According to the Act, the volume of the transactions may not exceed the "sub-prime" markets in the United States of America. This was due to the turbulence of the financial markets, amongst other factors, which led to a recession in many areas of what is referred to as the real economy. As of mid-2008 several national governments as well as pan-national actors, such as the European Union, took measures in order to stabilize the financial markets and prevent a collapse of the monetized and credit economy. So far these measures seem to have proved successful. Even though several banks, like the Belgian-Dutch-Luxembourgian FORTIS-Group and the German Hypo Real Estate AG, faced grave financial difficulties, a crisis engulfing the banking sector as a whole has not taken place so far.

The purpose of this article is to briefly outline the legislative measures taken by the Austrian government in response to international developments which did not leave Austrian banks entirely unscathed.

At the core of these measures, one finds the Interbankmarkstärkungsgesetz (Interbank Market Consolidation Act, IBSG) and the Finanzmarktstabilitätsgesetz (Financial Market Stability Act, FinStaG), both enacted in October 2008. Both Acts aim at saving and stabilizing the Austrian national economy and in particular at re-establishing the public trust in the Austrian monetary and credit market.

Interbank Market Consolidation Act (IBSG)

To fulfil this aim, the Act provides for a couple of measures which enable the Republic of Austria to lend the necessary support, quickly and effectively, to credit institutions or insurance companies facing liquidity problems or other problems in the interest of saving the Austrian national economy. For this purpose, a clearing-platform is established. This clearing-platform is the Oesterreichische Clearingbank AG (OeCAG), newly founded according to this Act. The OeCAG is tasked with accepting, in its own name and for own account, money market deposits from credit institutions and insurance companies by means of the interbank market, again in its own name and for own account. To ensure the borrowing and lending institutions’ trust in the liquidity and creditworthiness of the OeCAG, the Austrian Minister of Finance is entitled to accept a liability, for a limited period of time, for certain receivables from such transactions as well as issue guarantees and bonds for such receivables. The Act further enables the Minister of Finance to underwrite commercial papers issued by other financial institutions.

The OeCAG is owned by Austria's major credit institutions, such as the Raiffeisenzentralbank Österreich AG, the Erste Group Bank AG, the UniCredit Bank Austria AG, the Hypobanken Holding GmbH, the Österreichische Volksbanken AG as well as smaller institutions as minor stake holders.

According to the Act, the volume of the transactions may not exceed €75 billion. This sum thus is the amount up to which the Republic of Austria, through the Minister of Finance, is entitled to take over liabilities.

The Act shall go out of force by December 31, 2009. The reasoning behind this is that it is intended to only be a temporary measure to tackle a transient crisis on the financial market. This means that thereafter, the Republic of Austria will not take over further liabilities. However, OeCAG will continue to exist to settle existing liabilities.

Financial Market Stability Act (FinStaG)

According to the Act, the Federal Minister of Finance may, for the recapitalization of credit institutions and insurance companies, take over liabilities of such companies or issue guarantees covering their receivables, grant loans, as well as equity, acquire shares or convertibles in case of an increase in capital, or acquire shares by contractual means. Credit institutions or insurance firms affected by the financial crisis may also be nationalized.

In order to implement these measures, the Minister of Finance may avail himself of the Österreichische Industrie Holding Aktiengesellschaft (Austrian Industrial Holding Corporation, ÖIAG) or a subsidiary of it especially established for such purposes. ÖIAG is a share company, wholly owned by the Republic of Austria, which manages participations of the Republic of Austria still existing in some commercial sectors not yet entirely privatized.

The Financial Market Stability Act does not have a time limit.

Further legislative measures

Contemporaneously with the passing of these Acts, other codes and statutes were amended to fit the present situation, eg. the Austrian Banking Act as well as the Stock Exchange Act. In the Banking Act, in particular, the provision according to which personal savings were guaranteed up to the amount of €20,000 has been amended and now has an unlimited guarantee. As of January 1, 2010, this guarantee will be limited to €100,000 again. By virtue of this means Austrian population’s trust in the stability of the financial markets is to be re-established. The Stock Exchange Act enables the Austrian Financial Market Supervisory Agency to restrict or prohibit short selling of certain financial instruments.

Aspects of European law

The Interbank Markttconsolidation Act as well as the Financial Markets Stability Act have been approved by the European Commission according to the rules and regulations governing state aid.

Summary and future prospects

Considering the macroeconomic development so far, it can be said that the legislative measures have had an outward positive effect with regard to the Austrian national economy. So far, neither have any major disruptions of the Austrian monetary and credit markets occurred, nor has a severe recession taken place. Therefore, confidence is growing that Austria will secure and expand its financial operations in Central Europe. ■