



Cooperation between the FMA and bank auditors in Austria

Michael Hysek
Managing Director, Banking Supervision
Austrian Financial Market Authority (FMA)

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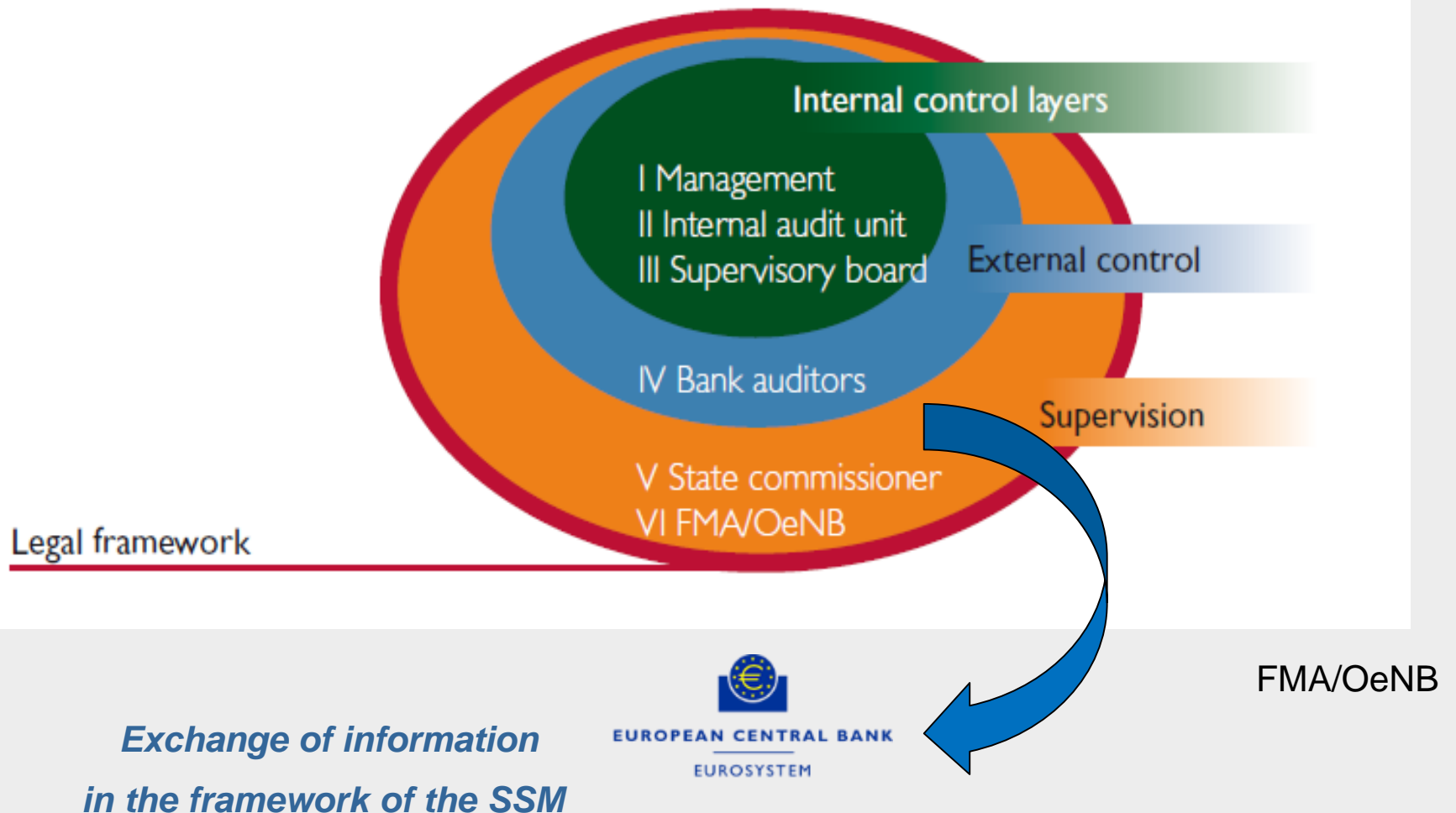
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Supervisory Architecture

Supervisory Architecture: Internal and External Control Layers





■ Austrian Banking Act

- Appointment of bank auditors and notification to the FMA
- Reasons for exclusion of bank auditors
- The annual financial statements of each credit institution (...) must be audited by bank auditors
- Notification obligation in the event of significant changes in the risk or economic situation
- Audit of the Internal Control Mechanism
- Results are presented in an **annex to the audit report**

■ Regulation on the annex to the audit report (AP-VO)

- Prudential annual report to the FMA is audited by the external auditor together with the financial statements of the credit institution
- Uses a standardised template
- SSM: Information about the prudential report for SIs provided to the JST
- Depending on the size of the credit institution, external auditors have to issue reasonable or limited assurance about the effectiveness of internal controls in various areas regarding to:
 - Methods for prudential consolidation
 - Own funds, large exposures and liquidity requirements
 - ICAAP, ILAAP
 - Due Diligence Obligations for the Combatting of Money Laundering and of Terrorist Financing, Compliance Rules etc.

Austrian Banking Act, Article 61 (1) : Bank auditors are certified external auditors (...) from competent auditing organisations established by law

Appointed external auditors

External auditing companies (“Big Four” and some others) are appointed as external auditors of financial statements



Auditors established by law



Cooperation between the FMA and bank auditors

■ Structured dialogue

- **Meetings between FMA and external auditors** held 2 times a year
- **Meetings between FMA and auditors** of the cooperative and savings bank sectors held 3 times a year
- Discussed issues:
 - Information on supervisory priorities
 - Mutual information about regulatory changes
 - Review and discussion of individual supervisory cases
- **Ad hoc – Meetings** (if necessary)

■ Information exchange

- FMA has the power to demand information from bank auditors at any time and whenever necessary

■ Reporting duty of bank auditors in special cases

- CIs at risk of being unable to fulfil their obligations, potential risk for the existence of CIs, material violations of law, etc.

■ Special audits

- FMA may demand special-purpose audit reviews
- Examples:
 - Asset Quality Reviews in SSM context
 - “Panama Papers”

■ Other possible roles for bank auditors:

- **Government Commissioner** (Art. 70 para. 2 Austrian Banking Act)
- **Temporary Administrator** (Art. 29 BRRD)

■ Government Commissioner

- In cases of a credit institution being in danger of not being able to fulfil its obligations to its creditors, the FMA has the right to appoint an **expert supervisor** (“Government Commissioner”)
- Attorney at law or **bank auditor**
- (Partial/full) prohibition of the continuation of business operations
- Directors of the institution may be prohibited from managing the credit institution

■ Temporary Administrator

- FMA may appoint one or several temporary administrators for the credit institution
- Disclosure and definition of role and functions of the temporary administrator by the FMA
- A temporary administrator performs their duties as an organ of the FMA

Practical examples

- (1) Notification from the bank regarding a **shortfall of initial capital**
- (2) **Appointment** of an auditor as **government commissioner** in the case of the fulfilment of the credit institution's obligations to its creditors being endangered;
- (3) **Revocation** of the appointment of the **government commissioner** due to the **revocation of the licence** of the bank, as a result of the bank being acquired by unqualified owners.
- (4) **Reappointment of the auditor** as **government commissioner** due to the bank's appeal being granted suspensory effect at the Higher Administrative Court, and the banking licence being reinstated (on a restricted basis)
- (5) **Government commissioner's appointment became no longer necessary** once there were no longer any creditors, and therefore no longer any danger of the credit institution not being able to fulfil its obligations to its creditors
- (6) Finally **the banking licence** was surrendered

- (1) The bank and the external auditors held divergent views about the valuation of several assets in the financial statements
- (2) The timely adoption of the financial statements was essential for the perception of investors and markets
- (3) FMA felt it essential to maintain close contact to the management of the bank, as well as to the auditors, in order to maximise the level of information available and to also obtain a better impression of the severity of the situation
- (4) Finally, the bank and the auditors reached a solution and agreed on certain valuations of assets, and the financial statements were delivered on time.

Practical Examples III

- (1) Discussions between a potential buyer and the seller of a bank in relation to guarantees relating to foreign exchange transactions led to a complicated situation with the result that the buyer raised serious doubts about the financial statements of the bank
- (2) An escalation of the situation would have resulted in the deal falling through and serious problems in the region in which the bank was operating
- (3) FMA took a neutral position and remained in close contact with the auditors to remain fully informed about their views on the points criticised by the buyer
- (4) FMA was therefore in the best position to estimate the situation, as well as to prepare for eventual subsequent supervisory steps
- (5) The final settlement on the guarantees in relation to foreign exchange transactions between the buyer and the seller of the bank included a clause stating that the doubts about the bank's financial statements had been resolved

Conclusion

Bank auditors provide considerable additional value for banking supervision.

- Important source of supervisory information
- Ensuring ongoing information exchange with the competent authorities
- Providing an opportunity to gain detailed insights into credit institutions
- Allowing ongoing assessment of the Internal Control Mechanism



Michael Hysek
Managing Director, Banking Supervision
Austrian Financial Market Authority

michael.hysek@fma.gv.at
+43-(0)1-24959-1000

<http://www.fma.gv.at>