



Acceptance by the Financial Market Authority (FMA) on 4 January 2005

Valuation transaction on the bond market on the Vienna Stock Exchange

**Description of the National AMP:** Members of the Vienna Stock Exchange are allowed to carry out a “Valuation transaction” by acting for both the buyer and the seller in government bonds and in bonds where they are the issuer or are closely related to the issuer, in order to provide the market with a reference price.

**Rationale for why the practice would constitute manipulation**

According to Art. 1 (2) a of Directive 2003/6/EC the above mentioned practice undertaken by one market participant is a wash sale due to legal terms and might be likely to give a misleading signal as to the liquidity of the instrument.

**List of Factors**

**Commission Directive 2004/72/EC Article 2**

Non-exhaustive list of factors to be taken into account by Competent Authorities when assessing particular practices whether they occur on a regulated market or an OTC market:

- The level of transparency of the relevant market practice to the whole market (art 2(1) (a))

Transparency of market practices by market participants is crucial for considering whether a particular market practice can be accepted by competent authorities. The less transparent a practice is, the more likely it is not to be accepted. However, practices on non regulated markets might for structural reasons be less transparent than similar practices on regulated markets. Such practices should not be in themselves considered as unacceptable by competent authorities. (preamble 2)

**Conclusion regulator:**

- The practice is very common and well known in Austria for bonds.
- The traded volume is equivalent to the minimum nominal value, or □ 1.000 the maximum.
- The bond is issued by the government or by a local authority or the market participant undertaking the valuation transaction himself is issuer of the bond or is in close connection to the issuer.
- The price, at which the valuation transaction is concluded, shall be within the range of all quotations available at data vendors for this or a comparable bond within the last three hours before the valuation transaction.
- The range of quotations has to comprehend at least three different professional market participants, whilst quotes of the enforcing market participant have to be excluded.
- Comparable bonds are bonds with similar maturity, equal interest rate, equal rating of the issuer and similar conditions as well as similar bond structure.
- A market participant is in close connection with the issuer, if he was significantly involved in the issuance of the bond or if he has an intensive business connection with the issuer.

- the need to safeguard the operation of market forces and the proper interplay of the forces of supply and demand; (art 2(1) (b))

Market practices inhibiting the interaction of supply and demand by limiting the opportunities for other market participants to respond to transactions can create higher risks for market integrity and are, therefore, less likely to be accepted by competent authorities. (preamble 1)

Conclusion regulator:

The need to safeguard the operation of market forces and the proper interplay of the forces of supply and demand is limited in this case, because most of the trades are conducted OTC (where the AMP has no influence) and there usually are no executable orders in the order book. The bond market is traded in periodic auctions, so there is a proper chance for market participants to react with their orders during the accumulation period in the auction even before the valuation trade can be done.

- the degree to which the relevant market practice has an impact on market liquidity and efficiency. (art 2(1) (c))

Market practices which enhance liquidity and efficiency are more likely to be accepted than those reducing them. (Preamble 1)

Conclusion regulator:

The practice has a positive effect on market efficiency as it facilitates the evaluation of fair and actual prices in a market in which most of the trades are conducted OTC. There is no impact on liquidity.

- the degree to which the relevant practice takes into account the trading mechanism of the relevant market and enables market participants to react properly and in a timely manner to the new market situation created by that practice (art 2(1) (d)).

Conclusion regulator:

There is not a new market situation created by the practice, the practice only provides for actual prices which are more transparent to the public when conducted through the systems of the exchange. So market participants are in a better position to react when price is more transparent.

- the risk inherent in the relevant practice for the integrity of, directly or indirectly, related markets, whether regulated or not, in the relevant financial instrument within the whole Community. (art 2(1) (e))

Particular market practices in a given market should not put at risk market integrity of other, directly or indirectly, related markets throughout the Community, whether those markets be regulated or not. Therefore, the higher the risk for market integrity on such a related market is within the Community, the less those practices are likely to be accepted by competent authorities. (Preamble 3)

Conclusion regulator:

The above described AMP does not have a measurable impact on the liquidity of the instrument neither in positive nor in negative sense. The Austria AMP's main goal is to provide transparency of the fair prize of a bond to the broader public.

- the outcome of any investigation of the relevant market practice by any competent authority or other authority mentioned in Article 12(1) of Directive 2003/6/EC, in particular whether the relevant market practice breached rules or regulations designed to prevent market abuse, or codes of conduct, be it on the market in question or on directly or indirectly related markets within the Community; (art 2(1) (f))

Conclusion regulator:

The FMA discussed the envisaged AMP with other authorities and did not face any opposing view.

- the structural characteristics of the relevant market including whether it is regulated or not, the types of financial instrument traded and the type of market participants, including the extent of retail investors participation in the relevant market; (art 2(1) (g))

Conclusion regulator:

The respective bonds mainly are admitted to trading on a regulated market in the sense of Directive 93/22/EC with less liquidity on exchange. It is a professional market with minimal retail involvement.

**Overriding Principles**

Overriding principles to be observed by Competent Authorities to ensure that accepted market practices do not undermine market integrity, while fostering innovation and the continued dynamic development of financial markets:

- new or emerging accepted market practices should not be assumed to be unacceptable by the Competent Authority simply because they have not been previously accepted by it;
- Practising fairness and efficiency by market participants is required in order not to create prejudice to normal market activity and market integrity.
- Competent Authorities should analyse the impact of the relevant market practice against the main market parameters such as weighted average price of a single session, daily closing price, specific market conditions, before carrying out the relevant market practice.

**Conditional elements**

**In this final section, you should comment on any conditions relating to legitimate reasons and proper execution.**

The AMP fulfills this factor.

As described for the bond market there are similar tools or references via data vendors available, in order to evaluate if the price of a bond is fair.



The legitimate reasons of the market participant when conducting the valuation transaction have to be proved separately. The conditions for proving the market participants intention basically are:

Did the market participant carry out the transaction only for valuation purposes?

Did he benefit from the valuation transaction by trading other instruments at the same time that are related to that instrument in terms of price formation?