprentice lawyers   | 71          | 65          | 71          | 66          | 67          | 56          | 54          | -2        |
| Legal agents   | 5           | 5           | 5           | 5           | 4           | 4           | 3           | -1        |
| Patent lawyers   | 13          | 10          | 10          | 10          | 9           | 9           | 8           | -1        |
| Patent law firms   | 4           | 4           | 4           | 3           | 3           | 3           | 3           | 0         |
| Persons with a certification under article 180a PGR <sup>2)</sup>          | 495         | 505         | 513         | 532         | 546         | 533         | 535         | 2         |
| Exchange offices <sup>3)</sup>   | 2           | 2           | 0           | 0           | 0           | 0           | 0           | 0         |
| Real estate brokers <sup>3)</sup>  | 18          | 18          | 21          | 24          | 25          | 7           | 7           | 0         |
| Dealers in goods <sup>3)</sup>   | 37          | 38          | 39          | 42          | 42          | 11          | 4           | -7        |
| Casinos  | 0           | 0           | 0           | 0           | 0           | 0           | 0           | 0         |
| Other persons subject to due diligence <sup>3)</sup>                       | 27          | 28          | 30          | 32          | 35          | 32          | 29          | -3        |
| <b>TOTAL (including double counts)</b>                                     | <b>1898</b> | <b>2089</b> | <b>2214</b> | <b>2287</b> | <b>2364</b> | <b>2353</b> | <b>2367</b> | <b>14</b> |

\* Because of a change in system, the current result cannot be compared with the earlier figures.

\*\* This includes the auditors eligible for registration not included on 31.12.2011.

1) Information based on the auditor register pursuant to article 6b AACA

2) No guarantee of correctness

3) Information based especially on the notification requirement under article 3(3) DDA

Figure 17  
Financial market participants supervised by the FMA  
as of 31 December 2012

**Financial market participants supervised by the FMA  
under the free movement of services as of 31 December 2012**

|   | 2006        | 2007        | 2008        | 2009        | 2010        | 2011        | 2012        | +/-        |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|------------|
| <b>Banks/investment firms</b>   |             |             |             |             |             |             |             |            |
| Free movement of services of EEA banks  | 108         | 141         | 171         | 179         | 187         | 199         | 213         | 14         |
| Free movement of services of EEA investment firms                             | 840         | 1049        | 1624        | 1699        | 1787        | 1946        | 2148        | 202        |
| Free movement of services of EEA payment institutions                         | 0           | 0           | 0           | 0           | 31          | 72          | 112         | 40         |
| Branches of EEA investment firms  | 1           | 1           | 1           | 0           | 0           | 0           | 1           | 1          |
| Free movement of services of e-money institutions                             | -           | 5           | 7           | 7           | 7           | 7           | 13          | 6          |
| Free movement of services of multilateral trading systems<br>(from 1.11.2007) | -           | 2           | 2           | 2           | 2           | 2           | 2           | 0          |
| <b>Insurance undertakings</b>   |             |             |             |             |             |             |             |            |
| Free movement of services of EEA and Swiss undertakings                       | 240         | 271         | 346         | 375         | 212         | 267         | 287         | 20         |
| Branches of Swiss undertakings  | 26          | 25          | 25          | 22          | 22          | 22          | 17          | -5         |
| Branches of EEA undertakings  | 1           | 1           | 1           | 1           | 1           | 1           | 1           | 0          |
| <b>Management companies and investment undertakings</b>                       |             |             |             |             |             |             |             |            |
| Free movement of services of EEA management companies                         |             |             |             |             |             |             |             |            |
| EEA investment undertakings/funds (segmented)                                 |             |             |             |             |             |             |             |            |
| with a total of segments/subfunds   | 42          | 49          | 52          | 53          | 60          | 61          | 62          |            |
| with a total of segments (individual funds)                                   | 694         | 773         | 793         | 841         | 965         | 933         | 917         | -19        |
| <b>Other financial intermediaries</b>   |             |             |             |             |             |             |             |            |
| Auditors engaging in free movement of services <sup>1)</sup>                  | 3           | 5           | 5           | 5           | 6           | 9           | 37*         | 28         |
| Audit companies engaging in free movement of services <sup>1)</sup>           | 21          | 21          | 21          | 23          | 22          | 22          | 22          | 0          |
| <b>TOTAL</b>  | <b>1343</b> | <b>1631</b> | <b>2310</b> | <b>2408</b> | <b>2388</b> | <b>2661</b> | <b>2948</b> | <b>287</b> |

\* This includes the licensed (responsible) general managers of audit companies engaging in free movement of services not included on 31.12.2011.

1) Information based on the auditor register pursuant to article 6b AACA

Figure 18  
Financial market participants supervised by the FMA  
under the free movement of services  
as of 31 December 2012

### Laws subject to supervision and enforcement by the FMA as of 31 December 2012

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1. Law on Banks and Investment Firms (Banking Act)
2. E-Money Act
3. Law on the Liechtensteinische Landesbank
4. Payment Services Act (PSA)
5. Law on Settlement Finality in Payment and Securities Settlement Systems (Settlement Finality Act; SFA)
6. Law on the Disclosure of Information concerning the Issuers of Securities (Disclosure Act)
7. Securities Prospectus Act (SPA)
8. Law on Investment Undertakings for Other Values or Real Estate (Investment Undertakings Act; IUA)
9. Law on the Liechtenstein Postal Service (Postal Act)
10. Lawyers Act
11. Professional Trustees Act (PTA)
12. Auditors and Audit Companies Act (AACCA)
13. Patent Lawyers Act (PLA)
14. Law on the Supervision of Insurance Undertakings (Insurance Supervision Act; ISA)
15. Law on Professional Due Diligence to Combat Money Laundering, Organized Crime, and Terrorist Financing (Due Diligence Act; DDA)
16. Occupational Pensions Act (OPA)
17. Law on Insurance Protection of Buildings against Fire Damage and Damage from Natural Hazards (Building Insurance Act; BIA)
18. Asset Management Act (AMA)
19. Insurance Mediation Act (IMA)
20. Law on the Supervision of Institutions for Occupational Retirement Provision (Pension Funds Act; PFA)
21. Law against Market Abuse in the Trading of Financial Instruments (Market Abuse Act; MAA)
22. Law on Takeover Bids (Takeover Act)
23. Law on the Supplementary Supervision of Undertakings of a Financial Conglomerate (Financial Conglomerates Act; FCA)
24. Law on Pension Insurance for State Employees (Pension Insurance Act; PIA)
25. Law on Certain Undertakings for Collective Investment in Transferable Securities (UCITS Act)

Organizational chart as of 31 December 2012

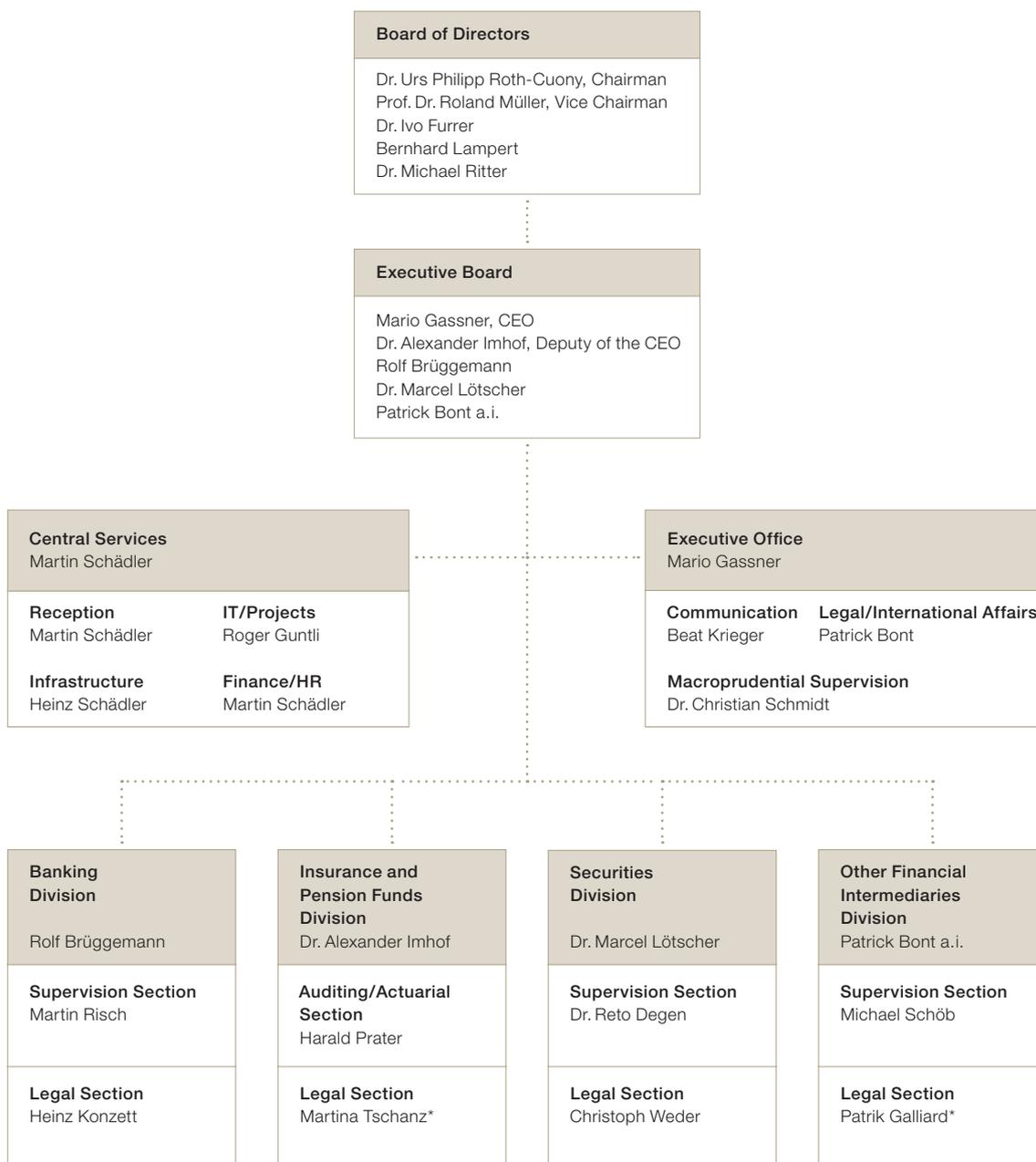


Figure 19  
Organizational chart

\*Deputy Head of Division

### Governing bodies of the FMA as of 31 December 2012

Pursuant to article 6 of the FMA Act, the governing bodies of the FMA are

- a) the Board of Directors,
- b) the Executive Board,
- c) the Audit Office.

| Board of Directors  |   |
|---|---|
| <p><b>Chairman</b><br/>Dr. Urs Philipp Roth-Cuony, Zug, elected from 2012 to 2016</p> <p><b>Vice Chairman</b><br/>Prof. Dr. Roland Müller, Staad, elected from 2010 to 2014</p>   | <p><b>Members</b><br/>Dr. Ivo Furrer, Winterthur, elected from 2011 to 2015<br/>Bernhard Lampert, Schaan, elected from 2010 to 2014<br/>Dr. Michael Ritter, Eschen, elected from 2010 to 2014</p>   |
| Executive Board   |   |
| <p><b>Chief Executive Officer</b><br/>Mario Gassner, Triesenberg</p> <p><b>Deputy of the CEO and Head of Insurance and Pension Funds Division</b><br/>Dr. Alexander Imhof, Schaan</p>   | <p><b>Head of Banking Division</b><br/>Rolf Brüggemann, Stäfa</p> <p><b>Head of Securities Division</b><br/>Dr. Marcel Lötscher, Meggen</p> <p><b>Head of Other Financial Intermediaries Division</b><br/>Patrick Bont a.i., St. Gallen</p> |
| Audit Office  |   |
| <p>Applying article 19(4) of the Financial Market Authority Act, the Government transferred the function of Audit Office to the National Audit Office by its decision of 2 March 2010 (RA 2010/463). The responsibilities of the Audit Office are in principle governed by the specific provisions relating to the National Audit Office.</p> <p>The National Audit Office performs this function until the Government decides otherwise.</p> |   |

Figure 20  
Governing bodies of the FMA

## Abbreviations

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For other laws, see Annex “Laws subject to supervision and enforcement by the FMA” (p. 100)

|          |   |
|----------|---|
| AACA     | Auditors and Audit Company Act  |
| AHV      | Old Age and Survivors' Insurance Authority (Alters- und Hinterlassenenversicherung) |
| AIFM     | Alternative Investment Fund Manager   |
| AIFM Act | Alternative Investment Fund Managers Act  |
| AMA      | Asset Management Company  |
| BCBS     | Basel Committee on Banking Supervision  |
| COPE Act | Law on the Control and Oversight of Public Enterprises                              |
| CPMLTF   | Committee on the Prevention of Money Laundering and Terrorist Financing             |
| CRD      | Capital Requirements Directive  |
| EBA      | European Banking Authority  |
| EBC      | European Banking Committee  |
| EC       | European Community  |
| ECB      | European Central Bank   |
| ECG      | Enlarged Contact Group on the Supervision of Collective Investment Funds            |
| ECOFIN   | Economic and Financial Affairs Council  |
| EEA      | European Economic Area  |
| EFTA     | European Free Trade Association   |
| EIOPA    | European Insurance and Occupational Pensions Authority                              |
| EIOPC    | European Insurance and Occupational Pensions Committee                              |
| EMIR     | European Market Infrastructure Regulation   |
| ESA      | European Supervisory Authority  |
| ESC      | European Securities Committee   |
| ESMA     | European Securities and Markets Authority   |
| ESRB     | European Systemic Risk Board  |
| EU       | European Union  |
| FAOA     | Swiss Federal Audit Oversight Authority   |
| FATCA    | Foreign Account Tax Compliance Act  |
| FATF     | Financial Action Task Force   |
| FINMA    | Swiss Financial Market Supervisory Authority  |
| FIU      | Financial Intelligence Unit   |
| FMA-CC   | FMA Complaints Commission   |
| IAIS     | International Association of Insurance Supervisors                                  |
| ICAAP    | Internal Capital Adequacy Assessment Process  |
| IFIAR    | International Forum of Independent Audit Regulators                                 |
| IMF      | International Monetary Fund   |
| IOPS     | International Organisation of Pension Supervisors                                   |

|          |   |
|----------|---|
| IOSCO    | International Organization of Securities Commissions  |
| IU       | Investment Undertaking  |
| MC       | Management Company  |
| MiFID    | Markets in Financial Instruments Directive  |
| MMoU     | Multilateral Memorandum of Understanding  |
| MONEYVAL | Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism |
| MoU      | Memorandum of Understanding   |
| OECD     | Organisation for Economic Co-operation and Development  |
| OFI      | Other Financial Intermediaries  |
| PEP      | Politically Exposed Person  |
| PGR      | Law on Persons and Companies  |
| QIS      | Quantitative Impact Study   |
| SPA      | Securities Prospectus Act   |
| StGH     | Constitutional Court (Staatsgerichtshof)  |
| UCITS    | Undertakings for Collective Investment in Transferable Securities   |

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**Publisher and Editors**

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**Concept and Design**

Leone Ming, Visible Marketing, Schaan

**Photo Concept**

Sven D. Beham, Ruggell

The butterflies were made available by Peter  
Niederklöpfer, Office of the Environment/  
Natural Science Collection.

The Annual Report is available in German  
and English on the FMA website. No printed  
version is published.



*Niobe Fritillary*  
*Fabriciana niobe*



*Small Emperor Moth*  
*Saturnia pavonia*



*Old World Swallowtail*  
*Papilio machaon*

**Domestic butterflies**

In the Rhine Valley, on its slopes, and in the Alps of the Principality of Liechtenstein, there is a wide variety of flora that is also the basis for a rich fauna. For the illustration of this Annual Report, the FMA chose butterflies – an animal with more than 100 species identified in Liechtenstein. The FMA would like to thank the Office of the Environment ([www.llv.li](http://www.llv.li)) and the Liechtenstein National Museum ([www.landesmuseum.li](http://www.landesmuseum.li)) for their generous support in realizing this concept.



*Black-veined White*  
*Aporia crataegi*



*Speckled Wood*  
*Pararge aegeria*



*European Peacock*  
*Inachis io*

