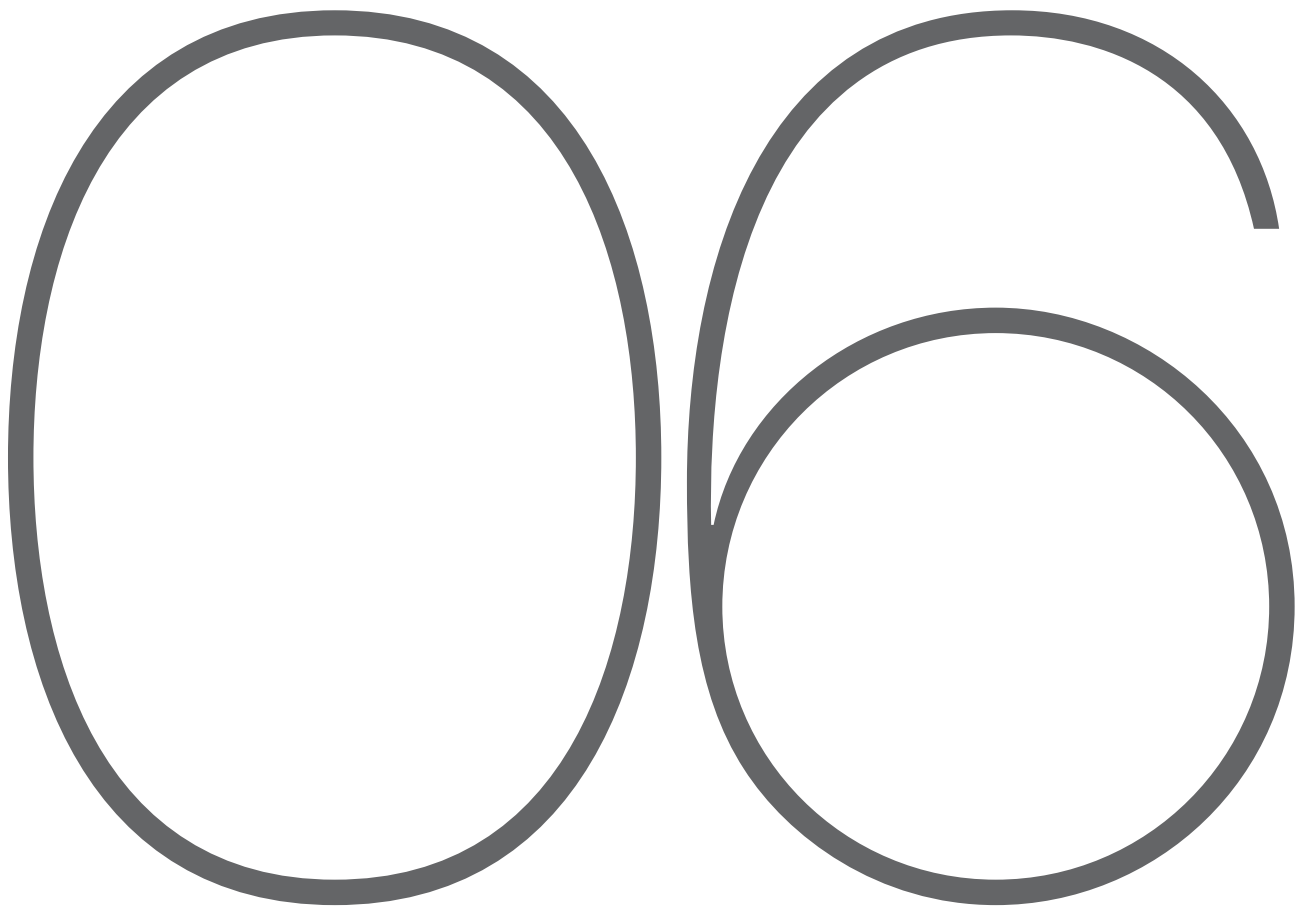




**FMA**

Financial Market Authority  
Liechtenstein



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Vision

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In fulfilling our sovereign mandate in a responsible manner, we safeguard the stability of the financial market, the protection of clients, the prevention of abuse, and the implementation of and compliance with recognized international standards. In this way, we contribute to the competitiveness and standing of the financial market and thereby to the welfare of the country of Liechtenstein.

# Foreword



René H. Melliger  
Chairman of the Board

Dr Stephan Ochsner  
Chief Executive Officer

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The year 2006 was marked by the Principality of Liechtenstein's celebration of 200 years of sovereignty. The Treaty of the Rhine Confederation was signed on 12 July 1806. The sixteen Princes of the Confederation of the Rhine were formally granted sovereignty upon admission to the Confederation. Unlike all other countries in the Confederation, which have been incorporated into other States, the Principality of Liechtenstein has maintained and strengthened this sovereignty. Moreover, the significance of sovereignty has obtained a new dimension in recent decades with the country's accession to the Council of Europe, the United Nations, and the European Economic Area. This development from the beginnings of independence to the country's international linkages in the era of globalization is exemplary.

The FMA began its work on 1 January 2005 as an independent, integrated financial market supervisory authority. Already in its first two business years, the FMA has achieved significant goals and established the foundation for successful and sustainable work in the financial services field, both at the national and international, i.e. globalized, level.

The year 2006 was also marked by consolidation. The design of the FMA as a lean and client-oriented authority has proven its value in this regard. The experiences of the maiden year 2005 were utilized in a targeted manner to improve the efficiency and effectiveness of the FMA by harmonizing and simplifying its work processes. By initiating the Strategy Development and Process Optimization project, the stage has been set for the future.

Gratitude and recognition for the work accomplished in 2006 are primarily due to the entire FMA team, whose performance has been outstanding. Only in this way has it been possible to master the workload, which exceeded expectations, and the scarce staff resources.

As a learning organization, the FMA will continue to do everything in its power to harmonize the national interests with the international demands, guided by our Vision and with the participation of everyone concerned.

René H. Melliger  
Chairman of the Board

Dr Stephan Ochsner  
Chief Executive Officer

# Core Principles

# 1. SUPERVISION

We grant licenses in a responsible and speedy manner, we supervise consistently and fairly, and we fight abuses and punish violations, thereby protecting the clients of the financial market.

# 2. REGULATION

We regulate with the participation of the affected persons and entities, in fulfillment of international standards and taking into account the competitiveness of the Liechtenstein financial market.

# 3. EXTERNAL RELATIONS

We cultivate dialogue in our external relations and are recognized nationally and internationally on the basis of our competence and performance.

# 4. ENTERPRISE

We are independent, internally organized according to private sector principles, client-oriented, and we distinguish ourselves with exceptional quality and pragmatic solutions.

# 5. TEAM

We are a team, actively value each other in our interactions, identify with our goals and responsibilities, act in an entrepreneurial manner, and are proud to make a contribution to success.



# Liechtenstein Financial Market

In 2006, the Liechtenstein financial center again exhibited strong growth. The reasons for this included, in particular, the creation of new financial market products (asset managers and insurance intermediaries) due to Liechtenstein's membership in the EEA, the attractive business environment of the Liechtenstein financial center, and the good market conditions.

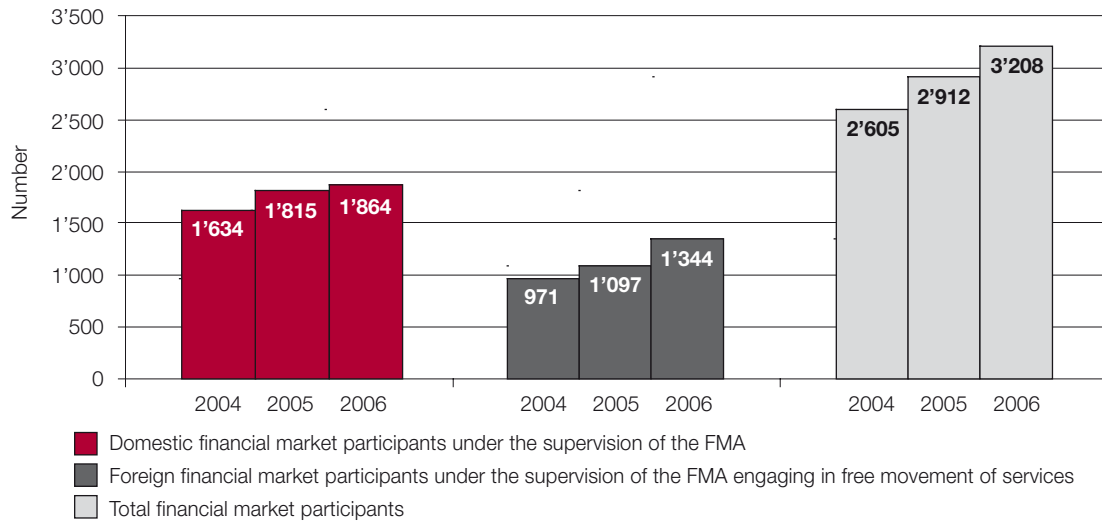
The net assets under management as of 31 December 2006 increased overall by 20.2% from CHF 182.6 billion to CHF 219.4 billion. The 16 banks licensed in Liechtenstein managed (consolidated) client assets amounting to CHF 173.4 billion as of 31 December 2006. This represents an increase of 26.6% relative to 2005. The securities sector also developed in a very satisfactory manner. Overall, Liechtenstein investment undertakings managed assets in the amount of CHF 26.6 billion, which represents an increase of 29.1% relative to the previous year. Insurance undertakings reported capital investments totaling CHF 16.2 billion and therefore attained growth of 58.8% compared with the previous year. The assets under the management of pension schemes rose by 3.2% to approximately CHF 3.2 billion.

**Table 1: Overview of development of net client assets under management as of 31 December**

| in billion CHF                  | 2004  | 2005  | 2006   | Change in %<br>2005/2006 | Change in %<br>2004/2006 |
|---------------------------------|-------|-------|--------|--------------------------|--------------------------|
| Banks                           | 119.4 | 148.7 | 173.4  | +26.6                    | +45.2                    |
| Investment undertakings (funds) | 15.6  | 20.6  | 26.6   | +29.1                    | +70.5                    |
| Insurance undertakings          | 5.1   | 10.2  | *16.2  | +58.8                    | +217.6                   |
| Pension schemes                 | 2.8   | 3.1   | *3.2   | +3.2                     | +14.3                    |
| Total                           | 142.9 | 182.6 | *219.4 | +20.2                    | +53.5                    |

\* interim figures for 2006

When taking stock of the market participants as of the end of 2006, a distinction was made for the first time between natural and legal persons domiciled in Liechtenstein and notified foreign natural and legal persons operating by virtue of free movement of services. The notified foreign financial market participants were only subject to limited, administrative supervision by the FMA.

**Figure 1: Number of financial market participants, 2004 to 2006**

A total of 1'864 financial market participants domiciled in Liechtenstein operated in the financial center as of the end of 2006. This represents an increase of 2.7 % over the previous year. The growth was in particular attributable to asset managers (+ 48) and domestic investment undertakings (+ 42). Due to the creation of the Asset Management Act, trust companies decreased markedly (– 18), however. The number of notified financial market participants also grew significantly. In total, their number rose from 1'097 (2005) to 1'344 (2006), which represents an increase of 247 financial market participants or 22.5 %. The reason for this is in particular the increased use of the European passport in the context of the European Economic Area.

Overall, the number of financial market participants working in Liechtenstein grew last year from 2'912 (2005) to 3'208 (2006). On the basis of the pending inquiries and the announced new formations, an optimistic forecast can be made for 2007 as well. The FMA expects the strong growth of recent years to continue in the coming year.

## INTRODUCTION

**Table 2: Domestic and foreign financial market participants**

Domestic financial market participants as of 31 December

|  | 2004         | 2005         | 2006              | Increase<br>05/06 | Increase<br>04/06 |
|--|--------------|--------------|-------------------|-------------------|-------------------|
| <b>Banks/Finance companies/<br/>Liechtenstein Postal Service</b> |              |              |                   |                   |                   |
| Banks  | 16           | 16           | 16                | 0                 | 0                 |
| Finance companies  | 0            | 0            | 0                 | 0                 | 0                 |
| Liechtenstein Postal Service                                     | 1            | 1            | 1                 | 0                 | 0                 |
| Audit offices pursuant to the Banking Act                        | 9            | 9            | 9                 | 0                 | 0                 |
| <b>Asset managers</b>  |              |              |                   |                   |                   |
| Asset managers (from 1 January 2006)                             | –            | –            | 48                | 48                | 48                |
| <b>Investment undertakings</b>                                   |              |              |                   |                   |                   |
| Domestic investment undertakings                                 | 141          | 166          | 208               | 42                | 67                |
| of which segmented   | 42           | 45           | 48                | 3                 | 6                 |
| with a total of segments (individual funds)                      | 141          | 156          | 179               | 23                | 38                |
| Foreign investment undertakings                                  | 208          | 239          | 137 <sup>1)</sup> | –102              | –71               |
| of which segmented   | 52           | 56           | 13                | –43               | –39               |
| with a total of segments (individual funds)                      | 580          | 659          | 48                | –611              | –532              |
| Audit offices pursuant to the IUA                                | 9            | 10           | 10                | 0                 | 1                 |
| <b>Insurance undertakings</b>                                    |              |              |                   |                   |                   |
| Insurance companies domiciled in Liechtenstein                   | 28           | 31           | 35                | 4                 | 7                 |
| Audit offices according to the ISA                               | 10           | 10           | 10                | 0                 | 0                 |
| <b>Insurance intermediaries</b>                                  |              |              |                   |                   |                   |
| Insurance intermediaries (from 1 July 2006)                      | –            | –            | 3                 | 3                 | 3                 |
| <b>Pension schemes</b>   |              |              |                   |                   |                   |
| Pension schemes  | 40           | 41           | 39                | –2                | –1                |
| <b>Other financial service providers</b>                         |              |              |                   |                   |                   |
| Professional trustees  | 82           | 86           | 84                | –2                | 2                 |
| Professional trustees with restricted license                    | 23           | 27           | 27                | 0                 | 4                 |
| Trust companies  | 284          | 295          | 277               | –18               | –7                |
| Trust companies with restricted license                          | 10           | 13           | 15                | 2                 | 5                 |
| Auditors   | 23           | 24           | 24                | 0                 | 1                 |
| Auditing companies   | 28           | 26           | 25                | –1                | –3                |
| Lawyers  | 110          | 116          | 124               | 8                 | 14                |
| Registrable Liechtenstein lawyers                                | 48           | 55           | 55                | 0                 | 7                 |
| Resident European lawyers  | 18           | 18           | 19                | 1                 | 1                 |
| Lawyer cooperatives  | 27           | 28           | 26                | –2                | –1                |
| Branches of law firms  | –            | 1            | 0                 | –1                | 0                 |
| Trainee lawyers  | 58           | 64           | 71                | 7                 | 13                |
| Legal agents   | 5            | 5            | 5                 | 0                 | 0                 |
| Patent attorneys   | 12           | 13           | 13                | 0                 | 1                 |
| Patent attorney firms  | 5            | 5            | 4                 | –1                | –1                |
| Persons with a certification under art. 180a PGR                 | 438          | 461          | 495               | 34                | 57                |
| Exchange offices   | 1            | 1            | 2                 | 1                 | 1                 |
| Real estate brokers  | *            | 16           | 18                | 2                 | 18                |
| Dealers in high-value goods and auctioneers                      | *            | 17           | 37                | 20                | 37                |
| Casinos  | *            | 0            | 0                 | 0                 | 0                 |
| Other persons subjects to due diligence                          | *            | 21           | 27                | 6                 | 27                |
| <b>Total (including double counts)</b>                           | <b>1'634</b> | <b>1'815</b> | <b>1'864</b>      | <b>49</b>         | <b>230</b>        |

\* subject to the DDA since 1 February 2005

<sup>1)</sup> The strong decrease in foreign investment undertakings is due to the fact that notified financial market participants were reported separately for the first time as of 1 December 2006.

Foreign financial market participants under the supervision of the FMA engaging in free movement of services as of 31 December

|  | 2004       | 2005         | 2006         | Increase<br>05/06 | Increase<br>04/06 |
|--|------------|--------------|--------------|-------------------|-------------------|
| <b>Banks/Finance companies</b>                           |            |              |              |                   |                   |
| Free movement of services of EEA banks                   | 72         | 88           | 108          | 20                | 36                |
| Free movement of services of EEA investment firms        | 653        | 737          | 840          | 103               | 187               |
| Branches of EEA investment firms                         | 0          | 1            | 1            | 0                 | 1                 |
| <b>Insurance undertakings</b>                            |            |              |              |                   |                   |
| Free movement of services of EEA and Swiss undertakings  | 201        | 225          | 240          | 15                | 39                |
| Branches of Swiss undertakings                           | 26         | 23           | 26           | 3                 | 0                 |
| Branches of EEA undertakings                             | 1          | 1            | 1            | 0                 | 0                 |
| <b>Management companies and investment undertakings</b>  |            |              |              |                   |                   |
| Free movement of services of EEA management companies    | –          | –            | 1            | 1                 | 1                 |
| Free movement of services of EEA investment undertakings | –          | –            | 103          | 103               | 103               |
| of which segmented                                       | –          | –            | 42           | 42                | 42                |
| with a total of segments (individual funds)              | –          | –            | 694          | 694               | 694               |
| Branches of EEA management companies                     | –          | –            | 0            | 0                 | 0                 |
| <b>Other financial service providers</b>                 |            |              |              |                   |                   |
| Auditors engaging in free movement of services           | –          | 2            | 3            | 1                 | 3                 |
| Auditing companies engaging in free movement of services | 18         | 20           | 21           | 1                 | 3                 |
| <b>Total</b>   | <b>971</b> | <b>1'097</b> | <b>1'344</b> | <b>247</b>        | <b>373</b>        |

# The Board



The Board was elected by the Liechtenstein Parliament in October 2004 for its first term from 2005 to 2009 in the following composition:

|                                    |  |
|------------------------------------|--|
| <b>Chairman (acting full-time)</b> | René H. Melliger, Schaan (FL) <sup>1</sup>                       |
| <b>Vice Chairman</b>               | Dr oec. HSG Jochen Hadermann, Triesen (FL) <sup>2</sup>          |
| <b>Members</b>                     | Dr iur. Martin Batliner, LL.M., Eschen (FL) <sup>3</sup>         |
|                                    | Dr iur. Hans Haumer, Klosterneuburg (A), Vaduz (FL) <sup>4</sup> |
|                                    | Dr oec. HSG Stefan Jaeger, Teufen (CH) <sup>5</sup>              |

In the second business year, the Board again fulfilled its responsibility in carrying out its many diverse tasks and competences within the FMA. As a rule, it met once a month.

In cooperation with the General Management, the Board successfully advanced the implementation of the Vision and the Core Principles as a contribution to corporate governance. Based on the Vision and the Core Principles, the development of a comprehensive strategy for the FMA was launched in the reporting year, which will be incorporated into the FMA Mission 2009. The objectives, which are derived from the Mission, will then be incorporated in a timely matter into the business planning and the budget. As a consequence of the implementation of the individual objectives deriving from the Mission, the full optimization potential of the processes and control mechanisms of the FMA will be tapped.

**Figure 2: Corporate governance model of the Financial Market Authority (FMA) Liechtenstein (FMA as a learning organization)**



\* Mission 2009: We perform excellence

Modules, hard and soft factors, networking  
Feed forward (top-down) + feed back (bottom-up)

## INTRODUCTION

In the course of the initiated strategy project, the effectiveness of the FMA processes will be reviewed, and an IT solution will be implemented as a process support and governance tool with a focus on supervision and regulation. To guarantee the requisite professionalism for this project, the Board has brought in an external expert. The project is an integrating component of the catalogue of objectives and the budget for 2007.

Under the supervision of the Board, a separation of FMA accounting from the Liechtenstein Office of Financial Accounting was also evaluated in the 2006 reporting year with a view to potential process optimization. A tailored solution will allow accounting to be employed increasingly as a key instrument for fulfillment of corporate governance tasks by the Board and as a controlling tool for the General Management. The General Management and the Board will thereby have additional decision-making foundations and governance tools at their disposal, within the framework of their mandate under article 12(d) and article 17 of the Financial Market Authority Act (FMA Act).

In the 2006 reporting year, the Board also approved an amendment to the FMA Staff Rules, establishing the foundation for introducing a working hours honor system and eliminating payment of overtime as of 1 January 2007. Accordingly, the leadership and staff of the FMA will face a broader, demanding challenge of cultivating and expanding the culture of trust within the organization. The main concern of the Board with respect to this project was in particular to increasingly focus the staff members of the FMA on the efficiency and effectiveness of their performance.

For purposes of cultivating external relations, monthly meetings and meetings as needed with the Prime Minister again took place, in particular to advise the Government on financial market strategies pursuant to article 12, paragraph 1(b) of the FMA Act and to jointly discuss fundamental questions pertaining to the regulation of the financial center.

In addition to other meetings at the national level, such as with the Finance Committee of Parliament and the National Audit Office serving as the Audit Office of the FMA, the Chairman of the Board also personally took part in important international events such as the 4-countries meeting of the German-speaking supervisory authorities (DACHL) and visits to the Swiss National Bank and numerous EU bodies in Brussels and London. In addition to his mandate as Chairman of the Board, his representation of Liechtenstein (delegated by the Liechtenstein Government) on the EFTA Board of Auditors in Brussels and the Auditing Board of the Council of Europe Development Bank in Paris were particularly intensive and valuable. Moreover, the Chairman of the Board took part in the International Conference of Banking Supervision (ICBS) in Mexico in the context of his mandate, together with the Chief Executive Officer.





# The General Management



**Chief Executive Officer**  
**Deputy of the CEO and Director of Insurance**  
**and Pension Funds Supervision**  
**Director of Banking and Securities Supervision**  
**Director of Other Financial Service Providers**  
**Supervision**

Dr iur. Stephan Ochsner, LL.M., Eschen (FL)<sup>1</sup>  
Mario Gassner, Triesenberg (FL)<sup>2</sup>

Christian Reich, St. Gallen (CH)<sup>3</sup>

Dipl.-Jur. Dunja Süssli, Werdenberg (CH)<sup>4</sup>

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The focus of the General Management in the second year of operations of the FMA was in particular on internal reorganization, process optimization, and consolidation. Due to entry into force of new legislation (Asset Management Act, Insurance Mediation Act), the supervisory and decision-making competences of the General Management were also expanded. In this connection and thanks to the positive business environment, the number of applications for licenses rose significantly. The General Management addressed this challenge by optimizing process workflows, especially by introducing approval letters to replace the customary decrees for approving applications. In this connection, the FMA Statute and the FMA Rules of Procedure were also amended in order to delegate competences of the General Management to the operational divisions Banking and Securities Supervision, Insurance and Pension Funds Supervision, and Other Financial Service Providers Supervision. By the end of 2006, this had already resulted in a measurable improvement of efficiency with respect to the approval procedure.

Regulatory tasks also took up a large part of the resources of the General Management in the 2006 reporting year. In particular, the focus was on efforts to implement the EC Markets in Financial Instruments Directive (MiFID), the EC Market Abuse Directive, EC Financial Analysis Directive, the EC Prospectus Directive, the EC Pension Funds Directive, and the EC Insurance Mediation Directive.

With respect to organizational structure, the designations of the individual divisions were adjusted to their expanded responsibilities arising from entry into force of the new supervision laws and the creation of new financial intermediaries. Additionally, the Central Services Unit and the Integrative and International Affairs Unit were merged to take advantage of the synergy potentials.

The experiences of the first business year were incorporated into the operational governance of the FMA at various levels in 2006. For instance, increased emphasis was placed on the risk monitoring of financial market participants.

At the beginning of March 2006, the expertise of the General Management was expanded by the appointment of Christian Reich, Banking Expert and Business Economist FH, as a Member of the General Management and Director of Banking and Securities Supervision.

In 2007, the focus will be on elaboration of a strategy and comprehensive process optimization on the basis of the Vision and Core Principles of the FMA. The assessment of the financial center by the International Monetary Fund (IMF) in March/April 2007 will constitute a further highlight of the FMA's work.

# Supervision



We grant licenses in a responsible and speedy manner, we supervise consistently and fairly, and we fight abuses and punish violations, thereby protecting the clients of the financial market.

We execute the laws governing the Liechtenstein financial market.

We grant licenses in a responsible manner and pursuant to a careful and speedy review.

We supervise independently, free from instructions, and in an integrated and forward-looking manner.

Taking into account the risk in question, we supervise consistently and fairly.

We fight abuses and punish violations.

We protect the clients of the financial market.

Within the framework of applicable law, we exchange information with authorities in Liechtenstein and abroad.

In the area of supervision, a marked increase in the number of cases needing treatment by the FMA was recorded in the 2006 business year. Additionally, several adjustments were made to FMA-internal supervision processes during the 2006 business year.

### Delegation of competence

On the basis of the experiences gained since the operational launch of the FMA, the FMA Statute and the FMA Rules of Procedure were amended in the middle of 2006, effecting a formal delegation of certain supervisory activities to the respective divisions that previously had been the direct responsibility of the General Management. In particular, the newly introduced article 11 of the FMA Rules of Procedure expanded the competences of the divisions with respect to the granting, amendment, and deletion of licenses. As part of the regular monthly and quarterly reports, the General Management was informed of the activities in the areas of delegated responsibilities.

### Simplified licensing procedure

Moreover, the process workflows for granting licenses were adjusted to the needs of financial intermediaries in the middle of 2006. Market participants primarily expressed the wish for approval of decisions to be communicated as quickly as possible, while the form of the decision was, as a rule, of secondary importance.

An affirmative or negative decree by the FMA constitutes the conclusion of the licensing procedure. If the content of the decree is fully affirmative, the authority is called upon to set out the legally required content of the decision in a decree (decision, description of the facts, legal assessment, and information on legal remedies). The applicant is often “only” interested in the license, but not in

an extensive explanation. The elaborate and time-consuming work therefore does not create added value for the applicant. Rather, an approved company may perceive this as a disadvantage, if it has to present a decree containing detailed information on all licensing requirements to their business partners as evidence of approval.

Against this background, the FMA developed a sample application containing a waiver of issue of the decree under article 82, paragraph 2 of the National Administration Act (NAA). Where the content of a decree is fully affirmative, the applicant then receives a notice of approval that only contains the decision of the decree. This notice of approval is comparable to the abbreviated copy of the decree issued in Switzerland and Austria. The simplified licensing procedure can only be applied, however, if the application is fully approved by the FMA. If the FMA has to deviate from the application (rejection of the application, approval of the application with restrictions or conditions), then it must, as before, issue an appealable decree.

With this switch from decrees to simplified letters of approval, the FMA has not only responded to the needs of the financial intermediaries, but has simultaneously achieved a measurable internal improvement of efficiency and enabled a cross-divisional harmonization of the relevant processes.

### Supervision and execution of laws

The 2006 business year saw the entry into force of the Insurance Mediation Act (IMA) and the Asset Management Act (AMA). These expand the supervision and execution responsibilities of the FMA, which encompassed 19 financial market enactments by the end of 2006.

**Table 3: Laws subject to the supervision and execution of the FMA as of 31 December 2006****As of 31 December 2006, the FMA was responsible for supervision and execution of the following 19 laws:**

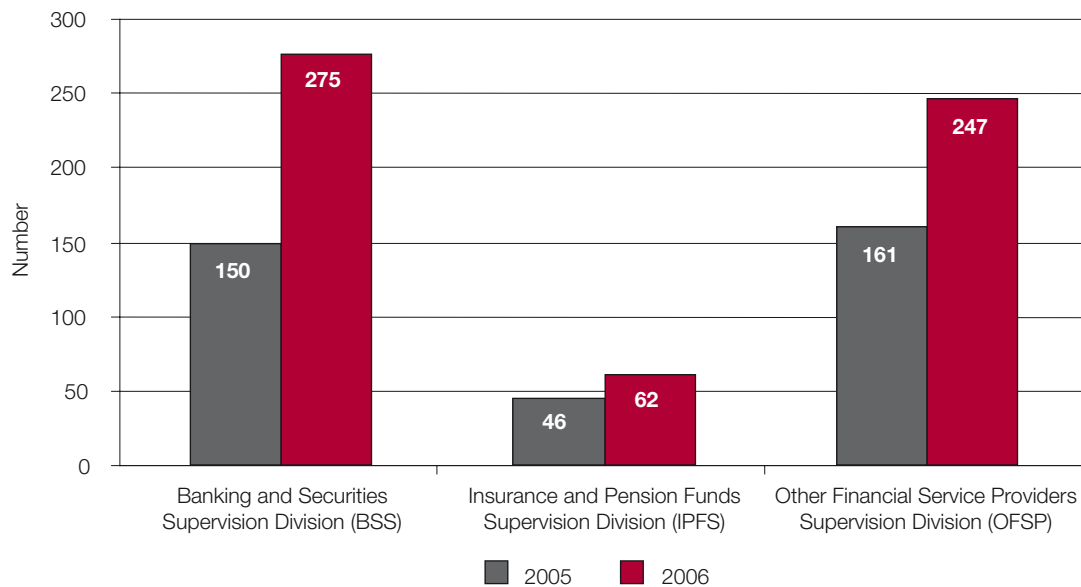
1. Law on Banks and Finance Companies (Banking Act);
2. Law on the Business of Electronic Money Institutions (E-Money Act);
3. Law on the Liechtensteinische Landesbank;
4. Law on the Execution of Cross-Border Credit Transfers (Financial Transfers Act)
5. Law on Settlement Finality in Payment and Securities Settlement Systems (Finality Act);
6. Law on the Disclosure of Major Holdings in Listed Companies (Disclosure Act);
7. Law on the Drawing-up, Scrutiny and Distribution of the Prospectus to be Published at Public Offerings of Securities (Prospectus Act);
8. Law on Investment Undertakings (Investment Undertakings Act; IUA);
9. Law on the Liechtenstein Postal Service (Postal Act);
10. Law on Lawyers (Lawyers Act, LA);
11. Law on Professional Trustees (Professional Trustees Act, PTA);
12. Law on Auditors and Auditing Companies (Auditors and Auditing Companies Act; AACA)
13. Law on Patent Attorneys (Patent Attorneys Act, PAA);
14. Law on the Supervision of Insurance Undertakings (Insurance Supervision Act, ISA);
15. Law on Professional Due Diligence in Financial Transactions (Due Diligence Act, DDA);
16. Law on Occupational Pensions (Occupational Pensions Act; OPA)
17. Law on Insurance Protection of Buildings against Fire Damage and Elementary Loss (Building Insurance Act; BIA)
18. Law on Asset Management (Asset Management Act; AMA)
19. Law on Insurance Mediation (Insurance Mediation Act; IMA)

**Licensing**

Licensing again represented a main task of the divisions in the 2006 reporting year, not just with respect to the granting of licenses, but also amendment, rejection, withdrawal, and deletion

of licenses. In general, most activity concerned amendments to licenses and new licenses. In addition to licenses under the IUA, most new licenses were granted upon entry into force of new supervision laws such as the AMA and the IMA.

Figure 3: Licensing activities\*



\* Licensing activities include the granting, amendment, rejection, withdrawal, and deletion of licenses.

**Auditing**

In the course of the increased licensing activities of the FMA, auditing of the market participants operating in the financial center also intensified, especially in the areas of insurance and pension funds supervision and banking and securities supervision.

The inspection results of the audits carried out by the FMA in the 2006 reporting year were positive overall. Due to the strong increase of the financial intermediaries operating in the financial center, the number of inspections conducted by the FMA also rose. The inspection system was expanded by on-site inspections by the FMA, which the FMA increased after the end of the 2006 business year. These inspections provided the FMA with a more in-depth basis of information for evaluating the financial intermediaries concerned. For the first

time, an electronic form based on the accounting standards that will be required starting 2007 was used for the audits of some of the financial intermediaries. This facilitated the analysis and evaluation of the submitted data and the compilation of statistics. The decrease of the inspections of Other Financial Service Providers completed in 2006 in comparison with the 2005 reporting year is due to the postponement of the conclusion of the procedure until January 2007. The compilation of these cases will be presented with the report on the 2007 business year.

Table 4: Overview of inspection of audit reports

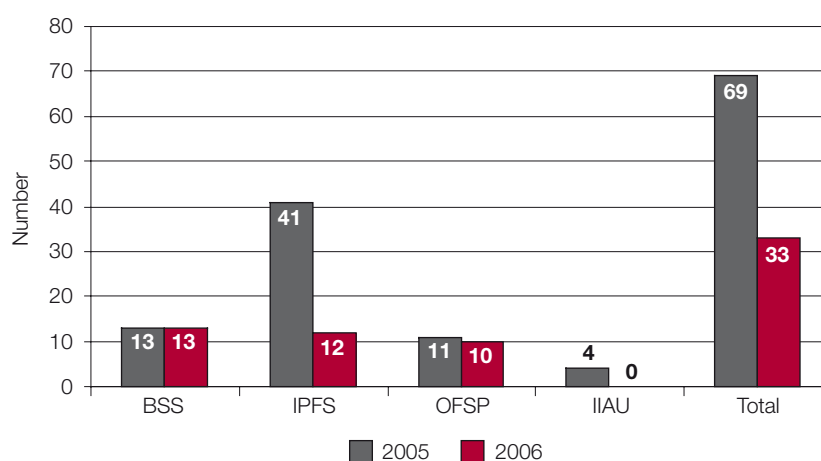
|                                   | 2005       |                 | 2006       |                 |
|-----------------------------------|------------|-----------------|------------|-----------------|
|                                   | prudential | pursuant to DDA | prudential | pursuant to DDA |
| Banks                             | 16         | 16              | 16         | 15              |
| Management companies              | 27         | 2               | 26         | 2               |
| Investment undertakings           | 105        | 0               | 145        | 0               |
| Insurance undertakings            | 22         | 12              | 30         | 15              |
| Pension schemes                   | 41         | 0               | 39         | 0               |
| Other Financial Service Providers | 0          | 321             | 0          | 240             |
| <b>Total</b>                      | <b>211</b> | <b>351</b>      | <b>256</b> | <b>272</b>      |

### Combating abuse

The number of cases of abuse decreased in all areas in the 2006 reporting year, which can be ascribed to the consistent supervision of the financial center. The uncovered cases primarily concerned persons and undertakings offering services subject to

a license on the financial market without such a license. Most of the abuses identified by the FMA were remedied through measures under supervision law. In other cases, the abuses were reported to the Office of the Public Prosecutor and the Financial Intelligence Unit.

Figure 4: Number of cases of abuse



### Measures under supervision law / Sanctions

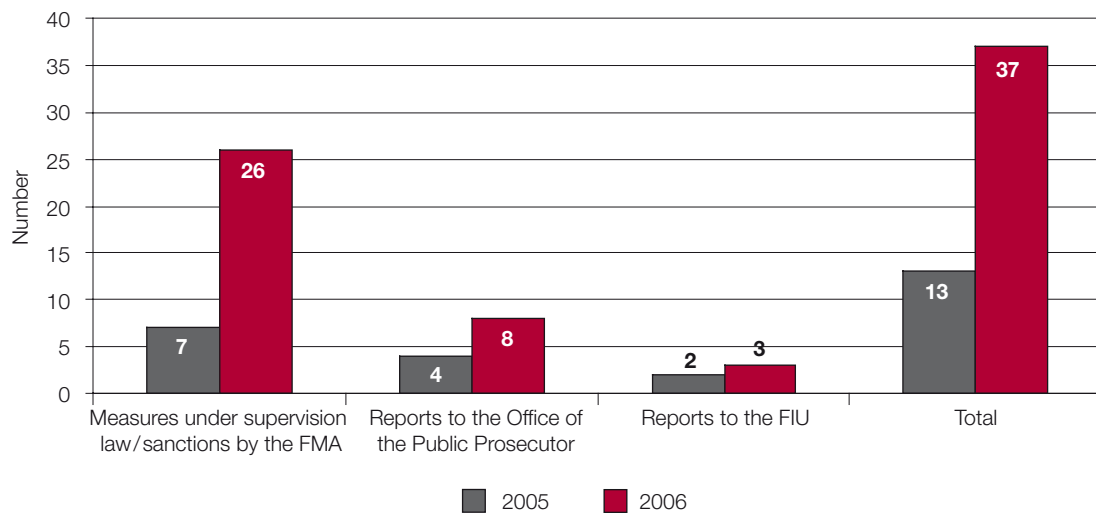
Despite the decrease in the number of cases of abuse, a greater number of measures under supervision law / sanctions were recorded in 2006, such

as reports to the Financial Intelligence Units and the Office of the Public Prosecutor, orders to increase own funds, restructuring of portfolios, etc.



## SUPERVISION

Figure 5: Overview of measures/sanctions by the FMA



### Administrative assistance

The number of requests for administrative assistance submitted to the FMA in the 2006 reporting year was approximately the same as in 2005. In total, 15 requests from foreign supervisory authorities were received. 10 of these were granted by the FMA. In 8 cases, client information was transmitted by means of a decree.

### Complaints

In the 2006 reporting year, 13 complaints against decrees and measures by the FMA were concluded. An additional 4 cases were pending before the Constitutional Court as of the end of 2006.

Table 5: Complaints

|              |                                    | 2005      |                      | 2006      |                      |
|--------------|------------------------------------|-----------|----------------------|-----------|----------------------|
|              |                                    | concluded | pending as of 31 Dec | concluded | pending as of 31 Dec |
| <b>BSS</b>   | FMA Complaints Commission (FMA-CC) | 0         | 7                    | 11        | 0                    |
|              | Administrative Court (VGH)         | 0         | 0                    | 0         | 0                    |
|              | Constitutional Court (StGH)        | 0         | 2                    | 2         | 0                    |
| <b>OFSP</b>  | FMA Complaints Commission (FMA-CC) | 1         | 1                    | 0         | 0                    |
|              | Administrative Court (VGH)         | 1         | 3                    | 0         | 0                    |
|              | Constitutional Court (StGH)        | 1         | 0                    | 0         | 4                    |
| <b>Total</b> |                                    | <b>3</b>  | <b>13</b>            | <b>13</b> | <b>4</b>             |

## 1.1 Banking Supervision

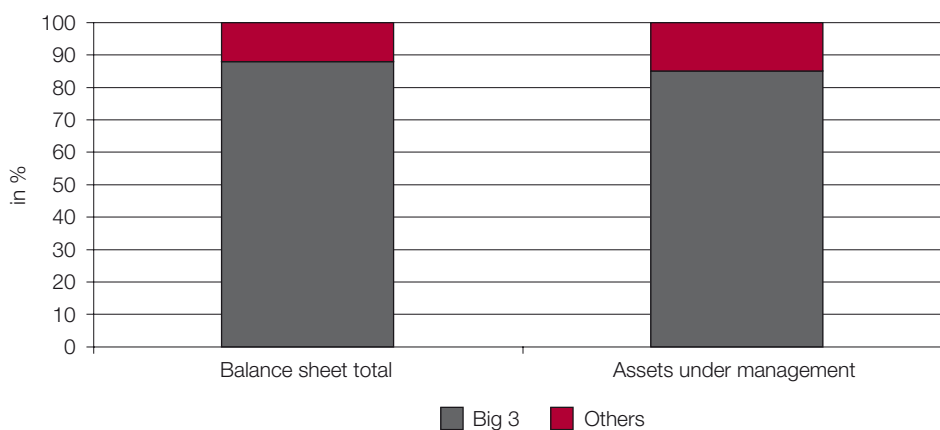
### 1.1.1 Liechtenstein banking location

As of the end of 2006, the Liechtenstein banking center was composed of 16 licensed banking institutions, 1 of which is undergoing voluntary liquidation. Of these banks, 8 are economically dominated by Liechtenstein investors, 4 by investors from the EEA (Austria), and 3 by investors from a third State (Switzerland). Currently, there are neither branches of foreign credit institu-

tions nor branches of Liechtenstein banks abroad. However, 4 Liechtenstein banks have representative offices abroad.

Looking at all the banks licensed in Liechtenstein, the 3 largest banks account for 88 % of the balance sheet total in the Liechtenstein banking center and 85 % of the client assets under management.

Figure 6: The three largest banks together in relation to the entire banking center



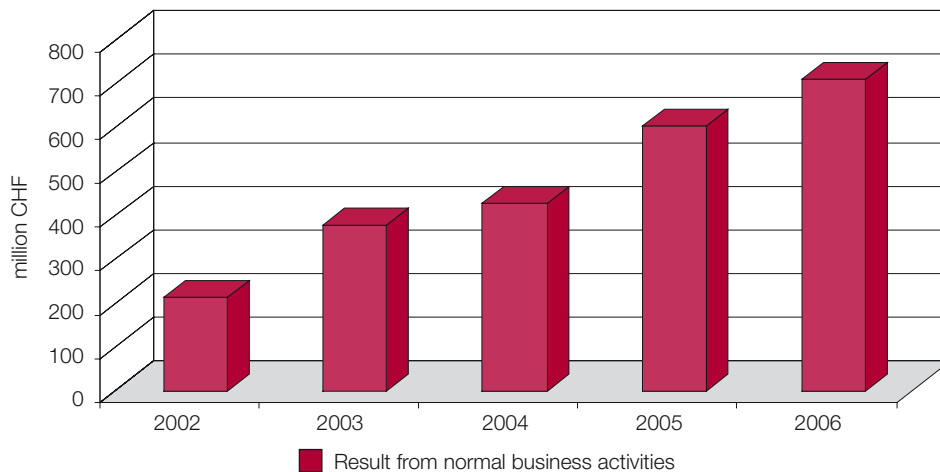
The main activity and the most important business field of the domestic banks is private banking, including custody accounts and all associated services. In these fields, the banks work closely together with professional asset managers. The lending business is limited. Mortgage and commercial loans, to the extent they are even offered by the banks, are generally limited to the domestic market. Lombard loans are offered by all the banks, however, against appropriate security. Letters of credit and investment banking play only a subordinate role. Due to the strategic focus of

domestic banks on private banking and the subordinate role of other areas of banking, the main risk of the banks consists in reputation risk. The legal provisions for operating banking services in Liechtenstein, in particular also those concerning risk management, correspond to the harmonized rules in the EEA and are closely based on the Swiss rules.

## SUPERVISION

The 2006 business year was again a positive one for domestic banks. Looking at the consolidated figures, the result from normal business activities grew by approximately 18 % to CHF 709.7 million.

**Figure 7: Result from normal business activities (in CHF million, consolidated)**



This strong performance of the banks was largely due to the positive development on the financial markets, which naturally had a strong effect on private banking

The total client assets under management increased by approximately 16.6% to CHF 173.4 billion.

The influx of new assets represented 60.7% of the increase. The balance sheet total of the banks also rose by 16.7% in comparison with the previous year and reached CHF 48.2 billion. The number of employees also rose by 8%. Accordingly, 2'255 employees worked for banks or banking groups in Liechtenstein as of the end of 2006.

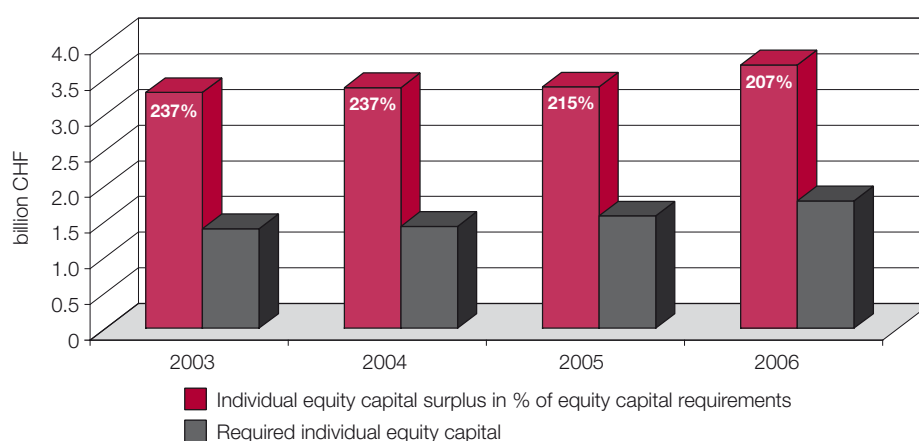
**Figure 8: Client assets under management (in CHF billion)**



Because all Liechtenstein banks have a solid equity capital base, they all are able to ensure protection of their depositors (see figure below). In addition,

Liechtenstein has a Deposit Guarantee and Investor Protection system, of which all Liechtenstein banks are members.

**Figure 9: Equity capital development since 2003 in absolute figures and in % of equity capital requirements (in billion CHF)**



The decrease of the equity capital surplus can be explained by the fact that, when they were established, new banks were overcapitalized in relation to their business volume due to the capital adequacy requirements. Because of the increase of the business volume and risk over time, the equity capital surplus diminished as a consequence. Despite the decrease in the surplus, the available own funds are still more than twice as high as required by law.

### 1.1.2 Banking supervision

Banking supervision in Liechtenstein is carried out in accordance with the European banking directives and the criteria established by the international bodies of supervisory authorities, in particular the Basel Committee on Banking Supervision and the International Organization of Securities Commissions (IOSCO).

In the FMA, banks are supervised by the Banking Supervision Section of the Banking and Securities Supervision Division. The main responsibility of the Banking Supervision Section is execution of the Banking Act, the Banking Ordinance, the Due Diligence Act, the Due Diligence Ordinance, the Financial Transfers Act, and the Finality Act. The Banking Supervision Section is responsible for the prudential supervision of banks and finance companies and, to a limited extent, of subsidiaries of investment firms from the EEA. Prudential supervision means ongoing supervision by the FMA after a license has been granted, the goal of which is the sound and proper functioning of the financial system as a whole and the good reputation of the financial center. In particular, prudential supervision encompasses auditing pursuant to the Banking Act and the Due Diligence Act, the reporting system, administrative assistance, and combating abuse.

## SUPERVISION

The supervisory activities of the FMA include inspection of compliance with the relevant legal norms by the supervised institutions. The demands on the FMA relating to banking supervision depend substantially on the organization and business activities of the banks.

### 1.1.3 Licenses

#### Licenses pursuant to the Banking Act

As in the previous two years, no new bank, finance company, or audit office was licensed in 2006. 1 of the 16 Liechtenstein banks has been

undergoing voluntary liquidation since the end of 2004. Until the liquidation is complete, the bank will continue to be included on the list of licensed institutions. Finance companies have always been of comparatively modest importance in Liechtenstein. The last finance company discontinued its activities in 2004.

In the 2006 business year, a total of 29 changes to the licensing conditions required by the Banking Act were made. These primarily concerned changes to the board of directors.

**Table 6: Changes to licenses, banking supervision (number)**

|   | 2006      | previous year |
|---|-----------|---------------|
| Change to organs (GM/BD)                            | 15        | 12            |
| Change of internal audit department                 | 4         | 4             |
| Changes to statutes subject to approval             | 5         | 2             |
| Changes to business regulations subject to approval | 3         | 2             |
| Change of external audit office                     | 1         | 3             |
| Change of qualifying holdings of a bank             | 1         | 2             |
| <b>Total</b>  | <b>29</b> | <b>25</b>     |

#### Single license principle

With its license, a Liechtenstein bank may offer cross-border services throughout the EEA by virtue of free movement of services, provided that it applies to the FMA to notify the authority of the host Member State accordingly. The cross-border activities are subject to supervision by the FMA under the single license principle (European passport).

Over the course of 2006, notifications were made in 10 EEA Member State (Czech Republic, Luxembourg, Hungary, Lithuania, Estonia, Latvia, Germany, Austria, Greece, Cyprus). As of the end of 2006, 7 Liechtenstein banks were providing cross-border services in the EEA.

A total of approximately 948 investment firms and credit institutions were notified in Liechtenstein by virtue of free movement of services.

#### 1.1.4 Auditing

Auditing can be roughly broken down into the categories of regular audits and extraordinary audits. In addition to inspections of the quality and timeliness of reports submitted by banks, the audit also encompasses a review of the changes to the statutes and organizational and business regulations as well as the performance of on-site inspections. Although Liechtenstein has a dual supervision system, according to which the required audits under the Banking Act and the DDA are

carried out by auditing companies approved by the FMA, experience has shown that, in certain situations, it is necessary and useful for the supervisory authority to clarify certain questions itself on site. On the one hand, these on-site inspections enhance understanding for the activities of the banks, which allows the supervisory authority to become a better dialogue partner for the banks when problems arise and for purposes of finding solutions. On the other hand, on-site inspections allow questions to be answered more quickly and in more detail, and the supervisory authority is closer to the pulse of the bank and the financial market. The number of such on-site inspections carried out by the FMA itself depends on the available capacities of the supervisory authority. This means that elaborate, not clearly containable and complex questions in the context of extraordinary inspections continue to be inspected by external auditing companies. The FMA will rather focus on clearly delimited problem areas where the necessary investment of time can be gauged. Another area in which the FMA may conduct its own inspections is where an initial first-hand look is necessary to determine whether and what kind of a need for an audit exists.

#### Regular audits under the Banking Act

The audit reports under the Banking Act for the 2005 business year, which were submitted in 2006, were generally of good quality. The number of complaints contained in the audit reports was 18, roughly the same as the previous year (17). In theory, this represents 1.2 complaints per bank. In fact, however, one third of the banks did not have any complaints in their audit reports. The types of complaints ranged from minor, formal deficits to material deficits. The most frequent errors included those relating to the submission of reports under the Banking Act, shortcomings in credit

transactions, and deficiencies relating to internal instructions. A large part of the complaints were remedied by the banks in a short period of time, often already by the time the audit report was written, so that the audit office did not have to set a deadline for remedying the deficiency. Where deadlines are set, the FMA tracks their compliance through follow-up questions directed to the banks concerned. The audit offices on their part also conducted follow-up inspections to verify that the complaints had been addressed.

The development over the last years indicates that the banks attach increasingly great importance to corporate governance. This is expressed in particular by the fact that, despite the growth in the banking sector, the number of complaints has steadily declined in recent years. The close monitoring by the FMA of how the banks remedy the deficiencies and the resulting need for the banks to address the recommendations of the audit offices have certainly contributed to this development.

#### Regular audits under the Due Diligence Act

Pursuant to the Due Diligence Act in force, all credit institutions in Liechtenstein are required to have a due diligence inspection conducted by an external audit office. For this purpose, samples are taken from business cases associated with risk, depending on the size of the bank, which are then inspected with regard to whether all formal and material requirements under the Due Diligence Act have been complied with. Another important point of the audit is whether any systematic shortcomings exist that may have an adverse effect on compliance with and monitoring of the due diligence obligations. The audit reports for the 2005 business year had to be submitted to the FMA by 30 June 2006. Overall, the inspection results were

very positive. Compared with 50 complaints contained in the reports in the previous year across all banks, only 39 were recorded this year, a reduction by 11. No complaints were recorded in the case of more than half of the credit institutions. This positive development shows that the banks attach great importance to due diligence and have undertaken great efforts in the fight against money laundering and terrorist financing. A frequent reason for complaints is that older business relationships are not documented in as much detail as new business relationships. Some of these business relationships were initiated by other financial intermediaries, which often makes it more difficult to obtain additional information and documents via the intermediary. The most frequent complaints concerned the content, expressiveness, and up-to-dateness of the client profile and insufficient assessment of the plausibility of transactions. The deadlines set by the audit offices to remedy the deficiencies were generally complied with.

### Expert and management meetings in 2006

In 2006, the FMA conducted expert and management meetings for the fourth time. Before the meetings, the audit and business reports and the DDA inspection reports and the reporting system were analyzed. The arising questions were then answered by the experts of the banks.

These audit activities are generally concluded by a management meeting with each individual bank in the fourth quarter. These meetings are attended by staff members of the FMA, the management of the bank, and as a rule the chairman of the board of directors. Focus areas of the meetings include a short summary of the audit results and a discussion of any topics that may arise, estimated figures for 2006, budget for 2007, ongoing or

planned (strategic) projects, and feedback to the FMA. This platform is readily used both by the FMA and the bank to address current topics and, for instance, to exchange the newest information on legislative projects and the financial center. In addition, the personal contacts help cultivate mutual understanding for the work of the banks and the supervisory authority, which ultimately has a positive impact on banking supervision.

Frequent topics of discussion included MiFID, Basel II, and the expansion of business activities in the Middle and Far East. The feedback of the banks on the working methods of the supervisory authority was thoroughly positive. Suggestions on areas in which the FMA might improve its services were accepted with gratitude and, where possible, will be implemented.

Preparation and follow-up of the management meetings and the meetings themselves again consumed considerable resources. Approximately 1'300 working hours were invested for this purpose.

### Risk Assessment System

It is one of the most fundamental needs of a banking supervision authority to be able to assess the risk of a bank. The risk profile of a bank is indispensable for banking supervision, in order to classify the threat to investor and creditor protection and confidence in the banking center, to take the necessary measures, to determine focus areas of supervision, and to allocate supervisory resources according to risk. For this reason, the FMA employs a Risk Assessment System (RAS), which documents statements concerning the risk character of a bank, taking into account both past-oriented and future-oriented, quantitative and qualitative factors, and allows a rating to be made.

In light of the new capital adequacy requirements under Basel II, this RAS had to be developed further. With the implementation of the Basel II requirements, the spectrum of responsibility for banking supervision is being expanded, and several new tasks are being added to the existing supervisory activities. These tasks range from detailed rules and approvals to supervisory audit processes under the 2<sup>nd</sup> pillar of the Basel II requirements. Until now, banks were only required to cover their credit and market risks with own funds (Basel I). Starting in the transition year 2007, Basel II now demands cover both of credit and market risks and also of operational risks with own funds. Additionally, so-called Pillars 2 and 3 apply. Pillar 2 encompasses monitoring of risk-adequate equity capital. Pillar 3 demands additional disclosure by banks that may provide significant assistance to financial market participants in their decision-making processes.

As part of the monitoring of capital adequacy under Pillar 2, the banking supervision authority must verify whether the banks employ appropriate strategies and procedures to control their risks and whether they have sufficient and appropriate equity capital. Sufficient equity capital covers the risks under Pillar 1 and all risks not covered or not fully encompassed by Pillar 1. The risks not covered by Pillar 1 that are considered by Pillar 2 include interest-rate risks in the bank book, concentration risks, strategic risks, liquidity risks, management and control risks, etc. In this context, it is necessary to identify, assess, monitor, and limit risks, i.e. to control them. Nothing essential actually changes for banks in this regard. Already today, banks must have strategies and procedures at their disposal to plan and monitor risks and the requisite risk provisions. What is new is that the enactments now describe in more detail which

risks in particular must be controlled and covered by sufficient own funds.

How the banks design their strategies and procedures depends on the size and complexity of the bank in question. Banks with large business volume and many different types of business and whose risk structure is therefore significant must also employ more elaborate procedures to control their risks.

In order to evaluate whether the banks control their risks under Pillar 2 sufficiently, the FMA must now first of all inspect the risk profile of the individual banks. This is undertaken with the recently adapted Risk Assessment System (RAS): Components of the Risk Assessment System are an evaluation of the risk management procedures, the risk strategy, the financial situation, and the individual enterprise segments. The risk assessment continues to incorporate both a retrospective and a prospective view, so that future risks may also be compiled and assessed accordingly.

The goal of the RAS and the resulting dialogue on the risk management of the bank is to enhance the financial stability of the banks and the Liechtenstein financial center and to recognize any imbalances early on.



### Extraordinary audits under the Banking Act and the DDA

In the 2006 business year, a total of 6 extraordinary audits were conducted, 4 of which were conducted directly with respect to banks and 2 with respect to other financial intermediaries under the DDA.

#### – On-site inspections arising from suspicious factors under the DDA

One banking affair abroad resulted in a few Liechtenstein companies being mentioned more frequently in the media in this connection. In order to determine whether and to what extent Liechtenstein companies were actually involved in this affair and whether all requirements under the DDA were complied with, the FMA ordered on-site inspections or conducted them itself. In part, external auditing companies were mandated; in part, the FMA either accompanied these companies or carried out the audits itself. In some cases, the audit results led to reports being submitted to the Office of the Public Prosecutor, since suspicions of due diligence violations arose. Moreover, the inspection report on due diligence inspections at one bank drew the FMA's attention to a business relationship with respect to which the FMA asked

whether the conditions for the requirement to report to the FIU under article 16, paragraph 1 DDA applied. The business relationship in question was dissolved on the initiative of the client, shortly after the audit report had been compiled and inquiries in this regard were made. The FMA consequently investigated whether a violation of article 16, paragraph 2 DDA had occurred, which prohibits a person subject to due diligence from discontinuing a business relationship if the conditions for the reporting requirement under article 16, paragraph 1 DDA are met. Moreover, the FMA investigated whether the person subject to due diligence in this case had properly complied with the obligation under article 15, paragraph 2 DDA (special inquiries). Based on the results of this investigation, the FMA decided to bring the case to the attention of the Office of the Public Prosecutor, where it is currently being reviewed.

#### On-site inspections concerning own funds and credit transactions

Based on the description of a bank's credit business in its audit report, an on-site inspection was carried out to verify the reporting of own funds and risk concentration and the bank's credit transactions. The audit results indicated that the risk concentration reports contained errors and that formal and material deficiencies existed with respect to credit transactions. Consequently, the FMA conducted several talks with representatives of the banks and initiated the necessary steps to remedy the deficiencies as quickly as possible.



– **Extraordinary audit concerning separation of functions**

Article 22, paragraph 4 of the Banking Act stipulates that the division of responsibilities between the board of directors and the general management must ensure appropriate monitoring of business management. In the case of one supervised institution, doubts arose concerning compliance with this requirement, after deficiencies were noted in the audit report under the Banking Act with respect to strict separation of functions between the board of directors and the general management. The FMA therefore initiated a special audit, in the context of which measures were set out together with the institution in question to restore sound and proper division of functions. The audit office mandated to carry out the special audit was obliged to submit quarterly reports to the FMA on implementation of the agreed measures. The FMA is now reviewing whether the objectives of these measures have been achieved.

**1.1.5 Reporting**

Reporting is an important instrument for the supervisory authority to monitor compliance with the legal requirements. A fundamental distinction can be made between periodic and incident-related reports. Both periodic and incident-related reports are reviewed with respect to timely submission and content. Reporting frequencies range from monthly, quarterly, and semi-annually to annually. In contrast, incident-related reports must, as their name indicates, only be submitted when a relevant event or incident occurs (such as changes to the general management or board of directors, changes to equity capital, or crossing of a specified threshold). Some of these reports are merely taken note of, while others must be approved by the FMA prior to their publication.

**Complaints relating to reports**

In general, the timeliness and quality of the reports has improved significantly in recent years. The feedback round conducted each year with all banks has certainly contributed to this improvement, where deficiencies in reporting are pointed out and suggestions for improvements are made. A very good level of reporting has now been achieved, which must be maintained in the future. Nevertheless, it repeatedly occurs in individual cases that, due to misunderstandings or staff bottlenecks, reports are submitted late. As a rule, the FMA is informed of such cases in advance or extensions of deadlines are requested. In the 2006 reporting year, a total of 4 reminders had to be issued for late submission of reports (3 in the previous year). No fines had to be imposed, since the reports were then immediately submitted. It is also rare that substantive errors are found in the reports. Depending on the relevance of the errors, the bank may under certain circumstances have to correct the report and resubmit it.

### 1.1.6 Supervision practice

#### Measures under supervision law

The FMA is responsible for ensuring compliance with the laws under its supervision. If, in the course of its ongoing supervision activities, the Banking Supervision Section gains knowledge of deficient implementation of provisions under banking law, it takes the necessary measures to restore a lawful state of affairs. In the 2006 reporting year, measures under supervision law were required in the following cases, among others:

#### Equity capital close to minimum requirements

Due to losses incurred, the equity capital of one bank decreased in recent years to the extent that the available equity capital was approaching the legally required minimum amount of CHF 10 million. The bank was then required to take appropriate measures to increase its own funds, so that the early-warning threshold established by the FMA would not be crossed. Additionally, a monthly reporting requirement was imposed on the bank, which allows the supervisory authority to closely monitor the bank's equity capital development.

#### Monitoring of bank liquidation

The FMA closely monitored the progress made in the voluntary liquidation of a credit institution, working together with the liquidator and the external audit office. Since judicial proceedings are still pending, the liquidation could not yet quite be completed. Completion is expected in 2007. No clients were financially damaged in the course of the liquidations.

#### Sanctions / Referrals

In the area of banking supervision, the FMA referred two cases of violations of the DDA in the 2006 reporting year to the prosecution authorities. In one other case, a violation of the Prospectus Act was referred to the prosecution authorities.

#### FMA Communications

No FMA Communications relating to banking supervision were published in the past year 2006.

#### Responding to inquiries

In 2006, the Banking Supervision Section responded to approximately 900 inquiries concerning the Banking Act, the Banking Ordinance, Basel II, MiFID, and the Due Diligence Act and Ordinance. Another category of inquiries, which is at times very labor-intensive, arises from participation in various European working groups and commissions. In this connection, numerous inquiries were launched in the reporting year and extensive questionnaires were sent out, which often had to be completed in a relatively short period of time. Larger surveys were conducted on the topics of risk concentration and dealers in natural resources, for instance. In contrast, questions concerning the formation of new banks and activities subject to approval decreased noticeably. The decrease is likely due to the fact that these questions are answered relatively exhaustively on the website of the FMA, and the relevant instructions and forms are made available to assist interested parties. In the area of due diligence, the number of written responses to inquiries decreased from 21 in the previous year to 11 in the reporting year. An explanation for the decrease is the fact that the same or at least similar questions had often already been answered once in the past, or the answer was provided by telephone or in a personal

conversation. Overall, the questions asked were very diverse. The FMA makes an effort to answer inquiries as quickly as possible that do not require in-depth analysis. For more complex situations, a longer response time should naturally be expected, since the response requires a corresponding degree of care.

### 1.1.7 Administrative assistance

The Liechtenstein financial center is closely linked with the international financial markets. For this reason, financial market supervision is increasingly confronted with the monitoring and evaluation of cross-border financial transactions and internationally operating financial institutions. In order to take this situation into account, the financial market supervisory authorities concerned work closely together, for purposes of ensuring effective and comprehensive supervision. For the FMA, it is important to obtain information from foreign partner authorities on the institutions under its supervision; on the other hand, functioning administrative assistance constitutes an important contribution to the international recognition of Liechtenstein supervision. The ability of Liechtenstein financial intermediaries to access the international financial markets (especially also stock exchanges) requires that the competent foreign authorities are also able to exercise appropriate supervision on the basis of relevant information transmitted, thereby creating equal parameters for everyone operating in the financial market concerned. Administrative assistance rendered by the FMA to foreign authorities thereby also significantly helps ensure Liechtenstein's participation in the international financial markets.

### Administrative assistance under the Banking Act

The Banking Act contains extensive provisions governing cooperation and in particular the sharing of information with competent foreign authorities. This sharing of information is required in a wide range of areas of banking supervision. Information sharing is particularly necessary in the context of the prudential supervision of banking groups. Of particular relevance is data on the financial situation of the supervised banks, their organization, and their risk management. If a crisis arises, the purpose of information sharing is to coordinate measures and to ensure the efficiency of the supervisory authorities involved. A common feature of the information sharing mentioned here is that the information shared is primarily institution-related.

### Administrative assistance relating to market abuse

For purposes of combating insider dealing and market manipulation, the FMA renders administrative assistance to the foreign authorities responsible for securities supervision. While administrative assistance in the areas mentioned above is primarily focused on the sharing of institution-related information, the fight against insider dealing and market manipulation also requires the sharing of client-related information. Only if the client is known for whom a transaction under investigation was conducted is it possible to determine whether inside information was used in a specific case. This assessment is not possible on the basis of market data or bank data alone. Legal protection of the affected client is ensured in that the client has the right to appeal the FMA decree concerning the transmission of information.

**Administrative assistance practice of the FMA**

In the decision of the Administrative Court of 7 May 2003, VBI 2003/33, it was found for the first time that, based on article 36 of the Banking Act and in the context of international administrative assistance, client-related data may and must be transmitted to foreign authorities, provided that the principles of specialty, confidentiality, the “long arm”, and proportionality are complied with:

– **Principle of specialty**

The principle of specialty means that the transmitted information and documentation may only be used for the supervisory purposes described in the request and released in the decision to render administrative assistance (see article 36, paragraphs 1 and 3 of the Banking Act).

– **Principle of confidentiality**

According to this principle, the requesting foreign authority must – for purposes of the principle of confidentiality – be bound by official or professional secrecy (see article 36, paragraphs 1(e) and 3, last sentence, of the Banking Act).

– **“Principle of the long arm”**

According to the so-called “principle of the long arm”, transmitted information may not be forwarded by the competent foreign authorities to other authorities and organs without the prior consent of the Liechtenstein supervisory authority. Forwarding the information to prosecution authorities without prior consent is also prohibited. To the extent that the use of the information for prosecution purposes is being discussed, the jurisprudence of the Administrative Court holds that the essential material preconditions of international mutual legal assistance –

in particular dual criminality – must apply for such consent to be given.

– **Principle of proportionality**

Like every action by the State, administrative assistance must also be proportional. “Fishing expeditions” are prohibited. The Administrative Court has found that the requesting authority in the administrative assistance procedure must “explain the relevant fact pattern, specifically designate the requested information and documentation, and name the grounds for the request. To the extent that the authorities of the requesting State are required to set forth the applicable fact pattern, they cannot be expected to do so without gaps and completely without contradictions. This would not be compatible with the spirit and purpose of administrative assistance, since the information and documentation located in the requested State are needed to clarify points that have so far remained unclear.” According to the jurisprudence of the Administrative Court, the FMA “shall not argue about whether the facts indicated in the request are accurate or not. It shall neither verify questions of fact nor questions of guilt nor assess the evidence on its own part. It is bound by the description of the fact pattern in the request to the extent that this description is not immediately invalidated by obvious errors, gaps, or contradictions.”

– **Administrative procedure**

Additionally, the regular administrative procedure under the National Administration Act must be complied with when client-specific information is transmitted. This procedure specifies that, according to the broad definition of parties in article 31 and in particular in article 92 of the National Administration Act, both

the affected financial institution and the bank client are considered or can be considered parties. In the case of institution-related information, however, the exchange of data may be performed informally.

### Developments relating to implementation of the Market Abuse Directive

Parliament adopted the proposal to create a Market Abuse Act in its meeting of 24 November 2006. The Market Abuse Act serves to implement Directive 2003/6/EC of the European Parliament and of the Council on insider dealing and market abuse (Market Abuse Directive) and to combat market abuse on the Liechtenstein financial market. If no referendum is demanded before expiry of the referendum period, the Market Abuse Act will enter into force on 1 February 2007.

A central goal of the Market Abuse Directive is to strengthen cooperation in the prosecution of market abuse offenses between competent national authorities and to comprehensively govern information sharing between them. On request, the competent authorities must immediately transmit all information necessary to combat the market abuse in question.

In contrast to the consultation draft, the Market Abuse Directive maintains the existing right to appeal, for reasons of constitutionality. In order to comply with the demands of the Market Abuse Directive to cooperate efficiently and rapidly for purposes of combating market abuse, however, the changes to the administrative assistance procedure described below have been provided. In addition to the requirements of the Market Abuse Directive, other international standards (especially IOSCO-MMoU) have influenced the new regulation.



#### a) Accelerated procedure

- appeal only possible with respect to the transmission procedure (the preceding request for information by the FMA is not subject to a separate appeal)
- appeal only possible to the Administrative Court (the FMA Complaints Commission may not be invoked in the context of administrative assistance)
- the proceedings before the Administrative Court must be conducted expeditiously
- applications for suspensive effect or provisional measures are not permissible in the case of individual complaints to the Constitutional Court

#### b) Abolition of the “principle of the long arm”

According to the “principle of the long arm” described above, information transmitted to foreign authorities could previously not be forwarded by the competent foreign authorities to other authorities or organs without the prior consent of the Liechtenstein supervisory authority.



Application of the “principle of the long arm” contradicts the provisions of the Market Abuse Directive concerning information sharing, which expressly state that the information transmitted by way of administrative assistance may be used for connected administrative and judicial proceedings, within the limits of the principle of specialty. To the extent that the information may be used for purposes of combating market abuse, therefore, the forwarding of information to a third authority may no longer be made contingent on prior consent of the authority providing the information. The forwarding of information for purposes other than combating market abuse and the forwarding of information to the competent authorities of other States continue to be prohibited unless the FMA gives consent. The Market Abuse Act contains the clarification that these purposes must at least be related to financial market supervision. The FMA grants consent in the form of a decree subject to appeal.

### **c) Third States**

The provisions on information sharing are becoming increasingly important also in the context of international standards. In its regulation of administrative assistance with respect to third States, the Market Abuse Act therefore relies on the principles established by IOSCO (International Organization of Securities Commissions). This organization has over 180 members worldwide and defines the international standards relevant to securities supervision. A comparison of these standards with the Market Abuse Directive shows that the same material demands are made on the willingness of the competent authority to cooperate. Even though the IOSCO standards lack the binding nature of EEA law, their international significance makes clear that differing administrative assistance rules for EEA States and third

States would make no sense. The Market Abuse Act therefore creates uniform rules for cooperation with EEA States and third States. It should also be noted that the FMA endeavors to join IOSCO in the near future.

### **d) Reservation concerning provisions on the public nature of proceedings and information provided to the public**

Until now, it has been problematic or impossible to conduct administrative assistance with supervisory authorities that inform the public of lawsuits filed in the case of market abuse offenses. For instance, this is true of the US Securities Exchange Commission (SEC). In the United States, the supervisory authorities primarily enforce supervision law by way of lawsuits before civil or administrative courts and only more rarely before criminal courts. As soon as the lawsuit is pending, American procedural law provides for public access to all documents submitted to justify the lawsuit. Moreover, the US supervisory authorities, among others, regularly inform the media about the filing of lawsuits (“litigation release”). All of this occurs, however, only after suspicions have been substantiated on the basis of the information transmitted. Until then, the information is treated confidentially, and non-relevant client data is therefore not made available to the public.

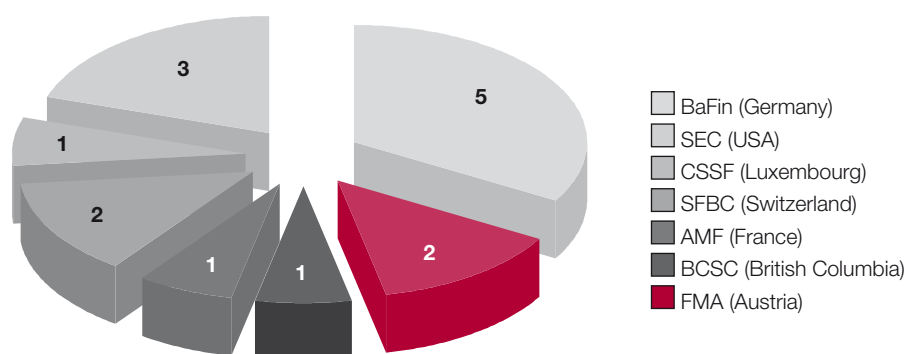
Thanks to the reservation contained in the Market Abuse Directive concerning the applicable provisions on the public nature of proceedings and information provided to the public, uncertainties relating to the principle of confidentiality have been eliminated. Accordingly, it is now possible to share information with supervisory authorities such as the American SEC.

### Administrative assistance statistics

In the 2006 reporting period, 15 requests by foreign authorities (+ 25 % over the previous year) were submitted to the FMA. A total of 21 bank clients were affected by the requests. The FMA issued 8 decrees authorizing transmission of information to the requesting foreign authority. 2 decrees issued by the FMA were appealed to the

FMA Complaints Commission. 11 of the requests addressed to the FMA in 2006 concerned investigations of suspicion of insider dealing. In 4 cases, the requesting authorities suspected market manipulation. The FMA was able to fully complete 10 of the 15 requests submitted in 2006.

Figure 10: Requesting authorities in the area of market abuse, 2006 (number of requests)



### 1.1.8 Combating abuse

Within the Banking Supervision Section, combating abuse means prosecuting services that are rendered without the license required by the Banking Act. In such cases, the FMA conducts preliminary investigations and files charges with the Office of the Public Prosecutor if the suspicion is substantiated that activities subject to a license are being performed without such license. The FMA also intervenes in the case of business names that falsely indicate activities as a bank or finance company.

In total, 9 cases of abuse were investigated in more detail in the reporting period. In the reporting period, the FMA filed charges in 2 cases of abuse with the Liechtenstein prosecution authorities. 5 of the investigations undertaken in 2006 arose from leads provided by market participants. In the case of 1 company, an extraordinary inspection by an auditing company was ordered on suspicion of performance of unauthorized activities under the Banking Act (in particular lending of third-party funds). However, the investigation did not give rise to sufficient suspicion for filing charges with the prosecution authorities.



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In 2 cases, foreign institutions from third States were required to discontinue the cross-border financial services they were performing without the proper license, since the free movement of services under the EEA did not apply to them.

In connection with one undertaking suspected of performing banking activities without a license (lending of third-party funds), the FMA investigated whether the company in question was domiciled in Liechtenstein or which persons were responsible for the business dealings of this company. However, no clear connection between Liechtenstein and the incriminated transactions could be found.

In one other case, the FMA investigated to what extent the services offered by the company (collection transactions) fell within the scope of application of the Banking Act. It turned out, however, that the activities in question did not require a license in Liechtenstein.

The FMA furthermore contacted one company suspected of providing investment counseling services. Investment counseling is subject to a license not only under the Asset Management Act, but also under the Banking Act. The suspicion turned out to be unsubstantiated, however.

In another case, a public warning issued by the supervisory authority of the Isle of Man drew the FMA's attention to a dubious company which had offered financial services on the Internet with a fictitious Liechtenstein address. After close cooperation with the partner authority of the Isle of Man, the Internet site in question was shut down.

The FMA also received a decree from the Swiss Federal Banking Commission according to which a Swiss and a Liechtenstein limited company were accused of unlawfully accepting funds from the public. On the basis of an extraordinary audit of the company, suspicious factors concerning violations of the inquiry obligations under the DDA could not be ruled out. For this reason, the report on the extraordinary audit was forwarded to the Office of the Public Prosecutor. No report was submitted to the FIU, since domestic criminal proceedings were already pending in this case.

In the 2006 reporting year, the FMA also took action against a violation of the Prospectus Act and reported it to the Liechtenstein prosecution authorities.

### 1.1.9 Operational focus areas in 2006

#### Basel II processes

The central operational focus area in 2006 (in addition to the regulatory work in connection with MiFID, Basel II, and the Market Abuse Directive) was the establishment of processes and systems under Basel II. For this reason, the legal foundations or their drafts were analyzed, and 247 processes were identified that required action on the part of the FMA. The demands on the processes arise from the newly added competences, administrative discretion, and responsibilities of the FMA, which are due in part to the rather extensive choices available under the new equity capital system of the banks. For all such cases, the approach and the necessary resources have been set out whereby the FMA either *ex officio* or on application of the banks or other stakeholders, such as other supervisory authorities and rating agencies, is called upon to make a decision.

This operational focus area will continue to play a central role in the coming year. This is particularly true with respect to the recognition of more sophisticated approaches under Basel II, disclosure (Pillar 3) and test runs, reviews, and the implementation of processes.

#### Basel II questionnaire campaign

In the autumn of 2006, the FMA launched a questionnaire campaign to obtain an overview of the current status of Basel II implementation among Liechtenstein banks and the associated challenges. The goal was to gain a detailed picture of the situation that, in particular, shows the approaches chosen and the changeover times as well as a survey of the expected advantages and disadvantages from the perspective of the banks.

A total of 11 of the 15 Liechtenstein banks returned the questionnaire. In summary, the banks have already made certain preparations with a view to Pillar 1 and have in particular ordered adjustments of their electronic reporting systems. The responses and the discussions in the management meetings in the fourth quarter indicate that the banks have not yet focused their main attention on Pillar 2. The goal of the Pillar 2 system is to identify, measure, assess, and limit – i.e. control – the risks not covered or only insufficiently covered by Pillar 1 (e.g. reputation, concentration, interest rate fluctuation, and strategic risks) and to make the requisite additional own funds available for that purpose. Because of the very comfortable equity capital surplus of Liechtenstein banks, it is somewhat understandable that the banks are allocating their resources in many different ways, given the other significant regulatory challenges. However, merely a non-specific reference to the equity capital surplus without a further, traceable explanation does not suffice to do justice to the demands under Pillar 2.

#### Optimization of the Risk Assessment System

A milestone in this regard is the optimization of the Risk Assessment System (RAS). RAS is the tool for systematic and standardized assessment of the risk profile of banks from the perspective of banking supervision. It integrates quantitative and qualitative information and past-oriented and future-oriented factors, and it makes use of the advantage offered by the Liechtenstein financial center: the short channels of communication and the close contacts between the banks and the supervisory authorities, allowing conclusions to be drawn that are not directly derived from business figures.

As in previous years, the goal of this RAS is to perform a risk assessment of banks, on the basis of which a dialogue can be conducted with the banks on their Pillar 2 risks, thereby making a risk-oriented resource allocation possible with respect to supervision. In addition, this tool provides the necessary documentation of bank-specific monitoring by the FMA.

### On-site inspections

In the past year, the banking supervision authority performed 5 on-site inspections, either accompanying an audit office or on its own. 3 of these were performed directly with respect to banks, and 2 with respect to undertakings controlled by banks.

#### 1.1.10 Outlook for 2007

##### Optimization of supervision

To guarantee efficient supervision work that is recognized internationally, not least of all due to clear legislative mandates (Basel II, MiFID), it will be unavoidable for the credit institutions and the FMA to move closer together. This will continue a trend that has already been apparent since 2000/2001: To secure the dual supervision system in the long term, under which the supervisory authority acts indirectly, i.e. through external audit offices, the monitoring of the persons and undertakings subject to supervision must be sufficiently close. For this purpose, the banking supervision authority must on a regular basis and to a sufficient extent gain a picture itself of the risk situation on site. This may occur in many different ways: The banking supervision authority strengthens its dialogue with the banks. It obtains reports from the internal and external audits sufficiently early. It accompanies the internal or external audit offices in their audit work, by dividing labor, supplementing each other, or also

repeating audits. It conducts audits itself on site as part of regular and extraordinary audits. In the coming years, the banking supervision authority will make use of all these possibilities, taking into account the available resources, with a clear commitment to the system of indirect supervision, which will thereby also be secured for the future.

### Basel II

Basel II will continue to play an important role in the coming year. This is particularly true with respect to the recognition of more experienced approaches under Basel II, disclosure (Pillar 3) and test runs, reviews, and the implementation of processes. Furthermore, the employed reporting tool will be adapted to the new requirements, and the dialogue with the banks under the Pillar 2 system will be prepared.

### Other consequences of legislative amendments on supervision

Additionally, the processes must be developed so that the FMA can meet its obligations as a consequence of MiFID and thereby for the protection of investors. Similarly, the entry into force of the Market Abuse Act will necessitate new processes, so that supervision can comply with the high international demands relating to administrative assistance and at the same time do justice to the needs of the financial center.

### New IAS/IFRS accounting rules

Since 2005, banks have been allowed to compile their business reporting according to the new IAS/IFRS rules. The group business report of 3 banks in Liechtenstein is already being drafted according to the new accounting standards. IAS/IFRS has introduced significant new accounting features to aid international comparisons of annual financial statements. For banks,

these new features – which are constantly subject to additions and specifications – are particularly important with respect to the categorization of financial instruments, the valuation of various typical positions in the bank balance sheet, and with respect to disclosure. The principle of prudence of national accounting is making way to the system of “true and fair view”. The demands on the accounting of banks are therefore increasing. The FMA is likewise called upon to keep pace with the accounting dynamics in its monitoring function and to ensure the relevant know-how and monitoring tools. For instance, banks should be prevented from assuming unreasonable risks that they would not assume under national accounting rules, as a consequence of the abandonment of the principle of prudence and the resulting better presentation of their bank situation – for instance if non-realized profits on highly volatile financial instruments are added on to their own funds.

## 1.2 Securities Supervision

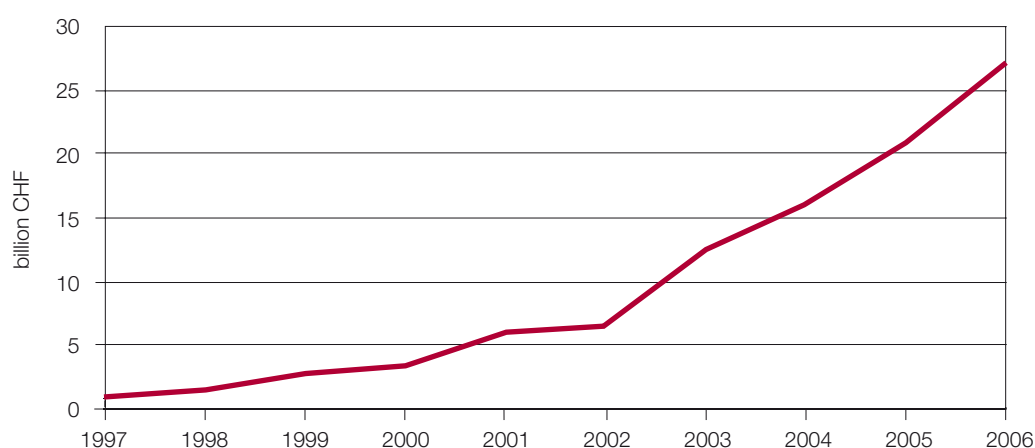
### 1.2.1 Investment undertakings (IUs)

#### 1.2.1.1 Liechtenstein fund center

The Liechtenstein fund center again experienced strong growth in 2006. Contributing to this development were the good market conditions and the new Investment Undertakings Act (IUA), which entered into force on 1 September 2005. The increase in the number of domestic IUs licensed in 2006 and of foreign IUs approved for marketing units in Liechtenstein shows that Liechtenstein has modern legislation at its disposal in the form of the IUA that does not have to shy away from international comparison.

At the end of 2006, 208 domestic IUs with a total of 179 segments were licensed, which on a consolidated basis, taking into account all segments, corresponds to 339 individual funds<sup>1)</sup>. Domestic IUs are meanwhile managed by 28 active man-

**Figure 11: Development of net assets of domestic investment undertakings (in billion CHF)**



<sup>1)</sup> Individual funds are the sum of the non-segmented IUs and the individual segments of all segmented IUs.

agement companies (MCs). In addition, 240 foreign IUs with a total of 926 individual funds were licensed to market their units in Liechtenstein as of 31 December 2006. For the first time, a foreign management company (MC) has also notified that it is making use of the free movement of services.

The net assets under management of domestic IUs increased substantially by CHF 6.1 billion (+29.5%) to CHF 26.7 billion as of the end of 2006. The share of fund managements in the net assets under management that are counted within the scope of consolidation of the three major banks is about 72%. This enormous increase is both a result of the good stock market environment and also of the very strong influx of new assets into the existing and newly formed IUs.

The FMA expects the strong growth in recent years to continue in 2007. Based on the inquiries received and the announced new formations, an optimistic forecast is in order. As in the previous year, the Liechtenstein fund center is increasingly establishing itself in the private label market (public funds established by a MC in cooperation with external partners and representing tailored fund-based investment solutions) for IUs. About 10 of the 28 MCs are very active and successful in this sector. Fund promoters from the neighboring countries of Switzerland, Austria, and also Germany apparently consider the possibilities offered by the Liechtenstein fund center to be good, as they continue to contribute assets to existing funds and also form new funds on an ongoing basis. After restrained interest in the beginning phase, demand for IUs for qualified investors has been vibrant in the second half of 2006. Investment undertakings for qualified investors target one or more qualified investors and are exempt from the licensing re-

quirement of the FMA. Accordingly, this product explicitly embodies the “time to market” idea, and new products can be launched very rapidly. After six months, the first audit report must be submitted. From this point on, the investment undertaking is subject to supervision by the FMA in the same way as any other. As of the end of 2006, 25 investment undertakings were licensed, managing assets in the amount of approximately CHF 772 million.

### 1.2.1.2 Supervision of IUs

Within the FMA, the Securities Supervision Section of the Banking and Securities Supervision Division is responsible for the supervision of IUs. It covers execution of the IUA and the DDA along with the corresponding ordinances.

The responsibilities of prudential supervision encompass in particular auditing under the IUA, inspection of reporting, combating abuse, and supervision of MCs under the DDA, to the extent they keep a unit register themselves or offer or distribute units. The FMA is responsible for supervision under the IUA, the corresponding European regulations, and the principles of the International Organization of Securities Commissions (IOSCO). An advantage of the relatively small Liechtenstein fund center for supervisory activities is that, thanks to the small size of the location, the knowledge of the supervisory authorities about its supervised financial intermediaries is detailed and extensive. In addition, the persons responsible for the MCs are personally known to the FMA.

In the framework of supervision, the FMA in particular also has the competence to issue decrees, FMA Guidelines, and FMA Communications. In 2006, the prudential supervision of IUs was

strengthened and expanded. The focus was on combating abuse.

### 1.2.1.3 Licenses

#### Licenses of domestic IUs

In 2006, a total of 60 licenses for IUs were granted, including 2 investment companies; 1 fund management was approved, and 24 certifications for IUs for qualified investors were issued.

On a consolidated basis, the number of IUs licensed in 2006 increased by 45, from a total of 163 IUs to 208. Conversely, 15 IUs were liquidated in the reporting year. The reasons for these liquidations were, in most cases, dropping below the threshold for minimum net assets required by law as well as structural optimizations (consolidation of similar funds, concentration on one management company within a group, etc.).

As the only State in Europe, Liechtenstein provides maximum periods in its IUA for the granting of licenses for domestic IUs. Accordingly, an application for a license for IUs for securities must be decided within six weeks at the latest, and for IUs for other values within four months at the latest after confirmation of receipt has been furnished. The confirmation of receipt is issued once the application materials are complete. For MCs, a maximum licensing period of three months is provided. Other than a few exceptions, in which the legal deadline was extended in consultation with the applicants, the decisions by the FMA were on time or were issued long before the deadline. Taking into account all applications received, the average duration for granting a license to an IU was 41 working days from receipt of the complete application to granting of the license. The shortest duration was 6 working days.

As of 31 December 2006, the status of licensing categories was:

**Table 7: Licensing categories under the IUA (number of cases/licensing category)**

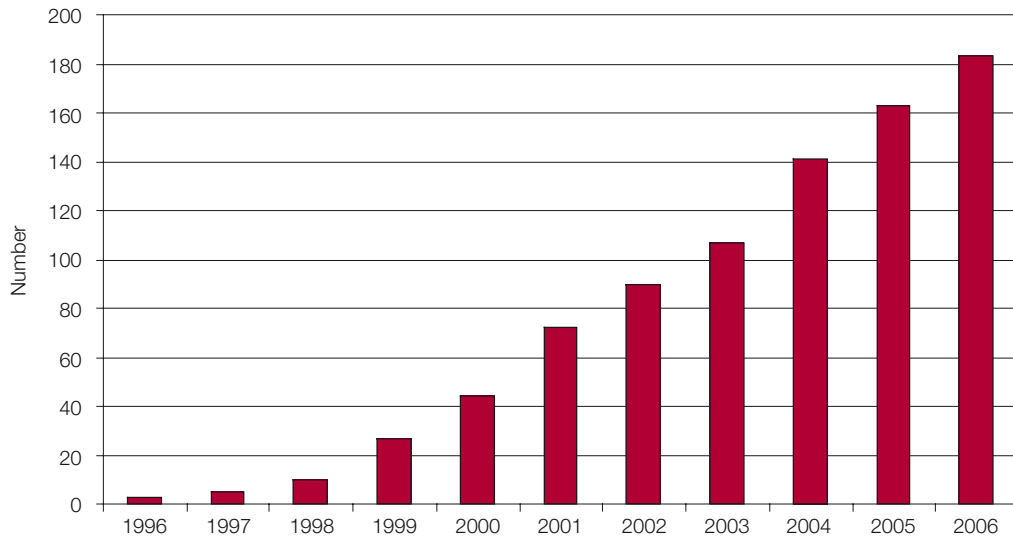
|   | 2005 | 2006 | +/- |
|---|------|------|-----|
| Active management companies                 | 27   | 28   | +1  |
| of which fund managements                   | 17   | 19   | +2  |
| of which investment companies               | 10   | 9    | -1  |
| Domestic investment undertakings            | 163  | 208  | +45 |
| of which segmented                          | 45   | 48   | +3  |
| with a total of segments (individual funds) | 157  | 179  | +22 |
| of which IUs for securities                 | 63   | 75   | +12 |
| of which IUs for other values               | 100  | 108  | +8  |
| of which IUs for qualified investors        | 1    | 25   | +24 |
| Foreign investment undertakings             | 239  | 240  | +1  |
| of which segmented                          | 56   | 55   | -1  |
| with a total of segments (individual funds) | 659  | 741  | +82 |
| Audit offices                               | 10   | 10   | -   |

The change in the number of investment companies was due to the conversion of an investment company into a fund management.

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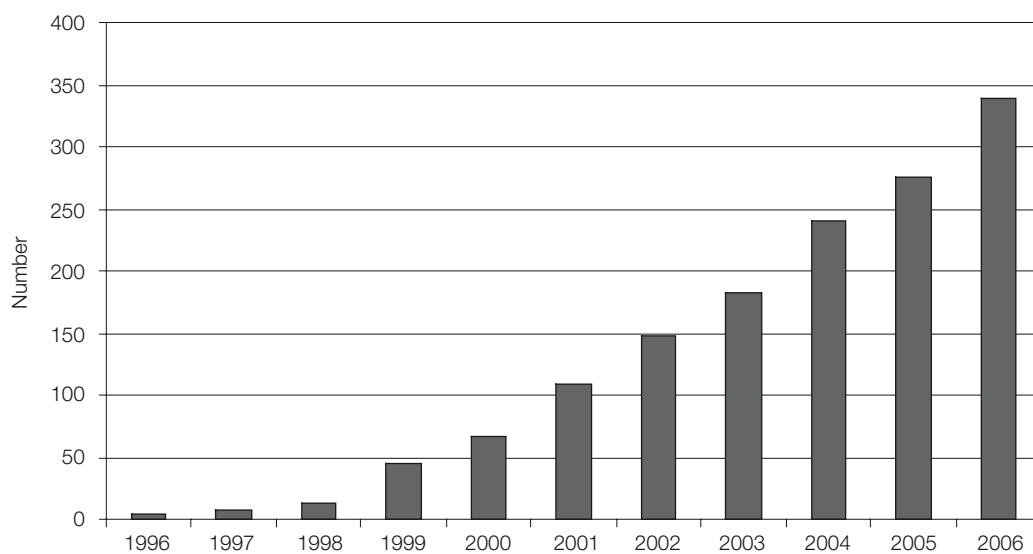
The development of the licenses of domestic IUs as of 31 December 2006 is as follows:

**Figure 12: Development of licenses of domestic IUs as of 31 December 2006 (number)**



The development of the existing fund products (sum of unsegmented investment undertakings and individual segments of segmented investment undertakings) as of 31 December 2006 is as follows:

**Figure 13: Development of existing fund products as of 31 December 2006 (number)**



In 2006, a total of 81 changes to existing licenses were processed:

|   |    |
|---|----|
| – Changes to functions of organs:           | 14 |
| – Changes with respect to delegations:      | 38 |
| – Significant changes to investment policy: | 2  |
| – Conversion of types:                      | 6  |
| – Change of management company:             | 9  |
| – Change of depositary bank:                | 3  |
| – Change of audit office:                   | 2  |
| – Change of ownership:                      | 0  |
| – Name change:                              | 7  |

A significant component of the procedure for granting licenses is the review of the persons involved. In addition to the general management and the persons involved in administration, this includes the owner of the company. The “fit and proper” review of the owners is conducted all the way back to the ultimate beneficial owners.

#### Admission of foreign IUs

The experiences with the European passports for management companies and funds are thoroughly positive. The European directives clearly specify which materials must be submitted, and MCs comply with these requirements. Looking at the efforts undertaken by CESR (the Committee of European Securities Regulators), which wants to further simplify the processes and has already taken certain fundamental decisions in this regard, the European passport has certainly been a success story with respect to investment undertakings. The notification procedure already introduced prior to UCITS III has thereby been expanded and improved.

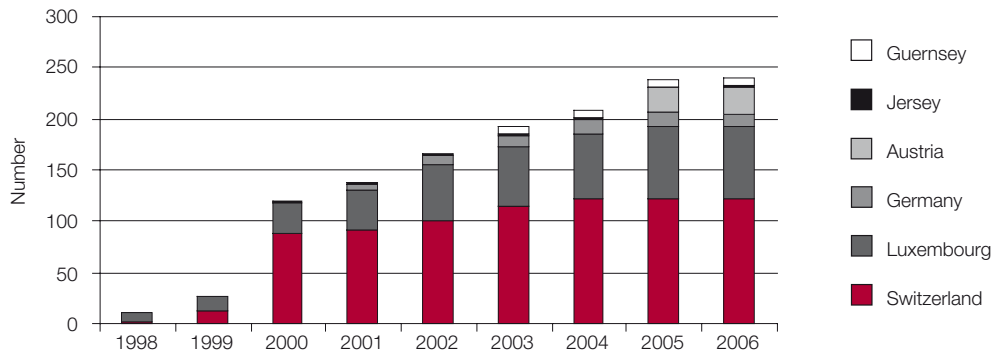
On a consolidated basis, the number of foreign IUs admitted to distribute units in Liechtenstein increased by 1 from a total of 239 IUs (2005) to 240 IUs (2006). These 240 IUs have a total of 735 segments (previous year: 659). In the 2006 reporting year, 4 foreign IUs ceased distributing units in Liechtenstein. Moreover, the first MC has made use of its EU passport and notified free movement of services in Liechtenstein.

The foreign IUs licensed to distribute units in Liechtenstein are distributed among the home territories of Switzerland, Luxembourg, Germany, Austria, Jersey, and Guernsey as follows:



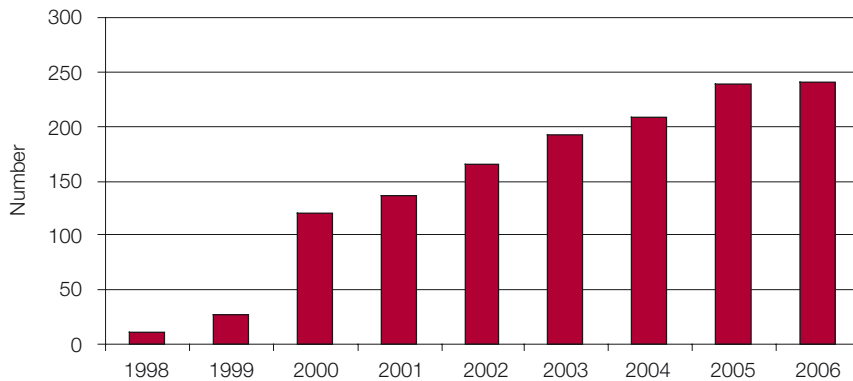


**Figure 14: Licenses of foreign investment undertakings to distribute units, by home territory, as of 31 December 2006 (number)**



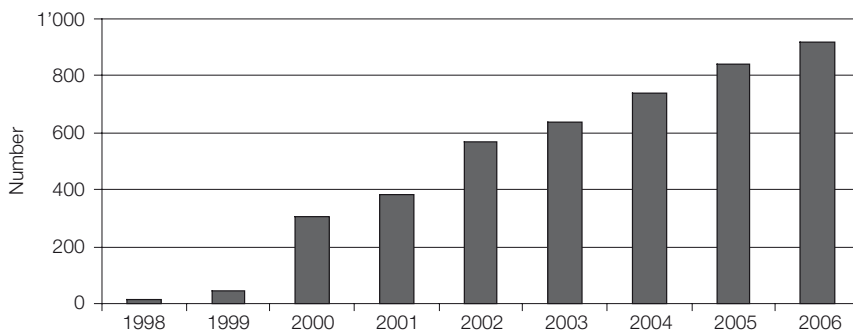
The following figure shows the development of foreign IUs as of 31 December 2006:

**Figure 15: Development of foreign IUs as of 31 December 2006 (number of IUs)**



The managed fund products (sum of unsegmented investment undertakings and individual segments of segmented investment undertakings) of foreign IUs developed as follows in recent years:

**Figure 16: Development of managed fund products of foreign IUs as of 31 December 2006 (number of fund products)**



### Licensing of persons entitled to market units

The Securities Supervision Section is also responsible for preparing decisions by the management of the division on the admission of persons entitled to market units under article 14 IUO. In addition to the persons automatically entitled to market units under the relevant enactments (companies with a special license under a Liechtenstein financial law), the FMA may also admit other persons entitled to market units, if they have a good reputation, appropriate professional training, the requisite experience, and a written marketing agreement and can provide information on the use of permissible market modalities.

In 2006, licenses were issued to persons entitled to market units for the first time. A total of 6 licenses were issued to persons entitled to market units. Of these, 2 licenses were issued to natural persons and 4 to legal persons.

### License as an audit office pursuant to the IUA

The Securities Supervision Section is also responsible for granting licenses as audit offices under the IUA. Audit offices already holding a license pursuant to the Law on Banks and Finance Companies may, according to a Government Resolution of 2 July 1996, also accept auditing mandates under the IUA and do not require an additional license.

In 2006, no new audit offices were licensed under the IUA. In total, 10 audit offices may accept mandates for MCs and for their IUs.

### Licensing practice

#### – **Licensing of an investment company whose shares are indirectly held by another State**

In 2006, the FMA received a license application for a self-managed investment company with two segments. The materials indicated that the equity capital of the investment company would be held by another State. In addition, the assets under management would be reinvested in the same State. The assets under management were intended to serve in the short-term for the financing of a State reform program and in the long-term for the restructuring of the ownership structure. Since this was the first license application for an investment company controlled by another State, the FMA issued a fundamental decision in this regard. The application was approved with several supplemental conditions. The basic condition was the inclusion of an internationally operating audit office. The license entered into effect.

#### – **Granting of a license to an IU with delegation of asset management to several exchangeable asset managements from the EEA and third States**

A license application for an IU for securities envisaged the delegation of asset management to several exchangeable external asset managers without a specific licensing of the external asset managers by the FMA. The goal of the management company was to achieve as much flexibility as possible in appointing the different asset managers.

Nothing stood in the way of a delegation to several exchangeable asset managers. However, the IUA requires that the individual external asset managers be reviewed and approved by the FMA. For this reason and for reasons of equal

treatment of all market participants, the FMA could not agree to the envisaged arrangement. The FMA licensed the IU with a number of 19 asset managers. The appointment of new asset managers is, however, subject to approval in each case. Once approval is granted, the management company may at any time appoint or exchange the individual asset managers. The prospectuses must accurately represent all facts in this regard and, if any change is made, be published in the publication medium. The license entered into effect.

The delegation to asset managers from third States envisaged by this application also gave rise to another difficulty. The IUA provides that, in the case of such a delegation, the equivalent supervision of the third State must be verified and cooperation with the competent supervisory authority ensured. The inquiries became very work-intensive, but the result was positive for all the desired third States.

### – **Granting of a license for individual portfolio management**

With a supplemental license, a fund management may, in addition to its fund business, take on management of individual portfolios in accordance with article 24, paragraph 3 IUA. In 2006, an application for such individual portfolio management was submitted for the first time. No additional materials must be submitted for a license under article 24, paragraph 3 IUA for individual portfolio management if the application is submitted by a fund management with an existing license. The legal provisions are more concerned with the area of supervision concerning compliance with various provisions of the Asset Management Act. In 2005, 5 requests were granted.

### 1.2.1.4 Auditing

Management companies are required to submit an annual report to the FMA each year within four months of the end of the business year and a semi-annual report within two months of the end of the half-year. These reports must be structured according to Annex 3 of the IUO and must be made available to the investors free of charge.

In addition, the management company must report to the FMA on a quarterly basis on the asset development of each investment undertaking. The FMA analyzes these reports and, if necessary, initiates the appropriate measures. In addition to material input on the status of the IUs, these quarterly reports also provide data for statistical purposes and indicate trends in the Liechtenstein fund center.

### Regular audits under the IUA

The system of indirect supervision provides the FMA with support by the legally stipulated audit offices in conducting prudential supervision. The audit offices annually audit ongoing compliance with the licensing conditions (article 102 of the IUO) and the ongoing conduct of business (article 103 of the IUO), based on the legally stipulated contents, of management companies and investment undertakings, and they summarize their findings in an audit report.

According to article 27 of the IUA, investment undertakings and management companies must be audited each year by an independent audit office recognized by the FMA.

In the reporting year, audits of all MCs and IUs were conducted pursuant to article 98 of the IUA. The audits reviewed whether the conduct of business of the MCs and the IUs complied with the IUA, the IUO, the statutes, and the full and simplified prospectuses. The business report must also comply with legal requirements.

In the reporting year, the FMA analyzed and evaluated 26 audit reports of MCs and 145 audit reports of IUs. In addition, there were numerous contacts with the general managements of the individual MCs over the course of the entire reporting year, which also have had a great influence on the continuously improving compliance with the legal provisions.

The audits in 2006 paid particular attention to the following points:

- the equity capital of management companies
- compliance with legal minimum net assets of IUs
- compliance with the investment guidelines
- continuous compliance with the licensing conditions
- the qualification of the persons responsible for the MC and the persons responsible for investment decisions in the case of IUs for other values with higher risk
- compliance with the delegation provisions
- compliance with the requisite approval of all delegations
- the exclusive use of distributors who have the appropriate license
- the conformity of the full and simplified prospectus with the legal requirements and sample prospectuses
- the quality of the audit reports
- complete and proper procedures in the case of liquidations

- complete and proper procedures in the case of restructurings
- fulfillment of duties by the depositary bank
- differentiation of activities subject to a license and activities subject to notification
- compliance with the provisions contained in the new IUA for investment companies
- compliance with the provisions on IUs for other values with higher risk
- implementation and compliance with the Code of Conduct (according to FMA Guideline 2005 / 3)

The results of the audit round during the 2006 reporting year were positive. Overall, however, it was noted that the strong increase in the number of IUs has also resulted in an increase in the quantity and also the seriousness of complaints.

The following deficiencies were identified in particular:

- failure to implement the Code of Conduct for the Liechtenstein Fund Center on time
- failure to comply with the investment guidelines
- failure to maintain minimum net assets in the case of IUs

The failure to implement the Code of Conduct on time emerged as a crucial deficiency. The Code of Conduct entered into force on 1 November 2005. The transitional period lasted until 30 April 2006. Since many of the audits took place before this date, a focus area in 2007 will be implementation in general and accuracy of implementation with respect to the Code of Conduct in particular.

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The FMA reviewed all complaints by the audit offices and called upon the MCs to comment, remedy the deficiencies appropriately, and report to the FMA upon completion of the measures taken. The auditing companies submitted a final report to the FMA in each of these cases.

In 2006, several MCs with serious complaints in their audit reports were also invited to discussions with the FMA. The FMA demanded explanations on the shortcomings and set appropriate deadlines for the deficiencies to be remedied as quickly as possible. Because the MCs cooperated quickly, no sanctions were necessary. This approach taken by the FMA in relation to problematic institutions has proven its value, which is why serious complaints in the audit report will continue to be actively pursued by the FMA in this way, while retaining the option of sanctions.

### Regular audits pursuant to the DDA

According to article 3 DDA, MCs and their IUs are subject to due diligence supervision in principle, while article 4 of the DDA contains an exception. IUs are exempt from the material scope of application of the Due Diligence Act if they do not keep unit accounts themselves and do not offer or distribute units themselves.

In the 2006 reporting year, only 2 MCs fell within the material scope of application of the DDA, in addition to the personal scope of application, and were therefore subject to supervision under the DDA. Audits pursuant to the DDA were conducted with respect to these 2 MCs. The focus of the 2006 audit round, as in the year before, was on a material audit. In both cases, the results can be deemed positive.

### – Extraordinary audits under the IUA and the DDA

In the 2006 reporting year, no extraordinary audits were ordered pursuant to the IUA or the DDA.

#### 1.2.1.5 Reporting

MCs are required to submit quarterly reports, semi-annual reports, and business reports of the IUs they manage. The FMA receives a semi-annual, business, and audit report concerning the management company itself. These reports are reviewed by the Securities Supervision Section and analyzed with respect to any supervisory action that must be taken:

**Table 8: Reports by management companies (MCs)**

| Report              | Article     | Number of reports | Number of reminders | Number of complaints |
|---------------------|-------------|-------------------|---------------------|----------------------|
| Quarterly reporting | art. 23 IUO | 682               | 2                   | 0                    |
| Business report     | art. 20 IUO | 160               | 0                   | 0                    |
| Semi-annual report  | art. 20 IUO | 160               | 0                   | 0                    |
| Audit report        | art. 27 IUA | 145               | 0                   | 33                   |

In several justified cases, a request to extend the deadline was received on time. For this reason, only few reminders were issued in 2006.

Of positive note was the quality of the quarterly reporting. While 5 complaints were made in 2005, the improved quality of the data in 2006 entailed that no complaints had to be issued.

In general, the reporting discipline in 2006 was very good. In the case of a very few business reports and semi-annual reports, a request for deadline extension was submitted early on. The FMA granted the extensions in all of these cases.

In connection with the quarterly reporting, it was noted more frequently that IUs have fallen beneath the legally required minimum volume of CHF 2 million. The shortcomings were pointed out to the MCs, and they were called upon to restore the legal minimum volume or, where necessary, to liquidate the IU.

#### 1.2.1.6 Supervision practice

##### Ordering of measures under supervision law

##### Implementation of a non-approved investment policy

One Liechtenstein fund management implemented an investment policy for one of its IUs that had been rejected in the license application submitted to the authority competent at the time. The investments made contained only borrower's notes that were issued by two companies and that could in principle only be cancelled by the debtor.

In the view of the FMA, this construct represented a type of self-dealing in which the interests of the investors were not sufficiently safeguarded. Several discussions took place between the FMA, the

fund management, the audit office, and the depositary bank in which a solution was sought. The investments made had to be restructured by the fund management, and their correctness had to be certified by the audit office in a special audit.

##### Insufficient diversification of one IU

The legally provided audit office of one Liechtenstein investment company included the comment in its report for the 2005 business year that diversification was very restricted for one segment. The prospectuses did not exclude the principle of risk diversification, so that a minimal risk diversification had to be maintained.

At the time of the annual financial statement, over 97 % of the segment in question was invested in shares of one company. The FMA called upon the management company to implement diversification in compliance with the law and the prospectus.

So far, no solution has been reached for this problem. The FMA will ensure, however, that the legal requirements are complied with as soon as possible.

### Redemption of units after liquidation decision

According to the IUA, units may no longer be redeemed or issued after the decision of an IU to liquidate. One management company failed to comply with this principle in 2006 when liquidating segments. The management company permitted redemptions after the liquidation decision. In this way, the liquidation costs were distributed among fewer units. Investors who did not return their units were burdened more heavily. The FMA demanded that the management company treat all investors equally and bear the liquidation costs itself. It was no longer possible to reverse the transaction for reasons of cost and complexity.

### Failure to fulfill monitoring responsibilities

In 2006, one Liechtenstein management company had failed to ensure its internal organization sufficiently. This was also reflected in the audit report of the company. In its report submitted to the FMA, the legally stipulated audit office complained that the management company failed to fulfill its monitoring responsibilities. According to article 31 IUA, the monitoring of compliance with legal provisions is one of the main responsibilities of a management company. The responsible persons were called upon to respond to the accusations. In addition, several personal meetings were held between the management company, the legally stipulated audit office, and the FMA. The organizational problems of the management company were resolved satisfactorily in the reporting year, as the audit office also confirmed in a special audit.

### Appointment of an investment advisor without a license in the case of an IU for qualified investors

According to article 28, paragraph 1(a) IUO, the licensing requirement under article 55, paragraph 1(b) IUA does not apply to IUs for qualified in-

vestors. Instead of a license by the FMA, a certification under article 28, paragraph 2(d) IUO of the external audit office is used. This certifies that the investment undertaking complies with the IUA and the IUO.

According to article 28, paragraph 4(a) IUO, the fund management must submit the prospectus for IUs for qualified investors at the latest six months after receipt of the certification under article 28, paragraph 3 IUO. Upon inspecting the prospectus, the FMA noted that investment advice had been delegated. A verification of the investment advisor by the FMA showed that the advisor was not authorized to offer investment advisory services.

The management company was called upon to explain to the FMA why the investment advisor was appointed and how the management company supervised the advisor's activities. At this time, it is not foreseeable what further measures will be taken.

This example of supervision of IUs for qualified investors shows what responsibility the audit offices assume for these products. It also shows that, despite the fact that no license is required, supervision still functions properly.

### Sanctions/ Referrals

The Securities Supervision Section did not impose any sanctions under the IUA or DDA in the 2006 reporting year. Likewise, no cases had to be referred to the prosecution or disciplinary authorities or the FIU.

### FMA Communications

The Securities Supervision Section did not publish any FMA Communications in the 2006 reporting year.

### Instructions

At the end of 2005, the Instructions were adapted to the new IUA. The introduction of the simplified licensing procedure in the 2006 reporting year necessitated a revision of the Instructions. The relevant Instructions are expected to be available on the website of the FMA in the first quarter of 2007.

### Revision of sample prospectuses

In November 2005, sample prospectuses were made available to the MCs for the first time. In a first run, these sample prospectuses were tested by the fund industry and the FMA. The feedback (approval procedure under UCITS III) resulted in numerous suggestions for improvement. This input and the general adjustments to the legal provisions, such as in connection with the abolition of the capital tax on assets under management, were incorporated into the various sample prospectuses over the course of the reporting year. The adjusted versions of the sample prospectuses were made available to the Liechtenstein Investment Fund Association (LIFA) for publication. They are accessible to all members of the LIFA on its website. Non-members may also obtain the sample prospectuses by contacting the LIFA.

### Responding to inquiries

The staff members of the Securities Supervision Section again received a large number of oral and written inquiries by financial intermediaries. Many were answered in writing. The focus of these inquiries was on implementation and interpretation of the new IUA and the new IUO as well as the two FMA Guidelines on the Code of Conduct for the Liechtenstein fund center and on the risk assessment and notification procedure for the use of derivative financial instruments by investment undertakings for transferable securities.

Some of the inquiries could be clarified very quickly. In other cases, far more difficult problems were addressed, the solutions of which required in-depth investigations, comparisons of law, and further inquiries addressed to other supervisory authorities and experts. Often, clarifications across divisions within the FMA were also necessary to provide financial intermediaries with satisfactory answers. In the case of complicated fact patterns, the Securities Supervision Section was also willing





to clarify questions posed by financial intermediaries in a personal meeting. This service was readily used by the financial intermediaries.

In the reporting year, a large number of oral and more than 200 written (e-mail or letter) inquiries were answered.

### 1.2.1.7 Combating abuse

The FMA received an extract from the commercial register indicating a company with the designation “Limited company with variable capital”. This company form is reserved for investment undertakings under the IUA. Since the company did not have the requisite license, the FMA in cooperation with the Public Registry demanded that the company change its name.

### 1.2.1.8 Operational focus areas in 2006 Liechtenstein Investment Fund Think Tank (LIFT)

LIFT, founded on 9 November 2005, began its work in the 2006 reporting year and has been active since. It undertook several projects relating to law, market development, tax questions, and the evaluation of opportunities and risks.

In particular, developments in other fund centers were observed, such as the development of the Capital Investment Act and the associated ordinance in Switzerland as well as legislative projects in Luxembourg.

The representatives of the three participating institutions, the Liechtenstein Investment Fund Association, the Bankers Association, and the FMA, have largely stayed the same, which ensures the continuity of the institution.

As a rule, meetings are held every two months. The representatives met a total of seven times in the reporting year; one meeting was dedicated to the special topic of qualified investors.

The representatives agree that this forum shall be continued. The cooperation of the participants, the banks, funds, and the supervisory authority is promising and delivers know-how and insights to all parties that are important for the fund businesses.

### Simplified licensing procedure

In 2006, the Securities Supervision Section developed a procedure for simplified licensing. This procedure includes a sample application containing a waiver of the previously required decree. If an application is granted in full, the applicant then only receives a letter of approval.

In connection with the introduction of the simplified licensing procedure, several associated verification schemas were developed, which serve as the foundation for systematic verification of the legal licensing conditions. With the simplified licensing procedure and the associated verification schema, the Securities Supervision Section anticipates more efficient verification of the submitted applications.

### Intensification of contacts with the fund industry

In 2006, intensive contacts with the fund industry were cultivated. These contacts are highly valued by the representatives of the MCs. Through these talks, the FMA aims to identify problems at an early stage so that appropriate measures can be taken. The FMA's cooperation with LIFT has brought further success.

### Prospectus amendments in connection with the new IUA

In 2006, 112 applications for prospectus amendments were submitted to the Securities Supervision Section. Many of these amendments were due to the new IUA, utilization of the new structures, and application of the prospectus design newly developed in 2005. According to article 113, paragraph 2 IUA, the old prospectus with integrated investment rules must be amended within 18 months of entry into force of the IUA. All prospectuses must be updated by 28 February 2007. The full and simplified prospectuses must be submitted to the FMA for approval. By the end of 2006, approximately 60 % of all prospectuses had been adjusted to the new IUA. As of 13 February 2006, the deadline was moved up by the EU directives especially for prospectuses distributed within the EU.

The MCs took advantage of these prospectus amendments to simultaneously adjust other points in the prospectus. The workload involved in reviewing the prospectus amendments varied, depending on the scope of the adjustments.

### Development of a supervision tool

In the reporting year, the Securities Supervision Section developed a supervision tool for monitoring the various deadlines and compiling the relevant data of IUs. The FMA believes that this supervision tool will enhance efficiency and simplify monitoring of deadlines.

### Strengthening of supervision

Supervision of MCs and IUs was strengthened in 2006. The Securities Supervision Section subjected the audit report to a critical review, and appropriate measures were initiated immediately in the case of complaints by the audit offices. MCs

receiving complaints in the audit reports were regularly invited to meetings. For the first time in 2006, staff members of the Securities Supervision Section accompanied an audit office in order to get to know its audit process in practice.

### Participation in the Working Group on Abolition of the Capital Tax on IUs appointed by the Government

The FMA was invited by the Government to participate in a Working Group on Abolition of the Capital Tax on Assets Managed by IUs. The work included discussions with the relevant professional association, drafting of a legislative proposal, participation in the development of the consultation draft, the Report and Application to Parliament, and responding to the questions raised in the first reading by parliament.

Previously, investment funds and investment companies had been taxed differently. The capital (own funds) and profit of fund managements were subject to the regular capital and profit tax and, in the case of distribution of dividends on shares, to the coupon tax. The assets of investment funds were subject to the capital tax. In the case of investment companies, the capital as a whole (own funds and assets under management) was taxable. Profit was not taxed. Investment companies were exempt from the coupon tax.

This unequal treatment was eliminated by an amendment to the Tax Act, and the two legal forms are now treated equally with respect to taxation.



### 1.2.1.9 Outlook for 2007

#### Accompanying of audits by FMA staff members

In 2007, additional auditing companies will be accompanied in their audits, in order to get to know the audit process better and to improve know-how with respect to audits in the Banking and Securities Supervision Division. The goal of accompanying the audit offices is to be able to conduct on-site inspections of individual MCs directly. Nevertheless, the system of indirect supervision by the FMA will be maintained in general.

#### Establishment of a fund database / Further development of the supervision tool

The supervision tool created in 2006 will be further developed and improved in 2007. Furthermore, a special fund database will be installed for purposes of recording and accessing all fund-specific data. This step will ensure further improvement of the efficiency of the Securities Supervision Section and verification of deadlines.

#### Ordering of focus audits

For the first time since the establishment of the FMA, the audit offices will be mandated in 2007

to conduct focus audits of MCs and their IUs. The Securities Supervision Section was able to gather experiences with the new IUA in 2006. A review of the various audit reports provided insights into the existing problems of the fund industry. In order to better analyze these problems and prevent future complaints, some of these topics will constitute a focus of the regular audit report in 2007.

In addition, further focus audits will be ordered for different reasons in the case of certain institutions. These may affect problematic institutions, very large or very small institutions, or also fund managements due to their assets under management. The FMA hopes that these preventive measures will lead to fewer complaints in the audit reports in the coming years.

### 1.2.2 Asset management companies (AMCs)

#### 1.2.2.1 Liechtenstein asset management center

Liechtenstein has a long tradition as an asset management center. For decades, banks, professional trustees, and trust companies have provided asset management services at a high level. With the entry into force of the Asset Management Act (AMA) on 1 January 2006, asset management has been taken out of the catalogue of services offered by professional trustees and trust companies, and a separate sector for asset management companies (AMCs) has been created.

After one year, it can be said that the new Liechtenstein as an asset management center has completed its baptism by fire.

At the end of 2006, 48 AMCs had been approved by the FMA in Liechtenstein, employing a total of more than 140 people. 19 of these AMCs were created out of former trust companies. The re-

maintaining 29 AMCs consist of 3 former companies with commercial licenses and 26 new companies. The newly formed AMCs in turn can be broken down by their country of origin: Liechtenstein (10), Austria (5), Switzerland (9), and Germany (2).

The AMCs maintain a total of approximately 3'760 client relationships, about 1'600 of which are with an asset management mandate. On the basis of asset management relationships, the AMCs manage assets in the amount of about CHF 11.2 billion; approximately CHF 9.8 billion are invested at Liechtenstein banks<sup>2)</sup>.

#### 1.2.2.2 Supervision of AMCs

The supervision activity of the FMA encompasses monitoring of compliance with the applicable legal norms by the supervised institutions. Supervision of AMCs is being developed. The experiences gained in the supervision of other financial market participants are applied and adapted to this new field. Nevertheless, the processes must be tailored to the AMA.

The Securities Supervision Section fulfills all responsibilities relating to supervision of the AMCs represented in the Liechtenstein asset management center. The field of activities encompasses two core responsibilities: granting licenses under the AMA and carrying out prudential supervision.

Prudential supervision under the AMA means ongoing supervision of the proper business conduct of the AMCs. The FMA executes supervision under the AMA, the applicable European regulations, and the principles of the International Organization of Securities Commissions (IOSCO). The associated responsibilities include, in particular, auditing, monitoring of reporting, combating abuse, and supervision of the AMCs under the provisions of the DDA.

An advantage of the relatively small Liechtenstein asset management center for supervisory activities is that, thanks to the small size of the location, the knowledge of the supervisory authorities about its supervised financial intermediaries is detailed and extensive. In the case of AMCs, the persons responsible for the AMCs are also personally known to the FMA, due to the intensive contact in the context of the licensing procedure.

In the framework of supervision, the FMA in particular also has the competence to issue decrees, FMA Guidelines, and FMA Communications.

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<sup>2)</sup> These amounts include double counts with the fund center, since the investment undertakings managed by the AMCs are also included in the figures.

### 1.2.2.3 Licenses

Anyone wanting to perform asset management for third parties on a commercial basis in Liechtenstein must obtain a license from the FMA. In 2006, 86 companies applied for a license. 48 of these applications were granted, and 38 are still pending. The average processing time was 117 weekdays; on average, a decision was made 31 weekdays after the materials were complete. The processing time has been decreasing steadily; the shortest processing time was 8 working days after the materials were complete.

As a rule, the envisaged audit offices of the AMCs could be approved without any problems. Only in the case of 6 requests did a new audit office have to be appointed: In the case of 5 requests, the audit office did not have the appropriate license. In the case of 1 request, the audit office met the license criterion, but it could not be approved for other cases due to irregularities in its business activities.

In 2006, a total of 2 changes to existing licenses were addressed:

|                                     |   |
|-------------------------------------|---|
| Changes to the functions of organs: | 1 |
| Changes to the business name:       | 1 |

Of the licensed AMCs, 12 notified cross-border provision of services in the EEA for the first time. The FMA notified 12 AMCs to 14 different supervisory authorities (Germany, Austria, Italy, Sweden, United Kingdom, Ireland, Belgium, the Netherlands, Luxembourg, Poland, the Czech Republic, Slovakia, Hungary, Slovenia).

### 1.2.2.4 Auditing

Auditing encompasses the legally prescribed, annually conducted regular audits under the AMA and the DDA as well as, where necessary, extraor-

dinary audits. As a rule, the audits are conducted by the audit offices (system of indirect supervision). However, the FMA has the legal option of carrying out audits itself. The audit offices combine the audits under the Law on Persons and Companies (PGR) and the audits under the AMA and the DDA. Six months after the end of the business year, the audit offices have to present the audit report to the FMA.

### Regular audits under the AMA

Given that the AMA entered into force on 1 January 2006, the first report by the audit offices will only be submitted in the course of 2007. The results of the first audit round under the AMA are therefore not yet available to the FMA.

### Extraordinary audits under the AMA

In the 2006 reporting period, the first year of application of the AMA, no factors of suspicion arose that would have required the performance of extraordinary audits of AMCs.

### 1.2.2.5 Reporting

AMCs are required to submit an annual report to the FMA within four months of the end of the business year and a semi-annual report within two months of the end of the calendar year or the half-year. The audit offices pursuant to the AMA submit a comprehensive audit report to the FMA within six months of the end of the business year. The FMA analyzes the reports and, where necessary, takes appropriate measures. The semi-annual reports also provide data for statistical purposes and indicate trends.

By and large, reporting complied with the legal requirements with respect to form and substance. Individual start-up difficulties were noted.

### 1.2.2.6 Supervision practice

#### Measures under supervision law

If indications come to the attention of the FMA that requirements under asset management law have not been implemented or have only been implemented insufficiently, then it shall order the requisite steps and take the appropriate measures to protect the investors and secure confidence in the Liechtenstein financial market. In the 2006 reporting year, no such measures under supervision law had to be taken.

#### Sanctions/ Referrals

In the first year of application, 2006, the FMA did not impose any sanctions relating to the supervision of asset management. However, two fact patterns had to be submitted to the prosecution authorities. In these cases, the companies were acting as AMCs without a license. In both cases, the FMA was informed of these companies and their activities by market participants. No measures had to be ordered under due diligence law.

#### FMA Communications

In the 2006 reporting year, there was no need for supervision practice to be concretized in an FMA Communication.

#### Instructions

Against the background of the new AMA, all Instructions had to be redrafted and made available to the market participants via the FMA website. The following Instructions were published:

- Granting of a license as an AMC  
(with respect to a former trust company)
- Incident-related reports
- Periodic reports
- Reports by the audit office
- Notification in the EEA of provision of services
- Notification in a third State of provision of services
- Notification abroad of a subsidiary
- Notification in Liechtenstein of provision of services
- Notification in Liechtenstein of a subsidiary

Due to the introduction of the simplified licensing procedure (see below), the Instructions on licensing as an AMC had to be revised. In this context, sample applications were drafted, which are also available on the FMA website.

#### Responding to inquiries

The Securities Supervision Section received numerous oral and written inquiries by financial intermediaries in the 2006 reporting year. Many of these inquiries were answered in writing. The focus of the inquiries was on implementation and interpretation of the AMA and AMO and primarily concerned questions on applying, licensing, and notification of the companies abroad.

### 1.2.2.7 Combating abuse

Conducting the activities set out in the AMA and the use of the business terminology indicating such activities are subject to a license and are not permitted without the appropriate license. The FMA monitors these prohibitions.

For this purpose, the Securities Supervision Section pursues indications of improper activities. Such indications are provided to the FMA primarily by professional associations, the affected market participants, and authorities of the Liechtenstein National Administration. Other sources of indications are the daily press, magazines, and the Internet.

In total, 3 cases in the 2006 reporting year were subjected to a more detailed review; these cases required particularly extensive and in-depth investigations.

In order to prevent cases of abuse, the Securities Supervision Section works together with the Office of Economic Affairs and the Office of Land and Public Registration. In particular, company purposes and business names in the case of commercial applications and registrations in the Public Registry are reviewed from the perspective of supervision law. In 2006, numerous cases were clarified in the forefront of combating abuse.

### 1.2.2.8 Operational focus areas in 2006

The focus areas of asset management supervision in the 2006 reporting year were the implementation of a simplified licensing procedure, which made the process more efficient, the granting of licenses, and building up supervision capacity.

### Simplified licensing procedure

In the reporting year, the process workflows for granting licenses were adjusted to the needs of financial intermediaries through the introduction of a simplified licensing procedure. In this connection, a verification schema for this purpose was developed (for a detailed explanation, see below). Using this schema, the data of the AMCs and persons responsible are presented and analyzed systematically. The General Management can use this schema at any time to make efficient decisions.

### The licensing procedure under the AMA

The licensing procedure begins with the receipt of an application for a license under the AMA. The application materials are evaluated on the basis of a specially created verification schema. The verification schema is a verification raster containing all verification steps and the relevant information. The verification schema, which reflects the procedure in a transparent and comprehensible way, is filled out and double-checked by a second set of eyes. After the initial verification, the pending materials or materials in need of improvement are requested. As soon as the materials are complete, the verification result is discussed at the level of the section. In the case of new formations of companies, the applicants are generally invited to a joint discussion. This discussion includes the basic recording of the company on the basis of a systematized questionnaire. The focus is on the persons, the company, its environment, its field of activities, its goals, and the existing risks. The results obtained are analyzed and discussed both at the level of the section and of the division. Only then are the materials drafted for a final decision by the General Management and forwarded.



If, in the context of the licensing procedure, it becomes apparent to the asset management supervisory authority that an involved person or company is known to a supervisory authority in the EEA, this authority is contacted and asked to forward information concerning this person or company to the FMA, provided that such information is of interest from the perspective of supervision law. The FMA's experiences in this regard have been positive, since the information received often generated valuable insights.

#### Verification of persons and shareholders

A significant component of the procedure for granting licenses is verification of the persons involved. In addition to the persons involved in general management and administration, this includes the owners of the company. The owners are traced all the way back until the ultimate beneficial owner is disclosed. In addition to a dated and signed curriculum vitae, natural persons must provide a current extract from the criminal register and declarations concerning freedom from execution and bankruptcy as well as concerning any pending criminal and administrative proceedings. In the case of foundations, the founder, members of the foundation board, and the beneficiaries must be disclosed. In the case of legal persons, an extract from the commercial register, the last audit report, and an overview of the shareholders must be submitted.

#### Problem of "shells"

In the context of the formation of subsidiaries of foreign companies, the Securities Supervision Section confronted an interesting field of tension. On the one hand, AMCs should be established in Liechtenstein that are not only mailbox companies (shells), but rather exhibit functioning business units that aim to become anchored here and



support the national economy for the long term. On the other hand, AMCs are allowed to outsource activities. This is particularly useful in the case of new formations, in order to focus the available resources on the establishment and expansion of the company.

Against this background, a verification form was created that allows an objective determination of where and "how much" the AMCs conduct their core activities. This constitutes a verification of two important licensing conditions: the actual head office of the administration and a sufficient domestic place of business.

#### Substitution arrangement

The substitution arrangement does not constitute a problem as long as the general management consists of two persons who, professionally and personally, are able to manage the business.

However, AMCs are also allowed to become operational with only one general manager. In this case, a substitution and succession arrangement must be set up to ensure that the company can act at any time, thereby ensuring the protection



of clients. As a rule, the substitution and succession arrangement is ensured by a member of the board of directors with individual signing authority, who is also instructed in business operations by the general manager.

Cases have arisen, however, in which a qualified general manager was to be substituted by another member of the general management who, on the basis of his training and practical experience, would not have been able to ensure the care of clients with respect to asset management. In such cases, an arrangement could be agreed upon according to which the substitute is required, within one month after the qualified general manager becomes unable to act, to recruit a new general manager or to transfer the clients to another financial intermediary.

### 1.2.2.9 Outlook for 2007

#### Licenses

As of the end of the calendar year, many trust companies were still operating which will probably submit an application for transformation into AMCs. Against this background, a “wave of applications” is expected for the beginning of 2007.

In the 2007 business year, the supervision of AMCs will pursue the following focus areas:

- Establishment and expansion of the processes for prudential supervision, especially with the aid of electronic tools
- Drafting of audit instructions for the audit offices

#### Contractually tied intermediaries

Contractually tied intermediaries may become active subject to unrestricted and unreserved liability of a single asset management company. Contractually tied intermediaries must be registered by the FMA to become active. Registered intermediaries are to be made visible to clients via an access tool on the FMA website.

The following focus areas of work must still be carried out:

- Establishment and expansion of processes concerning contractually tied intermediaries, especially development of a verification form and an electronic access procedure
- Drafting of Instructions and development of FAQs for the FMA website
- Exchange with foreign supervisory authorities on the treatment of and cooperation with respect to contractually tied intermediaries in the case of cross-border fact patterns

#### Extrajudicial arbitration body

The AMA provides that, in the case of disputes between clients and AMCs, the extrajudicial arbitration body must necessarily be invoked. The task of this body is to mediate between the parties in the case of a dispute and, in this way, to reach a settlement.

The following focus areas of work must be carried out:

- Research relating to the establishment and functioning of the arbitration body under the AMA
- Seeking out appropriate persons to fulfill the responsibilities of the arbitration body
- Drafting of the requisite documents and supplementing the FMA website

### 1.2.3 Securities sales prospectuses

#### 1.2.3.1 Liechtenstein securities issue center

The number and volume of issues of securities in the Principality of Liechtenstein are rather modest. Reasons certainly include the small (geographical) market, the financing structure of Liechtenstein banks, which are largely not dependent on issues, and the lack of a national stock exchange.

#### 1.2.3.2 Licenses

The licensing activities were not very labor-intensive. In 2006, a total of 3 licenses for prospectuses were issued. The average time for the granting of a license was 7 working days. What is special about this licensing process is, however, that a license is legally required to be issued in 8 working days, which always constitutes a challenge.

The FMA did respond to several inquiries concerning the issuing of securities. Such inquiries frequently concern whether a prospectus requirement exists or not. In many cases, the answer was negative and no prospectus requirement applied. However, such inquiries often also concern other areas of the law, so that questions of delineation must be answered, or other legal questions arise that must then also be answered.

#### 1.2.3.3 Combating abuse

In the reporting year, 3 cases of abuse had to be pursued by the FMA.

In one case, investors in Liechtenstein were called upon by way of personal letters to subscribe to securities. Since this constituted a public offering of securities, the prospectus requirement would have applied. The company in question was referred to the prosecution authorities by the FMA.

In the second case, the German supervisory authority (BaFin) approached the MFA: A Liechtenstein company publicly offered its shares in Germany by way of a prospectus not approved by BaFin. An associated Liechtenstein company served as an intermediary in offering these shares unlawfully in Germany. With these activities, both companies are in breach of the laws applicable in Germany. Against this background, BaFin approached the FMA to request the necessary support. The FMA directly approached the companies and requested a response. These two fact patterns have not yet been fully clarified and are still being pursued by the FMA in cooperation with BaFin.

In the third case, the FMA received a letter from the Examining Magistrate of the Canton of Schwyz. This letter contained information on an ongoing criminal investigation being conducted against a Swiss limited company in connection with the distribution of securities of another company. The distributed shares turned out to be worthless. In this connection, indications had arisen that a Liechtenstein establishment and two of its employees might have been involved in these distribution activities. The FMA then ordered an extraordinary inspection. In this connection, the FMA also had to obtain information by way of an on-site inspection. Pursuant to further investigations, the FMA referred the facts of the case to the Office of the Public Prosecutor.

### 1.2.3.4 Operational focus areas in 2006

In addition to licenses issued under the existing Prospectus Act and supervision activities, questions in connection with the drafting of the new Prospectus Act were discussed. The task was to review the definition of closed IUs and, if necessary, modify it, and to review the general delineation between the Prospectus Act and the IUA.

In particular the placement of closed IUs under the new Prospectus Act with respect to their prospectus gave rise to numerous questions of delineation between the IUA and the Prospectus Act.

Together with the responsible Integrative and International Affairs Unit, the Securities Supervision Section is developing the draft law, consultation report, and the Report and Application to Parliament. In workshops with the professional associations, numerous questions were clarified and agreement was achieved with respect to most of the questions raised in the consultation procedure.

### 1.2.3.5 Outlook for 2007

Until the new Prospectus Act is finally introduced, the FMA must still carry out extensive work. The responsibility for the new Act will again fall within the scope of the Securities Supervision Section.

In particular, the task will be to draft Instructions and to implement the EU regulation into national law so that legal certainty concerning implementation, interpretation, and application exists for the financial service providers. The consultation report assured the financial service providers that the EU regulation would be incorporated into national law.

It is still open to what extent the frequency of issues will be affected by the new Act. The European passport will certainly be an advantage for the issuers. A prospectus approved in Liechtenstein will in the future be valid throughout the EEA and serve the purpose of admission to stock exchanges. Only notifications will have to be made to the Member States concerned.

What has already emerged in this reporting year is a great interest on the part of AMCs in issuing securities. Questions on this topic are frequently asked, and prospectuses for issues have also already been submitted for approval or announced.



## 1.3 Insurance Supervision

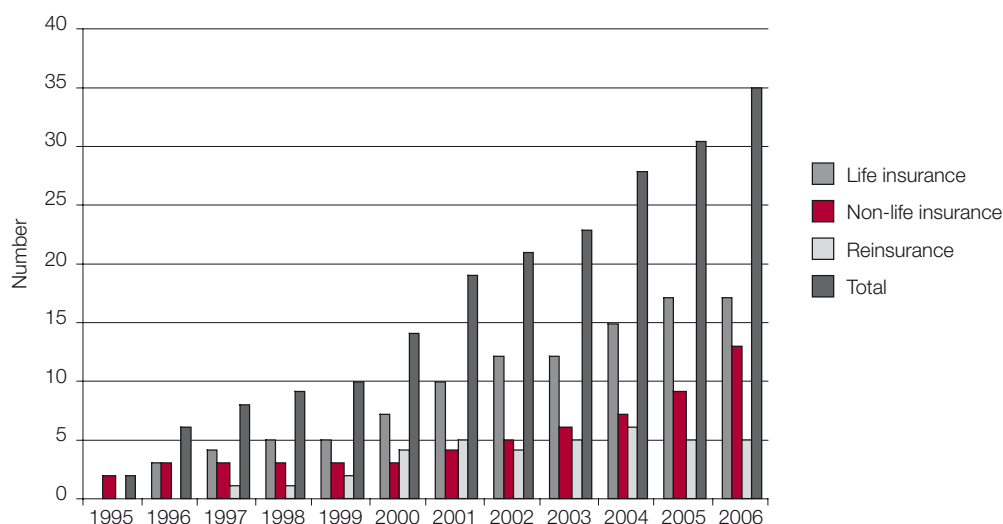
### 1.3.1 Insurance undertakings

#### 1.3.1.1 Liechtenstein insurance center

At the end of 2006, a total of 35 (previous year: 31) insurance undertakings were domiciled in Liechtenstein (17 life, 13 non-life, and 5 reinsurance undertakings). 11 undertakings operated in

own-insurance (so-called captives, i.e. insurance undertakings that exclusively insure risks within their own group), 6 of which as direct insurers and 5 as reinsurers. The founders or shareholders of the 35 insurance undertakings are from the following countries: Switzerland (22), Austria (6), Liechtenstein (2), United Kingdom (2), Germany (1), United States (1), and Belgium (1).

Figure 17: Development of the number of insurance undertakings by sector, 1995 to 2006



The direct insurance undertakings operated almost exclusively by virtue of free movement of services in the European Economic Area and Switzerland. As the home State supervisory authority, the FMA supervised the entire business of these insurance undertakings.

The main business of the Liechtenstein insurance undertakings is life insurance, especially fund-linked and unit-linked life insurance. After the new formations in 2006, the activities of non-life insurers now cover all classes of insurance. All of the reinsurance undertakings are captives.

The former agencies of Swiss insurance undertakings were converted into subsidiaries in 1998, pursuant to the Direct Insurance Agreement between Liechtenstein and Switzerland. In total, 26 Swiss insurance undertakings maintained a subsidiary in Liechtenstein, of which 15 were non-life and 11 life insurance undertakings.

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As in the previous year, the insurance undertakings were called upon at the beginning of 2007 to provide interim figures on the 2006 business year. On the one hand, this is intended to provide an initial overview of the market development; on the other hand, any problems that may arise can then be identified at an early stage. The interim figures show that the positive development of the insurance center has continued. The premium income for insurance undertakings was about CHF 6.78 billion in 2006, compared with CHF 4.21 billion in 2005, which corresponds to an increase of approximately 61%. Of this amount, approximately CHF 6.56 billion (96.8%) was generated

by life insurers, approximately CHF 165.5 million (2.4%) by non-life insurers, and approximately CHF 55.5 million (0.8%) by reinsurers. The capital invested on behalf of clients in connection with fund-linked or unit-linked insurance policies rose from CHF 8.81 billion in 2005 by approximately 67.7% to about CHF 14.77 billion in 2006 (see Figure 18). The balance sheet total of all insurance undertakings domiciled in Liechtenstein amounted to approximately CHF 16.79 billion in 2006, compared with CHF 10.73 billion in 2005. This represents an increase of about 56.5% (see Figure 19).

**Figure 18: Development of gross premiums written and capital investments, 1995 to 2006 (in billion CHF)**

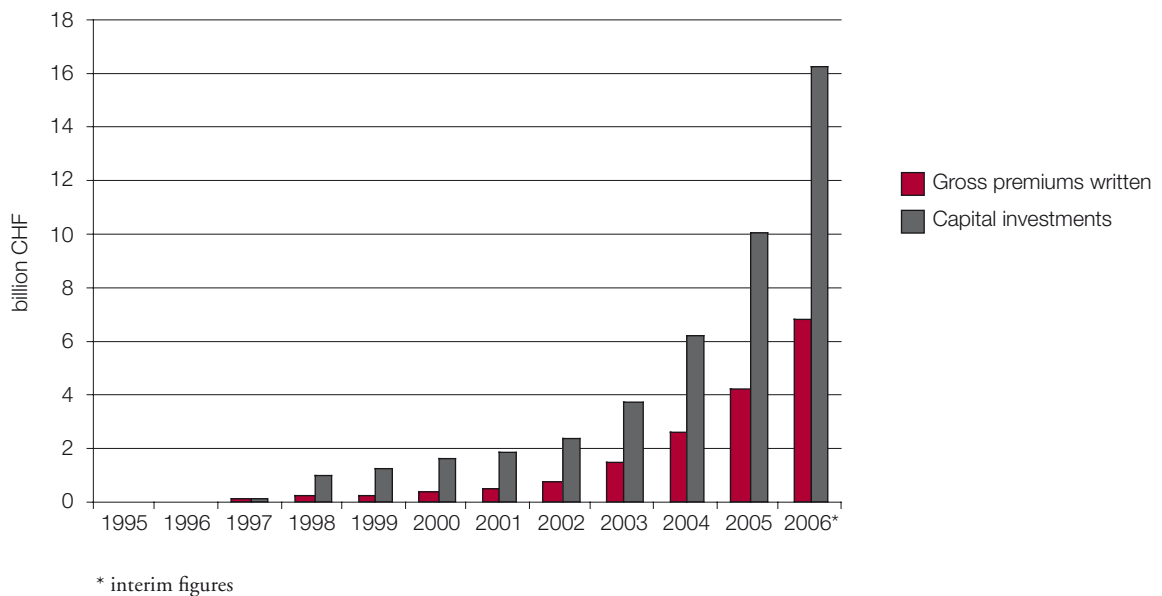
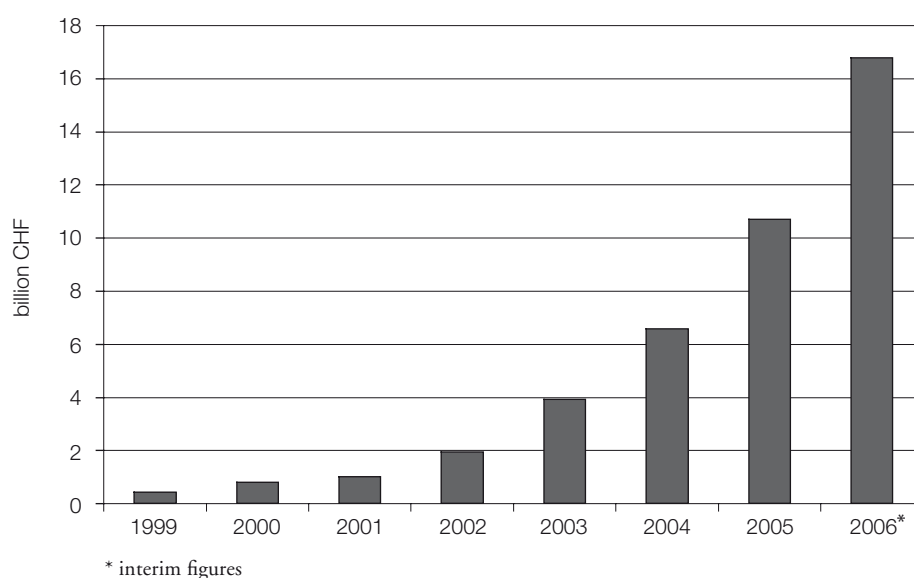


Figure 19: Development of balance sheet total, 1999 to 2006 (in billion CHF)



Among life insurers, 13 companies (81 %, previous year: 70 %) expected a positive result in 2006, although most of the undertakings are still in the start-up phase. The solvency margin is covered with sufficient own funds in the case of all life insurers. Most of the non-life and reinsurers also had a positive result (81 %, previous year: 77 %), and the solvency margin in this sector is also covered for all of the companies. The total equity capital of all undertakings increased by approximately 33 % from CHF 437.6 million at the end of 2005 to about CHF 582.7 million at the end of 2006. The number of persons employed by insurance undertakings increased from 182 in 2005 to 223 in 2006. This represents an increase of 23 %.

### 1.3.1.2 Licenses

#### Grants / withdrawals of licenses

In 2006, the FMA granted 4 non-life insurance undertakings and 1 life insurance undertaking the license to take up business activities under the Insurance Supervision Act (ISA). Of the total of 5 newly licensed insurance undertakings, 1 was founded as a self-insurance (captive). Conversely, 1 life insurance undertaking renounced its license, so that the license was withdrawn by the FMA. This undertaking had already voluntarily ceased its business activities in the previous years. In total, the number of insurance undertakings domiciled in Liechtenstein rose to 35 (previous year: 31).

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**Table 9: Insurance undertakings domiciled in Liechtenstein, broken down by category of license (number)**

| Category of license | 2005 | of which captives | 2006 | of which captives | 2005/2006 +/- |
|---------------------|------|-------------------|------|-------------------|---------------|
| Non-life insurance  | 9    | 5                 | 13   | 6                 | +4            |
| Life insurance      | 17   | 0                 | 17   | 0                 | 0*            |
| Reinsurance         | 5    | 5                 | 5    | 5                 | 0             |
| Total licenses      | 31   | 10                | 35   | 11                | +4            |

\* +1 license granted, -1 license withdrawn

The FMA is also responsible for granting licenses as an audit office under the Insurance Supervision Act. In 2006, no new licenses were granted. The number of 10 audit offices under the ISA has remained the same since 2003.

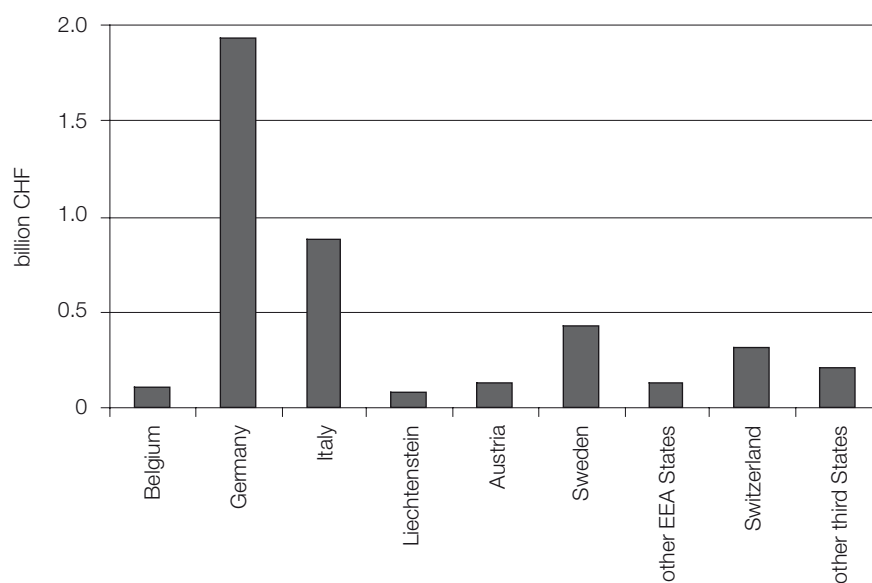
### Changes to licenses

In the reporting year, no changes to licenses occurred. Only changes to the approved business plans were reported by the insurance undertakings, all of which the FMA was able to approve (see point 1.3.1.4).

### Cross-border movement of services

Insurance undertakings domiciled in Liechtenstein or with licenses issued by the FMA may offer direct insurance in another EEA Contracting Party by way of a branch or free movement of services (single license). The insurance undertakings must notify this to the FMA as the home country authority, which brings this notification to the attention of the host country authority (home country control). The same procedure also applies in the case of activities in Liechtenstein by an EEA insurance undertaking. Pursuant to the Direct Insurance Agreement between Liechtenstein and Switzerland, the same applies in relation to Switzerland (see figure below).

**Figure 20: Cross-border business of Liechtenstein insurance undertakings, broken down by country (based on gross premiums written) in 2005 (in billion CHF)**



By the end of 2006, 240 (previous year: 225) insurance undertakings from different EEA States and Switzerland notified the assumption of cross-border services in Liechtenstein or via their home

country supervisory authority to the FMA. In practice, however, these undertakings have generally not become operational.

**Table 10: Branches or free movement of services of foreign insurance undertakings notified in Liechtenstein (number)**

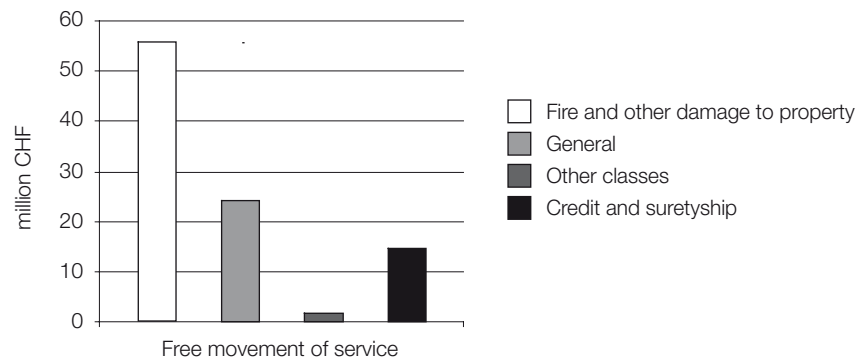
| Branches or free movement of services  | 2003 | 2004 | 2005 | 2006 | 2005/2006<br>+/- |
|--|------|------|------|------|------------------|
| Branches of Swiss insurance undertakings   | 31   | 26   | 26   | 26   | 0                |
| Branches of insurance undertakings domiciled in the EEA                                    | 0    | 1    | 1    | 1    | 0                |
| Free movement of services of insurance undertakings notified in Liechtenstein (CH and EEA) | 180  | 201  | 225  | 240  | +15              |



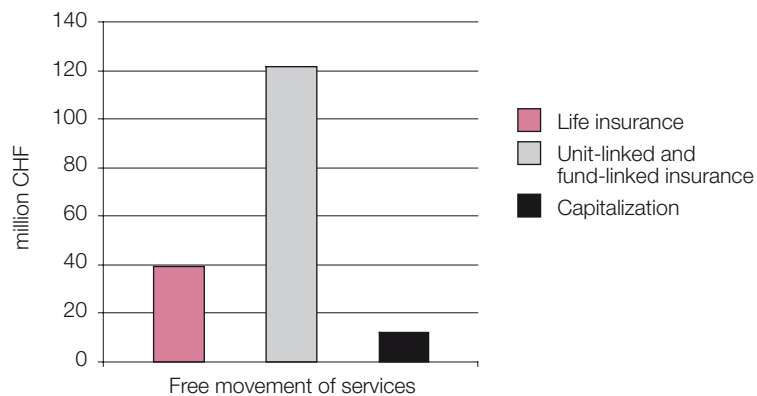
Pursuant to the Direct Insurance Agreement between Liechtenstein and Switzerland, Liechtenstein insurance undertakings may engage in insurance activities in Switzerland, and Swiss insurance undertakings may engage in insurance activities in Liechtenstein. In 2005, the total gross premiums written in Switzerland of Liechtenstein insurance undertakings amounted to about CHF 96 million in non-life insurance and about CHF 172.3 million in life insurance. The Liechtenstein non-life and life insurance undertakings did not operate by virtue of the freedom of establishment in Switzer-

land in 2005, but rather only by virtue of the free movement of services. Conversely, Swiss insurance undertakings generated total gross premiums amounting to approximately CHF 213 million in non-life insurance and about CHF 139 million in life insurance (free movement of services and freedom of establishment). The following figures show the cross-border business of Liechtenstein and Swiss insurance undertakings in 2005, broken down by non-life and life insurance and by class of insurance.

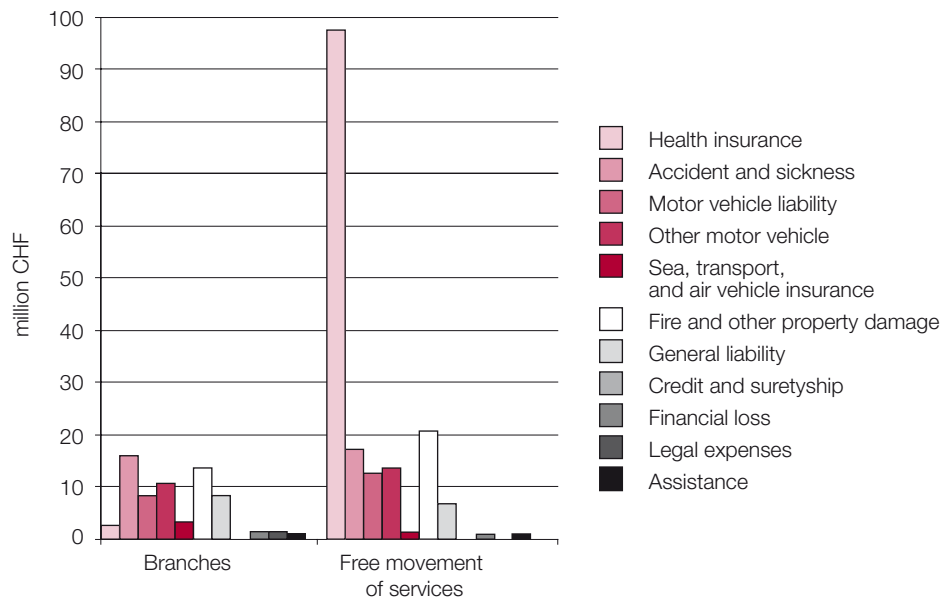
**Figure 21: Free movement of services of Liechtenstein non-life insurance undertakings in Switzerland in 2005 (based on gross premiums written, in million CHF)**



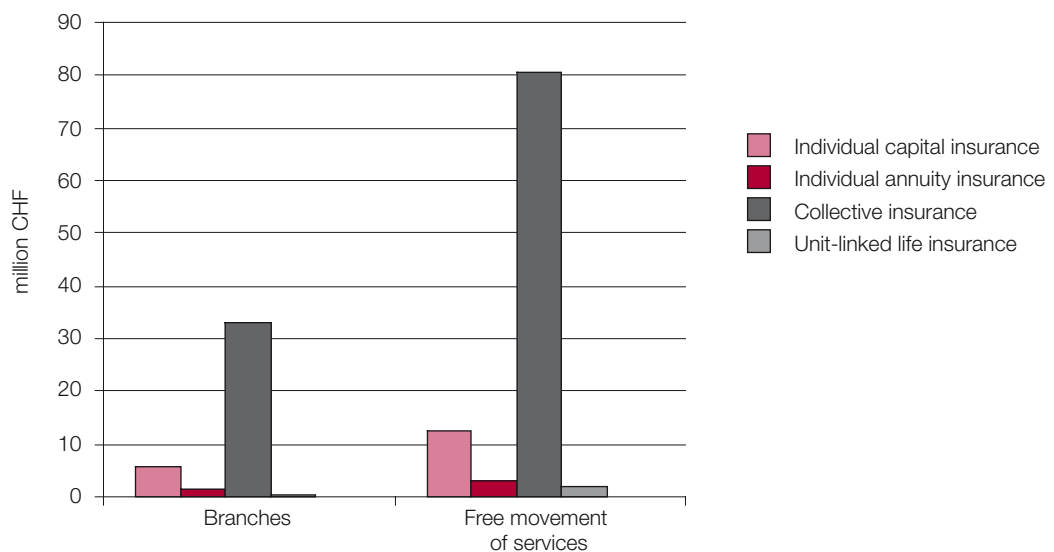
**Figure 22: Free movement of services of Liechtenstein life insurance undertakings in Switzerland in 2005 (based on gross premiums written, in million CHF)**



**Figure 23: Business through branches and free movement of services of Swiss non-life insurance undertakings in Liechtenstein in 2005 (based on gross premiums written, in million CHF)**



**Figure 24: Business through branches and free movement of services of Swiss life insurance undertakings in Liechtenstein in 2005 (based on gross premiums written, in million CHF)**





### 1.3.1.3 Auditing

#### Regular audits under the ISA

The FMA called upon the insurance undertakings to submit their reports for the 2005 business year, including figures for the previous year, in accordance with the template. At the same time, the FMA drew the attention of the audit offices to their legal obligations. In 2006, the reports for the 2005 business year were audited under article 39 ISA for all insurance undertakings, except for one insurance undertaking founded in the second half of 2005, which made use of the option of an extended business year provided in article 1048 of the Law on Persons and Companies (PGR). Most of the insurance undertakings submitted their materials on time. The audit report of one insurance undertaking contained one reservation. This reservation concerned the incorrect valuation of certain assets. In the case of all other insurance undertakings, the provisions on business conduct were met, and the business report and reporting to the supervisory authority were drafted in accordance with the requirements.

The FMA subjected the submitted materials to a detailed review, assessed the plausibility of the data, and verified compliance with the approved business plan. The results of the audit round for the 2005 reporting year can be summarized as follows:

- Overall, the submitted reporting materials were complete and plausible.
- In the case of 1 life insurance undertaking and 1 captive, it was noted that the own funds for covering the solvency margin were insufficient. In the case of the life insurance undertaking, this was already determined on the basis of the interim figures submitted at the beginning of the year, so that the parent company could be promptly requested to inject additional funds. The situation was remedied in the case of both undertakings.

The audit round for the 2005 reporting year was concluded by the FMA in August 2006.

#### Regular audits under the DDA

According to article 3, paragraph 1(d) and article 4 DDA, life insurance undertakings are subject to the personal and material scope of application of the DDA. In the reporting year, the FMA mandated the audit offices under special legislation to conduct regular inspections of life insurance undertakings under the DDA. The audit reports had to be submitted to the FMA by 30 April 2006, together with the audit report under the ISA.

Of 17 supervised life insurance undertakings as of 31 December 2006, due diligence inspections were conducted of 15 life insurance undertakings. One life insurance undertaking was granted a license to take up business activities in August 2006. Accordingly, this insurance undertaking was not yet captured by the regular inspection

under the DDA for the 2005 business year. In the case of one life insurance undertaking, no regular due diligence inspection was ordered. Because of criminal proceedings against this undertaking that were still pending in the reporting year, special periodic reporting to the FMA has been ordered for this life insurance undertaking with respect to rectification of the due diligence defects.

In the 2006 reporting year, a total of 26 complaints were noted; in the case of 9 life insurance undertakings, there were no complaints. The most frequent complaints concerned the completeness, content, and expressiveness of the profile data. In some cases, moreover, defects were identified in connection with the delegation of due diligence obligations. In these cases, the FMA as a rule requested confirmation by the audit office certifying that the defects identified in the inspection report had been remedied in a timely manner.

According to the inspection reports of the audit offices on the due diligence inspections in the reporting year, one life insurance undertaking submitted a suspicious activity report to the FIU under article 16, paragraph 1 DDA.

#### Extraordinary audits

In November 2006, on-site inspections of Liechtenstein insurance undertakings were initiated. On-site inspections are a very efficient and useful tool for gaining detailed knowledge about the undertakings. For this reason, the FMA plans to employ this supervision instrument more frequently in the future. The audit areas of the on-site inspections are, in particular: general situation and business policy, ownership structures, management audit, financing and adequacy of own funds, relationship with external undertakings, funds, distribution system, due diligence audit, processes and

internal control system, accounting, controlling and reporting, technical bases.

#### 1.3.1.4 Reporting

In the reporting year, the FMA approved a total of 29 changes to business plans (e.g. changes to the board of directors or the general management, change of the audit office, amendments to statutes, changes to the share capital). Only 1 change to the approved business plan is still pending as of 31 December 2006 due to lack of documentation.

#### 1.3.1.5 Supervision practice

As mentioned above, 2 insurance undertakings had to be called upon to remedy insufficient cover of the solvency margin by own funds in the reporting year. In both cases, a correct state of affairs was restored.

With respect to the DDA, the FMA focused on further optimization of the measures for compliance with the due diligence provisions by the life insurance undertakings.

No reports to the Financial Intelligence Unit or the Office of the Public Prosecutor had to be submitted.

### 1.3.1.6 Combating abuse

In the reporting period, the FMA dealt with two cases that were still pending from the previous year.

In the first case, a foreign insurance undertaking was maintaining a branch in Liechtenstein, without however meeting the conditions set out in insurance supervision law. The branch in Liechtenstein had not yet been notified by the insurance supervision authority of the home country. The case has not yet been referred to the prosecution authorities, since the branch currently does not engage in business activities.

In the second case, the FIU forwarded a letter by the United States embassy to the FMA. According to this letter, a Liechtenstein company was accused of carrying out operational business activities with a foreign insurance company. There was a suspicion that the Liechtenstein company was, via a company domiciled in New Zealand, offering insurance with very few requirements to ships sailing under the North Korean flag. According to the letter, the New Zealand company did not have an insurance license and was not carrying out business activities. On the basis of this report, the FMA launched internal investigations, which indicated that the Liechtenstein company did not have an insurance license. The FMA consequently ordered an extraordinary inspection under the ISA and DDA. The FMA concluded that the constellation in question was a club for the purpose of mutual insurance of certain events for its members, namely ship owners and ship operators. The legal relationship of the members was governed by club rules. Unlike insurance undertakings, such mutual insurances are non-profit organizations to which members pay a contribution that is dependent on the actual claims amount. The club

was administered on the basis of a management agreement by the Liechtenstein company. Accordingly, the FMA found that the Liechtenstein company neither engaged in insurance activities, nor were there any violations against the DDA. On the basis of these results, the foreign supervisory authorities were informed of the investigations carried out by the FMA.

### Responding to inquiries

In the 2006 reporting period, the FMA responded to numerous inquiries on a wide range of topics. In the field of insurance supervision law, most of the inquiries were submitted by supervised undertakings concerning the legal enactments, as well as inquiries on the Liechtenstein insurance center in general, the licensing conditions for the formation of an insurance undertaking in Liechtenstein, and natural hazard insurance. In addition, the project on the “Liechtenstein Pension Funds Center” also garnered much attention in Liechtenstein and abroad. The content and the effort involved in answering the inquiries varied considerably. In 2006, the FMA also received several inquiries from life insurance undertakings and audit offices in connection with the new DDA and the associated ordinance, which as a rule were answered in writing. In the case of complicated fact patterns, a personal meeting was often necessary. A few inquiries were also made by foreign authorities concerning supervision practice. This type of communication among supervisory authorities is an indispensable tool for the administration of consolidated supervision in the case of internationally operating insurance undertakings and for the international recognition of the FMA.

### The FMA as a complaints body

In the reporting period, 14 cases of complaints arose, affecting 3 different life insurance undertakings. The majority of the complaints cases concerned the calculation of surrender values and deductions for commissions. The FMA also took up an increasing number of fact patterns in which the policyholders of Liechtenstein insurance undertakings did not file complaints directly against the insurance undertaking itself, but rather against financial services undertakings (banks, asset managers, insurance intermediaries) working together with Liechtenstein insurance undertakings. The FMA may, where necessary, take the necessary supervisory measures immediately. Moreover, a Liechtenstein policyholder filed a complaint against a foreign insurance undertaking. In such cases, the FMA works closely together with the competent foreign supervisory authority.

3 cases of complaints are currently still pending. Overall, the FMA did not find any violations of the law in the reporting year.

#### 1.3.1.7 Compulsory building insurance

In Liechtenstein, all buildings must be insured against fire and natural hazards. Since natural hazard risks are very difficult to calculate, insurance against fire may be offered only in conjunction with insurance against natural hazards. Moreover, the scope of coverage and the scale of premiums for natural hazard insurance are uniform and binding for the insurance undertakings. Insurance of household effects and other chattels is voluntary.

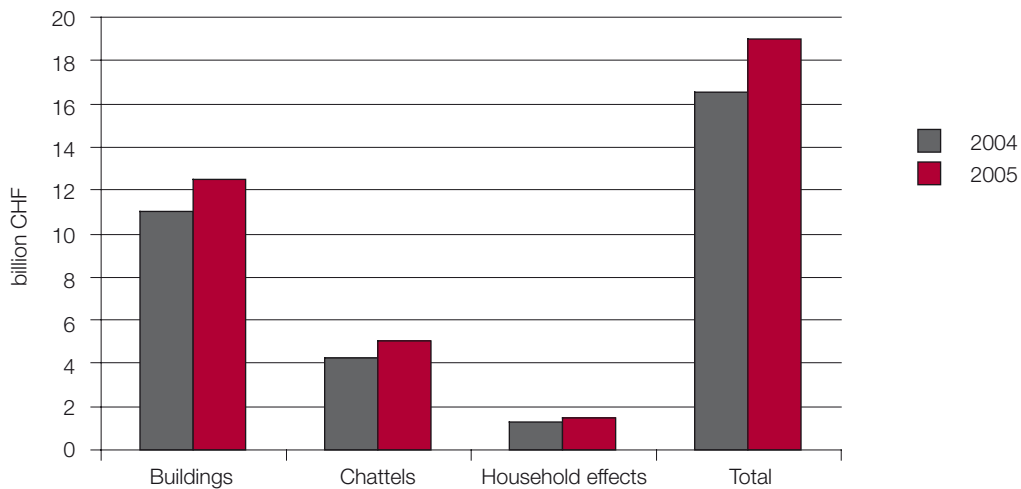
As of 31 December 2005, a total of 17 insurance undertakings were offering compulsory building insurance in Liechtenstein. Of these insurance undertakings, 4 are domiciled in an EEA Member State (including Liechtenstein) and 13 in Switzerland.

All insurance undertakings offering compulsory building insurance are required to provide the FMA annually with data on fire and natural hazard insurance. The FMA uses this data to generate statistics on the development of fire and natural hazard insurance overall. These statistics are in particular also used to calculate the premium scales for natural hazard insurance.

The fire insurance sum of all buildings situated in Liechtenstein serves as the basis for calculating the contribution of building insurers operating in Liechtenstein to fire protection and the prevention of damages arising from natural hazards within the meaning of article 13 of the Building Insurance Act.

The fire insurance sum of Liechtenstein buildings was about CHF 12.53 billion as of 31 December 2005 (2004: CHF 11.08 billion), about CHF 1.49 billion for household effects (2004: CHF 1.24 billion), and about CHF 5 billion for all other chattels (2004: CHF 4.25 billion). In total, the fire insurance sum amounted to approximately CHF 19.02 billion in 2005 (2004: CHF 16.57 billion).

Figure 25: Fire insurance sum for building insurance, 2004 to 2005 (in billion CHF)



#### 1.3.1.8 Operational focus areas in 2006

##### On-site inspections

In autumn 2006, the FMA began conducting systematic on-site inspections focusing on specific areas at the registered offices of insurance undertakings. By the end of 2006, one comprehensive on-site inspection was carried out.

##### Implementation of the EU Pension Funds Directive (2003/41/EC)

Directive 2003/41/EC (Pension Funds Directive) was implemented into Liechtenstein law with the Pension Funds Act (PFA) and the Pension Funds Ordinance (PFO), which entered into force on 17 January 2007. Institutions for occupational retirement provision (pension funds) are now subject to FMA supervision.

##### Implementation of the EU Insurance Mediation Directive (2002/92/EC)

The Insurance Mediation Directive 2002/92/EC was implemented into Liechtenstein law with the Insurance Mediation Act (IMA) and the Insurance Mediation Ordinance (IMO), which entered

into force on 1 July 2006. Insurance intermediaries now need a license issued by the FMA to take up and carry out mediation activities and must be entered into the newly created Insurance Intermediary Register.

##### 1.3.1.9 Outlook for 2007

The operational focus areas for 2007 with respect to insurance undertakings will essentially be the following:

With the participation of the Liechtenstein Insurance Association, the FMA will analyze the investment practice and provisions in the area of fund-linked and unit-linked life insurance and, where necessary, will draft appropriate guidelines.

By the middle of 2007, the framework directive for Solvency II should be adopted. The FMA will undertake the relevant preparatory work for the implementation of Solvency II early on in 2007 and, together with the insurance industry, will review the need for amendments.

In 2007, the FMA will intensify its systematic on-site inspections of insurance undertakings.

The Pension Funds Act, which entered into force at the beginning of 2007, mandates the FMA to exercise supervision. The FMA will therefore build up its supervision of pension funds in 2007, i.e. it will draft an Instruction on the licensing conditions and procedure and will institutionalize ongoing supervision. In addition, the FMA will seek membership in the International Organization of Pension Supervisors (IOPS), with a view to international recognition of the Liechtenstein pension funds center and the FMA.

### **1.3.2 Insurance intermediaries**

#### **1.3.2.1 Supervision of intermediaries**

With the entry into force of the new Insurance Mediation Act (IMA, LGBl. 2006 No. 125) and the associated Ordinance (IMO, LGBl. 2006 No. 136) on 1 July 2006, the activities of insurance intermediaries operating in or from Liechtenstein are now subject to a license.

Supervision of insurance intermediaries is the responsibility of the FMA. Supervision encompasses execution of the insurance mediation legislation. The FMA fulfills the following core responsibilities under supervision law in this regard: granting licenses under the IMA, registering insurance intermediaries, and carrying out prudential supervision.

Prudential supervision encompasses in particular inspection of reporting, auditing, combating abuse, and – with respect to insurance brokers carrying out financial transactions within the meaning of the DDA – supervision under the DDA.

#### **1.3.2.2 Licenses**

Insurance intermediaries who already engaged in insurance mediation at the time of entry into force on 1 July 2006 must obtain their license from the FMA during the one-year transitional period until 1 July 2007 at the latest. Persons taking up insurance mediation after 1 July 2006 must have a license issued by the FMA from the start of their business activities.

The licensing conditions are stipulated in article 6 of the Insurance Mediation Act. Insurance intermediaries must demonstrate the required professional qualifications, an impeccable reputation, and professional indemnity insurance or an equivalent financial guarantee.

Since entry into force of the new Insurance Mediation Act on 1 July 2006, 3 legal persons have been granted a license to engage in insurance mediation as of the end of 2006. Of these 3 insurance intermediaries, a total of 10 natural persons have been licensed by the FMA as employees working in insurance mediation. All of these insurance intermediaries are insurance brokers. The grant of the license entails entry into the newly created Insurance Intermediary Register, which can be publicly accessed online via the FMA website.



The insurance intermediaries licensed and registered in Liechtenstein may, by virtue of the freedom to provide services and the freedom of establishment, operate in all EEA Member States, provided that they inform the FMA of this intent. The FMA then notifies this intent to the supervisory authorities of the country of activity. All activities of the Liechtenstein insurance intermediaries in the EEA are supervised by the FMA. The insurance intermediaries licensed by the FMA in the 2006 reporting year have made use of this possibility.

### 1.3.2.3 Reporting

Insurance intermediaries must immediately inform the FMA of all changes to the information provided in the license application (article 19, paragraph 2 IMA). In the 2006 reporting year, no changes to licenses were made.

Since the insurance mediation legislation only entered into force on 1 July 2006, no annual reporting requirements applied. This will be the case for the first time after the end of the 2006 business year.

### 1.3.2.4 Supervision practice

In the reporting year, no measures under the IMA had to be ordered to restore a correct state of affairs by means of a decree. One case was examined in more detail, in which a suspicion arose concerning insurance mediation activities without a license.

### 1.3.2.5 Combating abuse

Taking up and carrying out activities as insurance intermediaries is subject to a license pursuant to article 9 of the Insurance Mediation Act. Combating abuse in this connection means suppressing activities rendered without the requisite

license. Persons who already carried out insurance mediation activities at the time of entry into force of the Insurance Mediation Act on 1 July 2006 must submit a license application to the FMA by 1 July 2007 at the latest. Insurance intermediaries taking up activities after 1 July 2006 require a license issued by the FMA from the start of their business activities.

In the 2006 reporting period, one case was subject to detailed review. In this case, a justified suspicion of non-licensed activity as an insurance intermediary arose. This case was reported to the Liechtenstein Office of the Public Prosecutor.

According to article 24 of the Insurance Mediation Act, the FMA serves as the complaints body in cases of complaints by policyholders and other affected persons, especially consumer protection organizations, with respect to insurance intermediaries. No complaints were received by the FMA in the reporting year.

### 1.3.2.6 Operational focus areas in 2006

In connection with the entry into force of the new insurance mediation legislation on 1 July 2006, various preparatory efforts had to be undertaken to ensure execution, such as in particular the drafting of Instructions and forms concerning the submission of license applications.

In addition, a register for insurance intermediaries was created, following the template of the EU Insurance Mediation Directive. This register is available via the website of the FMA.

### 1.3.2.7 Outlook for 2007

The operational focus areas of the Insurance and Pension Funds Supervision Division with respect to the supervision of intermediaries will consist in execution of the new IMA and IMO. In addition, an annual reporting mechanism will be established to ensure prudential supervision of the insurance intermediaries licensed by the FMA.

Since the transitional period for licensing and registration expires on 1 July 2007, a large number of license applications are expected until then.

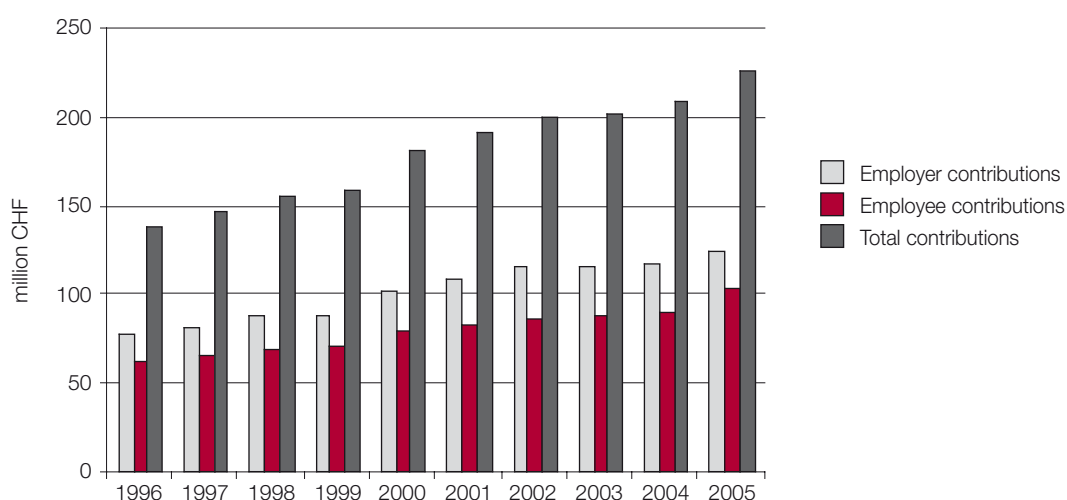
## 1.4 Pension Funds Supervision

### 1.4.1 Liechtenstein pension schemes center

The Liechtenstein pension schemes center (occupational pension plans, so-called 2nd pillar) was home to a total of 39 (previous year: 41) pension schemes at the end of 2006. Of these, 14 operate as collective schemes and 25 as company pension schemes. 4 pension schemes use defined benefits, while all others prefer defined contributions. 2 collective foundations were liquidated in the course of 2006. In the case of 11 collective foundations, a Swiss life insurance undertaking serves as the founder company.

In 2005 (the final data for 2006 will only be available in the summer of 2007), the contributions of employees amounted to CHF 103.3 million and the contributions of employers to CHF 123.6 million, for a total of CHF 227.0 million (see figure 26). Of this total, CHF 48.0 million were allotted to risk contributions (coverage of the risks of death and disability).

Figure 26: Development of contributions, 1996 to 2005 (in million CHF)

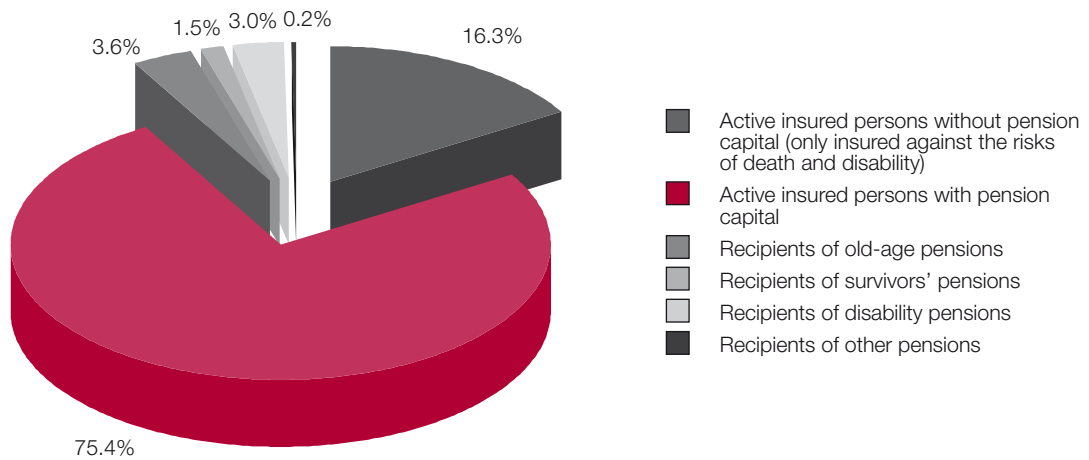


## SUPERVISION

The number of persons insured under the OPA is 30'151 (previous year: 28'730). Figure 27 shows the breakdown of these insured persons by category.

The average number of insured persons per pension scheme is 773 (collective schemes 1'376, company pension schemes 435).

**Figure 27: Breakdown of insured persons by category**



The self-administered financial investments of pension schemes (not transferred to insurance undertakings) amounted to a total of CHF 2.12 billion (previous year: CHF 1.82 billion) as of 31 December 2005. The breakdown of these

investments by investment category is shown in figure 28. The foreign currency share of these financial investments amounted to 27.3%. The weighted average performance was 9.6% in 2005.

**Figure 28: Breakdown of financial investments by investment category, 2005**

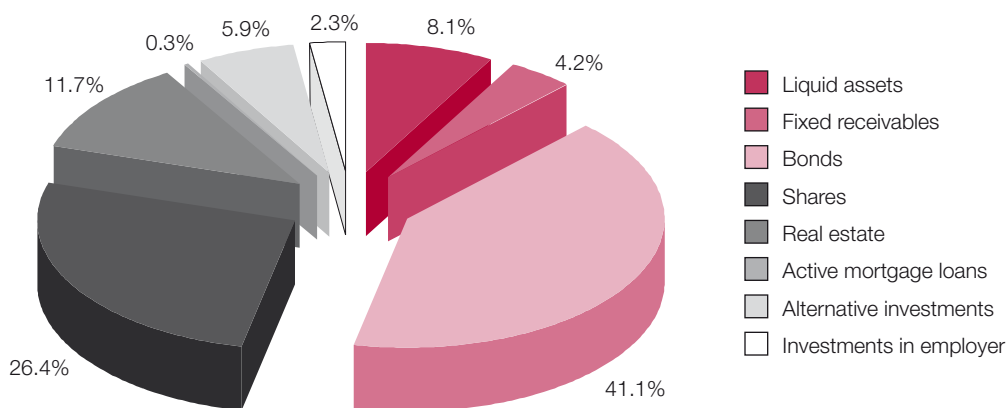
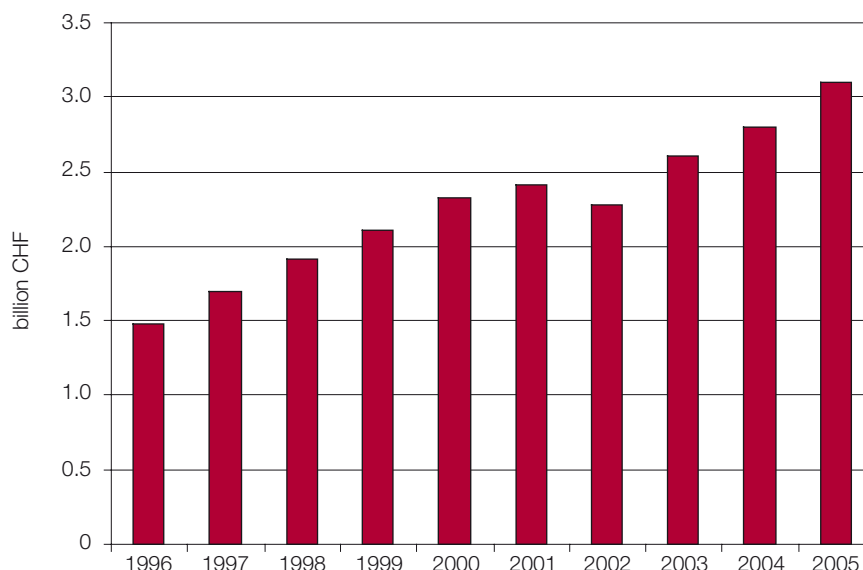


Figure 29: Development of overall capital, 1996 to 2005 (in billion CHF)



Pension capital and technical provisions amounted to CHF 2.47 billion (previous year: 2.31 billion) as of 31 December 2005. Of this amount, CHF 1.8 billion (previous year: 1.7 billion) was allotted to the pension capital of active insured parties and CHF 0.51 billion (previous year: 0.45 billion) to the pension capital of pensioners. The total capital amounted to CHF 3.13 billion in 2005.

The funding ratio (net assets in % of pension capital plus technical provisions) amounted to more than 100 % in the case of 38 pension schemes and to slightly less than 100 % in the case of one pension scheme. The total fluctuation reserve across all pension schemes, which must be maintained pursuant to the Swiss accounting standard Swiss GAAP FER 26 (applicable beginning with the 2007 business year), already amounted to 57.2 % of the target value as of 31 December 2005. The interest rates applicable to the pension capital fluctuated between 1.0 % and 5.0 % in 2005.

None of the figures above contain the data of the pension insurance for State employees. The number of active insured persons and pensioners of this pension scheme amounted to 3'397 in 2005 (previous year: 3'262). The contributions of employers and employees totaled CHF 15.1 million and CHF 14.1 million, respectively. The sum of financial investments as of 31 December 2005 was CHF 448.1 million.

For the first time, the pension schemes were called upon at the beginning of 2007 to deliver interim figures on their 2006 business year. On the one hand, this is intended to provide an initial overview of the market development; on the other hand, it allows the FMA to take appropriate and timely measures. The evaluation of the interim figures shows that, due to the weaker performance of the equity market, the returns on financial investments were lower in the 2006 business year than in the previous year. These returns are nevertheless sufficient to cover the interest on the pension capital.

In 2006, all pension schemes with one exception (98.7 %) had a funding ratio of more than 100 %. Moreover, a majority of the pension schemes are exhibiting a tendency to further increase their funding ratio. The fluctuation reserve has been further expanded in the case of almost all pension schemes. Some were already able to meet 100 % of their fluctuation reserve target in 2006. The evaluations show further that both the interest rates for the pension capital and the pension conversion rates for 2006 have remained constant relative to the previous year and are being forecast at the same amount for the current business year 2007.

### **1.4.2 Assumption and termination of business operations**

No actual licensing procedure exists in the field of occupational pensions. Prior to formation, all relevant legal foundations must be submitted to the FMA for review. Upon determination of the lawfulness of the legal foundations, the pension schemes are placed under the supervision of the FMA and may assume their business activities.

In the 2006 business year, no new pension schemes were established or placed under the supervision of the FMA. 2 collective schemes of Swiss life insurance undertakings voluntarily gave up their business activities and were liquidated in April 2006. On 31 December 2006, 3 collective foundations and one company pension scheme were undergoing liquidation – all due to voluntary termination of business. The 3 collective foundations were collective foundations of Swiss life insurance undertakings that are withdrawing from the collective pension business in general. In the case of the company pension scheme, the founder company had arranged the association of its employees with a collective foundation. Liquidation procedures are subject to FMA supervision.

### **1.4.3 Auditing**

#### **Regular audits**

The pension schemes must annually report to the FMA by 30 June on their business activities in the previous year (article 23 of the Occupational Pensions Act and article 32 of the Occupational Pensions Ordinance). Accordingly, the FMA called upon all pension schemes operating in 2005 to submit reports on the 2005 business year (including figures for the previous year) in accordance with the template. For the first time, an electronic form based on Swiss GAAP FER 26 was used for the reporting for 2005. Swiss GAAP FER 26 is the accounting standard required for all pension schemes as of the 2007 business year (article 33, paragraph 2 OPO). At the same time, the FMA drew the attention of the audit offices to their legal obligations.

All 39 pension schemes were called upon to submit reports for 2005. 3 of the largest Liechtenstein employers, covering 15.3 % of all insured persons under the Occupational Pensions Act, use pension schemes domiciled in neighboring Switzerland, which are therefore in principle subject to Swiss supervision. Nevertheless, reports are also submitted to the FMA in such cases, in consultation with the competent Swiss authority. The audit result is harmonized between the two supervisory authorities.

Because materials were not always submitted on time and some materials were incomplete, the FMA had to remind a relatively high number of pension schemes to submit their 2005 reports. While the 2004 audit reports contained a reservation or restriction in the case of 4 pension schemes, this was true of 3 foundations in 2005. These reservations and restrictions concerned the incorrect valuation of investments, non-compliance with investment guidelines, and investments in the employer.

The FMA reviewed the submitted materials in detail, assessed the plausibility of the data, and reviewed compliance with the provisions set out in law and rules and regulations. The result of the 2006 audit round can be summarized as follows:

- In a relatively high number of cases, the reports were submitted late and were incomplete. The foundation board is obviously still not sufficiently aware of its responsibilities in many cases.
- The submitted reporting materials on the 2005 business year were, in most cases, plausible.
- At the end of 2005, only 1 pension scheme still had slightly insufficient cover (previous year: 6).

The FMA concluded the audit round for the 2005 business year in November 2006.

#### Extraordinary audits

No extraordinary audits were carried out in 2006.

#### 1.4.4 Reporting

##### Review of statutes and rules and regulations

Before issuing or amending their statutes and regulations, the pension schemes must submit them to the FMA for review. Due to the revision of the Occupational Pensions Act as of 1 January 2006, most pension schemes had to adjust their legal foundations (statutes, pension rules, investment rules, partial liquidation rules). For this reason, more legal foundations than average were revised in 2006 and submitted to the FMA for review.

In total, 24 pension schemes revised their legal foundations and submitted them to the FMA for review. These included the amendment of 6 statutes or foundation deeds, 20 pension rules, 17 partial liquidation rules, 4 investment rules, 4 organizational rules, 8 pension provision plans, 2 cost rules, 2 election rules, 4 association contracts, 1 regulation concerning provisions and reserves, and 1 regulation concerning profit participation.

##### Vested benefits accounts

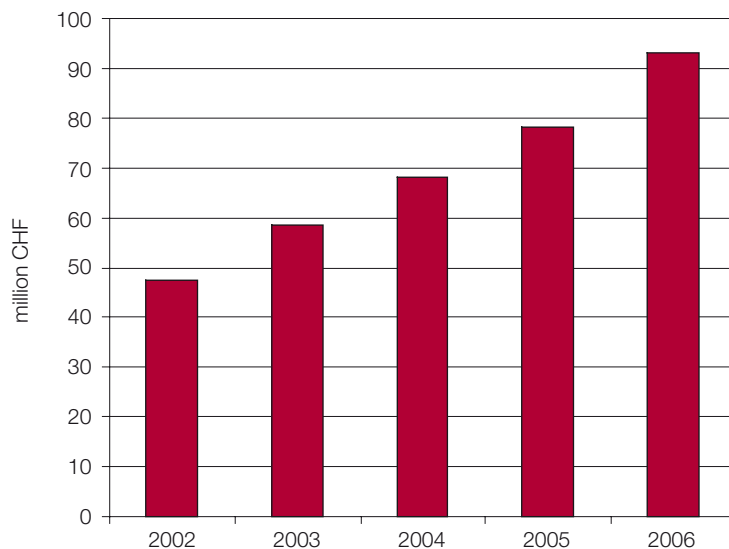
Vested benefits (asset balance of the employee upon leaving the pension scheme) are not at the free disposal of the employee. They must continue to be used for pension provisions and are transferred for this purpose to the pension scheme of the new employer. If this cannot be done, the vested benefits must be paid into a no-premium vested benefits policy with an insurance undertaking or into an account blocked for pension purposes (vested benefits account) at a Liechtenstein bank.

Liechtenstein banks maintaining such vested benefits accounts report statistical data on these accounts to the FMA annually.

In the 2006 reporting year, 3 banks maintained vested benefits accounts. As of 31 December 2006, a total of 3'036 (2005: 2'696) such accounts existed, with managed capital of CHF 92.9 million (2005: CHF 78.2 million). The average amount of the vested benefits was CHF 30'614 (2005:

CHF 28'929), and the average duration of the account was 1'550 days (2005: 1'491 days). In total, 668 new blocked accounts were opened (2005: 671) and 328 were closed (2005: 344). The applicable interest rate in 2006 was between 1.5 % and 1.75 % as in the previous year.

**Figure 30: Banks with vested benefits accounts: Total capital managed, 2002 to 2006 (in million CHF)**



**Verification of association**

If the association agreement between the pension scheme and the employer is cancelled, the pension scheme must report this to the FMA within 30 days of cancellation of the association agreement. The FMA then verifies whether the employer continues to employ persons subject to the insurance requirement and, if applicable, which new pension scheme the employer has joined.

In 2006, the FMA conducted 71 such association inspections.

**1.4.5 Cash payout of vested benefits / Confirmations of self-employment**

A cash payout of vested benefits is only possible in very specific cases that are exhaustively enumerated by law (article 12, paragraphs 3 and 4 OPA). Since 1 January 2006, vested benefits have also been payable upon request of the insured party if he receives a full disability pension, and the disability risk is not already additionally insured by a vested benefits policy (article 9, paragraph 3 OPO). Finally, vested benefits are also paid out if the insured party enters (early) retirement (article 8, paragraphs 1 and 2 OPO).

Anyone whose vested benefits are in a blocked account of a Liechtenstein bank and who wishes the benefits to be paid out may apply for a cash payout to the FMA. The FMA then verifies whether the aforementioned conditions are met and a payout is therefore possible. Additionally, the FMA issues confirmations for self-employed persons who are not subject to the compulsory insurance requirement under the Occupational Pensions Act (article 3, paragraph 3(c) OPA).

In 2006, the FMA dealt with a total of 76 (previous year: 106) applications, of which the assets were released in 55 (previous year: 88) cases and not released in 21 (previous year: 18) cases.

The applications broken down by the various cash payout reasons were as follows: 39 applications due to assumption of self-employment (rejected: 9), 21 applications due to departure from the Liechtenstein/Swiss economic area (rejected: 6), 8 applications because the vested benefits amounted to less than one annual contribution of the insured person (rejected: 5), and 8 applications due to receipt of a full disability pension (rejected: 1). Broken down by the residence of the applicant, the figures are as follows: 13 applicants lived in Liechtenstein, 36 in Austria, 7 in Switzerland, 7 in Germany, 6 in other EEA States, and the remaining 7 in States outside the EEA and Switzerland.

In total, the FMA decided on vested benefits in the amount of CHF 5.34 million.

The decisions by the FMA may be appealed to the FMA Complaints Commission. So far, this has never been the case.

#### **1.4.6 Combating abuse**

The FMA is responsible for receiving complaints within the scope of supervision of pension schemes. In 2006, 6 (previous year: 7) complaints were filed. Among other issues, these concerned compliance with compulsory coverage mandated by law and compliance with the OPA insurance obligation applicable to employers. In 2 (previous year: 2) cases, the fact pattern was referred to the Office of the Public Prosecutor on the basis of article 25, paragraph 1 OPA. In both cases, OPA coverage was not properly administered by the responsible employer.

#### **1.4.7 Operational focus areas in 2006**

##### **Reporting by pension schemes**

Reporting on the 2005 business year (including figures from the previous year) was for the first time also submitted electronically in 2006. This enabled an IT-supported analysis and evaluation of the data and the compilation of statistics.

##### **Implementation of the amendments entering into force on 1 January 2006**

The comprehensive revision of the OPA as of 1 January 2006 entailed a need for action in various respects, especially for the affected pension schemes. For this reason, the FMA and the Liechtenstein University of Applied Sciences conducted a seminar on 28 September 2006 on “The Law and Ordinance on Occupational Pensions, 2006 Revision”, in which various speakers from the FMA and a pension insurance expert spoke on the important changes in connection with the revision. Interest in this event was unexpectedly large: Far more than 100 people attended. Feedback was largely positive, as the evaluation of the questionnaires showed.



Moreover, the FMA issued various instructions and forms for pension schemes to facilitate the adjustments in connection with the revision. For instance, the OPA revision introduced recognition rules for audit offices and pension insurance experts under the OPA, which were concretized in the relevant instructions issued by the FMA. Audit offices already holding a license under the Insurance Supervision Act are also recognized as audit offices under the OPA.

### 1.4.8 Outlook for 2007

In 2007, the number of active pension schemes will continue to decline. The collective foundations of Swiss life insurance undertakings and the company pension scheme undergoing liquidation will withdraw from the Liechtenstein pension market. Another case will be processed further in 2007. The liquidation procedure has not yet been initiated in this case, since receivables vis-à-vis the founder company are still outstanding. These receivables are currently being claimed in court.

As mentioned above, the figures on the 2006 business year requested for the first time at the beginning of 2007 have at an early stage provided an initial, current market overview and allowed the FMA to intervene earlier on where necessary.

Implementation of the 2006 OPA revision will continue in 2007; in particular, all audit offices and pension insurance experts operating in the field of occupational pensions in Liechtenstein must be recognized then by the FMA; furthermore, the pension schemes must use the Swiss GAAP FER 26 accounting standard beginning in the 2007 business year.

Beginning in 2007, the FMA will systematically also conduct on-site inspections of pension schemes.

Finally, a delineation will occur by the end of 2007 with respect to the newly enacted Pension Funds Act (PFA), since only employees subject to the State Old Age and Survivor's Insurance (AHV) requirement in Liechtenstein are subject to the OPA, and the PFA provides a one-year transition period for adjustment to the new law.

## 1.5 Other Financial Service Providers Supervision

### 1.5.1 Introduction

The OFSP Supervision Division is responsible for supervision under due diligence law of Other Financial Service Providers as well as admissions to examinations and professional activities for the liberal professions operating on the financial market. Against this background, the OFSP Supervision Division executes the following laws and the associated implementing ordinances:

- Due Diligence Act (DDA)
- Professional Trustees Act (PTA)
- Auditors and Auditing Companies Act (AACCA)
- Lawyers Act (LA)
- Patent Attorneys Act (PAA)

Fortunately, the OFSP team could be expanded by one legal position on 1 November 2006, bringing it to a total of 4 staff members. This enabled the division to take on additional responsibilities. These include primarily cross-divisional tasks for which the division can supply or build up relevant special expertise and methodological skills due to its scope of activities, such as with respect to due diligence law or combating abuse.

### 1.5.2 Admission to examinations – Licenses / Professional licensing

In 2006, the OFSP Supervision Division received a total of 28 applications for admission to the various professional and qualifying examinations. In 25 cases, the applicant was admitted to the examination. 2 applications were withdrawn (one auditor and one professional trustee), and one application was rejected. The average wait for processing of an application for admission was 10 business days.

14 of the total of 25 candidates (56 %) passed their examinations. In the previous year, 22 out of 30 passed (73 %).

The following table provides an overview of the admissions to examinations and the examination results in 2005 and 2006, as well as the change according to professional group.

**Table 11: Admissions to examinations and results (number)**

| Professional group    | Examinations 2005 |          |           | Examinations 2006 |          |           | +/-        |          |            |
|-----------------------|-------------------|----------|-----------|-------------------|----------|-----------|------------|----------|------------|
|                       | Adm.              | Rej.     | Passed    | Adm.              | Rej.     | Passed    | Adm.       | Rej.     | Passed     |
| Lawyers               | 17                | 0        | 13        | 12 <sup>1)</sup>  | 0        | 8         | - 5        | 0        | - 5        |
| Professional trustees | 7                 | 1        | 4         | 11                | 1        | 6         | 4          | 0        | 2          |
| Patent attorneys      | 1                 | 0        | 1         | 0                 | 0        | 0         | - 1        | 0        | - 1        |
| Auditors              | 5                 | 0        | 4         | 2 <sup>2)</sup>   | 0        | 0         | - 3        | 0        | - 4        |
| <b>Total</b>          | <b>30</b>         | <b>1</b> | <b>22</b> | <b>25</b>         | <b>1</b> | <b>14</b> | <b>- 5</b> | <b>0</b> | <b>- 8</b> |

Admitted, Rejected, Passed

<sup>1)</sup> of which 2 qualifying examinations

<sup>2)</sup> of which 2 qualifying examinations

### Licenses / Professional licensing

In 2006, the FMA granted 48 licenses allowing natural or legal persons to engage in one of the liberal professions participating in the financial market. In 32 cases, amendments were made to existing licenses upon application, such as changes to the company name or of the responsible general manager. In addition, numerous licenses were cancelled upon application. The average wait for the grant of a license or amendment to a license by issuing an ordinary decree was approximately three weeks. Since 1 September 2006, licenses and amendments to licenses could also be issued by way of a simple notification without justification, if the applicant filled out a waiver in this regard.

The average wait for the issue of a simple notification without justification was approximately 8 days.

The following comments provide information on the permissible fields of activities of the liberal professions participating in the financial market and their numbers as of 31 December 2006:

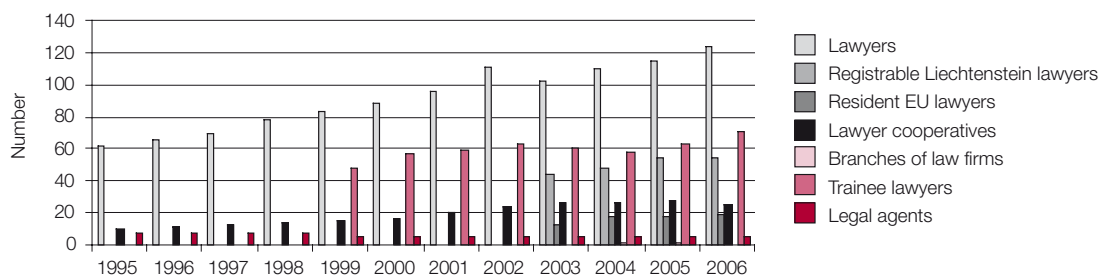
**Lawyers**

The field of practice of lawyers includes in particular professional legal advice and representation of parties. They may carry out these acts in all judicial and extrajudicial matters, especially before courts and administrative authorities of the Principality of Liechtenstein and before domestic and foreign courts of arbitration as well as inter-

national courts. Tax advice, for instance, also falls within their scope of activities.

With respect to the development of the persons entered in the lists pursuant to the LA, a slight upwards trend in the number of registered lawyers can be seen, aside from minor fluctuations.

**Figure 31: Development of the persons entered in accordance with the lists pursuant to the Lawyers Act (number)**



**Table 12: Licenses/Admissions to the profession under the Lawyers Act (number)**

| Numbers as of 31 December | 2005 | 2006 |
|---------------------------|------|------|
| Grants                    | 26   | 31   |
| Amendments                | 22   | 20   |
| Rejections                | 1    | –    |
| Withdrawals               | –    | –    |
| Deletions                 | 14   | 17   |
| Admissions to examination | 17   | 12   |
| Rejected from examination | –    | –    |
| Examination not passed    | 4    | 4    |

**Professional trustees**

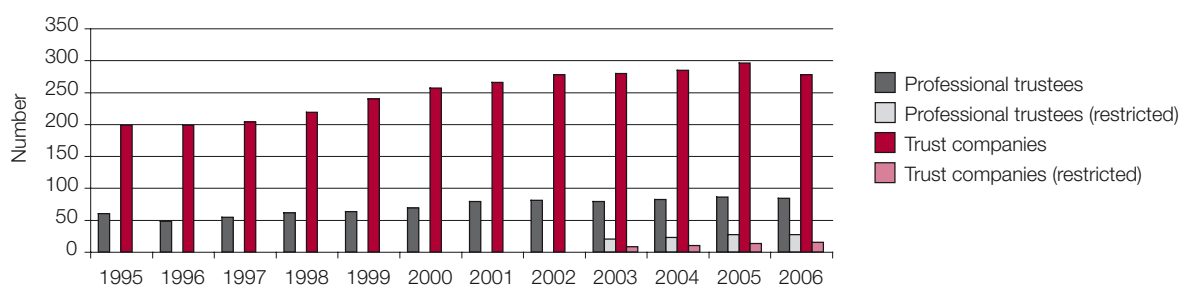
The field of activities of professional trustees is very broad and entitles them under the PTA to establish legal entities, companies, and trust companies for third parties, in their own name and for third-party account, intervene in this regard with

authorities and offices, etc. Moreover, they have the possibility of assuming board mandates under article 180a of the Law on Persons and Companies (PGR) as well as trusts. They may also engage in financial, business, and tax counseling.

An increase in the number of licenses granted to professional trustees has also been noted for years. This trend has now been slightly interrupted, since the asset management services previously provided by professional trustees and trust companies have been removed from the catalogue of services provided by professional trustees and trust companies with the entry into force of the Asset Man-

agement Act (AMA) on 1 January 2006. Instead, a separate sector for asset management companies has been created. To a certain extent, this also explains the striking decrease in licenses granted between 2005 and 2006 and the strong increase in deletions of professional trustee licenses in the same time period.

**Figure 32: Development of the persons licensed under the Professional Trustees Act (number)**



**Table 13: Licenses/Admissions to the profession under the Professional Trustees Act (number)**

| Numbers as of 31 December | 2005 | 2006 |
|---------------------------|------|------|
| Grants                    | 34   | 15   |
| Amendments                | 5    | 9    |
| Rejections                | –    | –    |
| Withdrawals               | –    | 1    |
| Deletions                 | 5    | 32   |
| Admissions to examination | 7    | 11   |
| Rejected from examination | 1    | 1    |
| Examination not passed    | 3    | 5    |

#### Patent attorneys

In the field of intellectual property and protection of industrial property, the PAA entitles patent attorneys to offer professional advice and representation, especially in matters pertaining to patents, trademarks, samples, and models.

The number of persons licensed under the PAA has remained roughly constant in recent years, expect for a temporary increase.

Figure 33: Development of the persons licensed under the Patent Attorneys Act (number)

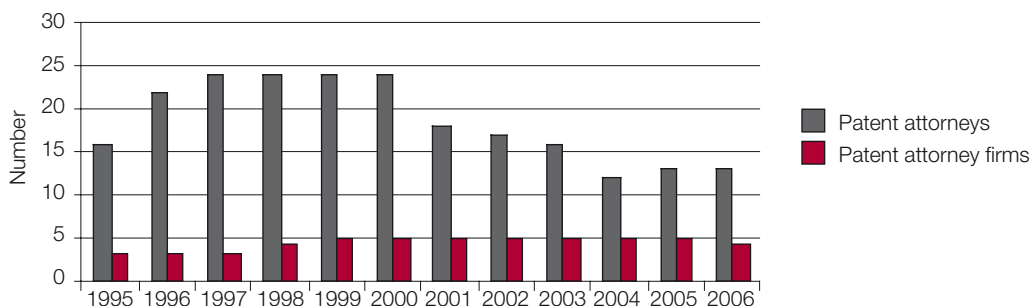


Table 14: Licenses/Admissions to the profession under the Patent Attorneys Act (number)

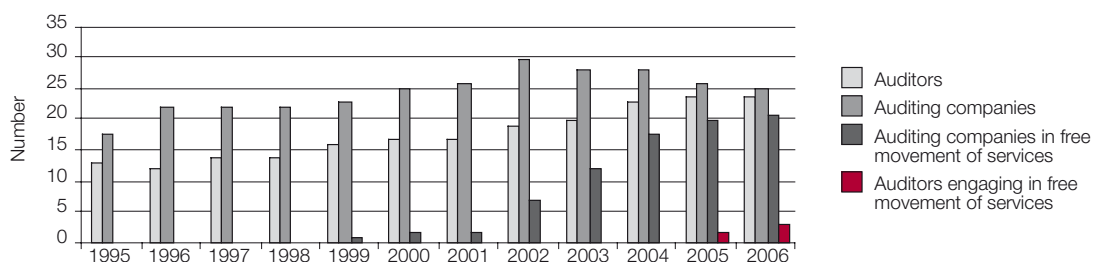
| Numbers as of 31 December | 2005 | 2006 |
|---------------------------|------|------|
| Grants                    | 1    | –    |
| Amendments                | –    | –    |
| Rejections                | –    | –    |
| Withdrawals               | –    | –    |
| Deletions                 | –    | 1    |
| Admissions to examination | 1    | –    |
| Rejected from examination | –    | –    |
| Examination not passed    | –    | –    |

**Auditors and auditing companies**

A license under the AACA entitles a person or company to carry out audits. In addition, advisory functions relating to finance and accounting, tax, financing, etc., may be undertaken, if these activities are linked to audits. Two developments in particular can be noted with respect to persons

under the AACA: On the one hand, the number of domestic auditing companies is decreasing slightly; on the other hand, the number of both auditors and auditing companies engaging in free movement of services is steadily increasing, although a certain slowdown of this trend can be seen in the case of auditing companies.

Figure 34: Development of the persons licensed under the Auditors and Auditing Companies Act (number)



**Table 15: Licenses/Admissions to the profession under the Auditors and Auditing Companies Act (number)**

| <b>Numbers as of 31 December</b> | <b>2005</b> | <b>2006</b> |
|----------------------------------|-------------|-------------|
| Grants                           | 10          | 2           |
| Amendments                       | 1           | 3           |
| Rejections                       | 1           | –           |
| Withdrawals                      | –           | –           |
| Deletions                        | 6           | 2           |
| Admissions to examination        | 5           | 2           |
| Rejected from examination        | –           | –           |
| Examination not passed           | 1           | 2           |

### 1.5.3 Supervision under the DDA

#### Regular audits

**Table 16: OFSPs subject to due diligence as of 31 December 2006 (number)**

| <b>OFSPs subject to due diligence as of 31 December</b> | <b>2004</b> | <b>2005</b> |
|---|-------------|-------------|
| Lawyers   | 128         | 134         |
| Legal agents  | 5           | 5           |
| Professional trustees                                   | 398         | 421         |
| Auditors*   | –           | 72          |
| Persons with a certification under art. 180a PGR        | 438         | 461         |
| Exchange offices  | 1           | 1           |
| Real estate brokers*                                    | –           | 16          |
| Dealers in high-value goods*                            | –           | 17          |
| Other persons subject to due diligence                  | 11          | 21          |
| Total   | 981         | 1'148       |

\* Auditors, real estate brokers, and dealers in high-value goods have only fallen within the scope of the Due Diligence Act since entry into force of the total revision of the DDA (LGBl 2005/5) on 1 February 2005.

Since, as a rule, due diligence inspections of OFSPs are carried out with a frequency of three years, the OFSP Supervision Division selected the natural and legal persons represented in the ta-

ble above that had either never<sup>3)</sup> undergone a due diligence inspection or whose last inspection was 2003 or earlier. Approximately 383 natural and legal persons fell within this selection.

<sup>3)</sup> There are two possible reasons why an OFSP was never audited. Either the OFSP took up business as an OFSP within the six months immediately prior to the last inspection, so that the OFSP would not have been taken into consideration for this inspection, or the OFSP was not considered in previous inspections because it indicated that it had not conducted any financial transactions during the relevant period.

## SUPERVISION

These OFSPs were approached in writing by the FMA in January 2006 and asked to return the enclosed response form. Based on the returned response forms, the FMA evaluated whether a due diligence inspection of the OFSP in question had to be performed in 2006. The performance of a due diligence inspection depended on whether the OFSP in question had carried out financial transactions on a professional basis in the period since the last due diligence inspection or, in the event that no due diligence inspection of the OFSP had ever been performed, in the previous year (2005). This applied to 207 OFSPs.

These 207 identified OFSPs were then assigned to 74 groups that were subject to joint inspections, and each group was assigned an auditor or an auditing company. On 17 March 2006, each affected OFSP was informed of the fact that it was being audited, of the other OFSPs with which it was being audited jointly, and of which auditor was to conduct the due diligence inspection. At the same time, the affected auditors and auditing companies were given written audit mandates. By the end of 2006, all 74 audit reports were submitted to the FMA. These reports were evaluated by the end of 2006. All OFSPs whose audit reports were submitted and evaluated received a feedback letter containing an evaluation of the complaints (overall result).

In 2006, the dealers in high-value goods and real estate brokers subject to the DDA since 1 February 2005 underwent a due diligence inspection for the first time. The performance of a due diligence inspection depended on whether the dealers in high-value goods and real estate brokers had carried out financial transactions or commercial transactions deemed equivalent to financial transactions between 1 February 2005 and 31 Decem-

ber 2005. If this was the case, the FMA demanded submission of an annual report, on the basis of which the FMA as a rule performed the regular due diligence inspection itself. In 2006, 33 such inspections of dealers in high-value goods and real estate brokers were conducted by the FMA.

The due diligence inspections of OFSPs in 2006 have thereby been largely concluded. In individual cases, follow-up deadlines are still open and/or compliance with specially agreed measures must be subsequently monitored by the FMA.

Overall, as in the previous year, the conclusions drawn from the inspections are positive.

The focus of the 2006 audit round was on material inspections. Based on the evaluation of all audit reports, the OFSP Supervision Division determined that a certain potential for improving the quality of compliance with and implementation of due diligence obligations exists in the following areas:

- Completeness and explanatory power of the business relationship profiles
- Assessment of the plausibility of transactions deviating from the business relationship profile.

In 11 reports, greater defects were identified. These are cases in which qualitatively or quantitatively (in more than 20 % of the sample), serious deficiencies existed.

- In 3 cases, the deficiencies could be remedied during the on-site inspection.
- In 7 cases, a follow-up inspection was ordered.
- In 1 case, the follow-up to the inspection is not yet complete.

12 follow-up inspections were ordered in all. The due diligence auditor orders such a follow-up inspection if, in the context of the regular audit, complaints have to be made and violations are identified that cannot be remedied during the on-site inspection. For this purpose, the due diligence auditors fixed a deadline by which the person subject to due diligence must remedy the deficiencies. Once the deadline has passed, the auditor verifies on his own accord, without a further mandate by the FMA, whether the person subject to due diligence has remedied the complaints or violations and informs the FMA immediately and in writing of the results of the audit.

#### Extraordinary audits

In the context of press monitoring, inquiries were initiated with respect to the Amis case in the reporting year. A Cayman company involved in this case was alleged to have been held by a Liechtenstein limited company. Commission payments were alleged to have flowed via this company and two other Liechtenstein companies. In this respect, it was suspected that the commission payments had been generated through fraudulent acts. Since the investor funds were not pooled in Liechtenstein companies or on the accounts of Liechtenstein financial intermediaries, and since the Liechtenstein companies also did not perform direct trustee functions and no Liechtenstein investment funds were affected, no supervisory proceedings had to be initiated due to abuse under any supervision law. No report to the FIU had to be submitted, since it had already been informed,



and the Liechtenstein Office of the Public Prosecutor was already investigating this case. However, the FMA did order an extraordinary inspection of the involved undertakings. Certain weaknesses in the monitoring of the business relationships were identified. For this reason, the FMA ordered that special attention shall henceforth be paid to the monitoring system of the person subject to due diligence in regular due diligence inspections.

#### 1.5.4 Supervision practice

In total, the FMA issued 83 formal decrees concerning admissions to examinations or the profession or concerning fact patterns relevant to due diligence law with respect to OFSPs. None of these decrees were appealed. 1 complaint filed in 2005 concerning the change of the responsible general manager of an auditing company (see below) is still pending; 3 complaints were concluded.



### Measures under supervision law

In 2006, no special supervisory measures had to be taken.

### Sanctions/ Referrals to the Office of the Public Prosecutor

In one case, the FMA submitted a report to the FIU under article 16, paragraph 1 DDA.

In this case, the FMA gained knowledge of a company domiciled in Liechtenstein in connection with ongoing criminal proceedings in Austria concerning spying out of business or industrial secrets. The suspicion arose that a former employee of an Austrian company had transmitted business and industrial secrets to a rival firm domiciled abroad. The company domiciled in Liechtenstein was alleged to have transacted fee and expense billings and other payments in this connection. Upon reviewing the facts, the FMA submitted a report to the FIU for purposes of clarifying the suspicion of a connection with money laundering, a predicate offense of money laundering, organized crime, or terrorism financing.

In one case, the FMA transmitted fact patterns to the Office of the Public Prosecutor.

In this case, the OFSP Supervision Division was informed by the BSS Division, Securities Supervision Section, in October 2006 that, in connection with the application by a company for a license as an asset management company, another company had appeared which had operated as a trust company in the field of asset management since 2004 without having the appropriate license. The demanded extract from the Public Registry confirmed this, since it listed asset management and investment advice as purposes of the undertaking. The FMA also gained knowledge of numerous

indications that the company had actually carried out asset management activities. Against this background, the FMA submitted the fact pattern to the Office of the Public Prosecutor.

### Decrees of particular interest

– **Entry of a trust reg. in the list of law firms pursuant to article 10, paragraph 3 of the LA**  
In 2005, two lawyers applied for entry of a new trust reg. in the list of lawyers pursuant to article 10, paragraph 3 of the LA. The FMA rejected this application with the explanation that the conditions pursuant to article 10, paragraph 1 LA had not been met, since the trust reg. was neither an unregistered partnership nor a general partnership.

A complaint was filed against the decree, but dismissed by the FMA Complaints Commission. The case was appealed to the Administrative Court, which suspended the proceedings at the end of December 2005 and submitted an application for judicial review to the Constitutional Court. In its judgment of 3 July 2006, the Constitutional Court found that the restriction on the free choice of legal form under article 10 LA was not unconstitutional. Against this background, the Administrative Court decided in its judgment of 19 October 2006 that the complaint should be dismissed. In summary, the Administrative Court held that the legal foundation provided by article 10, paragraph 1 LA is sufficiently determinate and that no legal gap exists in this regard.

– **Arms dealers – Dealers in valuable goods**

2 arms dealers separately requested the FMA to confirm that they were not dealers in valuable goods as defined by article 3, paragraph 1(n) of the DDA. The FMA rejected this, since it was of the view that the arms dealers constituted dealers in high-value goods within the meaning of article 3, paragraph 1(n) DDA and therefore were subject to the personal scope of application of the DDA, i.e., that they were persons subject to due diligence. In this context, the FMA interpreted the concept of dealer in high-value goods with the help of legislative materials explicitly stating that dealers in high-value goods encompass the following dealers (with respect to trade in the relevant categories of goods), based on the Austrian interpretation: jewelers, goldsmiths, dealers in precious metals, precious stones, coins, antiques, art, as well as furriers and arms dealers.

A complaint filed against this decree was dismissed by the FMA Complaints Commission. The applicants appealed the relevant decisions to the Administrative Court, which dismissed the appeal in its judgment of 19 March 2006. The individual complaint filed with the Constitutional Court in this regard was also dismissed in a judgment issued 2 October 2006.

– **Change of the responsible general manager of the auditing company**

1 auditing company applied to change its responsible general manager pursuant to article 21, paragraph 1(c) of the AACA. The FMA rejected this application, since the nominated general manager neither held the auditor license within the meaning of article 1 of the AACA required for the general manager of auditing companies, nor would he be able to attain one

– based on the findings at the time – since he neither was a citizen of an EEA State nor did he reside in Liechtenstein or any other EEA State. Even if the provisions had been interpreted in light of the treaty law applicable to this case, namely the Vaduz Convention and the special rules of the bilateral protocol between Liechtenstein and Switzerland, the FMA would have been unable to reach a different decision, since these provisions only contain rights of free movement for natural persons, not legal persons, so that the requirements for general managers must be adhered to for legal persons. A general rule of reciprocity based on the existing legal situation in Switzerland also had to be rejected.

A complaint filed against this decree was dismissed by the FMA Complaints Commission. The applicants appealed this decision to the Administrative Court, which dismissed the appeal in its judgment of 1 June 2006. This judgment was appealed by way of an individual complaint to the Constitutional Court. Judgment is still pending

### FMA Communications

The following FMA Communications were issued in 2006 on the initiative of the OFSP Supervision Division:

#### – FMA Communication No. 1/2006

In response to a concrete inquiry arising from the trust sector, the FMA saw itself compelled to request a legal assessment from the Swiss Money Laundering Control Authority and make this assessment public by way of an FMA Communication. The fact pattern was such that a Liechtenstein trust company concluded trust contracts with its clients, in the context of which it used employees resident in Switzerland as organs of a legal entity not operating commercially in the domiciliary State. However, the trust company directly received the administration fees. The inquiry concerned clarification of the question whether the Swiss resident employees of a Liechtenstein trust company are subject to the Swiss Money Laundering Act (MLA).

The Money Laundering Control Authority was of the view that such legal relations do not lead

to a placement of the employee under the Swiss Money Laundering Act (MLA), provided that the trust contract is concluded with the employer, and the employee does not receive a fee in addition to his salary. In such a case, the position on the board of directors should be qualified as work in the service of the employer.

#### – FMA Communication No. 2/2006 (supplement to FMA Communication No. 1/2005)

In FMA Communication No. 1/2005, the FMA interpreted the term “dealers in high-value goods” and explained what dealers should be understood as dealers in high-value goods within the meaning of article 3, paragraph 1(n) DDA. Accordingly, dealers in high-value goods include jewelers, goldsmiths, dealers in precious metals, precious stones, coins, antiques, art, as well as furriers and arms dealers.

2 arms dealers disputed this interpretation of dealers in high-value goods published in FMA Communication 1/2005 and, after dismissal of their complaint by the FMA Complaints Commission, appealed to the Administrative Court. In its judgment of 9 March 2006, the Administrative Court found in its reasoning that the indeterminate legal term “dealers in high-value good” must also be applied to car dealers, since cars are as a rule high-value goods that could certainly be used for purposes of money laundering, organized crime, and terrorist financing, for instance by introducing criminal funds into legal economic circulation by way of the car trade. Against this background, the FMA saw itself compelled to join the legal opinion of the Administrative Court and to include car dealers within the scope of dealers in high-value goods as referred to in article 3, paragraph 1(n) DDA. By way of FMA Communication 2/2006 on



interpretation of the term “dealers in high-value goods”, the FMA explained the context and consequences of the change in practice in this regard.

#### Responding to inquiries

In 2006, the FMA received many inquiries from financial intermediaries, which were answered on the telephone or in writing. In the case of complicated fact patterns, the FMA was willing to clarify questions of financial intermediaries in a personal meeting.

#### 1.5.5 Combating abuse

In total, 21 cases were subject to detailed review in the reporting period. In 11 cases, the OFSP Division became active in the forefront of combating abuse. For instance, the OFSP Division reviewed in several cases whether business names were compatible with the purpose of the business, whether intended purposes were covered by appropriate licenses, or whether activities subject to a license were carried out without holding the appropriate license. 2 cases were referred to other authorities, one of which to the FIU. In one case, activities subject to a license were carried out without the appropriate license, and in another case, the identity of a firm was used by a third party for fraudulent purposes.

For purposes of preventing abusive activities, the OFSP Supervision Division also provides advice in advance of taking up purely commercial business activities. In particular, the OFSP Supervision Division also reviews applications for commercial licenses and for entry in the Public Registry. The OFSP Supervision Division intervened in numerous cases during the reporting period in the forefront of combating abuse.

#### 1.5.6 Projects in 2006

The OFSP Supervision Division successfully undertook the following projects in 2006:

##### – Publication of Instructions under the LA, PAA, and AACA

Instructions on materials to be submitted for various business cases arising under the LA, PAA, and AACA have been prepared and made available for download on the website of the FMA. These instructions concern:

- the application for authorization in individual cases as a representative or defender before Liechtenstein courts or administrative authorities (individual case representation – outside the EEA)
- the various applications for the patent attorney license
- the application for approval of the change of the responsible general manager of a patent attorney firm
- the application for changes to the business or company designation of a patent attorney firm
- the application for admission to the patent attorney examination
- the various applications for the auditor license
- the application for approval of the change of the responsible general manager of an auditing company
- the application for changes to the business name of an auditing company
- the application for admission to the auditor examination or qualification examination for auditors from abroad

– **New persons subject to the DDA**

It its judgment of 9 March 2006, the Administrative Court found in its reasoning that the indeterminate legal term “dealers in high-value good” must also be applied to car dealers. Against this background, the FMA saw itself compelled to join the legal opinion of the Administrative Court and to include car dealers within the scope of dealers in high-value goods as referred to in article 3, paragraph 1(n) DDA. For this reason, the OFSP Supervision Division issued FMA Communication 2/2006 on interpretation of the term “dealers in high-value goods” (supplement to FMA Communication 1/2005) for purposes of providing additional information. Until then, car dealers had not yet been affected by due diligence law. Against this background, the OFSP Supervision Division undertook an information and awareness-raising project. In a first step, this professional group newly placed under the DDA was made aware of its placement and the arising reporting obligations by way of an official announcement and publication on the website of the FMA. At the same time, the OFSP Supervision Division sought a dialogue with the newly supervised group and invited it to attend an information session on the topic of “Due diligence obligations of car dealers”, which was initiated and organized by the OFSP Supervision Division.

– **Recognition of proof of education under article 2, paragraph 1(c) to (g) of the PTA**

One of the prerequisites for admission to the professional trustee examination and for professional licensing as a professional trustee is proof of education as set out in article 2, paragraph 1 PTA. Since the courses of study in which proof of education under article 2, paragraph 1(c) to (g) PTA can be obtained have changed

since the creation of these provisions and the number of such courses of study has increased, the Government has in the past often met with difficulties in deciding the question whether a proof of education should be recognized under article 2, paragraph 1(c) to (g) PTA. Against this background, the Government appointed a working group with representatives of the Government, the Liechtenstein Association of Professional Trustees, the Liechtenstein University of Applied Sciences, and the OFSP Supervision Division of the FMA. This working group was mandated to develop criteria for the recognition of courses of study as proof of education under article 2, paragraph 1 (c) to (g) PTA and to review the currently recognized proofs of education in the context of these proposals. The working group concluded that, according to article 2, paragraph 2 PTA, it is a prerequisite for recognition of a proof of education under article 2, paragraph 1 PTA that the school issuing the diploma conveys theoretical and practical foundations for the profession of trustee.

Whether and to what extent these prerequisites are fulfilled should, in the view of the working group, be decided by the Government, taking into account all circumstances of the individual case. The Government should in particular take the following aspects and criteria into account on a cumulative basis:

– Professional experience

The minimum duration should be 2 years. The experience must be relevant professional experience, i.e. experience during which knowledge of at least one of the activities set out in article 7, paragraph 1 PTA is conveyed.

- Duration of the course of study and number of lessons

The lower threshold is a duration of 4 semesters with 750 lessons, or 650 lessons in a course of study primarily conveying Liechtenstein-specific content.

- Content of instruction

The course of study must, to a significant extent (approximately  $\frac{2}{3}$  of the course of study) convey content in areas that are covered by the professional trustee examination (see Ordinance on the Professional Trustee Examination, LGBl. 1995 No. 182).

- Assessment of achievement

The course of study must verify the knowledge of the students in the subject matters important for the profession of trustee (article 5, paragraph 1 PTA), by means of a representative and standardized assessment of achievement.

The proof of education under article 2, paragraph 1(d) (recognition of a diploma for auditors) is exempt from the points above, since a uniform and applicable standard is already set out in article 2 AACA.

- **Due diligence inspections conducted by mandated due diligence auditors**

As explained below in the chapter on Regulation, the FMA issued FMA Guideline 2006/2 on due diligence inspections conducted by mandated due diligence auditors in 2006. At the same time as the FMA Guideline, a sample inspection report was adopted.

- **Revision of the LA, PTA, PAA, and AACA**

As explained below in the chapter on Regulation, the OFSP Supervision Division is carrying out a project on revision of the LA, PTA, PAA, and AACA with a view to the amendment of provisions that are potentially not in conformity with the EEA. In this connection, the Government mandated the OFSP Supervision Division to draft relevant legislative proposals. Consultations were concluded in September 2006. The OFSP Supervision Division drafted a Report and Application based on the results of the consultation. The first reading in Parliament is scheduled for March 2007.

- **Simplified decrees**

An applicant is often only interested in the license, but not in an extensive justification, and therefore often does not gain added value by an extensively justified license. For this reason, the FMA has introduced a simplified notification without justification, which helps make the licensing procedure more efficient. Since 1 September 2006, licenses and changes to licenses may now be granted by means of a simple notification without justification, provided that the applicant has submitted an appropriate waiver.



### 1.5.7 Outlook for 2007

The OFSP Supervision Division is planning the following projects for 2007:

#### Revision of the LA, PTA, PAA, and AACA

As explained below in the chapter on Regulation, the OFSP Supervision Division is planning to prepare the revision of the LA, PTA, PAA, and AACA and the associated ordinances, in the context of implementation of the Professional Qualifications Directive<sup>4)</sup>. Consultations are expected for the middle of 2007.

#### Revision of the AACA and other laws

As explained below in the chapter on Regulation, the OFSP Supervision Division is planning to prepare the revision of the AACA and the associated ordinances and other laws, in the context of implementation of the Statutory Audit Directive<sup>5)</sup>. Consultations are expected for the end of 2007.

#### Revision of the DDA and DDO

As explained below in the chapter on Regulation, the OFSP Supervision Division is planning to prepare the revision of the DDA and the associated ordinance, in the context of implementation of the Third Money Laundering Directive<sup>6)</sup> and the PEP Directive<sup>7)</sup>. Consultations are expected for the middle of 2007.

#### Regulation on Cross-Border Payments

As explained below in the chapter on Regulation, the OFSP Supervision Division is accompanying the process of incorporation of the Regulation on Cross-Border Payments<sup>8)</sup> into the EEA Agreement on behalf of the FMA.

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<sup>4)</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.

<sup>5)</sup> Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC.

<sup>6)</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

<sup>7)</sup> Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

<sup>8)</sup> Regulation (EC) No. 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds.



### Preparation of a concept on combating abuse

For the purpose of enhancing efficiency and exploiting synergies, the OFSP Supervision Division is planning to draft a cross-divisional concept on combating abuse. In this connection, the relevant processes and competences will be clearly defined.



# Regulation



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We regulate with the participation of the affected persons and entities, in fulfillment of international standards and taking into account the competitiveness of the Liechtenstein financial market.

Pursuant to the mandate granted by the Government of Liechtenstein, we prepare laws and ordinances. We issue guidelines, thereby contributing to legal certainty.

We only regulate where a need exists and, in accordance with the principle of proportionality, only as much as necessary.

We review and revise existing regulations.

We regulate in fulfillment of international standards, taking into account the competitiveness and the special characteristics of the Liechtenstein financial market.

We ensure the participation of the affected persons and entities in the regulatory process.

We take advantage of opportunities through rapid realization of regulatory projects, and we actively promote innovations.

Along with supervision of the financial market participants, regulatory activities again constituted an important and resource-intensive responsibility of the FMA in 2006. The FMA was again strongly integrated in regulatory projects at the national level. On the one hand, these projects concerned preparation of implementation of EEA law relevant to the financial market into national legislation; on the other hand, national laws and ordinances in the financial market sector were concretized at the level of FMA Guidelines.

The regulatory activities were carried out under consideration of the needs of the Liechtenstein financial center while simultaneously observing international standards. As before, the goal was to create competitive solutions for the Liechtenstein financial market.

In connection with the various regulatory projects, the FMA maintained a continuous and intensive dialogue with the Government and the financial market participants. The individual interest associations play a valuable role as contacts for the FMA. Accordingly, the supervisory divisions and units of the FMA worked together with the interest associations in the context of working groups and workshops in particular in connection with implementation of the EC Markets in Financial Instruments Directive (MiFID), the EC Market Abuse Directive, the EC Financial Analysis Directive, and the EC Prospectus Directive.

A focus of regulatory activities in the area of banking supervision was the implementation of Directive 2003/6/EC on insider dealing and market manipulation. Furthermore, implementation of the capital adequacy and risk diversification rules under Basel II was pushed forward. The implementation of these rules was divided into two

phases, the first phase containing amendments to the Banking Act. This phase was successfully completed in the 2006 reporting year. In the area of securities supervision, the focus was on enactment of FMA Guideline 2006/1 on risk assessment and notification procedure for the use of derivative financial instruments in the case of investment undertakings for transferable securities.

In the area of insurance and pension supervision, various regulatory projects were concluded in the 2006 reporting year. For purposes of implementing the EC Pension Funds Directive into national law, the Pension Funds Act (PFA) and the Pension Funds Ordinance (PFO) were created. A further focus area of regulation was the adoption of the provisions of the EC Insurance Mediation Directive through the creation of the Insurance Mediation Act (IMA) and the associated implementing ordinance (IMO). In addition, the amendments to the Buildings Insurance Ordinance and the FMA Fee Ordinance were overseen.

In the area of supervision of other financial service providers, FMA Guideline 2006/2 on due diligence inspections conducted by mandated due diligence auditors and an associated sample audit report were implemented.

As part of the restructuring of the Integrative and International Affairs Unit, the regulation projects still pending at the end of 2006 were transferred to the FMA divisions responsible for the substantive aspects of the projects.

## 2.1 Banking Supervision

### 2.1.1 Completed regulatory projects as of 31 December 2006

#### Market Abuse Act

In the meeting of Parliament on 24 November 2006, the legislative proposal on the creation of a Market Abuse Act was adopted, serving to implement Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (Market Abuse Directive) and the three implementing acts issued in connection therewith (3 Commission Directives and 1 Commission Regulation). The Act creates a separate, complete framework for combating market abuse on the Liechtenstein financial center. The Market Abuse Act will enter into force on 1 February 2007, subject to expiry of the referendum deadline without a referendum being called.

The Market Abuse Act expands the existing offense of insider dealing and introduces the new offense of market manipulation. The scope of the Act covers all financial instruments admitted to trade on at least one regulated market of the EEA or for which an application for admission to such a market has been submitted. The Act then applies to all transactions with such instruments, irrespective of whether the transactions are conducted on regulated markets or elsewhere.

In addition to the prohibition of insider dealing and market manipulation, the Act provides two key reporting requirements: Persons performing management responsibilities for an issuer domiciled in Liechtenstein and persons closely linked to them are required to report to the FMA all transactions they carry out with financial instruments of the issuer, provided that a threshold



amount is exceeded (total statement amount of CHF 7'500 per calendar year). The content of the report must then be published as quickly as possible on the website of the issuer or via the FMA. Furthermore, the Act requires financial intermediaries to report suspicions to the Financial Intelligence Unit if they suspect that a transaction might constitute insider dealing or market manipulation.

Moreover, the Market Abuse Act contains transparency requirements obligating persons who publicly or via other information channels recommend investment strategies to disclose their own interests.

The Market Abuse Act designates the FMA as the central supervisory authority endowed with the minimum powers envisaged by the Market Abuse Directive to combat insider dealing and market manipulation. According to the rules set out in the Directive, close cooperation must be maintained with the competent foreign authorities. The Act accordingly contains detailed provisions on administrative assistance. The Market Abuse



Directive requires the immediate transmission of all information necessary for combating market abuse. To meet this demand in the future, the administrative assistance procedure has been tightened. From now on, complaints may only be lodged with the Administrative Court concerning decisions and decrees of the FMA relating to administrative assistance. The proceedings must be conducted rapidly. Applications for suspensive effect or enactment of preventive measures shall not be permissible in the case of individual complaints to the Constitutional Court.

#### Basel II Phase 1

“Basel II” designates the two EU Directives 2006/48/EC and 2006/49/EC, which replaced their predecessor directives 2000/12/EC and 93/6/EEC. Due to the scope and complexity of the content of the provisions to be amended, but also in order to provide the persons affected with information on the content of the new capital adequacy and risk diversification requirements as early as possible, the decision has been made to implement Basel II in two phases. The circumstance that the further provisions to be amended

concern, to a very large extent, supervisory activities as such and not the market participants was also a factor in favor of implementation in two phases.

In a first phase, the Banking Act has been modified so that the requisite Ordinance on Capital Adequacy and Risk Diversification for Banks, Finance Companies, and Investment Firms (Capital Adequacy Ordinance, CAO) has a sufficient legal foundation. At the same time, the Banking Act provision on outsourcing (article 14a) has, on the suggestion of the Bankers Association, been harmonized with the Swiss rule so that no significant differences remain and thus the previously existing, albeit minor discrimination against Liechtenstein banks with respect to outsourcing has been eliminated. These amendments to the Banking Act have passed through the parliamentary procedures and were adopted in the second/third reading on 22 November 2006. They entered into force at the same time as the CAO on 1 January 2007.

#### 2.1.2 Pending regulatory projects as of 31 December 2006

Phase 2 of Basel II is primarily concerned with implementation of the EEA targets concerning supervisory procedures. In particular, Phase 2 is dedicated to consolidated supervision and the requisite information sharing and disclosure obligations. Like Phase 1, implementation of Phase 2 will be accomplished by amendment of the Banking Act. Due to the postponement of implementation of Phase 2 and the resulting concurrence and partial material overlap with implementation of Directive 2004/39/EC (Markets in Financial Instruments Directive, MiFID) and the associated implementing directives, a combination of both implementations has become unavoidable. Taken

together, the two implementations come close to a de facto total revision of the Banking Act.

Implementation of the first part of MiFID, which was accomplished through enactment of the Asset Management Act, continues to be a complete success, as can be seen in the 86 applications for asset management licenses submitted to the FMA in the reporting period. The goal is now, in a second part, to close the existing legislative gaps. In terms of content, as was the case for the first part of the implementation of MiFID, the detailed rules governing investment firms and services are intended to make the financial single market more competitive, fair, and transparent.

The second, remaining part of the implementation will not be accomplished by way of a separate law, but rather by amending the Banking Act, especially since the first Investment Services Directive was implemented in the Banking Act and the existing structures are ideally suited to regulate investment firms in addition to banking institutions. True to the Liechtenstein institution-oriented lawmaking tradition, investment services will be governed by way of the institutions primarily providing them. Given that the European implementing enactments were only published in September 2006 and the necessary combination with the prospective amendments arising from the remaining implementation of Basel II (Phase 2, see above), the conclusion of the project will be delayed by a few months. So that financial market participants providing investment services are not significantly disadvantaged by this delay, however, the FMA has already sought a dialogue with them at an early stage. Accordingly, an expert round on MiFID and its implementation was held in Liechtenstein already at the end of October 2006. This exchange between practitioners and the regula-

tory and supervisory authority was continued in various working group workshops, at which the rights and duties arising from the MiFID implementation were discussed in-depth and, in a practice-oriented manner and taking best possible account of all the other interests of the Liechtenstein financial center, developed for purposes of implementation. The goal remains, despite the abovementioned delay, to conclude the project as scheduled (probably 1 November 2007).

#### Implementing enactments relating to the Market Abuse Act

##### – Market Abuse Ordinance

Individual provisions of the Market Abuse Act will be specified more precisely at the ordinance level. In particular, this concerns the term “market manipulation”, the permissible market practices within the meaning of article 24, paragraph 2 of the Market Abuse Act, and the form of publication of own transactions under article 4 of the Market Abuse Act. This Ordinance will enter into force at the same time as the Market Abuse Act on 1 February 2007.

##### – Financial Analysis Directive

The Commission Directive on the fair presentation of investment recommendations and the disclosure of conflicts of interest (Directive 2003/125/EC), which was issued to implement the Market Abuse Directive, will be implemented in the form of an FMA Guideline. The draft developed by the FMA is currently being reviewed by the Bankers Association and will then be brought to the attention of the other affected interest associations.



– **FMA Communication on indications of market abuse**

At the wish of the participants in the consultations on the Market Abuse Act, an FMA Communication will enumerate indications of market abuse. The examples enumerated in this FMA Communication will only serve as a starting point for a consideration whether a transaction is suspicious or not. These examples are therefore neither an exhaustive enumeration nor binding evidence of market abuse. They must be applied according to one's best judgment and not necessarily interpreted verbatim. The enumerated examples of indications are intended to sensitize the persons subject to the reporting requirement.

– **FMA Instructions on notification of own transactions**

Persons performing management responsibilities for an issuer domiciled in Liechtenstein and persons closely linked to them are, according to article 4 of the Market Abuse Act, required to report to the FMA all transactions they carry out with financial instruments of the issuer, provided that a threshold amount is exceeded. At the wish of the participants in the consultations on the Market Abuse Act, the persons addressed by this requirement and the types of transactions affected will be explained in more detail.

**FMA Guidelines and FMA Communications relating to Basel II**

At the beginning of 2007 and in the further course of the year, the publication of various FMA Guidelines and FMA Communications are planned, due to entry into force of the Capital Adequacy Ordinance. This will become necessary since the Capital Adequacy Ordinance mandates the FMA to further specify certain areas. The ori-

gin of this lawmaking approach is found in the EU capital adequacy directives 2006/48/EC and 2006/49/EC (Basel II). The EU legislation thereby envisages granting the competent supervisory authorities the power to govern certain areas at the national level and to enable adjustments to the relevant national requirements. At this stage, the FMA Guidelines or FMA Communications on the Basel II implementation will in particular concern the areas of interest rate shock, minimum requirements on Pillar 2, and certain special detailed provisions.

**E-Money Act**

The EFTA Surveillance Authority (ESA) has reviewed implementation of the E-Money Directive (2000/46/EC) in Liechtenstein. The ESA has reached the conclusion that individual provisions of the Liechtenstein E-Money Act do not correspond to the requirements of the Directive. For this reason, the FMA is planning to adjust the provisions criticized by the ESA. The draft for the legislative amendment is currently under development.

## 2.2 Securities Supervision

### 2.2.1 IUs

#### 2.2.1.1 Completed regulatory projects as of 31 December 2006

##### FMA Guideline 2006/1 – Risk assessment and notification procedure for the use of derivative financial instruments by IUs for transferable securities

On 31 March 2006, the Board of the FMA adopted FMA Guideline 2006/1 – Risk assessment and notification procedure for the use of derivative financial instruments by IUs for transferable securities.

Due to implementation of EU Directives 2001/107/EC (Management Company Directive) and 2001/108/EG (Product Directive), the IUA includes the obligation for the FMA to issue a risk assessment procedure for calculating investment risks with respect to derivative financial instruments used by IUs for transferable securities. A Recommendation of the European Commission also exists in this regard: 2004/383/EC. All relevant provisions have been implemented in this FMA Guideline.

Pursuant to the provisions of the Guidelines, a management company must use a risk assessment procedure in the case of IUs for transferable securities allowing it to monitor and assess the risks associated with investment positions and their share of the overall risk profile of the investment portfolio at all times. The management company must implement the provisions of this Guideline in an internal directive and report quarterly to the FMA on the risk indicators.

The Guidelines on the risk assessment and notification procedure for the use of derivative financial instruments entered into force on 1 May 2006. A transitional period until 1 October 2006 was granted, during which the MCs must carry out the requisite implementation work.

So far, the FMA has not gathered any supervisory experience with respect to the Guideline. According to point 9 of FMA GL 2006/1, the first report as of 31 December 2006 must be submitted to the FMA by 31 January 2007 at the latest.

#### Fee Ordinance

Foreign IUs are deemed equivalent to domestic IUs with respect to the supervision fee. A moderate supervision fee based on the number of segments has been introduced, and the Fee Ordinance has been amended accordingly.

#### 2.2.1.2 Pending regulatory projects as of 31 December 2006

##### FMA Guideline on the calculation method and disclosure of the total expense ratio (TER) and the portfolio turnover rate (PTR)

In the interest of investor protection, the IUs must ensure appropriate cost transparency vis-à-





vis their investors. According to article 11 IUO, the IUs must declare all costs and commissions, in particular the total expense ratio (TER), in their business and semi-annual reports. In 2006, a comparison was made between the European recommendation of the simplified prospectus (Directive 2004/384/EC), the Austrian ordinance on the content of the prospectus, and the Swiss guideline of the Swiss Funds Association (SFA) on the calculation and disclosure of the TER. The FMA subsequently decided to draft an FMA Guideline on the calculation method and disclosure of the total expense ratio (TER) and the portfolio turnover rate (PTR). The FMA plans to make the draft available to interest associations for comments already in the first quarter of 2007, so that the Guideline can enter into force at the beginning of the second quarter 2007.

### Implementation of the Transparency Directive

The goal in 2007 is to implement Directive 2004/109/EC (Transparency Directive) for purposes of harmonizing the transparency requirements in relation to information on issuers whose securities are admitted to trade on a regulated market. The relevant Level 2 measures at the European level have been adopted, so that an implementation is now possible and, given the European timetable, also urgent.

The Securities Supervision Section, which is also responsible for the Prospectus Act, will implement these two related areas of law into national legislation in a coherent and practice-oriented way.

### Adoption of the Takeover Act

The Takeover Act implemented by the Office of Public Registration will fall within the scope of the Securities Supervision Section.



The Act is expected to enter into force on 1 July 2007. Until then, the task will be to make the necessary staff resources available, set up the relevant processes, acquire appropriate know-how, and inform the market participants about the new law.

### Structured products

It is unclear how to classify structured products with respect to the special legislation executed by the FMA. The market has made various inquiries on this topic over the last few years.

Structured products have now become an integral part of the market. For this reason, the FMA will clarify their legal status and set out the conclusions in an FMA GL.

### Diversification

The legal definition of an IU in article 2, paragraph 1(a) IUA states that, unless expressly otherwise provided, assets must be managed according to the principle of risk diversification. In 2006, various inquiries and problems arose in connection with the required diversification of an IU. For this reason, an FMA Communication on the

definition of appropriate diversification will be drafted and issued in 2007. The FMA hopes that the FMA Communication will bring clarity to the question of diversification.

## **2.2.2 Asset management companies**

### **2.2.2.1 Pending regulatory projects as of 31 December 2006**

#### **Amendment of the Asset Management Act**

The AMA was created in the context of a partial implementation of Directive 2004/39/EC (Markets in Financial Instruments Directive; MiFID). Minor adjustments to the AMA and the AMO will be undertaken in the full implementation of this Directive in the Banking Act.

Moreover, implementing measures for MiFID have been issued in the meantime, which must also be incorporated into domestic law and therefore into the AMA and the AMO. The Securities Supervision Section regularly contributes to the legislative preparatory work undertaken by the Banking Supervision Section, in order to support implementation relating to the AMA and the AMO.

## **2.2.3 Securities sales prospectuses**

### **2.2.3.1 Pending regulatory projects as of 31 December 2006**

#### **Implementation of Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading**

In the course of 2007, the new Prospectus Act will be adopted and put into force. Here, the task also consists in making aids available to market participants in a timely manner, such as instructions and workflows, so that smooth licensing procedures can be implemented after entry into force of the new Prospectus Act. In this connection, an increase in inquiries by market participants must also be expected.

## **2.3 Insurance Supervision**

### **2.3.1 Completed regulatory projects as of 31 December 2006**

#### **Implementation of the EU Pension Funds Directive (2003/41/EC)**

The Pension Funds Act (PFA, LGBl. 2007 No. 11) and the Pension Funds Ordinance (PFO, LGBl. 2007 No. 16), which entered into force on 17 January 2007, implement Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provisions into Liechtenstein law.

Supplementing the already existing system in Liechtenstein of occupational retirement provisions, which is linked to a contribution requirement pursuant to the Law on Old Age and Survivors' Insurance (AHV Act), it is now possible for funded, legally autonomous occupational pension schemes to accept sponsoring undertakings from other Member States of the EEA and also third States, thereby offering cross-border pension services. With respect to the investment of assets, the "prudent person" rule applies. In addition, the interests of the future and current beneficiaries are protected extensively by supervisory measures carried out by the FMA as well as inspections, information requirements, and reporting requirements.

Liechtenstein life insurance undertakings may also offer occupational retirement provision, separately from their other insurance activities.

At the same time as the creation of the PFA, amendments to the FMA Fee Ordinance created the legal foundation for levying licensing and supervision fees for pension funds.

### Implementation of the EU Insurance Mediation Directive (2002/92/EC)

The creation of the Insurance Mediation Act (IMA, LGBL. 2006 No. 125) and the associated implementing ordinance (IMO, LGBL. 2006 No. 136), which entered into force on 1 July 2006, implemented the Insurance Mediation Directive 2002/92/EC into Liechtenstein law.

In order to take up and carry out insurance mediation activities, insurance intermediaries must now hold a license by the FMA, with which they may operate across borders throughout the entire EEA by virtue of free movement of services or through a branch (single license). The insurance intermediaries licensed by the FMA are entered into the newly created Insurance Intermediary Register.

To better protect the interests of policyholders, increased demands on professional expertise and extensive reporting and counseling requirements have been introduced for insurance intermediaries.

For purposes of combating abuse, the FMA may withdraw licenses if the conditions for granting them are no longer met or if the insurance intermediary seriously violates legal and contractual duties. The FMA acts as a complaints body for the complaints of policyholders or consumer protection organizations.

In the course of creating the IMA, amendments to the FMA Fee Ordinance established the legal foundation for levying licensing and supervision fees relating to the supervision of intermediaries.

### Revision of the Buildings Insurance Ordinance

The storms and floods in 2005 showed that such events can result in the liability limits of natural hazard insurance being exceeded at any time. A trend toward an increase of major natural hazard events has also been observed. Against this background, a revision of the liability limits of private insurance undertakings was initiated in Switzerland. On 18 October 2006, the Swiss Federal Council agreed to an increase of the maximum liability limit for an insured event and an increase of the deductibles as of 1 January 2007. The liability limit for each individual affected policyholder remains unchanged at CHF 25 million. Subsequently, the Swiss Federal Office of Private Insurance (FOPI) approved an increase of the premium scales for natural hazard insurance on 2 November 2006, also effective as of 1 January 2007. To keep the premium increase resulting from the new liability limit at a reasonable level, the deductibles were also increased at the same time.

Since the territory of Liechtenstein is also covered by the Swiss natural hazards pool, the legal provisions in Liechtenstein had to be adjusted to the Swiss provisions. Only in this way can nationwide insurance protection against natural hazards continue to be guaranteed in Liechtenstein.

With the Ordinance of 12 December 2006 amending the Buildings Insurance Ordinance (LGBl. 2006 No. 265), the Government decided to expand the maximum liability limit for natural hazard insurance per insured event in Liechtenstein and Switzerland to CHF 1 billion (previously: CHF 250 million) and to increase the deductibles. On the same day, the FMA decided to adjust the premium rates for natural hazard insurance to 0.021 % for household effects (previously: 0.020 %), 0.035 % for other chattels / agricultural inventory (previously: 0.030 %), and 0.046 % for buildings (previously: 0.045 %), for each CHF 1,000 of the insurance sum. Both the increase of the liability limit and the increase of the deductibles and premium rates correspond to the adjustments in Switzerland. All amendments entered into force as of 1 January 2007.

#### Amendment of the FMA Fee Ordinance

With the Ordinance of 12 December 2006 (LGBl. 2006 No. 266), the FMA Fee Ordinance was amended with respect to the licensing fees for insurance undertakings, audit offices under insurance supervision law, and insurance intermediaries. Additionally, a separate category was included for self-insurers (captives). The increase in the licensing fees is intended to take the effective costs of the FMA in the course of a licensing procedure into account.

As of 1 January 2007, the fee for granting of a license under the Insurance Supervision Act now amounts to CHF 30'000 to CHF 50'000 (previously: CHF 10'000 to CHF 30'000), for self-insurers (captives) CHF 20'000 to CHF 30'000, and for audit offices under insurance supervision law CHF 10'000 (previously: CHF 5'000). In the case of self-insurers (captives), the costs associated with the licensing procedure are significantly lower, which is why a reduced licensing fee applies.

The fee for granting the license and entry into the register under the Insurance Mediation Act amounts to CHF 1'000 for legal persons (previously: CHF 500) and CHF 500 for natural persons (previously: CHF 300).





### **2.3.2 Pending regulatory projects as of 31 December 2006**

#### **Implementation of the EU Financial Conglomerates Directive (2002/87/EC)**

As a result of its membership in the European Economic Area, Liechtenstein is required to implement the directive on the supplementary supervision of credit institutions, insurance undertakings, and investment firms in a financial conglomerate.

Implementation of the Directive is effected by the creation of a new law, the Financial Conglomerates Act (FCA). The draft law was circulated for consultations on 21 November 2006. The FCA is expected to enter into force in the 2nd half of 2007.

The supervision of conglomerates is supplementary to the applicable sectoral supervision. The supplementary supervision applies to individual sectors (banks, insurance undertakings, management companies of investment undertakings, investment firms, and asset management companies) and refers to a group of undertakings that constitutes a financial conglomerate.

The supplementary supervision applies to a group of undertakings consisting of a parent undertaking, its subsidiaries, and the undertakings in which the parent undertaking (or its subsidiaries) have holdings; undertakings are also deemed to be a group which are connected to each other through a relationship that requires consolidated accounting. To fall within the scope of supplementary supervision, the enterprise group must constitute a financial conglomerate, i.e., it must predominantly operate in the financial sector. The Act describes the individual criteria and preconditions for such a financial conglomerate to exist; in particular, threshold values are also specified that must be fulfilled so that a group is considered to be a financial conglomerate subject to supervision.

The goal of the Act is to monitor the financial situation of financial conglomerates. The primary task is to monitor capital adequacy. It must be ensured that own funds of a particular amount are always available at the level of the financial conglomerate. Additionally, risk concentrations within the financial conglomerate must be avoided, and group-internal transactions are supervised.

By appointing a coordinator as the competent authority for supplementary supervision, cooperation among the supervisory authorities concerned is facilitated, and it is clarified which responsibilities are assigned to each supervisory authority with respect to supplementary supervision.

The FMA is envisaged as the competent authority for supplementary supervision at the level of financial conglomerates.

### Implementation of the EU Reinsurance Directive (2005/68/EC)

With the implementation of the Reinsurance Directive 2005/68/EC, new supervisory provisions for professional reinsurance undertakings engaging in pure reinsurance activities are being introduced in Liechtenstein. Until now, such reinsurance undertakings have been supervised according to the supervision legislation for direct insurance undertakings. This will continue to be the case with respect to licensing conditions. However, the supervisory rules for the monitoring of reinsurance undertakings will be strengthened, and the special features of different types of reinsurance contracts or classes of business will be taken into account.

With the implementation of the Reinsurance Directive, reinsurance undertakings will, like direct insurance undertakings, receive a “single passport” for cross-border activities throughout the European Economic Area. Existing “safeguard systems” in individual States will be abolished. With respect to the capital investments of reinsurance undertakings, the “prudent person principle” will be introduced.

This Directive will be implemented by way of amendment of the Insurance Supervision Act and in particular the Insurance Supervision Ordinance. In parallel with implementation of the Reinsurance Directive, the applicable supervision legislation will be specified in more detail and optimized.

The proposal is expected to be circulated for consultations in spring 2007. Entry into force is planned for 1 January 2008.

### Implementation of the Fifth EU Motor Insurance Directive (2005/14/EC)

The Fifth EU Directive relating to insurance against civil liability in respect of the use of motor vehicles (2005/14/EC) does not have an object of its own, but rather essentially updates, modernizes, and further specifies the existing motor insurance directives. The Directive focuses on redefining minimum amounts of cover for compulsory insurance against personal injuries and damage to property, improving the insurance protection of pedestrians, cyclists, and other non-motorized users of the road, accelerating the settlement of claims through the electronic provision of accident data, and facilitating the change of insurers, the procurement of temporary insurance protection in the case of a time-limited stay in a foreign country, and the insurance on short notice of motor vehicle purchases outside the country of residence of the owner. In addition, the Directive includes additional specifications to close existing gaps.

Implementation of the Directive will likely be effected by amendment of the Road Traffic Act and the associated ordinances. Because of the close similarity to the legal provisions in Switzerland and the almost 100% coverage of the domestic motor vehicle insurance market by Swiss insurance undertakings, the developments in Switzerland will be observed closely.



## Solvency II

The framework directive for Solvency II is expected to be adopted in the middle of 2007. The FMA will then begin with implementation work on Solvency II.

While the aim of the Solvency I phase was to supplement and update the current European solvency requirements, the Solvency II project has a much larger scope. It consists in a fundamental and far-reaching review of the current requirements in the light of ongoing developments in insurance, risk management, financing methods, financial reporting, etc. One of the key goals of Solvency II is to set out a solvency system that is better adapted to the actual risks of an insurance undertaking.

## 2.4 Pension Funds Supervision

### 2.4.1 Pending regulatory projects as of 31 December 2006

#### Investment requirements for vested benefits at banks (article 30 OPO)

Until the revision of the Occupational Pensions Act of 1 January 2006, the vested benefits arising from occupational pensions could only be invested in vested benefits accounts at Liechtenstein banks, i.e. current accounts or blocked pension accounts at correspondingly low interest rates. As part of the revision of 1 January 2006, article 30 OPO has now expanded the investment possibilities for vested benefits at banks. The option now exists to invest in investment funds within the scope set out by the Ordinance.

In practice, it has turned out that implementation of article 30 OPO has led to problems at banks, especially due to the reduction of the share quota specified in paragraph 6, which is dependent on the age of the insured person and the resulting monitoring costs resulting for the banks.

At the end of March 2006, the FMA therefore invited the Liechtenstein banks and the Liechtenstein Bankers Association (LBA) to present their views on article 30 OPO and any implementation problems in practice. According to their presentations, the FMA determined that the banks do not offer the new investment options under article 30 OPO due to the restrictions contained therein, and the insured persons still can only invest their vested benefits in a blocked savings account.

On the basis of the views expressed by the LBA and the Liechtenstein banks maintaining vested benefits accounts, and in particular given that the purpose of the pension provisions must be safeguarded when investing the vested benefits, the FMA drafted a proposal to amend article 30 OPO. This proposal has been submitted to the banks for more consultation. The FMA will then recommend that the Government amend article 30 OPO.

## 2.5 Other Financial Service Providers Supervision

### 2.5.1 Completed regulatory projects as of 31 December 2006

#### FMA Guideline 2006/2 and sample inspection report

At the end of 2006, the FMA adopted FMA Guideline 2006/2 concerning due diligence inspections conducted by mandated due diligence auditors. The Guideline entered into force on 1 January 2007. The content of the Guideline is a further specification of the demands on due diligence inspections pursuant to articles 24 to 27 DDA and articles 34 to 37 DDO and applies to all auditors, auditing companies, or audit offices pursuant to special legislation (due diligence auditors) mandated by the FMA to conduct regular or extraordinary due diligence audits. A sample inspection report was adopted at the same time as the FMA Guideline.

### 2.5.2 Pending regulatory projects as of 31 December 2006

#### Treaty violation procedure

The EFTA Surveillance Authority is conducting a treaty violation procedure against Liechtenstein due to incorrect implementation of the Diploma Recognition Directives<sup>9)</sup>. Implementation of these directives includes amendments to the LA, PTA, PAA, and AACA. The OFSP Supervision Division was mandated by the Government to draft appropriate legislative proposals. Consultations were concluded in September 2006. Based on the results of the consultations, the OFSP Supervision Division drafted a Report and Application to Parliament. The first reading in Parliament is planned for March 2007.

#### Revision of the LA, PTA, PAA, and AACA

The Professional Qualifications Directive<sup>10)</sup> is expected to be incorporated into the EEA Agreement in 2007. Implementation of this directive includes amendments to the LA, PTA, PAA, and AACA. The associated ordinances will also be revised. The goal is to develop a consultation draft by the middle of 2007.

<sup>9)</sup> Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration, and Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC, in the version of Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001 amending Council Directives 89/48/EEC and 92/51/EEC on the general system for the recognition of professional qualifications and Council Directives 77/452/EEC, 77/453/EEC, 78/686/EEC, 78/687/EEC, 78/1026/EEC, 78/1027/EEC, 80/154/EEC, 80/155/EEC, 85/384/EEC, 85/432/EEC, 85/433/EEC and 93/16/EEC concerning the professions of nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, architect, pharmacist and doctor (SLIM Directive).

<sup>10)</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.



### Revision of the AACA and other laws

On 8 December 2006, the Statutory Audit Directive<sup>11)</sup> was incorporated into the EEA Agreement. The Government and the EEA Committee of Parliament found that the decision of the EEA Joint Committee required consent by Parliament. In this context, the FMA was mandated by the Government to prepare a Report and Application for the attention of the Government. On this basis, Parliament is expected to pass a resolution on the decision by the middle of 2007. Implementation of this directive includes amendments to the AACA and the associated ordinances as well as of the following laws and their ordinances:

- Banking Act
- Insurance Supervision Act
- Investment Undertakings Act
- Occupational Pensions Act
- Pension Funds Acts
- Asset Management Act

The goal is to prepare a consultation draft by the end of 2007.

### Revision of the DDA and DDO

On 7 July 2006, the Third Money Laundering Directive<sup>12)</sup> was incorporated into the EEA Agreement. The Government and the EEA Committee of Parliament found that the decision of the EEA Joint Committee required consent by Parliament. Parliament consented to the decision on 14 December 2006. On 8 December 2006, the PEP Directive<sup>13)</sup> was also incorporated into the EEA Agreement. The Government and the EEA Committee of Parliament again found that the decision of the EEA Joint Committee required consent by Parliament. In this context, the FMA was mandated by the Government to prepare a Report and Application for the attention of the Government. On this basis, Parliament is expected to pass a resolution on the decision by the middle of 2007. Implementation of these directives requires amendments to the DDA and DDO. The goal is to prepare a consultation draft by the middle of 2007.

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<sup>11)</sup> Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC.

<sup>12)</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

<sup>13)</sup> Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

### Regulation on Cross-Border Payments

The OFSP Supervision Division is accompanying the process of incorporation of the Regulation on Cross-Border Payments<sup>14)</sup> into the EEA Agreement on behalf of the FMA. Should the Government and the EEA Committee of Parliament find that the decision of the EEA Joint Committee requires consent by Parliament, the OFSP Supervision Division will prepare a Report and Application for the attention of the Government. The OFSP Supervision Division will also evaluate whether and to what extent Liechtenstein should work towards concluding a derogation agreement within the meaning of article 17 of the Regulation with Switzerland, permitting money transfers between Switzerland and Liechtenstein to be treated like money transfers within Liechtenstein, and, if necessary, will prepare and coordinate such a project.

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<sup>14)</sup> Regulation (EC) No. 1781 / 2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds.

# External Relations



We cultivate dialogue in our external relations and are recognized nationally and internationally on the basis of our competence and performance.

We are recognized nationally and internationally on the basis of our competence and performance.

We cultivate dialogue in all our national and international external relations.

We represent the interests of the country of Liechtenstein in international bodies and promote cooperation with other supervisory authorities.

We inform our stakeholders transparently and proactively.

We inform the public about our activities.

We nurture the reputation of the FMA and of the Liechtenstein financial market vis-à-vis international bodies and foreign financial market supervisory authorities.

We strive for membership in important international bodies, where this is of use to the FMA and the Liechtenstein financial market.

### 3.1 National External Relations

At the national level, the FMA maintained a vibrant dialogue with practitioners in the field. The mutual interest of the FMA and of the business associations, financial market participants, and other interested circles in a dialogue manifested itself again in 2007 in a tight inclusion of these groups in regulatory projects and in the participation of the FMA in sector-specific projects. In addition, the staff members of the FMA gave numerous lectures and training sessions on topics specific to the financial market, especially in connection with various courses of study at the Liechtenstein University of Applied Sciences. Again in 2006, this dialogue made an important contribution to securing the quality and stability of the financial center.

#### BSS Division

- Regular workshops with the Liechtenstein Bankers Association and participation in the LBA's Finance Committee
- Organization of and participation in the Expert Round and various workshops relating to implementation of the EC Markets in Financial Instruments Directive (MiFID)
- Participation in the Working Group on Market Abuse (Market Abuse Act, Market Abuse Ordinance, Financial Analysis Directive)
- Periodic discussion of specific questions concerning the Liechtenstein financial center at meetings of the Liechtenstein Investment Fund Think Tank (LIFT)
- Lecture at the seminar on “The New Asset Management Act – Design, Impact, Perspectives”

- Training of members of the Liechtenstein Investment Fund Association (LIFA) on the topic of “The Instructions on the IUA and IUO from the Perspective of the FMA”
- Lecture in cooperation with the Norwegian financial market supervision authority and the EEA Unit on the topic of “Lawmaking in the EU – The Participation of EEA States is Desirable and Desired”
- Design of the IUA meeting at the Liechtenstein University of Applied Sciences and lectures on the topic of “The Liechtenstein Fund Center – Successful in the Heart of Europe”
- Lecture at the Liechtenstein University of Applied Sciences on “Cross-Border Services of Professional Trustees and Asset Management Companies”
- Four lectures in connection with the “Fund Officer” course of study at the Liechtenstein University of Applied Sciences and in Wetztingen, Switzerland, on “The Liechtenstein Fund Center – Interface between Europe and Switzerland”
- Participation in a panel discussion at the 2006 Insurance Forum at the Liechtenstein University of Applied Sciences
- Lecture at the Financial Perspectives Expert Meeting on “Financial Services without Borders? Cross-Border Services of Professional Trustees and Asset Management Companies”

#### IPFS Division

- Lecture at the information event of Winterthur Insurance “Current Developments in Occupational Pensions” on the topic of “New Developments in Occupational Pensions”
- Participation of the Head of Division in the panel discussion at the 2006 Insurance Forum at the Liechtenstein University of Applied Sciences

- Lecture at the information event of the Pro-fond Collective Foundation on the topic of “New Legislation on Occupational Pensions”
- Lecture at the first delegates’ meeting of the Pension Foundation of the Liechtensteinische Landesbank on “Revision of the Legislation on Occupational Pensions, 2006”
- Organization of the workshop “Liechtenstein Pension Fund Center” with experts from Liechtenstein and abroad
- Participation at the founding meeting of the Liechtenstein Insurance Brokers Association
- Various lectures at the Liechtenstein University of Applied Sciences as part of the seminar on “Occupational Pensions Act and Ordinance – 2006 Revision”
- Participation at the “Liechtenstein Dialogue on the Future of Financial Markets” on the topic of “Global Risks and Investor Confidence”
- Workshop with the Liechtenstein Insurance Brokers Association on the development of standards
- Participation at the extraordinary general meeting of the Liechtenstein Insurance Association
- Regular meetings with the board of the Liechtenstein Insurance Association
- Perspectives” on the topic of “AMA – Impact on Professional Trustees”
- Participation in the Round Table of the Compliance Group of the Liechtenstein Association of Professional Trustees
- Lecture at the Financial Perspectives Expert Meeting on “Financial Services without Borders? Cross-Border Services of Professional Trustees and Asset Management Companies”
- Lecture at the Institute for Compliance and Quality Management (ICQM) on “Experiences with the Due Diligence Legislation”
- Information event for car dealers on the topic of “Due Diligence Obligations of Car Dealers”
- Lecture on “Update of Due Diligence Law” at the Association of Commercial Agents
- Lecture as part of the seminar on “New Developments in Due Diligence Law – Update 2006” and the seminar “Liechtenstein Due Diligence Legislation – Practical Case Studies – Focus on Professional Trustees / Banking” hosted by Compliance Quality Management AG
- Lecture on due diligence audits at the Liechtenstein Association of Auditors

#### OFSP Division

- Due Diligence Law module at the Liechtenstein University of Applied Sciences as part of the course of study for Bachelor of Business Administration, on the professional trustee system, and for the courses for certified commercial agents and private banking
- Advanced Due Diligence Act and Ordinance module as part of the post-graduate course of study on the professional trustee system
- Lecture as part of the seminar on “The New Asset Management Act – Design, Impact,



#### **IIA Unit**

- Lecture in the course of study for Bachelor of Business Administration at the Liechtenstein University of Applied Sciences on the topic of “Financial Market Authority Liechtenstein”
- Lecture at the seminar held by the University of Innsbruck on the Liechtenstein financial center on the topic of “Financial Market Authority Liechtenstein”

#### **Chief Executive Officer**

- Lecture in the course of study on “Company Law” at the Liechtenstein University of Applied Sciences
- Lecture at the event of the Liechtenstein University of Applied Sciences on the Asset Management Act
- Participation in the panel discussion at the IUA meeting at the Liechtenstein University of Applied Sciences
- Visit of H.S.H. Hereditary Prince Alois

### **3.2 International External Relations**

A focus of international external relations was the continuation of the existing practice of contact with foreign supervisory authorities. Current topics relating to financial market supervision and regulation were discussed, and the relationships with the competent supervisory bodies abroad were strengthened. In particular, contacts with representatives from Germany, Luxembourg, Austria, and Switzerland were cultivated.

As part of international external relations, contacts with renowned educational institutions and financial intermediaries were established and strengthened.

#### **BSS Division**

- Contacts with the Swiss Federal Banking Commission and the Austrian Financial Market Authority in connection with implementation of the capital adequacy requirements of the Basel Committee on Banking Supervision (Basel II)
- Cooperation meeting with the Austrian Financial Market Authority in connection with various transnational supervision cases
- Official visit to the Austrian and Luxembourgian financial market authorities
- Lecture at SWX Swiss Exchange in connection with the Swiss Federal Law on Collective Investments on the topic of “The Liechtenstein Fund Center: Development of Regulation and Funds Industry”
- Visit of the president of the European Fund and Asset Management Association (EFAMA)



**IPFS Division**

- Lecture at the meeting on private insurance law of the University of St. Gallen on the topic of “The New Swiss Insurance Law from the Perspective of Other European Countries”
- Lecture at the meeting of Deutsche Asset Management entitled “Horizons 06 Institutional Investors Forum” on the topic of “Great Aspects of a Small Country – How Liechtenstein’s social institutions beat its model Switzerland”
- Meeting with the presidents of the German-speaking insurance associations
- Lectures on “Implementation of the EU Pensions Funds Directive in Liechtenstein – An Overview” at the autumn event of the Second Pillar Innovation Association entitled “The EU Pension Funds Directive: Not in Line with Switzerland?”
- Signing of the agreement between Liechtenstein, Switzerland, and Spain on cooperation with respect to article 10, paragraph 2 of Council Regulation (EC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community
- Negotiation and consultation discussions with various Swiss regulatory and supervisory authorities (Federal Social Insurance Office, Federal Office of Private Insurance, Swiss Federal Banking Commission, Swiss Federal Tax Administration, Federal Roads Office, cantonal pension scheme supervisory authorities)
- Meeting with representatives of the Swiss National Bureau of Insurance
- Participation in the meeting of the regional group of the pension scheme supervisory authorities of Eastern Switzerland and Liechtenstein

**Chief Executive Officer**

- Management of the IMF Assessment Project Team 2007
- Participation in the International Congress of Banking Supervisors (ICBS) in Merida, Mexico
- Four Moneyval plenary sessions, Strasbourg
- Visit to the Swiss National Bank

**Cross-divisional contacts**

- Four-country meeting of the German-speaking financial market authorities of Germany, Austria, Switzerland, and Liechtenstein

**Participation in international meetings and assessments**

In addition to these contacts with foreign supervisory authorities, financial market participants, and other interested circles, staff members of the FMA took part on behalf of the Government in internationally significant meetings of the following bodies. In the course of these events, relationships with various foreign supervisory authorities and interest groups were established and further strengthened.



## EXTERNAL RELATIONS

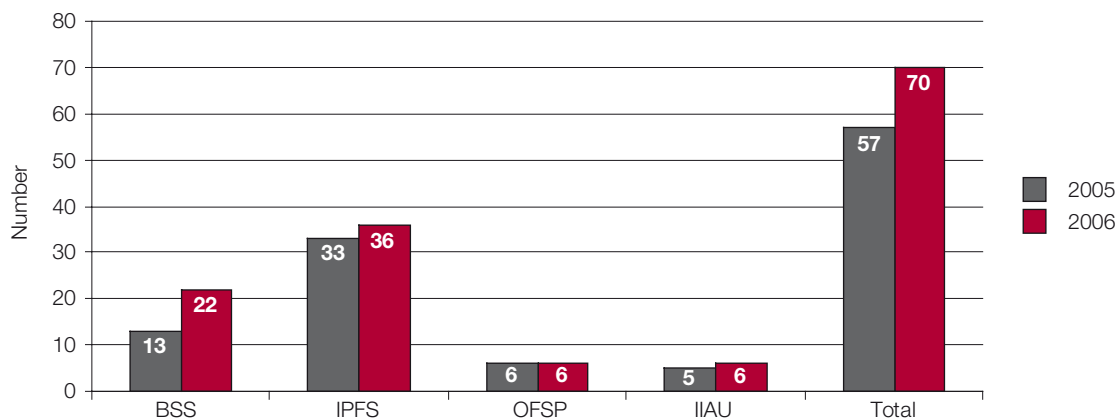
### Meetings in connection with EEA membership

- European Securities Committee (ESC)
- Committee of European Banking Supervision (CEBS) including Groupe de Contact
- Committee of European Insurance and Occupational Pension Supervisors (CEIOPS)
- European Insurance and Occupational Pensions Committee (EIOPC)
- Supervision of Pension Systems
- Working Group Motor Insurance
- Working Group Reinsurance
- Expert Groups Insurance Solvency
- Working Group on Financial Services (WGFS), chairmanship until end of 2006
- EFTA Board of Auditors (EBOA)
- Council of Europe Development Bank (CEB)

### Other international meetings

- International Congress of Banking Supervisors (ICBS)
- Committee on the Prevention of Money Laundering and Terrorist Financing
- International Association of Insurance Supervisors (IAIS)
- Committee of Experts on the Evaluation of Anti-Money Laundering Measures (Moneyval)

Figure 35: Participation in international meetings (number)



### IMF Assessment 2007

With a view to the assessment of Liechtenstein by the International Monetary Fund (IMF) scheduled for March / April 2007, a working group was formed under the direction of the Chief Executive Officer of the FMA and the Chief of Staff of the Prime Minister. This working group, consisting of additional members of the FMA and various

administrative offices and judicial authorities of the State, was mandated by the Government to prepare and supervise the upcoming IMF Assessment.

The IMF Assessment 2007 will be of great importance to the Liechtenstein financial center. The focus of the assessment will be on the meas-

ures implemented by Liechtenstein and strategies against money laundering and terrorist financing. Banking, insurance, and securities supervision will also be assessed.

#### Direct Insurance Agreement between Liechtenstein and Switzerland

Before Liechtenstein's accession to the EEA, only agencies of Swiss insurance undertakings were operating in Liechtenstein. In order to provide the same conditions for these insurance undertakings after Liechtenstein's accession to the EEA as for EEA insurance undertakings, Liechtenstein and Switzerland concluded a Direct Insurance Agreement (Agreement between the Principality of Liechtenstein and the Swiss Confederation concerning Direct Insurance of 19 December 1996, LGBl. 1998 No. 129). Insurance undertakings domiciled in Liechtenstein and in Switzerland are granted freedom of establishment and freedom of movement of services with respect to direct insurance activities on the territory of the other State Party. Therefore, it is possible for insurance undertakings to operate directly from Liechtenstein not only in the EEA, but also in Switzerland; conversely, Swiss insurance undertakings may engage in the insurance business in Liechtenstein. This Agreement has been in force since 1 January 1997.

The FMA and the competent Swiss supervisory authority, the Federal Office of Private Insurance (FOPI), represent the two States Parties in the Joint Commission established on the basis of this Agreement. The Joint Commission is responsible for executing the Agreement and, in particular, for its smooth functioning. Where needed, it proposes amendments to the Agreement to the governments of the two States Parties. The Joint Commission has appointed a Working Group to

support it in the fulfillment of its responsibilities. The Working Group is also composed of staff members of the FMA. It meets regularly, deals with cases of application and problems arising in connection with the Insurance Agreement, and is responsible for sharing of information, particularly with respect to internal legal developments and other current trends.

The representation of Liechtenstein in this Joint Commission and the appointed Working Group allows the FMA to cultivate close contacts with FOPI. This also facilitates the establishment of contacts with other experts of the two authorities, but also with other authorities. In 2004, for instance, a rule concerning the supervision of money laundering was found in a fast and uncomplicated manner and submitted to the Government (see Publication of 16 December 2003, LGBl. 2004 No. 60).

The Joint Commission and its Working Group also considered important agenda items in 2006. For instance, a proposal to the governments of the two countries that would allow Liechtenstein insurance undertakings to offer linked individual provident measures (3rd pillar a) also by virtue of free movement of services is nearly completed. Furthermore, an approach has been agreed so that the same conditions apply to all insurance undertakings offering collective policies (2nd pillar) in Switzerland. Beyond this, a wide range of questions is discussed, and solutions to problematic cases in connection with cross-border insurance activities are identified.

## EXTERNAL RELATIONS

In 2007, the Joint Commission will deal in particular with cross-border insurance mediation activities. It will draft a proposal to expand the Direct Insurance Agreement for the attention of the governments of the two countries, so that Liechtenstein and Swiss insurance intermediaries can operate across borders without requiring a second license in the other country.

### Agreement with Switzerland on fulfilling the responsibilities of the Liechtenstein Guarantee Fund

The revision of the Occupational Pensions Act and the associated implementing ordinance has established the legal foundation for the creation of a Guarantee Fund based on the Swiss model, in order to better protect claims of insured parties in the case of insolvency of a pension scheme. The main task of the Guarantee Fund is to secure the benefits of an insolvent pension scheme as prescribed by law and rules and regulations. In addition, the Guarantee Fund performs the tasks of the 2nd Pillar Central Office, which is responsible for the coordination, transmission, and safekeeping of information concerning vested benefits accounts and policies that are not claimed. The 2nd Pillar Central Office is the interface between the institutions for occupational provision that provide vested benefits accounts or policies (pension schemes, banks and insurance undertakings) and the insured parties.

According to article 27b of the Occupational Pensions Act, the Government may conclude agreements with foreign States on the fulfillment of the responsibilities of the Guarantee Fund. On behalf of the Government, the FMA has undertaken and successfully concluded negotiations in this regard with the competent Swiss authorities. In December 2006, the Agreement between the Liechten-

stein Government and the Swiss Federal Council on Fulfillment of the Responsibilities of the Liechtenstein Guarantee Fund for Occupational Pensions was signed. On the basis of this Agreement, the responsibilities of the Liechtenstein Guarantee Fund are administered by the Swiss National Guarantee Fund, and the Liechtenstein pension schemes under private and public law will join the Swiss National Guarantee Fund as of 1 January 2007. Fulfillment of the responsibilities by the Swiss National Guarantee Fund is therefore ensured as of 1 January 2007.

Due to its urgency, the Agreement could not be presented to Parliament by way of the normal consent procedure. Accordingly, the Agreement will enter into force on a provisional basis as of 1 January 2007. In December 2006, Parliament consented to the provisional application of the Agreement. In 2007, the Government will submit the Report and Application concerning ordinary consent to Parliament.



# Enterprise



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We are independent, internally organized according to private sector principles, client-oriented, and we distinguish ourselves with exceptional quality and pragmatic solutions.

We are independent and not bound by any instructions in the performance of our activities.

We make use of synergies through our structure as an integrated financial market supervisory authority (extending across specialized areas).

Internally, we are organized according to private sector principles, and we are a learning organization.

We distinguish ourselves with the exceptional quality of our services and with competence, dynamism, and flexibility.

We orient ourselves according to the needs of the clients, taking into account best business practices, and we develop pragmatic solutions.

We act in a goal-oriented manner and determine focus areas and priorities accordingly.

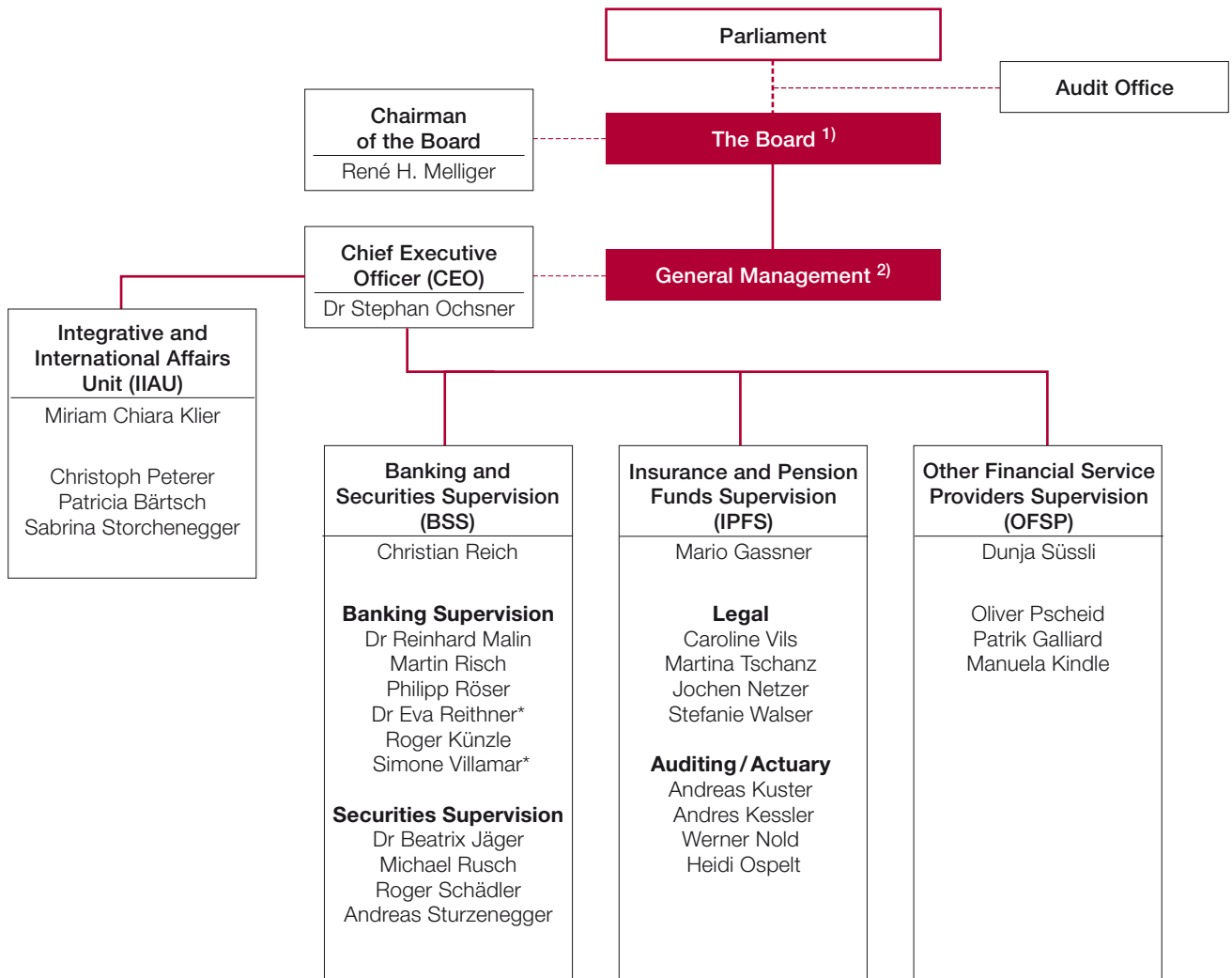
We work efficiently and effectively and only invest resources where necessary and justifiable.

We are open to change.

We are oriented toward the future and develop sustainable solutions.

We strive for full funding by the financial market participants.

Figure 36: Organizational structure of the Financial Market Authority (FMA) Liechtenstein as of 31 December 2006



\* on maternity leave

1) **The Board (2005–2009)**

René H. Melliger, Chairman (acting full-time)  
Dr oec. HSG Jochen Hadermann, Vice Chairman  
Dr iur. Martin Batliner, LL.M.  
Dr iur. Hans Haumer  
Dr oec. HSG Stefan Jaeger

2) **General Management**

Dr iur. Stephan Ochsner, LL.M., CEO  
Mario Gassner, Deputy of the CEO  
Christian Reich  
Dunja Süssli

In the second year of operations of the FMA, the structure of the FMA based on entrepreneurial principles has proven its value. The client orientation and lean organization of the FMA enable efficient and transparent working methods and performance of tasks.

#### 4.1 Divisions

In 2006, various adjustments were made to the existing FMA divisions.

Due to the expansion of the competences of the individual divisions, an adjustment to the names was made. In the course of the name change, both

the FMA Statute and the Rules of Procedure were amended. The amendments were communicated in August 2006.

New responsibilities were assigned to the Banking and Securities Supervision Division. The supervision of asset managers, investment undertakings, and prospectuses has now been combined within the Securities Supervision Section.

The Insurance and Pension Funds Supervision Division has now been additionally assigned supervision of insurance intermediaries.

**Table 17: Overview of changes to names of divisions**

| Division                                | Old name | New name |
|---|----------|----------|
| Banking and Securities Supervision      | BIU      | BSS      |
| Insurance and Pension Funds Supervision | IUPF     | IPFS     |





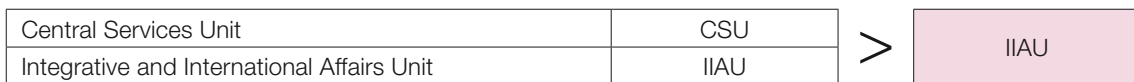
**4.2 Integrative units**

**Integrative and International Affairs Unit**

Due to the experiences gathered in 2005, the Integrative and International Affairs Unit (IIAU) was

merged with the Central Services Unit (CSU). Existing duplications with respect to the scope of the two units were eliminated, and cross-divisional responsibilities were merged into one unit.

**Figure 37: Merger of CSU and IIAU**



Moreover, the competences of the IIAU with respect to human resources were further expanded, and centralization of accounting was initiated. For this reason, the IIAU has additionally assumed the responsibilities and the staff members of the CSU. The staffing of the unit has accordingly been reorganized. The responsibilities assigned to the unit are fulfilled by two lawyers, one economist, and a commercial officer.

The newly constituted unit fulfilled expert responsibilities as a specialized management assistance office. It supported and assisted the General Management and the individual divisions with respect to preparations of decisions and control of the enterprise. In addition, it made various services available within the organization to the operational divisions. The competences of the former IIAU with respect to supervision in connection with due diligence law were transferred to the Other Financial Service Providers Supervision Division. Accordingly, all operational responsibilities of the FMA have been incorporated into the supervision divisions.

**The IIAU carried out the following integrative and international core projects in 2006:**

- Integration of the Central Services Unit
- Planning and conception of the autonomous FMA accounting
- Administration and updating of the FMA-specific compendium of laws
- Organization and development of an FMA library
- Compilation of the FMA budget and estimate for 2007
- Content management and expansion of the FMA website in the English language
- Preparation and supervision of the total revision of the Prospectus Act
- Development of an organizational manual, in which the organizational, administrative, and representational responsibilities of the FMA are documented
- New staffing of the unit with two lawyers, one economist, and an officer
- Participation in extraordinary inspections under the DDA as support to the divisions (until October 2006)
- Processing of consultations and inquiries by foreign authorities
- Responding to international, cross-divisional inquiries

- Assistance to the General Management with respect to various projects (e.g. strategy development)
- Administration and drafting of various FMA publications
- Until June 2006, chairmanship of the Working Group on Financial Services (WGFS) and participation in working groups concerning EEA-wide regulation projects
- Assumption of human resources management

In addition, the unit drafted internal instructions on art in the FMA. According to these internal instructions, the FMA offers young artists from Liechtenstein the opportunity to present their works in the public spaces of the FMA.

### 4.3 Finances

#### Introduction

The FMA budget for 2006 amounted to CHF 6'659'000. The contribution by the State in accordance with article 29 of the FMA Act was

CHF 3'959'000. The 2006 budget could again be met, or rather revenue was higher than budgeted and expenditures were lower than budgeted. The result is a surplus (annual profit) of CHF 752'700, which was assigned to the reserves.

#### Accounting

In the reporting year, accounting was again administered by the Office of Financial Accounting in a separate accounting group pursuant to a service agreement with the State of Liechtenstein. Accounting is a key instrument for the fulfillment of corporate governance responsibilities by the Board and serves as a controlling tool by the General Management. The Board has decided to institute autonomous accounting. The goals in this respect are: improvement of processes, quality, flexibility, same-day processing, and individuality (e.g. management income statement). Accounting will in the future increasingly provide decision-making foundations and management instruments to the General Management and the Board. Payment transactions will also be directly administered by the FMA.

#### Income statement 2006 (1 January – 31 December 2006) in CHF 1,000

| <b>Income/ Expenses</b>                | <b>Account statement 2006</b> |
|--|-------------------------------|
| Income from supervision taxes and fees | 3'191                         |
| State contribution                     | 3'959                         |
| <b>Total income</b>                    | <b><u>7'150</u></b>           |
| Personnel expenses                     | 4'890                         |
| Material expenses                      | 1'377                         |
| Depreciation of furnishings and IT     | 130                           |
| <b>Total expenses</b>                  | <b><u>6'397</u></b>           |
| <b>Surplus</b>                         | <b><u>753</u></b>             |

## ENTERPRISE

Again, due to the Government resolution to pay the budgeted State contribution until the reserves amount to 50 % of the budgeted self-generated

income, i.e., supervision taxes and fees, the 2006 surplus could therefore be allocated to reserves.

### Balance sheet as of 31 December 2006 in CHF 1,000

| <b>ASSETS</b>                      |                     | <b>LIABILITIES</b>           |                     |
|------------------------------------|---------------------|------------------------------|---------------------|
| Accounts receivable from the State | 3'208               | Endowment                    | 2'000               |
| Debtors                            | 100                 | Reserves (surplus 2005+2006) | <u>1'450</u>        |
| Furnishings and IT                 | 398                 | Own funds                    | <u>3'450</u>        |
| Transitory assets                  | 5                   | Provisions                   | 80                  |
|                                    |                     | Transitory liabilities       | 181                 |
| <b>Total assets</b>                | <b><u>3'711</u></b> | <b>Total liabilities</b>     | <b><u>3'711</u></b> |

The 2006 annual account statement of the FMA was reviewed by the National Audit Office and recommended for approval by Parliament.

### Self-financing of the FMA

The self-financing rate is calculated by the ratio of income to total expenses.

**Table 18: Self-financing rate**

|             | <b>State contribution (CHF)</b> | <b>Self-financing</b> |
|-------------|---------------------------------|-----------------------|
| Actual 2005 | 4'090'000                       | 42.9 %                |
| Actual 2006 | 3'959'000                       | 49.9 %                |
| Budget 2007 | 3'950'000                       | 45.7 %                |

In the coming years, the FMA will strive for further expansion of self-financing. This tendency is reflected in particular by the budgeted figures for long-term financial planning.

## Attestation of the National Audit Office



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

As the audit office within the meaning of articles 19 and 20 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 business report of the Financial Market Authority Liechtenstein (FMA) for the business year ending 31 December 2006.

The Board is responsible for the annual financial statement and the business 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 business 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 business report comply with Liechtenstein law, the Law on the Financial Market Authority (FMA Act), and the statutes.

The business 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 Lang  
Director

Vaduz, 23 March 2007

Enclosure:  
- Annual financial statement (balance sheet, income statement, and notes)  
- Business report

#### 4.4 Public Outreach

In the area of public outreach, the focus in 2006 was on further expansion of the existing communication channels. The FMA met its legislative mandate to inform the public on the supervisory activities in various ways.

##### FMA Annual Report 2005

The FMA presented its first annual report to the public on 27 April 2006. The report met with a very positive response among the public and the supervised financial intermediaries. The annual report was made available in German and in English. At international meetings, the English version of the annual report helped allow the FMA to position itself in a positive way and to convey a picture of financial market supervision in Liechtenstein to the foreign partners of the FMA. In particular, the transparent and comprehensive information on the supervisory activities of the FMA were highly valued.

##### FMA Practice

For purposes of in-depth information on supervisory practice, the FMA published its FMA Practice for 2005, its first operational business year, on its website at the end of September 2006 for the first time.

In particular, the FMA Practice contains excerpts of important decisions and decrees of the FMA, of resolutions of the FMA Complaints Commission, and of judgments of the Administrative Court and Constitutional Court in an anonymized form, provided that they were of particular significance for the establishment of new supervisory practices or the further development of existing practices. This additional information platform serves the purpose of legal certainty and transparency with

respect to the supervision of the Liechtenstein financial center as practiced by the FMA.

##### FMA website

The concept of publishing information relevant to the needs of the financial center on the FMA website has proven to be very valuable both for users and for the FMA. In the past year, the documents, enactments, instructions, and guidelines relevant to the target groups of the FMA were also made available on the website. Continuously updating the published information was a top priority.

Moreover, the information offerings available on the website in English were expanded considerably. General information on the Principality and on the FMA was made available in English. Additionally, the offerings of English translations of the legal foundations relevant to the financial center were expanded. In 2006, the rate of access to the FMA website grew by 52.2% in comparison with the previous year.

##### FMA Newsletter

During the business year, the FMA informed interested circles about various current topics by way of an electronically provided FMA Newsletter. The focus was on the publication of FMA Guidelines, information on measures to combat terrorism, and information on due diligence inspections conducted in the 2005 business year.

The considerable interest in the information made available by the FMA could be seen in the large number of Newsletter subscribers: By the end of 2006, more than 500 persons were registered as subscribers to the FMA Newsletter.



# Team



Patricia Bärtsch



Martin Batliner



Patrik Galliard



Mario Gassner



Jochen Hadermann



Hans Haumer



Stefan Jaeger



Beatrix Jäger



Andres Kessler



Manuela Kindle



Miriam Chiara Klier



Roger Künzle



Andreas Kuster



Reinhard Malin



René H. Melliger



Jochen Netzer



Werner Nold



Stephan Ochsner



Heidi Ospelt



Christoph Peterer



Oliver Pscheid



Christian Reich



Eva Reithner



Martin Risch



Philipp Röser



Michael Rusch



Roger Schädler



Sabrina Storchenegger



Andreas Sturzenegger



Dunja Süssli



Martina Tschanz



Simone Villamar



Caroline Vils



Stefanie Walser

---

We are a team, actively value each other in our interactions, identify with our goals and responsibilities, act in an entrepreneurial manner, and are proud to make a contribution to success.

We are a team, actively valuing each other in our interactions and supporting each other.

We communicate openly and directly and provide active feedback.

We address conflicts and use them as an engine for progress.

We identify with our goals and responsibilities and are proud to make a contribution to success.

We are characterized by a strong willingness to perform.

We work within the framework of an attractive environment and cultivate a positive working climate.

We pay attention to our physical and mental health.

We actively support basic and continuing training and education.

We are role models, think and act in an entrepreneurial manner, and we distinguish ourselves with leadership, integrity, and social competence.



## TEAM

### 5.1 FMA Team

Also with respect to the FMA team, the year 2006 was characterized by ongoing development and adaptation of the FMA to the changing needs of the market. In the individual divisions and in the IIAU, there were various staffing changes (see also chapter on Enterprise).

### 5.2 Team Development and Leadership

The past year was again shaped by team development and leadership. The seminars initiated in 2005 under the direction of an expert were concluded in 2006. The circle of participants was expanded. All staff members of the FMA were included in this process through appraisal interviews and information events. The foundation for this consisted in the maxims for action set out by the FMA in its Vision and the Core Principles. The past year again showed that the Vision and the Core Principles only have an impact when

they are practiced in day-to-day work with internal and external stakeholders. The FMA as a team succeeded in implementing the Vision and the Core Principles in the past year. The Vision and the Core Principles will continue to be a crucial guide in the coming business years.

### 5.3 Specialized Training

The specialized training of staff members was again actively promoted in the 2006 business year.

The staff members of the individual divisions took part in the following training sessions:

#### BSS

- Murten Legislation Seminar
- CEBS Seminar (ICAAP and RAS)
- Training with respect to auditing activities
- Seminar on presentation techniques
- Fund Officer experience group



**IPFS**

- Completion of training as administrative expert for occupational pensions
- Continuing training workshops of the Regional Group for Supervision of Pension Schemes and Classical Foundations (members: Principality of Liechtenstein, cantons of Eastern Switzerland, canton of Ticino)
- Continuing training workshops of the Conference of Cantonal OPA and Foundation Supervisory Authorities
- Meeting on “Current OPA Developments” of the Regional Group for Supervision of Pension Schemes and Classical Foundations
- Pension Systems Conference
- Meetings and seminars on the 2nd pillar
- Meeting on “Current Legal Questions in Private Insurance Law”
- Insurance Forum of the Liechtenstein University of Applied Sciences
- Captive seminar
- Reinsurance seminar
- CEIOPS Solvency II seminar
- EEA seminar
- Liechtenstein-specific course of the University of Applied Sciences
- Seminar on Update of ECJ Jurisprudence
- Seminar on facilitation
- Meetings of the Working Group of the Joint Commission for the Direct Insurance Agreement between the Principality of Liechtenstein and Switzerland

**OFSP**

- Introductory Seminar on Mutual Recognition of Diplomas
- Colloquium on Mutual Recognition of Diplomas and the Implementation of the New Directive

**IIAU**

- Continuing training course on running secretariats
- Labor law of the Principality of Liechtenstein
- Introduction to the European Economic Area

## TEAM

### 5.4 Staff Figures

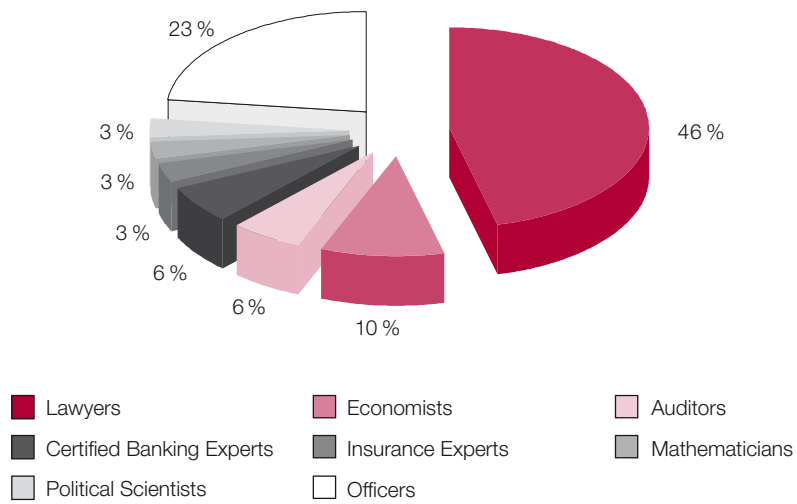
In 2006, the focus was on expansion and renewal of the FMA team. In addition to the full-time Chairman of the Board, 29 permanent employees, 3 apprentices, and 6 interns worked for the FMA as of 31 December 2006. Of the 29 staff members employed with the FMA as of 31 December 2006, 2 were on maternity leave. The average number of permanent staff was 26.5 in the reporting year (previous year 24). The number of permanent positions thus increased by 3 in the past year. The expansion of the staff pool of the FMA was primarily necessary due to the striking growth of the financial center and the resulting higher number of active participants in the financial center.

5 positions were filled with new hires, while one commercial officer who had previously been a trainee in the Liechtenstein National Administration was offered a permanent position.



The FMA can rely on a high level of expertise of its staff members.

**Figure 38: Overview of staff member expertise**

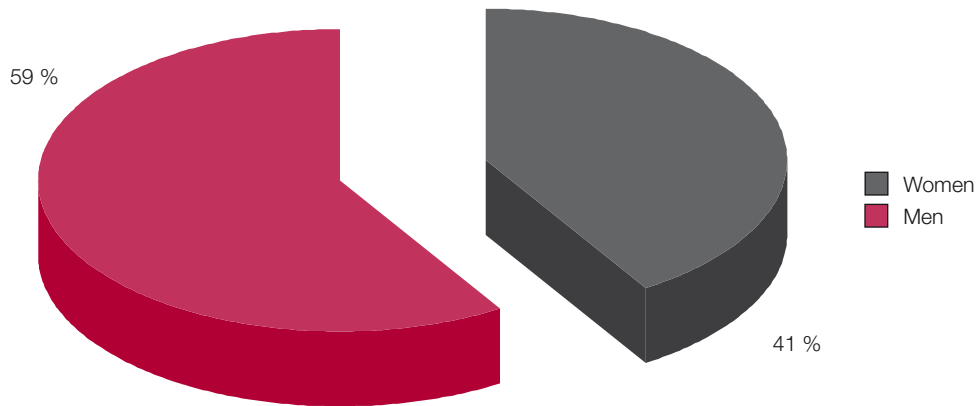


As of the end of 2006, 12 female and 17 male staff members were permanently employed with the FMA, in addition to the Chairman of the Board.



## TEAM

Figure 39: Gender distribution of FMA team

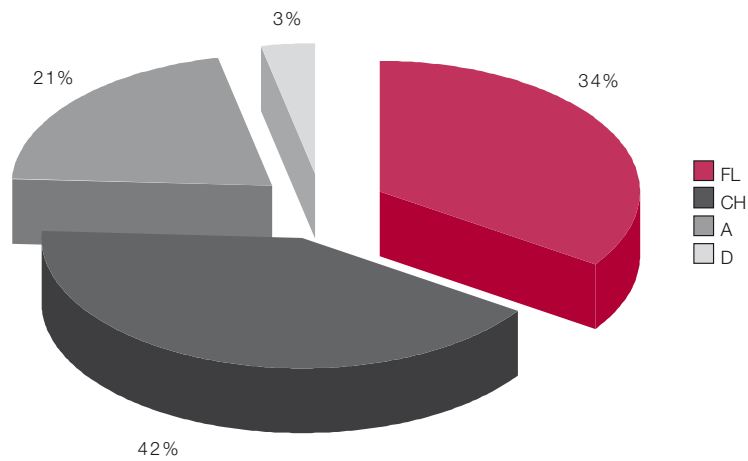


Among the staff members employed, there were 10 Liechtenstein citizens, 12 Swiss citizens, 6 Austrian citizens, and 1 German citizen. More than one third of the FMA staff are therefore Liechten-

stein citizens. In the reporting year, recruitment for vacant and new positions paid particular attention to filling these positions with Liechtenstein citizens where possible.



Figure 40: Citizenship of FMA team



Over the course of the year, 6 staff members left the FMA to pursue new challenges in the private sector. In these cases, it became apparent that the FMA is regarded very highly as a reference by human resource officers in the private sector.

In addition to employees with permanent positions, 8 interns worked in various divisions of the FMA over the course of the year. These interns

were graduates of legal, economic, and business studies at universities in Liechtenstein and abroad. The FMA allowed these young professionals to gain in-depth insight into the activities of a financial market supervisory authority and to work actively on current projects. The interns especially valued the practice-oriented work and the status of the FMA as a good reference for their personal careers.

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# Abbreviations

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|            |   |
|------------|---|
| A          | Austria / Austrian nationality  |
| AACA       | Auditors and Auditing Companies Act   |
| AFM        | Autoriteit Financiële Markten (Netherlands Authority for the Financial Markets) |
| AG         | Aktiengesellschaft (limited company)  |
| AHV / IV   | Old Age and Survivors' Insurance / Disability Insurance                         |
| AMA        | Asset Management Act  |
| AMC        | Asset Management Company  |
| AMO        | Asset Management Ordinance  |
| art.       | Article   |
| BaFin      | German Financial Supervisory Authority  |
| BCSC       | British Columbia Securities Commission  |
| BD         | Board of Directors  |
| BEHG       | Swiss Federal Act on Stock Exchanges and Securities Trading                     |
| BIS        | Bank of International Settlement  |
| BörseG     | Börsegesetz (Austrian Stock Exchange Act)                                       |
| BSS        | Banking and Securities Supervision  |
| CAO        | Capital Adequacy Ordinance  |
| CEB        | Council of Europe Development Bank  |
| CEBS       | Committee of European Banking Supervisors                                       |
| CEIOPS     | Committee of European Insurance and Occupational Pensions Supervisors           |
| CEO        | Chief Executive Officer   |
| CESR       | Committee of European Securities Regulators                                     |
| cf.        | confer (compare)  |
| CH         | Switzerland / Swiss nationality   |
| CHF        | Swiss francs  |
| CSSF       | Commission de surveillance du secteur financier (Luxembourg)                    |
| CSU        | Central Services Unit   |
| DACHL      | Four-Country Meeting of the German-Language Supervisory Authorities             |
| DDA        | Law on Professional Due Diligence in Financial Transactions (Due Diligence Act) |
| DDO        | Due Diligence Ordinance   |
| DDU        | Due Diligence Unit  |
| Dipl.-Jur. | Diplom-Jurist (law degree)  |
| Dr         | Doctor  |
| Dr iur.    | Doctor of Law   |
| Dr oec.    | Doctor of Economics   |
| EBC        | European Banking Committee  |
| EBOA       | EFTA Board of Auditors  |
| EC         | European Community  |
| ECJ        | European Court of Justice   |

## ABBREVIATIONS

|         |  |
|---------|--|
| EEA     | European Economic Area   |
| EEAA    | EEA Agreement  |
| EEC     | European Economic Community  |
| EFTA    | European Free Trade Association  |
| e.g.    | exempli gratia (for example)   |
| EIOPC   | European Insurance and Occupational Pensions Committee                             |
| ESC     | European Securities Committee  |
| et seq. | et sequentes (and following)   |
| etc.    | et cetera  |
| EU      | European Union   |
| FAQ     | Frequently Asked Question(s)   |
| FATF    | Financial Action Task Force  |
| FER     | Fachempfehlungen zur Rechnungslegung (Expert Recommendations on Accounting)        |
| FH      | Fachhochschule (University of Applied Sciences)                                    |
| FI      | Finansinspektionen (Swedish Financial Supervisory Authority)                       |
| FiRE    | Financial Reporting  |
| FIU     | Financial Intelligence Unit  |
| FL      | Fürstentum Liechtenstein (Principality of Liechtenstein)                           |
| FMA     | Financial Market Authority Liechtenstein   |
| FMAA    | FMA Act  |
| FMA-CC  | FMA Complaints Commission  |
| FSA     | Financial Services Authority (UK or formerly Liechtenstein)                        |
| GAAP    | Generally Accepted Accounting Principles   |
| GBOERA  | Grundbuch- und Öffentlichkeitsregisteramt (Office of Land and Public Registration) |
| GL      | Guideline  |
| GM      | General Management   |
| H.S.H.  | His Serene Highness  |
| IAIS    | International Association of Insurance Supervisors                                 |
| IAS     | International Accounting Standards   |
| ICAAP   | International Capital Adequacy Assessment Process                                  |
| ICBS    | International Congress of Banking Supervisors                                      |
| ICQM    | Institute for Compliance and Quality Management                                    |
| i.e.    | id est (that is)   |
| IFRS    | International Financial Reporting Standards  |
| IPFS    | Insurance and Pension Funds Supervision  |
| IIAU    | Integrative and International Affairs Unit   |
| IMA     | Insurance Mediation Act  |
| IMF     | International Monetary Fund  |
| IOPS    | International Organization of Pension Supervisors                                  |
| IORP    | Institution for Occupational Retirement Provision                                  |

|           |   |
|-----------|---|
| IOSCO     | International Organization of Securities Commissions  |
| ISA       | Insurance Supervision Act   |
| ISO       | Insurance Supervision Ordinance   |
| IT        | Information Technology  |
| IU        | Investment Undertaking  |
| IUA       | Investment Undertakings Act   |
| IUO       | Investment Undertakings Ordinance   |
| IUPF      | Insurance Undertakings and Pension Funds  |
| LA        | Lawyers Act   |
| LBA       | Liechtenstein Bankers Association   |
| LGBl.     | Landesgesetzblatt (Liechtenstein Law Gazette)   |
| lic. iur. | licentiatus iuris   |
| LIFA      | Liechtenstein Investment Fund Association   |
| LIFT      | Liechtenstein Investment Fund Think Tank  |
| MC        | Management Company  |
| MiFID     | Markets in Financial Instruments Directive  |
| MLA       | Swiss Federal Law on the Prevention of Money Laundering in the Financial Sector<br>(Money Laundering Act) |
| MMoU      | Multilateral Memorandum of Understanding  |
| MoU       | Memorandum of Understanding   |
| NAA       | National Administration Act   |
| No.       | Number  |
| OFSP      | Other Financial Service Providers (Supervision)   |
| OGAW      | Organismus für gemeinsame Anlagen (UCITS)   |
| OPA       | Occupational Pensions Act   |
| OPO       | Occupational Pensions Ordinance   |
| PAA       | Patent Attorneys Act  |
| para.     | Paragraph   |
| PC-R-EV   | Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures                           |
| PEP       | Politically Exposed Person  |
| PFA       | Pension Funds Act   |
| PFO       | Pension Funds Ordinance   |
| PGR       | Personen- und Gesellschaftsrecht (Law on Persons and Companies)   |
| PIN       | Personal Identification Number  |
| PTA       | Professional Trustees Act   |
| PTR       | Portfolio Turnover Rate   |
| RAS       | Risk Assessment System  |
| SEC       | Securities Exchange Commission  |
| SFA       | Swiss Funds Association   |
| SFBC      | Swiss Federal Banking Commission  |

## ABBREVIATIONS

|            |   |
|------------|---|
| SNB        | Swiss National Bank   |
| StGH       | Staatsgerichtshof (Constitutional Court)                          |
| subpara.   | Subparagraph  |
| SWX        | Swiss Exchange  |
| TAN        | Transaction Number  |
| TER        | Total Expense Ratio   |
| Trust reg. | Trust registered  |
| UCITS      | Undertaking for Collective Investments in Transferable Securities |
| UK         | United Kingdom  |
| UN         | United Nations  |
| US         | United States   |
| USA        | United States of America  |
| VBI        | Verwaltungs- und Beschwerdeinstanz (old Administrative Court)     |
| VGH        | Verwaltungsgerichtshof (Administrative Court)                     |
| WGFS       | Working Group on Financial Services                               |
| WpHG       | Wertpapierhandelsgesetz (German Securities Trading Act)           |
| WTO        | World Trade Organization  |





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