



BaFin

Bundesanstalt für
Finanzdienstleistungsaufsicht

Supervisory priorities for 2020



Information about Corona

The COVID-19 pandemic presents a challenge to the economy and to society. In this exceptional situation, BaFin too is adapting its supervisory practice and supervisory measures to the current circumstances in a risk-oriented manner. As a result, there have been some changes in the emphasis placed on the supervisory priorities defined for 2020.

In this acute crisis situation, BaFin is focussed on monitoring particularly closely the risk situations of the companies under its supervision to ensure it is able to react quickly to newly emerging risks. In light of contact bans and social distancing, questions relating to IT and cyber security are also becoming increasingly important across all supervisory areas.

Overall, however, it has become clear that the supervisory priorities selected, which for the most part have a multi-year focus, are appropriate and continue to require BaFin's particular attention.

Foreword by the President



The financial industry is in a state of flux, driven by the changes we are seeing in our increasingly digital and global world. With its structure as an integrated authority, BaFin is able to identify new risks for the functioning, stability and integrity of the German financial market early on, even in times of profound change. BaFin analyses the impact of these changes on the different areas it supervises and adapts its supervisory activities on the basis of its findings.

It is important for us to inform the general public and the financial institutions concerned at an early stage about the supervisory priorities that BaFin sets as part of its strategic planning and legal mandate. Being clear, transparent and open about what we do as financial supervisors is a key objective for BaFin.

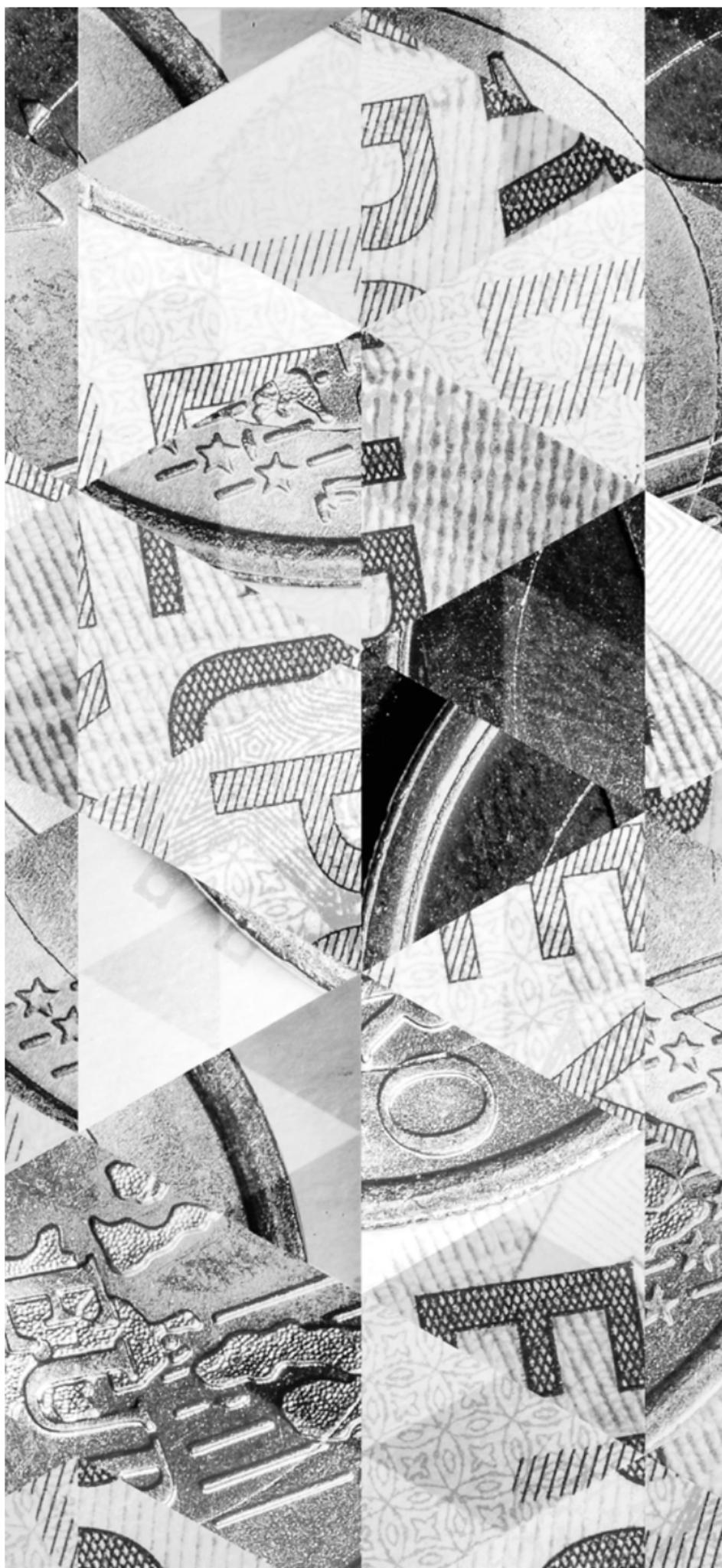
This brochure outlines our priorities for 2020. We hope you enjoy reading it.

A handwritten signature in blue ink, which appears to read 'F. Hufeld'. The signature is written in a cursive style with a horizontal line above the first letter 'F'.

Felix Hufeld

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Supervisory priorities for 2020

As an integrated supervisory authority for the German financial market, BaFin's primary objective is to ensure the functioning, stability and integrity of the German financial market and guarantee that the collective interests of consumers are protected. Thanks to its structure as an integrated authority, BaFin is able to promptly identify new risks for financial stability and emerging interdependencies and to examine their impact on various sectors.

At national level, BaFin's Sectors are responsible for the supervision of credit institutions, financial services providers, asset management companies, insurance undertakings, pension funds, and the supervision of securities trading. As they are combined in a single authority, they can share information directly, agree on a course of action, and act quickly.

As a supervisory authority with a risk-based approach, BaFin adapts its supervisory activities to take into account potential macroeconomic risks, microeconomic risks within the companies it supervises, and the collective interests of consumers.

BaFin has identified four overarching priority areas for 2020 that are of major significance for all of its Sectors:

1. digitalisation, IT risk and cyber risk
2. the integrity of the financial system and the fight against financial crime
3. sustainable business models
4. sustainable finance

These supervisory priorities are derived from BaFin's strategic objectives, shaping supervisory and inspection planning for 2020. In addition, BaFin is actively involved in the international community of supervisors and regulators to promote stronger supervisory convergence. BaFin's work with the European Central Bank (ECB) and the European Supervisory Authorities (ESAs) is at the heart of this.

I

Supervisory priorities for BaFin as a whole

An abstract graphic consisting of numerous thin, white, curved lines that sweep across the page from the left side towards the right. The lines are layered and overlapping, creating a sense of movement and depth. The background is a solid, vibrant red.



1 Digitalisation, IT risk and cyber risk

With its own digitalisation strategy, BaFin is actively keeping up with the technological transformation of the financial sector, which is resulting in the emergence of new business models and players. BaFin clearly positions itself as a technology-neutral authority that welcomes innovation. A wide range of key factors driving this digital transformation are identified by the supervisory authority in this context. In 2020, BaFin will particularly focus on the growing use of artificial intelligence, distributed ledger technology (DLT) and crypto-assets based on these technologies.

In the area of **Big Data and Artificial Intelligence (BDAI)**, BaFin is defining the framework for action for supervised entities on the basis of five initiatives within the context of principle-based supervision. The objective is to provide greater legal certainty for the use of BDAI technologies. In addition to the supervision of algorithms and (semi-)automated processes, BaFin is taking a closer look at market analyses on BDAI, the significance of data in competition, the limits of financial supervision as new market participants and business models emerge, and the use of BDAI in the prevention of money laundering.

With the transposition of the Fifth Anti-Money Laundering Directive into national law, **the treatment of DLT, virtual currencies and initial coin offerings** is gaining further significance, as the Directive has established crypto custody business as an activity requiring authorisation. By introducing crypto-assets as a new category of financial instruments in the German Banking Act (*Kreditwesengesetz – KWG*), German legislators have affirmed BaFin's administrative practices in relation to units of account and the authorisation requirement for numerous trading activities with such instruments. BaFin will continue to be transparent about its administrative practices and thus provide more clarity around supervisory activities and legal certainty in this innovative area of financial technology.

As the financial world becomes increasingly digital, the **IT security and cyber security** systems of supervised institutions will continue to be a key priority for supervisors. This is particularly true as the vast majority of IT security incidents experienced by financial market participants are attributable to

internal failings within the institutions – only a small number of these incidents are attributable to external attacks.

2 Integrity of the financial system and the fight against financial crime

Financial crime, and money laundering and terrorist financing in particular, can cause significant damage to the integrity, soundness and stability of the financial system.

With the **spread of crypto-assets** in the context of digitalisation, the associated money laundering risks are on the rise as well. These risks may materialise, especially in cases where parts of the “paper trail” are missing, i.e. when cash flows can no longer be traced. For this reason, BaFin is performing in-depth analyses to determine the extent to which and the type of business that is being conducted with crypto-assets. In addition, BaFin is examining the mechanisms that



institutions can use to prevent money laundering and terrorist financing. It will then take the necessary risk-based follow-up measures for stricter supervision on the basis of these analyses.

BaFin will ensure that the authorisation requirement is enforced, also in the digital realm.

In 2020, BaFin will closely examine the application of the authorisation requirement for new business models, especially those based on the issuance of tokens using DLT (such as the crypto custody business). In order to provide market participants with the legal certainty they need, BaFin specifies contact persons at an early stage and sets out the requirements that market participants must meet if they are seeking BaFin's authorisation. If BaFin becomes aware of business operations for which authorisation should have been sought, BaFin intervenes and uses the powers at its disposal if and where required.

In 2020, BaFin will continue to develop its **money laundering prevention** activities in line with the Financial Action Task Force's (FATF) Standards. In addition, the **Anti Financial Crime Alliance (AFCA)**, a public-private partnership aimed at preventing and tackling money laundering and terrorist financing, has now begun its activities. By representing the public sector on the Alliance's Board together with the Financial Intelligence Unit (FIU), which heads the Alliance's work, BaFin is offering its support to this long-term strategic partnership between government players and industry to combat financial crime. The objective is to identify patterns and phenomena that can be used to develop new typologies and improve the prevention of money laundering and terrorist financing.

3 Sustainable business models

The **persistently low interest rate environment** in the eurozone, the **increasingly gloomy economic forecasts** for Germany and the **digital transformation** are challenging financial companies and pushing them to think more about the sustainability of their business models. For instance, interest rates, which remain historically low, could prompt institutions to take even greater risks in order to achieve the return they need. An economic slowdown could act as a catalyst, should real estate loans or corporate bonds need to be written down, for example. Given these risks, BaFin will continue to closely examine the profitability and resilience of supervised institutions in 2020.

For this purpose, BaFin is examining the impact of the persistently low interest rate environment on the investment strategies and practices of supervised institutions and lending standards across the financial sector, with a primary focus on appropriate risk management to ensure that internal capital adequacy requirements are met. Examining how financial services providers are sustainably and resolutely moving forward with their own digital transformation is another key priority for BaFin.

4 Sustainable finance

In September 2019, BaFin launched a consultation on its Guidance Notice on Dealing with Sustainability Risks. In doing so, market participants were informed that BaFin would be placing a greater emphasis on environmental, social and governance risks (ESG) in future. BaFin has made it clear that this is aimed at ensuring that credit institutions, insurance undertakings and asset management companies systematically incorporate sustainability risks into their risk management systems.

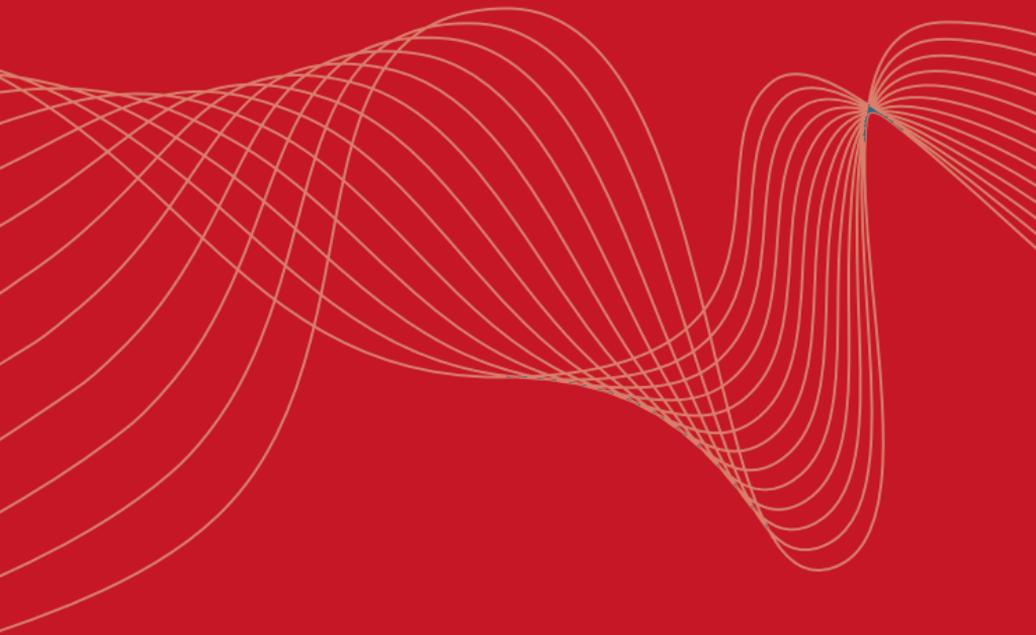


In 2020, BaFin will develop a concept and strategy in order to specify the standards BaFin expects for the management of sustainability risks. From 2021 onwards, sustainability risks are to be systematically accounted for and addressed using BaFin's existing supervisory tools. In addition, BaFin acts as an Observer on the Federal Government's Sustainable Finance Advisory Committee and is assisting the Federal Ministry of Finance at national and international level in the area of sustainable finance.

BaFin also supports the work carried out in this area by the European Supervisory Authorities, and it is involved in the Network on Greening the Financial System (NGFS) as well. Work in this area primarily focuses on the preparation of a guide for supervisory authorities and the development of climate risk-related scenarios and implementation guidelines in this regard. In the second half of 2020, BaFin will be hosting a NGFS Steering Committee meeting. Moreover, BaFin is in contact with developers and providers of analytical tools used to determine sustainability risks in order to assess their usability for supervisory purposes.

II

BaFin's Sectors



1 Resolution

BaFin's Resolution Sector covers three main areas of activity: Firstly, BaFin has extensive powers that may be used, if required, by its Resolution staff in order to resolve in an orderly manner an institution that is failing or likely to fail. Secondly, BaFin's Resolution Sector is tasked with preventing abuse of the financial system for the purposes of money laundering, terrorist financing and fraudulent activities to the detriment of institutions. Thirdly, BaFin's Resolution Sector is also responsible for assessing whether the authorisation requirement applies in a given case in addition to enforcement relating to unauthorised business.





As regards the **integrity of the financial system and the fight against financial crime**, BaFin's Resolution Sector is covering the spread of crypto-assets driven by digitalisation, the assessment of new business models and authorisation requirements in the digital realm, as well as the following aspects in particular:

- **In the money remittance business**, banks and payment service providers are vulnerable to money laundering and terrorist financing. This was also confirmed in the Federal Ministry of Finance's National Money Laundering and Terrorist Financing Risk Assessment (*Nationale Risikoanalyse zur Bekämpfung von Geldwäsche und Terrorismusfinanzierung* – only available in German). Payments in the money remittance business are usually made in cash and often take place outside of existing business relationships. During special inspections within the meaning of section 44 of the KWG, BaFin has previously looked into supervisory requirements in the money remittance business in the banking sector. In 2020, the findings from the individual inspections will be

examined in greater detail – particularly in relation to the risk of terrorist financing. This will cover both banks and payment institutions.

- **Countering unauthorised money remittance business activities** conducted by money transfer companies will be another priority area in 2020. Money transfer companies and hawala banking, which often involves large networks or clan-based structures, are significantly relevant issues. In addition to its own measures to effectively tackle the risks associated with money transfer companies, BaFin is assisting law enforcement agencies and other authorities in proceedings against hawala banking.
- Analyses are also being conducted on the basis of **reports relating to suspicious transactions** in order to find out why a particularly high or low number of suspicious transactions were reported in certain sectors. In particular, the institutions with the largest differences from their respective peer groups are being closely examined to detect any noticeable findings to identify the reasons behind any major differences within each group.

BaFin's Resolution Sector will also focus on the following areas:

In 2020, BaFin will determine and announce the future **institution-specific minimum requirements for own funds and eligible liabilities** (MREL) for the majority of the institutions concerned. The aim is to ensure that these institutions have sufficient loss-absorbing and recapitalisation capacity. When determining the MREL requirements, BaFin will make sure that these correspond to the individual profiles of the banks and will particularly consider the structure of liabilities in each case.

Crisis preparation will be further developed as well. Meticulous resolution planning for all the institutions concerned and robust and legally secure crisis management procedures are the minimum requirements that all those involved in a resolution must fulfil in order to minimise from the outset the operational and legal risks of a resolution. In 2020, BaFin will be focusing on the specific responsibilities, processes, communication channels and formats of each party and on their integration in the context of crisis management. This should provide an even better basis for consistent administrative practices in the event of a crisis and allow BaFin to draw on the progress made in relation to the resolvability of the individual institutions in ongoing resolution planning.

Whether in the context of a crisis or in the context of resolution planning, it is crucial that **a large volume of institution-specific data** (e.g. for resolution tools, separation and valuation purposes) can be made available promptly. In 2020, BaFin's Resolution Sector will thus be drawing on a 2019 priority area in order to develop methodological and data requirements that will be published in new circulars and guidance notices. The institutions concerned must implement the requirements in their resolution planning (with assistance provided by BaFin). In addition, BaFin's Resolution Sector is working in parallel on the improvement of data quality at institutions and on its own assessment tools in light of new legal requirements for resolution reporting.

2 Banking Supervision

BaFin's Banking Supervision Sector is responsible for the supervision of credit institutions with the aim to counter violations of statutory provisions in the banking sector. Together with the Deutsche Bundesbank, BaFin's Banking Supervision staff set out supervisory priorities for less significant institutions (LSIs) on an annual basis. In this context, the main risks for LSIs are determined and then used as a basis to set out supervisory measures in order to address these risks. For significant institutions (SIs), which are under the direct supervision of the ECB, key priorities are set out by the Single Supervisory Mechanism (SSM) and then taken into account when determining priority areas for LSIs.





BaFin's Banking Supervision Sector and the Deutsche Bundesbank have identified a total of six key risks for the German LSI sector for 2020:

- Interest rate risk
- Business model risk
- IT risk
- Credit risk
(including developments in the real estate sector)
- Country risk
- Legal, reputational and compliance risk

On this basis, the following two supervisory priorities were determined for the supervision of German LSIs:

- Following up on the 2019 stress tests for LSIs and *Bausparkassen* and on the surveys on real estate financing and credit standard
- Closely examining and addressing IT risk at institutions

This will be taken into account in BaFin's four overarching priority areas.

As regards **digitalisation, IT risk and cyber risk**, BaFin's Banking Supervision Sector will continue to pay close attention to IT security and cyber security. Institutions not only need appropriate technical and organisational resources for their IT systems and adequate IT risk management (e.g. to protect them against cyberattacks) but they must also ensure that they are able to identify, handle and follow up on (potential) IT security incidents at service providers (such as cloud service providers). In 2020, BaFin's Banking Supervision Sector will set out various priorities in this regard for its inspections. During supervisory interviews and meetings with industry associations, BaFin's staff will examine the efforts made by LSIs to adapt their work processes and business models as digitalisation progresses.

As regards the **integrity of the financial system and the fight against financial crime**, BaFin's Banking Supervision Sector will focus on institutions with shortcomings in the area of money laundering prevention. In this area, supervisory interviews with institution representatives are being conducted in close cooperation with BaFin's Resolution Sector. In addition, BaFin's Banking Supervision staff are assisting tax and prosecuting authorities with ongoing investigations into cum-cum and cum-ex trades. Any findings from discussions with these authorities are systematically analysed in terms of their significance for financial supervision in order to assess, in particular, the fitness and propriety of management board and supervisory board members at the institutions concerned.

In the area of **sustainable business models**, BaFin's Banking Supervision Sector will continue to closely assist the institutions in their efforts to improve their profitability and resilience.

- Together with the Deutsche Bundesbank, BaFin is evaluating the results of the 2019 survey on the situation of German credit institutions in the low interest rate environment (LSI stress test), which covered almost all German LSIs. On the basis of analyses conducted at the institutional level and cross-comparison analyses, BaFin's Banking Supervision Sector will identify conspicuous institutions and take supervisory measures where required.
- BaFin is also focusing on developments in real estate financing and credit standards. BaFin's Banking Supervision staff have already conducted the first surveys and analyses on this subject to identify potential risks. In this context, BaFin's Banking Supervision Sector is focusing on the appropriate management and assessment of credit risk. They are taking action in several areas, including supervisory interviews. Relevant priority areas will also be set out for banking business inspections.
- Of course, pressure to change business models and work processes comes up in supervisory interviews and meetings with industry associations; this pressure is driven by a range of factors, such as digitalisation, demographic changes and the resulting emergence of new competitors, particularly global tech firms.

In the **area of sustainable finance**, BaFin's Banking Supervision Sector is supporting BaFin-wide activities with the development of a package of

measures in 2020, together with the Bundesbank, in order to adequately incorporate aspects relating to sustainable finance into banking supervisory practices. BaFin's Guidance Notice on Dealing with Sustainability Risks sets out supervisory expectations and recommendations and serves as a basis in order to systematically incorporate sustainability risks into the supervisory process at an early stage. BaFin is also actively involved in this area as part of the SSM (Climate Risk Contact Group) and through its work with the European Banking Authority (EBA; Sustainable Finance Network) in order to establish the principles it has developed for handling sustainability risks as extensively as possible at European level.





Further priority areas for BaFin's banking supervisors include **market developments in payment transactions and the new legal requirements resulting from PSD 2**, such as PSD2 interfaces and strong customer authentication mechanisms, in addition to the supervision of payment institutions and e-money institutions.

In the area of banking supervision, BaFin has set out **country risk** as an **additional supervisory priority** for 2020 and will be intensifying its supervision of the institutions that are particularly affected, together with the Deutsche Bundesbank.

3 Insurance Supervision

The primary objective for BaFin's Insurance Supervision Sector is to protect policyholders and the beneficiaries of insurance services. Solvency supervision is of major significance in this context.

In the area of digitalisation, BaFin's Insurance Supervision Sector will be focusing on IT risks and cyber risks, especially IT governance at insurance undertakings, in 2020. In this context, BaFin's Insurance Supervision Sector will examine whether supervised undertakings are implementing BaFin's Insurance Supervisory Requirements for IT (*Versicherungsaufsichtliche Anforderungen an die IT – VAIT*).

In addition, BaFin's Insurance Supervision staff are analysing the use of cyber policies at insurance undertakings. This is aimed at assessing how the segment is developing (including an assessment of the number of policies and business volumes) and at drawing conclusions on the extent to which the insurance industry is capable of properly pricing risks. This will be done based on the 2019 survey on "non-affirmative" cyber risks in insurance policies.

As regards sustainable business models, BaFin has set out the following priorities for insurance supervision in 2020:

- BaFin will closely examine how life insurance companies and *Pensionskassen* (occupational pension schemes) are dealing with the challenges posed by the low interest rate environment. In this context, BaFin will continue to conduct intensive

ongoing supervision, take measures to deal with the maximum technical interest rate, design and analyse projection calculations and conduct further analyses.

- It is also analysing the real estate exposures and loans of supervised entities in relation to the impact of real estate price increases due to falling interest rates and other factors. In addition, BaFin is focusing on potentially higher default risks (e.g. due to higher lending values) and the assessment of credit standards.
- Moreover, it is identifying key exposures in BBB, high-yield or equivalent investments with no rating at individual undertakings in order to account for the effects of the emergence of a risk on the value of capital investments and raise awareness among undertakings of the increased market risk.
- As far as risk management at insurance undertakings is concerned, BaFin's Insurance Supervision Sector will be developing guidance in 2020 for setting capital add-ons in accordance with section 301 (1) no. 1 and no. 3 of the German Insurance Supervision Act (*Versicherungsaufsichtsgesetz – VAG*).
- As digitalisation is putting pressure on undertakings to change their business models, BaFin's Insurance Supervision staff are closely examining the extent to which insurers are able to finance and implement their own digital transformation processes.

BaFin's Insurance Supervision staff will support the **transition to sustainable finance** in the context of BaFin-wide activities by developing a package of measures in 2020 in order to take into account the supervisory expectations and recommendations contained in the Notice Guidance on Dealing with



Sustainability Risks adequately and promptly in supervisory practices. BaFin is also actively involved with EIOPA in the area of sustainable finance in order to put forward BaFin's views on how to deal with sustainability risks in the discussions at European level.

Other supervisory priorities include:

- Analysing the scope and impact of the transferability of own funds in insurance groups, as such groups only have the transferable own funds at their disposal in the event of a crisis.
- Assessing how undertakings are applying the provisions of section 48a of the VAG on distribution remuneration, which have been in force since 23

February 2018. In this context, BaFin's Insurance Supervision staff are making use of the findings of the latest survey on commission payments in life insurance. This supervisory priority is also tied to BaFin's mandate to protect the collective interests of consumers.

- Analysing the premium situation of reinsurers in the non-life insurance sector and the associated risks for reinsurers and supervisors
- Assessing the market-adjusted valuation of claims provisions in the case of property/casualty insurance (best estimate under Solvency II) using a software programme for determining reserves during on-site inspections and assessment of claims provisions in accordance with the German Commercial Code (*Handelsgesetzbuch – HGB*) as a basis
- Assessing technical provisions in the life insurance sector: further assessments of stochastic valuation models (own valuation model or the *Branchensimulationsmodell* simulation model provided by the German Insurance Association) at life insurance companies with the standard formula



- Designing a practical structure both in relation to the legal obligation for insurers to provide information to BaFin should the economic situation worsen and in relation to the obligations of auditors with regard to risks that threaten the existence of an undertaking

4 Securities Supervision

In the area of securities supervision, BaFin is tasked with countering statutory violations having an adverse impact on investor protection and the transparency and integrity of the financial market.

One of the objectives here is to tackle market abuse in securities trading to ensure trust in the capital market. In this context, supervisory activities focus on tackling infringements of the rights of investors and minimising market asymmetries. BaFin's overarching supervisory priorities are considered on an ongoing basis within the context of conduct supervision.

In 2020, BaFin's Securities Supervision Sector will be paying special attention to **digitalisation** and the challenges this brings. One key priority involves ensuring that technical infrastructures are adapted to reflect new developments resulting from digitalisation. The implementation of the IT requirements for asset management companies (*Anforderungen an die IT von Kapitalverwaltungsgesellschaften – KAIT*) plays a major role here.

Moreover, BaFin's Securities Supervision Sector will be taking a close look at distributed ledger technology and DLT-based tools. Key tasks in this context include the legal classification of these tools and ensuring that supervisory assessments are communicated transparently.

In the area of securities supervision, BaFin is continuously identifying and analysing further potential risks that may arise as a result of the dynamic spread of new technologies. Consumer



protection is given particular emphasis here: For instance, BaFin is observing how the technological transformation is impacting consumers while evaluating its impact within the context of conduct of business rules stipulated by law in addition to taking supervisory measures where needed. This analysis is carried out on the basis of targeted market surveys, among other things. Other risks associated with digitalisation are addressed where needed using the supervisory tools available.

In addition, BaFin will continue to place great emphasis on collective consumer protection. It will be stepping up its efforts to provide information to consumers – particularly in relation to the measures taken by the Federal Ministry of Finance and the Federal Ministry of Justice and Consumer Protection in August 2019 to further enhance investor protection. In 2020, BaFin will also continue to ensure that violations of statutory provisions in the banking, insurance, and securities services sectors are addressed with the required level of scrutiny.

In 2020, BaFin's Securities Supervision Sector will be focusing on improving data quality and data analysis to promote the **integrity of the financial system**. The objective is to identify undesirable developments at an early stage and take measures where required to prevent statutory violations from occurring. The use of reporting data is also on the rise, and the amount of such data has increased significantly over the last few years as the scope of reporting requirements for financial products and transactions has expanded:

- The focus is on *data quality* as this is of significant importance both in order to achieve BaFin's own

supervisory goals and in order to ensure successful international cooperation with other supervisory authorities. In 2020, BaFin's Securities Supervision Sector will thus focus on ensuring that those subject to reporting requirements comply with the applicable statutory provisions. In addition, BaFin will be developing its own tools and processes to further improve the structure and quality of data. This will allow for the automatic identification of erroneous reports, for example.

- *Data analysis (expertise)* will be strengthened in order to determine at an early stage where supervisory action needs to be taken, e.g. in the area of market manipulation. To achieve this, various steps will be taken in 2020 in order to lay the foundations for analysing and evaluating various issues on the basis of extensive and high-quality reporting data using (semi-) automated systems.

BaFin will also focus on the **supervision of financial investment intermediaries**, a new area for which BaFin's Securities Supervision Sector is to be responsible as of 1 January 2021. BaFin's Securities Supervision Sector will particularly focus on adjusting supervisory requirements and supervisory activities for all those involved in the distribution of financial instruments as a means to ensure that BaFin is able to take on the supervision of financial investment intermediaries smoothly. As a result of these adjustments, the German Securities Trading Act (*Wertpapierhandelsgesetz – WpHG*) will need to be amended accordingly. At the same time, BaFin's Securities Supervision Sector is developing key points for administrative practices in 2020 to ensure the consistent supervision of compliance with conduct



of business requirements and organisational and monitoring requirements from 2021 onwards.

At **European level**, BaFin's Securities Supervision Sector supports the further strengthening of supervisory convergence. The focus is on developing an EU handbook for the supervision of financial market participants in addition to developing strategic supervisory priorities at European level. Peer reviews on national competent authorities are on the agenda as well.

Imprint

Publisher:

Bundesanstalt für Finanzdienstleistungsaufsicht
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Bonn und Frankfurt am Main | March 2020

Editing:

Organisationseinheit Strategie und Risiko
Directorate K (Communications)

Typesetting:

MUMBECK – Agentur für Werbung GmbH

Photos:

Page 3: BaFin/Bernd Roselieb,

Page 1, 7, 9, 11, 14, 17, 18, 21, 22, 24, 26, 29, 30, 32, 35:
ilbusca/iStockphoto.com