

Banking Regulation in Austria: Overview

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This Banking Regulation guide provides a high level overview of the governance and supervision of banks, including legislation, regulatory bodies and the role of international standards, licensing, the rules on liquidity, foreign investment requirements, liquidation regimes and recent trends in the regulation of banks.

Legislation and Regulatory Authorities

Legislation

1. What is the legal and regulatory framework for banking regulation?

The primary sources of banking regulatory law are Austrian federal laws and EU laws.

Federal Law

Relevant Austrian federal laws include the following:

- [Austrian Banking Act](#) (*Bankwesengesetz*) (Banking Act) implementing the [Capital Requirements Directive \(2013/36/EU\)](#) (CRD IV) and implementing CRD as amended by [CRD VI \(EU\) 2024/1619](#). The Banking Act governs (among other things) the:
 - licensing of credit institutions (Article 1) and of (mixed) financial holding companies (MFHCs) (Article 7b);
 - freedom of establishment and to provide services within the EEA and cross-border demergers (Articles 9 and following);
 - authorisation and governance of Austrian branches of third-country credit institutions (Article 4(4), Article 5(3) and Article 19a to 19g);

- ownership requirements, requirements for prudentially relevant transactions and other approval requirements (Articles 20, 20c to 20p, 21 and following);
 - governance and fitness and propriety requirements for management and supervisory board members and key function holders (Articles 5, 28a, 29, 39, 39c, 39d, 39f, 42, and 63a);
 - rules on including ESG-related risks and cryptoassets in risk management procedures, other functions and the SREP regime (Articles 39 and 39a);
 - rules on macroprudential buffer requirements (Article 23 and following);
 - rules on cover funds for gilt-edged securities (*Deckungsstock*) (Articles 66 and following);
 - contractual terms such as for savings deposits (Article 31 and following), certain value date provisions and banking secrecy (Article 38);
 - protection of the designations "bank" and "credit institution" (Article 94);
 - special penalty provisions for banks qualifying as legal entities (Article 99d) and enhanced supervisory sanction provisions (Article 70(4c) and (d)); and
 - provisions facilitating whistleblowing by bank employees (Article 99g) and "naming and shaming" by the [Financial Market Authority](#) (FMA) (Article 99c).
- [Financial Market Authority Act](#) (*Finanzmarktaufsichtsbehördengesetz*) (FMABG).
 - [Act on the Recovery and Resolution of Banks 2015](#) (*Sanierungs- und Abwicklungsgesetz*) (BaSAG) (German version only) implementing:
 - [Bank Recovery and Resolution Directive \(2014/59/EU\)](#) (BRRD) (as amended by [Directive \(EU\) 2024/1174](#)) (BRRD III); and
 - the [Single Resolution Mechanism Regulation \(\(EU\) 806/2014\)](#) (SRM Regulation) (as amended by [Directive \(EU\) 2024/1174](#)).
 - [Deposit Guarantee Schemes and Investor Compensation Act 2015](#) (*Einlagensicherungs- und Anlegerentschädigungsgesetz*) (ESAEG) implementing:
 - the [Deposit Guarantee Schemes Directive \(2014/49/EU\)](#) (DGSD) and [Directive \(EU\) 2026/804](#); and
 - the [Investor Compensation Schemes Directive \(97/9/EC\)](#) (ICSD).

- [Investment Firms Act 2023](#) (*Wertpapierfirmengesetz*) (implementing the [Investment Firms Directive \(\(EU\) 2019/2034\)](#) (IFD)) and the [Securities Supervision Act 2018](#) (*Wertpapieraufsichtsgesetz*) (SSA) implementing MiFID II and IFD/IFR, which set out regulations on financial instruments' trading, compliance and organisation of FMA or European Central Bank (ECB) licensed credit institutions (LCI) and of FMA licensed investment firms.

See also [Hot topics: proposed Directive on retail investment protection](#) (trilogue negotiations suspended since June 2025).

- [Payment Services Act 2018](#) (*Zahlungsdienstegesetz*) implementing the Payment Services Directive ((EU) 2015/2366) (PSD2), which regulates the performance of payment services rendered, among others, by FMA or ECB LCIs, and the [Consumer Payment Account Act](#) (*Verbraucherzahlungskontogesetz*) implementing Directive 2014/92/EU.

See also [Practice note, Overview of PSD2](#). See below, "[EU Law Developments](#)".

- [Financial Market Money Laundering Act](#) (*Finanzmarkt-Geldwäschegesetz*), which stipulates statutory due diligence obligations relating to money laundering and terrorism financing.

This implements, among others, the [Fourth Money Laundering Directive \(\(EU\) 2015/849\)](#) (MLD4), as amended by the [Fifth Money Laundering Directive \(\(EU\) 2018/843\)](#) (MLD5).

The [Anti-Money Laundering Authority \(AMLA\) Regulation \(\(EU\) 2024/1620\)](#) (AMLA) entered into force on 1 July 2025 and direct supervision by the AMLA Frankfurt starts from 1 January 2028. The [AML Regulation \(\(EU\) 2024/1624\)](#) and the [Sixth Money Laundering Directive \(MLD6\)](#) ((EU) 2024/1640) must be implemented by 10 July 2027.

See [Hot topics: EU AML and CTF legislative package](#).

- [Consumer Credit Act 2026](#) (*Verbraucherkreditgesetz*) and the [Mortgage and Real Estate Credit Act 2016](#) (German version only) (*Hypothekar- und Immobilienkreditgesetz*), covering the online distribution of consumer credits and digital lending, implementing the:

- [Consumer Credit Directive 2024 \(\(EU\) 2023/2225\)](#) (CCD II); and
- [Mortgage Credit Directive \(2014/17/EU\)](#) (MCD).

- [Covered Bonds Act](#) (*Pfandbriefgesetz*) (which repealed the Acts on mortgage bonds (*Pfandbriefe*), mortgage banks (*Hypothekenbanken*) and funded bank bonds (*fundierte Bankschuldverschreibungen*), following the adoption of the [Covered Bonds Directive \(\(EU\) 2019/2162\)](#) and the entry into force of the [Covered Bonds Regulation \(\(EU\) 2019/2160\)](#).

This Act enables credit institutions without a special licence to issue covered bonds in compliance with statutory requirements. Consent declarations by consumers and non-consumers are widely used in Austria to enable bank issuers to enter eligible assets (mortgage loans, substitute assets and specified derivative contracts) into the cover register.

- [Credit Servicers and Credit Purchasers Act](#) (*Kreditdienstleister- und Kreditkäufergesetz*) (KKG) (German version only), which entered into force on 18 March 2025, implements the [Credit Servicers Directive \(EU 2021/2167\)](#). It designates the FMA as the competent licensing and supervisory authority for credit servicers and the monitoring

authority for credit purchasers. Banking secrecy relating to credit servicers was addressed in amendments under the Austrian Omnibus Act on FATF Evaluation Enhancements (see below, MiCAR Enforcement Act).

- [MiCAR Enforcement Act](#) (MiCA-VVG; *MiCA-Verordnung-Vollzugsgesetz*) (in force 20 July 2024):
 - implements the [Markets in Cryptoassets Regulation \(\(EU\) 2023/1114\)](#) (MiCA or MICAR (largely in force 30 December 2024); and
 - designates the FMA as the competent supervisory authority in Austria. The FMA has, among others, published a detailed information document for preparing a Crypto-Asset Service Provider's authorisation (in German only). In addition, together with amendments effected by the Austrian Omnibus Act on FATF Evaluation Enhancements, consents to exemptions from the banking secrecy were facilitated and the scope of the banking secrecy was clarified relating to credit servicers.

See also:

- [Hot topics: EU Regulation on markets in cryptoassets \(MiCA\)](#).
- [Practice Note: MiCA: delegated acts, technical standards and guidelines](#).

Many of the main laws are available from the English language version of the [FMA's website](#). All English translations of the German text are unofficial and are for information purposes only.

EU Law

Applicable EU laws include the following:

- [Capital Requirements Regulation \(\(EU\) 575/2013\)](#) (CRR), as amended by [Regulation \(EU\) 2024/1623](#) (CRR III). See [Hot topics: CRR III and CRD VI](#).

The application of the CRR to Austrian credit institutions qualifying as CRR financial institutions is mandatory under the Banking Act.

The term CRR "financial institution" has been redefined by CRR III referring to the main part of its pursued activities and includes:

- investment firms;
- mixed financial holding companies;
- investment holding companies;
- payment services providers;
- asset management companies; and

- ancillary services undertakings.

It excludes companies that constitute:

- institutions;
- pure industrial holding companies;
- securitisation special purpose entities;
- insurance holding companies; and
- mixed-activity insurance holding companies.
- "Financial holding company" (FHC) was redefined to include financial institutions that are not mixed financial holding companies (MFHCs) featuring at least one institution as a subsidiary with more than 50% of at least one indicator out of five fulfilled on a consolidated basis.
- [SSM Regulation \(\(EU\) 1024/2013\)](#) and Regulation (EU) 468/2014 ([SSM Framework Regulation](#)).
- Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain cryptoassets ([TFR](#)) applicable from 30 December 2024 to services rendered by payment service providers, intermediary payment service providers, crypto-asset service providers and intermediary crypto-asset service providers.
- The [Basel III framework](#) including CRR III and CRD VI (in effect from January 2025 (CRR III) and from 11 January 2026 (CRD VI).

See [Practice note: Basel III: overview](#).

EU Law Developments

Relevant EU legislative developments affecting Austrian banking regulation include:

- The CMDI reforms have been adopted and must be implemented into national law by 2028 (see [Hot topics: EU bank crisis management and deposit insurance \(CMDI\) reforms](#)).
- PSD 2 will be replaced by PSD 3 and PSR streamlining the regulatory frameworks for payment institutions and e-money institutions, taking effect in Austrian law in 2028.
- The EU Retail Investment package is due to be published by the end of 2026, with most of the amendments due to apply in about 2029. See [Practice note: Hot topics: proposed Directive on retail investment protection](#).

- The ECB has begun the preparation phase for the digital euro, with its introduction expected in 2029.
- The European Commission published its Communication on *Competitiveness of the Banking Sector and the Single Market in Banking* ([COM \[2026\] 615](#)) following the results of the [Draghi Report](#) (among others). The Communication proposes to:
 - simplify Pillar 2 requirements and the macroeconomic buffers' regime; and,
 - reassess the effects of Basel 3 on small and non-complex institutions, the effects of the output floor on capital requirements and of the transitional provisions for mortgage credits and credits towards unrated corporates.

(COM [2026] 615 fin.)

See [Practice note: EU bank prudential framework: overview](#).

- At the time of writing, an Austrian ministerial Bill was due to enter into force in 2026 implementing CRD VI. On 27 March 2026, the European Commission initiated treaty violation proceedings against Austria and 21 other EU member states due to their failure to implement CRD VI.
- Affordable ESG reporting obligations are being introduced (Sustainability Omnibus package) for credit institutions, among others. The sustainability reporting requirements will apply to large corporations qualifying as (Austrian licensed) credit institutions and parent corporations of large groups, starting from 2028, based on these cumulative thresholds:
 - Having an average number of 1,000 employees during the financial year; and
 - having a net turnover of EUR450 million.

See also [Practice Note: Omnibus I: application delayed to 2027 reporting periods and amended EU sustainability reporting and due diligence legislation](#).

Prudential regulations of the ECB and EBA and FMA guidelines have integrated ESG risk factors into banking supervisory law which requires sustainability risks to be included and monitored in a bank's:

- business model, business strategy (analyses), internal governance and determination of risk appetite;
- remuneration policy;
- risk management, compliance and internal audit functions (3 lines of defence);
- data governance, data management, internal risk reporting, credit, operational, market and liquidity risk management and stress-testing;
- disclosure relating to financed scope 3 greenhouse gas emissions of the whole banking group;

- SREP capital assessment;
 - fit and proper criteria for a bank's board members and key function holders; and
 - procedures for granting and monitoring loans.
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- Certain fundamental definitions were redefined (with effect from January 2025 and January 2026 in Austrian law) (see [CRD VI \(\(EU\) 2024/1619\)](#) and [\(CRR III\) \(\(EU\) 2024/1623\)](#)). These include:
 - "financial institution";
 - "FHC";
 - "pure industrial holding company"; and
 - "ancillary services undertaking"

A new category of "large institutions" was introduced for the purposes of advance assessment of the fitness and propriety of an entity's members' by the national competent authority or the ECB.

- The following terms were redefined (with effect from May 2028):
 - "early intervention" triggers and measures;
 - "public interest";
 - the legal effects of a liquidation of "Limbus"-type banks; and
 - MREL calibration in transfer strategies of resolution.

Deposit Guarantee Schemes Directive (DGSD) amendments have enabled the use of alternative refinancing mechanism by DGS and the use of DGS' funds for financing banks' resolutions.

Regulatory Authorities

2. What are the regulatory and supervisory authorities for banking regulation in your jurisdiction?

Lead Bank Regulators

These are the:

- ECB.
- Financial Market Authority (FMA).

ECB. The ECB is responsible for banking supervision in the eurozone under the Single Supervisory Mechanism (SSM) and supervises seven significant entities (SIs) and their groups and the MFHCs of significant banking groups in Austria in conjunction with the FMA and the [Austrian Central Bank](#) (*Oesterreichische Nationalbank*) (OeNB).

From 1 May 2026, seven significant groups of institutions headed by the following entities have been directly supervised by the ECB:

- Addiko Bank AG (Credit Institution).
- BAWAG Group AG (FHC).
- Erste Group Bank AG (Credit Institution).
- Volksbank Wien AG (Credit Institution).
- Raiffeisen Bank International AG (Credit Institution).
- Raiffeisen-Holding Niederösterreich-Wien regGenmbH (FHC).
- Raiffeisenbankengruppe Oberösterreich Verbund eGen (FHC).

The ECB applies:

- The relevant provisions of EU and national law to significant institutions or groups of institutions (SIs).
- EU Regulations and Directives, binding Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS) drawn up by the European Banking Authority (EBA) and the European Commission.
- National legislation, such as the Banking Act.

FMA. The FMA is the supervising authority for:

- Less significant banks, institutions and groups of credit institutions (micro-prudential supervision of less significant institutions (LSIs)).
- "Austrian credit institutions" qualifying as CRR financial institutions, non-class 1 investment firms, third-country branches and MFHCs and FHCs for which the FMA is the consolidating supervisor.

The OeNB is responsible for the overall risk assessment (macro-prudential analysis) of the above institutions.

The FMA is the national competent authority (NCA) and the national designated authority (NDA) within the SSM framework (in most cases).

The FMA is also the national supervising authority for:

- Insurance companies.
- Pension funds.
- Non class 1-investment firms.
- Investment management companies.
- Payment services providers.
- Crypto-asset service providers.
- Central securities depositaries and central counterparties.
- Compliance, in relation to:
 - AML;
 - Regulation (EU) 2022/2554 on digital operational resilience for the financial sector ([DORA](#)); and
 - financial sanctions (from 1 January 2026).

The FMA must act in accordance with:

- The Banking Act and the CRR.
- The SSM Regulation.

- The BaSAG and the SRM Regulation.
- The Deposit Guarantee Scheme and Investor Compensation Act.
- Directly applicable EU law including RTS/ITS converted into Commission (Implementing or Delegated) Regulations.
- Applicable EBA guidelines and recommendations.
- The ECB's guidance.
- Due attention to financial stability, the smooth functioning of the banking system and creditor protection.

The FMA:

- Can take official measures and pass certain regulations specifying supervisory obligations of LSIs.
- Is responsible for enforcing its own administrative decisions, except for orders imposing administrative penalties.
- Is the resolution authority for Austrian LSIs and is responsible for implementing the resolution decisions of the [Single Resolution Board](#) (SRB), an EU agency that acts as the resolution authority for SIs.

Administrative and penal decisions of the FMA can be appealed against at the Austrian Administrative Court of first instance.

OeNB. The OeNB has no authoritative power over banking supervision. It has, however, certain authoritative powers relating to foreign exchange law and to the supervision of payment and settlement systems.

In its function as expert and fact-finding entity for the FMA and the ECB, the OeNB:

- Conducts on-site inspections on behalf of the FMA.
- Renders reports about on-site inspections on behalf of the ECB or the FMA.
- Provides expert opinions on risk assessment models after a bank has submitted an application for approval.

Its reports provide the basis for authoritative measures to be taken by the ECB or the FMA. Any credit institution has the right to express its opinion on the inspection report (Article 71(6), Banking Act).

Other Authorities

These include:

- State commissioners. These are representatives of and accountable to the FMA and have authoritative power on behalf of the FMA. They:
 - are appointed for a maximum of five years;
 - must be invited by the credit institution to company meetings and audit committees;
 - must object to resolutions that violate administrative decisions of the Federal Minister of Finance or the FMA.
 - have inspection rights and must report facts to the FMA which indicate that the institution's fulfilment of its obligations to creditors or the security of its assets are no longer ensured.

The Minister of Finance must appoint a state commissioner and a deputy state commissioner for credit institutions with total assets of more than EUR1 billion.

- *Oesterreichische Kontrollbank AG (OeKB)*. This is Austria's main provider of financial and information services to the export industry and the capital market without any authoritative powers.

Issuers of securities and fund companies can fulfil their reporting and disclosure obligations by using the OeKB's electronic reporting platforms and prospectus storage systems.

OeKB will also (from about 2027) take statutory responsibilities as a collection body in Austria relating to the introduction of the digital information platform "European Single Access Point" (ESAP).

Together with the operating company, the Vienna Stock Exchange, OeKB is half-owner of the Central Counterparty Austria (CCP.A) of the Austrian Securities and Electricity Exchanges.

Its subsidiary, OeKB CSD GmbH, is the only Austrian licensed central securities depository pursuant to the [Central Securities Depositories Regulation \(Regulation \(EU\) 909/2014\) \(CSDR\)](#), rendering securities account maintenance services at the top tier level (central maintenance service), initial recording of securities in bank-entry systems (notary service) and the operation of a securities settlement system (settlement service).

Central Bank

OeNB. The OeNB contributes to monetary and economic policy decision making in Austria and in the eurozone. It only has authoritative power in supervising the establishment of payment systems in Austria and in handling the Austrian Foreign Exchange Law.

The primary focus of the OeNB is safeguarding domestic financial stability and supplying high-quality, counterfeit-proof cash.

In addition, it:

- Manages reserve assets within the [Statute of the European System of Central Banks](#) and of the ECB, that is, gold and foreign exchange holdings.

- Prepares economic analyses.
- Compiles statistical data.
- Is active in international organisations.
- Has non-authoritative functions (fact-finding, expert role) in banking supervision (*see above, [Lead bank regulators](#)*).

Others

The role of external bank auditors was clarified in 2005 by the Austrian legislation. Neither contractually mandated bank auditors (which are the rule) nor auditors acting as representatives of statutory auditing institutions (savings banks and co-operative banks) can become liable under Austrian national law for state damages caused to the bank.

However, if such auditors act on the basis of a separate mandate granted by the FMA, the Austrian state may become liable if damages are caused directly to the bank by their acts and omissions.

Bank Licences

3. What licence(s) are required to conduct banking services and what activities do they cover?

Types of Licence

The ECB licenses Austrian CRR credit institutions including:

- Systemic investment firms in Austria and other SSM member states.
- Austrian (mixed) parent financial holding companies for which the ECB is the consolidating supervisor.

The scope of the licence issued by the ECB also covers regulated activities under Austrian law other than taking deposits from the public and granting credits (*see below, [Regulated Activities](#)*).

The FMA licenses:

- All credit institutions headquartered in Austria that do not qualify as CRR credit institutions and all non-class 1 investment firms (both categories qualifying as CRR financial institutions) (*see below, [Regulated Activities](#)*).

- (Mixed) parent financial holding companies incorporated in Austria for which the FMA is the consolidating supervisor (non-significant supervised groups), provided that:
 - at least one group member and subsidiary is a CRR credit institution;
 - more than 50% of the holding company's consolidated equity, consolidated assets, consolidated revenues, consolidated personnel or other indicators can be attributed on a steady basis to CRR credit institutions or CRR financial institutions; and
 - the holding company is a CRR financial institution. Other (non-parent) financial holding companies must be licensed if they fall under the CRR or CRD or if they need to comply with prudential requirements on a consolidated basis under Art 21a(4) of CRD.
- Austrian (class 1- and class 2-) branches of third-country undertakings exercising core banking activities of:
 - taking deposits or other repayable funds;
 - lending (subject to certain conditions); or
 - issuing guarantees or commitments in Austria (subject to certain conditions).
- Austrian branches of third-country undertakings exercising any other "regulated activities" reserved for "Austrian credit institutions" (*see below, [Regulated Activities](#)*).

Licences can be granted subject to conditions and requirements and can cover one or more types of listed transactions. The terms of the licence can also exclude individual banking transactions.

Credit institutions licensed in Austria can further provide banking services in other member states by way of the freedom to provide services or the freedom of establishment (Article 10, Banking Act).

Parent (mixed) financial holding companies and certain non-parent financial holding companies that fall under CRR or CRD, if registered in Austria, must apply to the FMA for a special licence as a parent (mixed) or other FHC subject to certain conditions. The relevant licensing procedure is comparable to that of a banking licence procedure but less burdensome (*see [Timing and Basis of Decision](#)*).

Regulated Activities

A "CRR credit institution" is an undertaking which takes deposits or other repayable funds from the public and grants credit for its own account (Article 4(1), CRR).

Investment firms with a balance sheet total or aggregated assets of EUR30 billion dealing on their own account or underwriting or placing financial instruments on a firm commitment basis are also CRR credit institutions ("systemic investment firms") and are therefore required to apply for a CRR banking licence once they cross the EUR30 billion threshold.

The CRR's concept of "institutions" has been changed by eliminating investment firms (apart from systemic institutions with EUR30 billion or more in consolidated assets) from this term. As a result, CRR investment firms generally now come under the scope of "(CRR) financial institutions".

"Austrian credit institutions" usually qualify as CRR financial institutions if not licensed for a deposit taking and lending activity and as CRR credit institutions if licensed both for lending and deposit taking (see [Question 1](#)). They must obtain a banking licence for financial activities carried out for commercial purposes in Austria, including one or more of the following:

- Deposit taking.
- Current accounts.
- Lending.
- Discounting.
- Custody.
- Issue and administration of payment instruments.
- Foreign exchange, money market instruments; futures, options and swaps; transferable securities and other derivative instruments.
- Commodity derivatives.
- Guarantees.
- Issue of covered bonds.
- Issue of other bonds (than covered bonds) for investing their proceeds in any other banking transactions.
- Securities and derivatives underwriting, placement and issuance support.
- Building savings and loans.
- Managing investment funds.
- Managing real estate investment funds.
- Capital financing.
- Factoring.

- Money brokering transactions on the interbank market.
- Brokerage transactions relating to banking deposits, lending, guarantees and foreign exchange.
- Severance and retirement funds.
- Purchase and sale of forex and of traveller's cheques.

Austrian credit institutions can apply for limited licences that cover only some of the above banking transactions. Any Austrian LCI is also generally authorised to render specified investment services and payment services, trade in gold bullion and provide data reporting services (under the SSA).

Licensed Austrian credit institutions do not require an additional investment firm or payment institution licence to perform specified investment services and payment services, as this is included in the scope of their statutory licence.

Entities not licensed as credit institutions must apply for:

- A CRR credit institution licence (firms class 1) issued by the ECB, if trading on their own account or underwriting or placing financial instruments on a firm commitment basis and having EUR30 billion or more consolidated assets.
- An investment firm (class 1 minus) licence if:
 - they provide any of the two above activities or services; and
 - have EUR15 billion or more in consolidated assets.

Those with assets of between EUR5 billion and EUR15 billion are subject to supervision in line with CRR and CRD requirements, if covered by a pertaining decision of a competent supervisory authority.

This licence is issued by the FMA in line with the Investment Firms Regulation ((EU) 2019/2033) ([IFR](#)) and the Investment Firms Act 2023, and the SSA.

- Sufficiently small and non-interconnected investment firms (class 3) and investment firms not falling in any of the other categories (class 2) and providing any of the investment services or activities listed in section 3(2) of the SSA only require an investment firm licence issued by the FMA (see above paragraph). Activities permitted on the basis of a class 2 or 3 investment firm licence in Austria now include all nine investment services and the ancillary services listed in Annex I of the [MiFID II Directive](#) (2014/65/EU), the Investment Firms Act 2023 and other laws).
- Entities not licensed as credit institutions must apply for a payment institution licence if providing any of the payment services listed in the Payment Services Act 2018.
- The provision of account information services as a single payment service rendered by a non-credit institution only requires registration with the FMA.

- Licensing by the FMA under MiCAR is further required (from 1 January 2025) for the provision of services by crypto-asset service providers (CASPs), but in line with MiCAR there are lighter enabling rules (notification requirements) for:
 - LCIs;
 - investment firms;
 - AIFMs;
 - UCITS management companies;
 - central securities depositaries; and
 - market operators (operating regulated markets, multilateral or organised trading facilities or providing crypto-asset services).

See also [Practice note, EU Capital Requirements Regulation \(CRR\)](#).

4. What is the application process for bank licences?

CRR Credit Institutions

A CRR credit institution (both SIs and LSIs, see [Question 3](#)) submits the following main documents to the FMA or the ECB:

- Application(s) for authorisation of a credit institution structured in line with:
 - [Commission Delegated Regulation \(EU\) 2022/2580](#) using the standard template annexed to Commission Implementing Regulation (EU) 2022/2581; and
 - the ECB's revised guide to assessment of licence applications (2019) and its guide to assessment of Fintech credit institutions licence applications (2018).
- Programme of operations and business plan, which must also reflect the EBA's and the ECB's requirements referred to in the above documents.
- Capital and funding plan including an MREL liquidity plan.

- Recovery and resolution plan.
- AML and sanctions compliance.
- ICT and DORA planning.

The process is as follows:

- Receipt of the application is confirmed in a pre-application discussion phase before the application is formally submitted.
- The FMA, co-operating with the ECB, usually requests more information before confirming completion of the application, which usually extends the procedure to an overall duration of 18-24 months.
- Use of the ECB's SSM application portal is voluntary but not customary. The procedure is usually preceded by an informal visit at the FMA or by correspondence followed by an application in writing accompanied by the required documents filed with the FMA.
- Fitness and propriety related documents are not generally filed through the SSM portal with the authority, except for significant institutions.
- The assessment period runs from the authority's date of confirmation of receipt of a complete application to the date on which the ECB issues a formal authorisation decision. ECB experts must be involved by the FMA at an early stage of this process.
- The FMA assesses the application on the basis of the conditions in the Banking Act, in DelReg 2022/2580, the common assessment methodology included in EBA/GL/2021/12 and the ECB's assessment guide of licence applications 2019. If it considers that the application complies with these requirements, it prepares a draft decision and sends it to the ECB for a final decision.
- The ECB conducts its own assessment of the application based on the FMA's draft decision, and makes a final decision under EU law which is then notified to the applicant. The licence is issued by the ECB for CRR credit institutions incorporated in Austria.
- Licensing applications for Austrian non-CRR credit institutions (CRR financial institutions apart from financial holding companies and class 1 investment firms) or Austrian branches of non-EU-based and non-EEA-based (CRR and non-CRR) credit institutions are conducted entirely by the FMA.

A link to the contact form for legal enquiries about business models can be found [here](#).

CRR Financial institutions

Austrian "non-CRR credit institutions" (CRR financial institutions) must obtain a licence from the FMA (not from the ECB, see Article 4(1)(a), SSM Regulation).

Financial institutions must enclose the following information and documents with their applications:

- Place of establishment and legal form of business organisation.
- Articles of association.
- Business plan for the first three years together with a budget calculation, and if the application includes an application to receive deposits, the forecasted level of covered deposits.
- Initial capital.
- Identity and amount contributed by shareholders with a qualifying participation in the credit institution.
- Identity and the amount contributed of the 20 largest shareholders, as well as an indication of the group structure if those shareholders belong to a group of companies (if none of the owners holds a qualifying participation).
- Identities of the designated executive directors and their suitability for operating the undertaking.
- Identities and addresses of agents involved in money remittance services.

The licence will be issued by the FMA if:

- The undertaking is a joint-stock company (including a *societas europea*) (SE), a co-operative society (including SCE), a savings bank, a limited liability company or a company with flexible capital.
- The articles of association do not contain any provisions which fail to ensure the security of the assets and the proper execution of transactions under the Banking Act (Article 1(1)).
- The capital, liquidity and solvency of the institution will prospectively be sufficient.
- The internal organisation (risk management, compliance, audit) will be compliant.
- Persons that hold qualifying participations (more than 10% of the share capital or voting rights) meet prudent requirements and are "suitable shareholders" (if there are no qualifying participations, then the 20 largest stakeholders).
- FMA is not prevented from fulfilling:
 - its supervisory duties because of the institution's close links to other natural or legal persons (this includes the prevention of non-transparent group structures); or
 - its monitoring duties by the laws, regulations or administrative provisions of a third country.

- Initial capital or initial endowment amounts to at least EUR5 million and is freely available to the directors without restrictions or charges in Austria.
- Directors (and key function holders) or members of the supervisory board (SB) are financially sound and not subject to criminal charges or convictions or bankruptcy proceedings.
- Directors and some key function holders like the head of risk management, the head of banking compliance, the AML responsible officer and the head of investment services compliance, are sufficiently fit and proper to operate the institution and the members of the SB have sufficient professional qualifications and experience to exercise their function.
- Directors commit sufficient time to perform their functions and none has another main profession outside the banking industry or outside insurance undertakings or pension funds. At least one director must speak German.
- Centre of at least one director's interests is in Austria.
- Institution has at least two directors and the articles rule out individual powers of representation and powers of attorney for the entire business operation or, in credit co-operatives, the management of the business is restricted to the directors.
- Place of establishment and the head office of the credit institution is located in Austria.
- Adequate programme of operations.

In practice, the most important criteria assessed by the FMA and by the ECB are:

- Programme of operations, business plan for the first three to five years and risk profile.
- Governance (fitness and propriety of board members, of key function holders and of qualifying direct and indirect shareholders, internal governance and control framework, remuneration policy (see Annexes I and II to Commission Delegated Regulation (EU) 2022/2580).
- Capital and funding plan: Amount, quality, origin and composition of the applicant's capital, expected capital at authorisation and reliably available future capital resources, adequacy of internal capital and liquidity, MREL pathway.
- Compliant internal organisation (risk management framework, compliance, audit, and AML officer) and structure (ICT and outsourcing requirements), risk appetite statement and risk limits.
- ICAAP and ILAAP (SREP review).
- ICT, cybersecurity and DORA (architecture, data, third-party register, incident response, resilience testing).
- Recovery and resolution plan (recovery triggers, critical functions, MREL building blocks).

- AML/CFT framework including sanctions compliance.
- Accounting, audit and external reporting.

Foreign Applicants

Special licensing requirements for foreign non-EU applicants under the Banking Act include the following obligations:

- There must be at least one director whose interests are based in Austria and has a sufficient command of the German language.
- The FMA/ECB must not be prevented from its supervisory functions by third-state legal provisions of a person/entity having close relations with the credit institution (which includes non-transparent group structures).
- There must be a duly licensed intermediate EU parent credit institution/MFHC or FHC if the applicant belongs to a third-state group where at least another CRR credit institution is a member.

These also apply to subsidiaries of foreign banks.

See [Question 12](#) for the rules for direct or indirect non-EU, non-EEA and non-Swiss acquirers of shareholdings in Austrian licensed banks that qualify as "critical infrastructure".

Third-Country Branches

Third-country branches (TCBs) require a branch licence to provide any of the banking services listed under CRD IV as "Regulated Activities" (Article 1(1), Banking Act).

It has introduced minimum requirements for authorisation of certain TCBs including for the following matters:

- Capital endowment.
- Liquidity.
- Internal governance and risk management.
- Booking requirements.
- Annual or semi-annual reporting requirements.
- SREP requirements for certain applicants.

To obtain a TCB licence to operate a branch in Austria, the head office of the TCB must submit:

- Details of the seat, legal form, business plan, qualifying shareholders and fitness and propriety of the head office related information.
- Last three annual financial statements of the undertaking.
- Transactions conducted by the foreign undertaking, as well as the locations at which those transactions are conducted.
- Amount in euros of the initial capital dedicated to the Austrian branch and freely available to the directors without limitations or charges in Austria.
- Decision-making powers granted to the management of the branch, as well as those of the head office whose consent is required for certain internal decisions.
- Written declaration from the supervisory authority responsible for the undertaking's head office stating that it has no objections to the establishment of a branch of this undertaking in Austria.

The FMA is expected to fully comply with EBA/GL/2026/08 on the authorisation of TCB in accordance with the CRD (Article 48c(8)) which means that the template included in Annex 3 containing eight tables will become applicable for the application procedure and meaning additional assessment requirements will apply from 11 January 2027.

To date, no TCB has been licensed in Austria.

Timing and Basis of Decision

CRR financial institutions qualifying as Austrian credit institutions. The granting of a licence is declared by the FMA in a written administrative decision. The procedure lasts between 12 and 18 months and may in exceptional cases take longer (for example, if additional information is requested).

Licences can be subject to appropriate conditions and requirements and limited to one or more of the types of transactions listed in the Banking Act (Article 1(1)) and can exclude parts of individual types of transactions.

CRR credit institutions including systemic (class 1) investment firms. The application procedure lasts between 12 and 24 months. The licence issued by the ECB may be subject to conditions and requirements and limited in scope and may take into account ex-ante commitments proposed by the applicant before the licence decision. If an application is (partly) rejected or conditions are imposed, it becomes subject to a hearing procedure.

Before issuing or notifying a licence to a credit institution, the FMA/ECB must consult the OeNB and notify the Federal Ministry of Finance. If the licence application includes the authorisation to accept deposits subject to guarantee obligations or to provide investment services subject to compensation obligations, the FMA/ECB must also consult the relevant protection schemes before issuing the licence (see [Question 16](#)).

Every credit institution licensed in Austria must belong to a trade association and be a member of a protection scheme if it takes deposits or provides certain investment or banking services.

The ECB and the FMA both have the power to withdraw a licence.

The FMA/ECB must inform the EBA of any grant or withdrawal of a licence and it must inform the European Commission, the EBA and the European Banking Committee (EBC) without delay of any approvals of branches which are granted to credit institutions established in a third country (*see above, [Foreign Applicants](#)*).

Financial holding companies. The granting or withdrawal of a licence to a FHC with its head office in Austria for which the FMA is the consolidating supervisor is declared by the FMA by written administrative decision. The procedure is similar to that of granting a banking licence (but less onerous) and lasts a maximum of six months on the complete filing of all application documents with the authority.

There are special rules governing the co-ordination procedure between the FMA and the consolidating supervisory authority, if the FMA is not the consolidating supervisory authority of the group.

Licences for financial holding companies in Austria for which the ECB is the consolidating supervisor (significant supervised group) are granted by the ECB.

Third-country branches. From 11 January 2027, the existing authorisation requirement for any banking activity exercised by an Austrian branch of a third-state undertaking (Article 4(4), Banking Act) will be aligned to the CRD authorisation regime for class 1- and class 2- branches of specified third-country undertakings in Austria (*see above, [Third-Country Branches](#)*).

Cost and Duration

The FMA fees are as follows:

- Issuing a licence: EUR12,500.
- Administrative decision fee: EUR125.
- Extension fee: EUR2,000.

The costs of the licence proceedings also depend on whether the applicants engage a lawyer. There are also annual ongoing costs for supervision by the competent supervisory authority prescribed by FMA decrees, which for a bank (LSI) with a balance sheet total of less than EUR5 billion reach amounts to between EUR250,000 and EUR450,000.

In addition, the ECB charges annual supervisory fees to all CRR credit institutions in Austria, and significant banks must pay a higher supervisory fee than less significant banks.

The basic annual contribution prescribed by the FMA for LSIs with a balance sheet total of less than EUR5 billion is between EUR50,000 and EUR80,000 depending on the volume of taken deposits. For such an LSI with taken deposits of EUR2 billion, for example, the yearly contribution to the Austrian deposit guarantee scheme will amount to between EUR1 and 2 million.

A "stability tax" applies to Austrian licensed banks and Austrian branches of foreign banks with a balance sheet total of more than:

- EUR300 million that amounts to 0.033% of the taxable base.

- EUR20 billion that amounts to 0.041% of the taxable base.

They must pay an additional tax of 0.050% of the balance sheet total and of 0.061% of the exceeding calculation basis if the balance sheet total exceeds EUR20 billion (for 2025 to 2028).

5. Can banks headquartered in other jurisdictions operate in your jurisdiction on the basis of their home state banking licence?

CRR credit institutions authorised in an EU member state can conduct the activities listed in Annex I of CRD IV in Austria through a branch or by means of the freedom to provide services, provided that their authorisation permits this (Article 1a(1), paragraph 1, Banking Act).

CRR credit institutions authorised in an EEA member state can also provide cross-border activities through a branch (freedom of establishment) or under the freedom to provide services. The intention to conduct cross-border banking activities on either basis must be notified to the respective supervisory authority.

There are supplementary rules in the SSM Framework Regulation for CRR credit institutions located in or outside eurozone member states but within the EU or the EEA.

Branches of non-EU and non-EEA based banks cannot rely on the single licence principle. The establishment of such TCB branches on Austrian territory requires an application for an authorisation to be submitted to the FMA where the licensing criteria are comparable to the foundation of an Austrian subsidiary qualifying as credit institution. Although the assessment criteria and the procedure for the authorisation have been harmonised by EBA/GL/2026/08 in line with CRD VI, there is still no TCB existing in Austria that has been authorised by the FMA.

There is an exemption from the banking licensing requirement and from the requirement to have an Austrian branch established and licensed for the provision of cross-border banking services of third-country banks supplied exclusively on request by Austrian customers. This exemption has been narrowed by CRD VI relating to the requirement to have a TCB established and licensed following an extensive interpretation by ESMA concerning the cross-border provision of investment services to EU residents under MiFID II ([ESMA35-43-349](#), [Chapter 13](#)).

Organisation of Banks

Legal Entities

6. What legal entities can operate as banks?

Credit institutions can conduct their business as a corporation (*Kapitalgesellschaft*) such as a:

- Limited liability company (GmbH).
- Flexible company (FlexKapG).
- Stock corporation (AG).
- European public company (SE).
- Co-operative society (*Genossenschaft*).
- European co-operative society (SCE).
- Savings bank.

Credit institutions cannot be established in the corporate form of joint partnerships (*OG*), limited partnerships (*KG*) nor sole proprietorships.

Member state credit institutions are entitled to provide their services in Austria either by establishing a branch (freedom of establishment) or under the freedom to provide services.

The most usual legal form to operate even small Austrian banks is the AG due to its legally structured interplay between:

- Corporate governance exigencies (for example, mandatory SB committees).
- Minimum regulatory and organisation requirements.
- Internal and external capital financing opportunities.
- Internal control and organisation system demands.
- Potential integration into an existing corporate group structure.

Limited liability companies are suitable only for banks with special restricted licences such as asset management companies of UCITS and AIFs and further for banks without targets for growth, that do not need to approach the equity capital markets.

7. What requirements apply to the structure of banking groups?

The Austrian banking regulatory requirements conform to the EU framework including the CRR and CRD. The Austrian rules on removing impediments to the resolvability of resolution groups also conform to the EU framework including the BRRD and the SRM.

An intermediate EU parent FHC or EU parent credit institution (upon permission by the FMA two parent companies) must be established where there are supervisory concerns on a group structure with an ultimate parent company outside the EU.

The resolution authority can also require an entity or parent undertaking to set up a parent FHC in the EU or an EU parent FHC to remove potential impediments to group resolution.

Other regulatory tools include the:

- Suspension of voting rights held by financial holding companies or by credit institutions.
- Administrative instruction to transfer participations in CRR credit institutions or CRR financial institutions to the owners of these entities.
- Orders to:
 - transfer or reduce participations in credit institutions; and
 - immediately comply with group-related supervisory requirements.

The restrictions on foreign shareholdings in banks and the group-related licensing requirements also apply (see [Question 4](#), Requirements, and [Question 13](#)).

LCIs must have their place of establishment and head office in Austria and licensed financial holding companies must have their seat and registration within Austria.

Austria also applies the EU and UN sanctions regimes through implementing laws and has transposed MLD5 into its national laws.

Governance

8. What are the governance and organisational requirements for banks?

Governance rules of corporate bodies depend on the chosen corporate form.

For example, an Austrian stock corporation has three corporate layers:

- Shareholders' meeting.
- Supervisory board (SB) (two-tier system).
- Management board (MB).

The annual shareholders' meeting elects the SB for a maximum five-year term, but can terminate this appointment by a qualified majority (or simple majority if enabled by the articles of incorporation). A minority of 10% can petition a court to remove members from office for good cause. The SB elects a chairperson for a maximum five-year term, although it can call for their early resignation for good cause (such as violation of duties or a vote of no confidence).

The MB is solely responsible for running the company and not subject to instructions by the annual general meeting nor by the SB (duty to act independently for MB members). It is also responsible for compliance, risk management, independent audit and AML/TF monitoring. Group interests are usually enforced towards MB members of stock corporations by:

- The SB's right of nomination and revocation of MB members.
- Majority resolutions taken by the shareholders' meeting.

Under the Banking Act, MBs of credit institutions whose total assets exceed EUR1 billion or which have transferable securities listed on a regulated market must establish an audit committee to supervise the:

- Audit and issuance of financial statements.
- Internal control system, audit function and risk management system.

The MBs of credit institutions whose total assets exceed EUR5 billion (credit institutions of significant relevance) (CISR) must establish at least the following committees within their SB:

- Nomination committee. This committee proposes appointments of the members of the management body before the external (FMA/ECB) "fitness and propriety" procedure is applied.
- Remuneration committee. It supervises the remuneration policy, practices and incentive structure with the purpose of controlling, monitoring and limiting risks and drafts decisions on remuneration by the SB.

- Risk committee. The risk committee must advise the management body on the risk strategy and other risk matters.

The Banking Act requires a minimum number of "formally independent" SB and committee members in Austrian licensed banks (see Article 28a (5b), Banking Act). A CISR must comply with the following requirements:

- At least two "formally independent" SB members must be appointed [Article 28a (5a), Banking Act].
- At least the chairperson and the remuneration expert within the remuneration committee must be "formally independent". There are stricter independence requirements for remuneration committees in SIFIs (O-SIIs) under the EBA guidelines on sound remuneration policies.
- At least the chairperson and the accounting/audit expert as well as the majority of members of the audit committee must be independent by, among others, complying with a three-year blocking period after previous occupations.
- Two "formally independent" members must be appointed for the risk committee. There are stricter independence requirements for committee members of the risk committee of SIFIs (O-SIIs), where the majority of the members and the chairperson must meet the formal independence criteria (Article 28a (5b), Banking Act).
- No independent member requirement exists for the nomination committee.

Minimum organisational requirements prescribed by Austrian and EU banking laws for LCIs include:

- Appointing members of the management and the supervisory boards executing the minimum tasks included in EBA/GL/2021/12, EBA/GL/2021/05 and DORA, AML/TF and sanctions compliance guidelines.
- Conflict-of-interest policies, whistleblowing, market abuse prevention and suspicion reporting.
- Product governance, consumer protection, complaint handling.
- Early intervention, recovery and resolution planning.
- CRR and CRD regulatory capital and liquidity planning.
- MREL building blocks and output floor compliance.

An internal control framework reflecting the "three lines of defence" must be installed including the setting up of risk management, compliance and internal audit functions headed by fit and proper/suitable persons which must act independently.

The remuneration policy, the outsourcing policy, the ICT systems and the emergency and business continuance guidelines must comply with specified minimum criteria supervised by the FMA.

The external bank auditor must:

- Meet minimum criteria reflected in Articles 60 to 63 of the Banking Act.
- Review the financial statements and the bank's compliance with mandatory regulatory requirements.
- Submit a review on the bank's sustainability reporting under the CSRD (a transitional regime will apply until external audits of financial statements for the financial year 2027 are published).

9. What is the supervisory regime for key individuals within banks?

Key function holders are employees of a credit institution who are not members of the MB or SB exercising a significant influence on the business activities of a credit institution. They comprise (all of them if not members of the MB):

- The heads of internal control functions which are:
 - risk management;
 - Banking Act compliance;
 - MiFID compliance;
 - internal audit; and
 - AML compliance.
- The chief financial officer.
- Any head of an important business activity.
- Any head of a significant branch.
- The managers responsible for the group's subsidiaries.

(Article 3(1)(9a) CRD (as amended by Article 1(2)(c), CRD VI)); FMA Circular on Fitness and Propriety of Management Board Members, Supervisory Board Members and Key Function Holders (FMA Circular 03/2023 dated 18 March 2023 (likely to be updated due to CRD VI).)

Key function holders:

- Must be assessed by the FMA for their fitness and propriety in performing key functions within the credit institution.
- Can, at the FMA's discretion, be invited to pass a fit and proper test.

The appointment of and changes of all key function holders in Austrian credit institutions must be notified to the FMA before they start their activities.

The fit and proper assessment for key function holders is carried out by the credit institutions based on criminal records, the CVs of the candidates, a check on their conflicting interests, and of other suitability criteria but the appointment and/or change in person can be prohibited or rejected by the FMA.

A special authority ex-ante suitability assessment requirement has been introduced for management board members and the chairperson of the supervisory board of certain credit institutions, that is:

- "Large institutions" (Article 4/1/146, CRR) or "large subsidiaries" (Article 4/1/147, CRR).
- Central bodies and their permanently affiliated credit institutions if one of them is a "large institution".
- FHCs and their group members if one of them is a "large institution":

The FMA must be notified at least 30 days before any appointments or changes take place by taking up the new position, along with documents to be prescribed by FMA regulation.

10. Do any specific remuneration requirements apply to bank employees?

Credit institutions must generally have a remuneration policy and practices.

Requirements for the remuneration policies and practice of any credit institution licensed in Austria and of any Austrian branch of a foreign credit institution are set out in the Banking Act (Articles 39, 39b and the Annex to Article 39b).

Requirements for remuneration policies and practice of investment firms licensed in Austria are set out in the Investment Firms Act 2023 (Articles 21ff and Annex to Article 21) and in [Delegated Regulation \(EU\) 2021/2154](#).

The remuneration rules for licensed investment firms under the Investment Firms Act 2023 differ from those for LCIs.

Under the [Sustainable Finance Disclosure Regulation \(SFDR\)](#) ((EU) 2019/2088), sustainability risks and ESG criteria must also be considered in the remuneration policy (which must be established on a gender-neutral basis).

Other rules and guidelines governing remuneration policies and practices are found in:

- FMA's Circular on Principles of Remuneration Policy and Practices 05/22, dated 15 June 2022.
- Annex REMBM to FMA's VERA Regulation reflecting remuneration reporting obligations of banks to the OeNB.
- EBA guidelines, recommendations and technical standards such as the:
 - Guidelines on Sound Remuneration Policies dated 2 July 2021; and
 - Guidelines on Remuneration Policies and Practices related to the sale and provision of retail banking products and services dated 28 September 2016.
- Sectoral ESMA remuneration guidelines applying to mutual funds management companies (UCITS) and Alternative Investment Funds management companies (AIFMs) that are subsidiaries of Austrian LCIs.

The credit institution's SB (or remuneration committee) must examine, approve, monitor and implement the policy. For an Austrian CISR, a special remuneration committee must be installed (*see Question 8*). The MB, however, remains responsible for implementing remuneration policies.

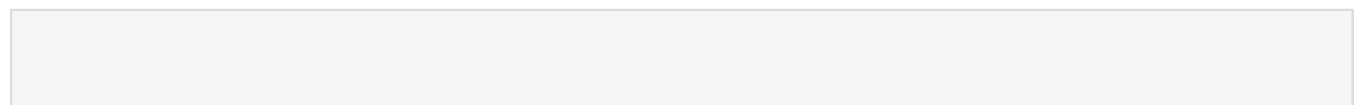
Remuneration policies must differentiate between principles applying to all employees and those which apply to specific groups of employees only, such as MB members, risk takers and staff engaged in control functions ("identified staff").

"Material risk-takers" in any credit institution must be identified (*Delegated Regulation (EU) 2021/923*) and include:

- MB and SB members and employees with higher management tasks.
- Employees with management tasks in internal control functions and substantial business areas.
- Any employee whose remuneration is at least EUR500,000 and equals the average remuneration of the MB and SB members.
- Employees with a higher management role whose activities have a material impact on the risk profile of the business area in which they perform.

(Article 39b(2), Banking Act.)

Prudential Requirements



11. What are the prudential requirements for banks?

The Austrian prudential requirements for banks do not substantially diverge from the Basel framework, reflecting the EU framework for banking regulation underpinned by the CRR, CRD, BRRD including TLAC and the SRM Regulation.

Changes to the BRRD and the SRM Regulation will enter into force in 2028 through the implementation of the CMDI package, while Basel 3.1 (CRR III) took effect in the EU on 1 January 2025 (see [Question 1](#)).

Capital Requirements

Minimum capital requirements of credit institutions are regulated by Article 92 of the CRR.

See [Practice note: EU Capital Requirements Regulation \(CRR\)](#).

Credit institutions must at all times satisfy the following own funds and leverage requirements:

- Common Equity Tier 1 capital ratio of 4.5% of the risk-weighted assets (RWA) and other positions.
- Tier 1 capital (Common Equity Tier 1 and Additional Tier 1 capital) of 6% of RWA.
- Total capital ratio of 8% of RWA for Tier 1 and Tier 2 capital (attributable Tier 2 capital is currently limited to:
 - 30% of Tier 1 capital for qualifying holdings outside the financial sector; or
 - 0% of Tier 1 capital for large exposure purposes).
- Mandatory leverage ratio of 3% of the total risk exposure amount (TREA) in Tier 1 capital applies for any CRR credit institution. G-SIIs must in addition apply an additional leverage ratio buffer of half of the G-SII buffer.
- Output floor. Additional capital requirements are triggered by applying an output floor of 55% (for 2026), 60% (for 2027), 65% (for 2028), 70% (for 2029) and 72.5% (for 2030 onwards) but limited to 125% of the unfloored capital requirement by 31 Dec 2029 on the Standardised Total Risk Exposure Amount (S-TREA) on a non-consolidated and a (sub) consolidated basis as follows:
 - institutions and FHCs using internal models to meet the prudential requirements must hold minimum capital requirements applied to the higher of the Unfloored Total Risk Exposure Amount (U-TREA) and the S-TREA multiplied by the phased-in floor percentage (for example 60% for 2026 and 72.5% for 2030 and thereafter);
 - Austria has already used its option right to exempt institutions from the requirement to apply the output floor on a non-consolidated basis if the parent institution is licensed in the same member state and must apply the output floor on a consolidated basis; and

- Apart from the minimum capital requirements for pillar 1, the capital requirements for pillar 2 (P2R) and the capital buffer requirements are also subject to the output floor-related calculation of S-TREA ("single stack approach"). However, some special provisions have been included in CRD VI to prevent a double assessment of risks.

The introduction of capital buffers by the CRD has been transposed into Austrian law (Articles 23 to 23f, Banking Act). The buffer requirements must be fulfilled by CET 1 capital.

The capital conservation buffer of 2.5% of RWA applies by virtue of Austrian law to any credit institution licensed in Austria (solo and consolidated).

The following additional capital buffers can individually be prescribed by the FMA:

- Countercyclical capital buffer of up to 2.5% of RWA generated in the respective EU member state (currently 0% for RWA generated in Austria).
- Systemic risk buffer on a consolidated basis for twelve Austrian institutions' groups and ten Austrian credit institutions having to comply on a non-consolidated basis in addition (between 0.5% and 1% of RWA in 2026).
- Buffer for global systemically important institutions (G-SII buffer, not relevant in Austria).
- Buffer for Other SIIs:
 - 0.45% to 1.75% of RWA on a consolidated basis for seven Austrian institutions; and
 - 0.45% to 1.75% on a solo basis for eight Austrian institutions.

The systemic risk buffer and the O-SII buffer must be applied cumulatively, but if a cumulated buffer ratio of 5% of RWA is exceeded, this triggers a consent requirement by the EU Commission.

These buffers mainly:

- Act as a better absorption of losses by institutions in times of crisis.
- Purport to reduce pro-cyclical effects due to the economy of a member state.
- Envisage reducing systemic risks that could affect the entire economy of a member state.

The CRD VI changes to the buffer regime include the integration of climate change related systemic risks into the risk buffer requirement and the output floor into the calculation of buffer capital requirements.

The FMA/ECB in practice additionally impose bank-specific Supervisory Review and Evaluation Process (SREP) Guidance (P2G), reflecting their additional individual capital expectations for SREP compliance reasons.

Non-compliance with additional individual capital expectations issued by the FMA/ECB (P2G) will not trigger restrictions on the distribution of profits or any other supervisory measures, as opposed to the violation of buffer requirements or Pillar 2 (P2R) ratio requirement or minimum requirements for own funds and eligible liabilities (MREL).

Bank specific SREP buffers (P2R) can individually be imposed by the FMA/ECB to cover additional risks identified in Pillar 2 as SREP capital add-on. The "SREP capital add-on" must be composed of up to:

- 25% Tier 2 capital.
- 18.75% Additional Tier capital.
- 56.25% Common Equity Tier 1 capital.

Violations of P2R can trigger supervisory sanctions similar to the violation of capital requirements in Pillar 1.

See [Question 15](#) for MREL quotas and minimum subordination requirements.

Liquidity Requirements

The mandatory liquidity coverage ratio (LCR) required to counterbalance short-term liquidity needs in stress scenarios in Austria is calculated by dividing the sum of liquid assets by the net fund outflow under gravely stressed conditions over 30 days.

The net stable funding ratio (NSFR) is calculated by dividing the sum of stable funding instruments by the requirement for net stable funding instruments for long-term debt of one year under both normal and stressed conditions.

For small and non-complex credit institutions and investment firms (having, among others, total assets of up to EUR5 billion), a simplified NSFR applies.

The liquidity related reporting requirements continue to apply. There are no special requirements for G-SIIs.

Shareholdings/Acquisitions

12. What requirements or restrictions apply to the acquisition of shareholdings and of control of banks?

Acquisitions and Transfers

Shareholdings in banks (LCIs) and acquisitions of "material holdings" and "material transfers" of assets or liabilities by banks or MFHCs or FHCs are subject to restrictions as follows:

- The FMA must be notified in advance in writing if any person, in relation to an Austrian LCI (including CRR financial institutions not qualifying as CRR credit institutions), alone or with others, intends to:
 - Acquire or dispose of (directly or indirectly) a participation of 10% or more; or
 - Increase or decrease a qualified participation by reaching a 20%, 30% or 50% threshold of voting rights or capital.

(Banking Act).

The notification duty is triggered by the decision to acquire or dispose the stake, not by the closing date.

The parties must file with the FMA an ownership control notification including about 50 attachments, and obtain a non-objection decision from the ECB.

The FMA/ECB has 60 days from confirming receipt of a complete set of documents to decide whether to allow or prohibit the action or to abstain from issuing any statement. Once the 60-day period has elapsed, the acquisition or divestiture can be concluded.

The FMA/ECB assesses the suitability of the proposed acquirer and the financial soundness of the proposed acquisition in terms of reputation, financial soundness, effective supervision and money laundering risk, among others.

The credit institution itself must also notify the FMA of the ownership change, but only after closing.

- Credit institutions or MFHCs or FHCs intending to acquire or dispose of (directly or indirectly) a material holding in any other entity must notify the FMA respectively the consolidating supervisory authority in advance in writing. A material holding is one of 15% or more of the eligible capital of the proposed acquirer/divesting party (Banking Act).

The FMA/consolidating supervisory authority have 60 days from confirming receipt of a complete set of documents to decide whether to allow or prohibit the action or to abstain from issuing a statement.

Once the 60 days have elapsed, the acquisition or divestiture can be closed.

The assessment criteria are the proposed acquirer's capacity to comply with the Banking Act, the CRR and other applicable EU laws and any assessed risk of AML/TF violations.

- Credit institutions or MFHCs or FHCs intending to execute a material transfer of assets or liabilities by a sale or other transaction to any other entity must notify the FMA respectively the consolidating supervisory authority in advance in writing (Banking Act). A material transfer is one of at least 10% of the entity's total assets or liabilities, and at least 15% for intra-group transfers. There is no assessment procedure by an authority relating to material transfers of assets and liabilities.

Transfers of the following are exempt from notification:

- Non-performing loans.
- Assets to be included in cover pools under the EU Covered Bonds Directive.
- Assets to be securitised.
- Assets and liabilities in the context of resolution.
- Additional approval by the Minister for Digital and Economic Affairs is required for the acquisition of direct or indirect holdings of 25% and 50% in the voting rights of Austrian undertakings of critical infrastructure (including banks, see [Question 13](#)) (*Foreign Investment Screening Act* (*Investitionskontrollgesetz*) (*InvKG*)).
- Other reporting requirements include the following:
 - Articles 130 and following of the [Stock Exchange Act](#) (*Börsengesetz* 2018 (*BörseG*)) governing notification obligations of purchasers and sellers of shares in a stock corporation having its registered seat and listed on a regulated market in Austria.
 - Transparency Regulation (*Transparenz-Verordnung* 2018) which details investor's transparency obligations under Articles 130 and following of the Stock Exchange Act.
 - SSA (Article 14 and following) governing acquisitions and divestitures of shares in investment firms licensed in Austria.
 - Regulation on the Control of Ownership (*Eigentümerkontrollverordnung* 2016) which provides pre-closing transparency obligations in terms of investments in Austrian LCIs, investment firms, insurance undertakings, payment institutes and e-money-institutes.
 - [Takeover Act](#) (*Übernahmegesetz* 1998 (*ÜbG*)) setting out notification obligations in connection with takeover transactions in targeted Austrian stock corporations listed on an Austrian or EU regulated market.

Non-compliance with reporting obligations can result in administrative sanctions and usually in many of the cases described above results in a suspension of voting rights.

Mergers and Divisions

Additional legal restrictions are required for bank mergers and divisions. Generally, a cross-border merger/division or merger/division of entirely national credit institutions requires an assessment by the FMA in the course of a non-objection notification procedure.

Special FMA approval is, however, required for:

- Reaching, exceeding or falling below 10%, 20%, 33% and 50% of the voting rights or capital of a credit institution domiciled in a third country, all by a LCI.
- Any change in the corporate form of a credit institution.

Institutions and MFHCs and FHCs intending to carry out a merger or a division with any other entity must notify the FMA or consolidating supervisory authority after the adoption of the merger plan or division (spin-off) plan but before completing the proposed operation. Certain information detailed in FMA regulations or in RTS issued by the European Commission must be submitted.

The notification must be filed with the authority which will become the competent supervisory authority for the entity resulting from the merger or division. This is the ECB if the resulting entity's assets reach or exceed EUR30 billion or if the total assets amount to more than 20% of the GDP of the member state of the resulting entity's incorporation (unless the total asset amount is less than EUR5 billion).

The FMA/consolidating supervisory authority must notify the institution/MFHC or FHC of the envisaged end of their assessment period. Where all relevant entities are credit institutions or MFHCs or FHCs of the same group or association of affiliated credit institutions, the assessment period is a maximum of 60 working days.

The assessment criteria used are:

- The reputation and financial soundness of all entities involved.
- The resulting entity's capacity to comply with the prudential requirements of the CRR, the Banking Act and other applicable acts.
- Whether:
 - the implementation plan is realistic and sound; and
 - there is a sufficient suspicion of increased risk of (attempted) AML/TF violations.

13. Are there specific restrictions on foreign shareholdings in banks?

The Foreign Investment Screening Act introduced a foreign direct investment (FDI) screening mechanism in line with the [FDI Screening Regulation](#) (EU) 2019/452.

Approval from the Minister for Digital and Economic Affairs must be sought by any non-EU, non-EEA and non-Swiss buyer of:

- Direct or indirect holdings of 25% and 50% in voting rights.
- Attainments of controlling influence.
- Acquisitions of substantial assets linked with a controlling influence, all in Austrian undertakings of critical infrastructure including banks.

The application must (at the latest) be filed without delay after the signing date. Before this date, the applicant can apply for a clearance certificate that a specific FDI does not trigger the regulatory approval requirement.

The new approval requirement comes with a reporting requirement for the Austrian target undertaking if that entity is not mentioned on the pending application.

Non-compliance with the approval procedure results in the invalidity of the envisaged FDI transaction and triggers administrative fines.

In addition, the notification procedures set out in [Question 12](#) apply.

The FMA/ECB can refuse approval for major shareholders (owners) or withdraw the banking licence from insufficiently reliable owners of Austrian licensed banks, non-transparent group structures or owners presumed to be preventing efficient supervision by FMA/ECB.

Liquidation and Resolution

14. What is the legal framework for the liquidation of banks?

The rules on insolvency proceedings, which also apply to the liquidation of banks (credit institution), are found in the [Insolvency Act](#) (*Insolvenzordnung*).

The Banking Act contains specific insolvency provisions applying only to credit institutions.

In practice, the resolution rules (*see* [Question 15](#)) are applied by the FMA/SRB before insolvency proceedings over a credit institution's assets are filed at the competent court.

The precedence of resolution proceedings over liquidation/insolvency proceedings is unaffected by Directive ([EU](#)) [2026/806](#) (BRRD III), but the "public interest"-test of the FOLTF decision will be changed to the effect as follows:

- FOLTF and no reasonable private or supervisory alternative and resolution will be necessary and proportionate to protect an endangered resolution objective and insolvency is not more effective than resolution (from 12 May 2028).

- Extraordinary public financial support, costs of industry-funded safety nets over taxpayer-funded safety nets and continuity-of-critical-functions to be considered also on a regional level must be taken into account in applying the public interest test. General insolvency proceedings might (as an exception) prove more effective than resolution proceedings.

Credit institutions' management boards must immediately notify the FMA in the case of illiquidity or over-indebtedness, without the usual 60-day grace period applying to non-banks.

While a debtor and its creditors can generally file for bankruptcy, only the FMA can do so on the credit institution's behalf outside receivership proceedings.

In addition, while other debtors can file for reorganisation proceedings under the Insolvency Act, this route is not available for credit institutions, which can be subject to receivership (*Geschäftsaufsicht*) instead (Article 81 and following, Banking Act).

Receivership proceedings are reserved for banks and can be brought by the credit institution itself (in addition to the FMA). Under receivership, a court-appointed receiver responsible for the business reorganisation of the institution assumes control and manages the business. The bank's liabilities are deferred by law. Unless the court orders otherwise, the credit institution can continue its business while receivership is in effect. If the proceedings are successful, the credit institution can avoid liquidation.

Liquidation proceedings without insolvency of the bank follow general corporate law rules, as follows:

- A dissolution resolution is taken in the shareholders' general meeting.
- The bank enters into the corporate liquidation stage.
- The bank must change its firm and corporate purpose and liquidate its assets.
- The banking licence can voluntarily only be waived of once all banking activities have been settled.

Additional procedural rules must be observed if a CRR credit institution with customers in another EU member state becomes subject to insolvency proceedings or receivership proceedings based on [Directive 2001/24/EC](#).

15. What is the recovery and resolution regime for banks?

Obligations to Prepare Recovery Plans

Early intervention measures. In general, any bank recovery measure must be initiated and executed by the bank itself in line with its recovery plan on the basis of an indicator excess ("red light").

Recovery plans must be prepared in advance by any Austrian CRR credit institution and FHC and transmitted for approval to the FMA/SRB. The FMA/SRB can, at a later stage, impose early intervention measures based on the occurrence of certain triggers.

From 12 May 2028 (latest date of implementation for BRRD III), the NCA/ECB must verify and apply early intervention measures if:

- An institution or FHC or a consolidated CRR financial institution:
 - fails to comply with CRR or CRD (pillar 1) or with the SREP prescription (pillar 2); and
 - has not taken a remedial action required by the authority or action other than early intervention measures is not deemed sufficient.
- The MREL minimum requirement for resolution or non-resolution entities:
 - is violated or fails; or
 - will within 12 months highly likely fail to comply with the licence or conduct requirements for investment firms.

Early intervention measures will include dismissals of senior managers, of management board and/or supervisory board members, appointments of temporary administrators and requirements to draw up wind-down plans.

The FMA/SRB can only impose resolution measures if:

- The early intervention does not succeed.
- There is a public interest in the resolution.
- The bank fails or is likely to fail.
- There is no other alternative way (in particular a private sector investment) to prevent the bank's failure.
- For changes in the "public interest"-test resulting in a counterfactual analysis of the effects of normal insolvency proceedings versus resolution proceedings as to newly introduced criteria under BRRD III from 12 May 2028, see [Question 14](#).

Powers of the Regulator

The powers of the FMA/SRB include measures such as:

- Using DGS funds for financing business transfers or to bridge the MREL-8% TLOF (Total liabilities and own funds) gap (loss absorption requirement), from 12 May 2028 (implementation date for BRRD III).
- Paying off insured depositors.
- Creating a bridge bank to operate, settle claims, enter into temporary public ownership, convert debt into equity or write off liabilities (*see also below, [Resolution Tools](#) and [MREL Quotas](#)*).

The Financial Stability Board's standards on TLAC instruments have been implemented into Austrian law for G-SIIs, top-tier banks and other Pillar 1 banks only.

All other Austrian banks are only subject to the bank-specific MREL quota requirements prescribed by the FMA/SRB (*see [Question 11](#)*) to resolution entities including their resolution groups and to non-resolution entities.

Additional subordination minimum requirements may be applied by the FMA/SRB to non-Pillar 1 banks individually to safeguard compliance with the NCWO-principle.

Transfer of Business

This is an eligible resolution tool imposed by the FMA/SRB which can be executed without a third party's consent to affected agreements within the business. However, there are other protective provisions for third parties included in the BaSAG (*see below, [Resolution Tools](#) and [MREL Quotas](#)*).

Resolution Tools

The BaSAG, implementing BRRD, covers CRR credit institutions including CRR financial institutions, financial holding companies and branches of third country institutions to the extent they are part of a group of credit institutions.

The FMA is the competent resolution authority for LSIs in close co-operation with the OeNB. The SRM Regulation installs the SRB as the competent resolution authority for SIs.

The FMA/SRB must prescribe to resolution entities on a consolidated basis for their resolution groups two MREL quotas (risk-based and leverage-based, external MREL). The MREL for non-resolution entities is set at a solo level or sub-consolidated level, where applicable (internal MREL).

The additional subordination minimum requirements for eligible liabilities under MREL triggered the introduction of a new asset class under Austrian banking law known as "senior non-preferred" capital (section 131, BaSAG).

Priority ranking. The priority of deposits will from 12 May 2028 become extended to deposits of SMEs and households not fully covered by DGS but with the following modifications in the hierarchy of creditors in insolvency proceedings:

- Covered deposits and DGS claims subrogating to the claims of covered deposits retain their super-priority level.
- Non-covered deposits of SMEs and households rank below this level but above the level of other deposits.

- Other deposits, for example of large entities, rank below these.

All of the above deposits rank above the claims of ordinary unsecured creditors.

However, deposits which are solely MREL-eligible do not rank above the claims of unsecured creditors.

MREL-eligible deposits must be authorised by the resolution authority and cannot be held by natural persons and SMEs. They have an initial maturity of minimum one year without an early redemption right and the contracts must include an explicit referral to their use for MREL counting purposes and their lack of protection as DGS-covered deposits. This results in more transparency for deposits counting towards MREL as compared to other deposits.

See [Practice note: EU bank MREL framework](#).

Resolution tools. Resolution tools available to the competent resolution authority are:

- Transfer of shares or other instruments of ownership, other assets, rights or liabilities to a purchaser that is not a bridge institution.
- Transfer of assets, rights or liabilities of an institution to a bridge institution in public ownership.
- Transfer of powers, assets, rights and liabilities to an independent legal entity ("bad bank") that is publicly owned for the purpose of the management and sale of non-performing claims and assets (only to be applied in conjunction with another resolution tool).
- Conversion of liabilities (including capital instruments eligible as own funds) into (higher ranking) equity or the writing down of the principal or outstanding amount of the liabilities, for the purpose of the recapitalisation of an institution, for the capitalisation of a bridge institution, or during the sale of the business or during the separation of assets (creditor participation tool or bail-in).
- From 12 May 2028, DGS funds will be able to be used to finance business transfer or to bridge loss absorption gaps under BRRD III.

These resolution tools can be combined by the resolution authority with other instruments such as prescribing a temporary suspension of termination rights, reservation on enforcing security rights or write-off of liabilities.

MREL Quotas

MREL quotas are intended to:

- Safeguard resolvability and continuity of critical functions.
- Protect government funds and deposits covered by deposit guarantee schemes.
- Ensure financial market stability.

They are in principle individually determined for single credit institutions and must at all times be fulfilled by each bank.

This also applies to minimum subordination requirements, if applicable.

Additional mandatory MREL quotas and eligible subordination requirements apply to:

- Resolution entities at the level of the resolution group (external MREL).
- Subsidiary non-resolution entities at a solo level enabling a transfer of losses by write-down or conversion of bail-inable liabilities issued to and subscribed by parent resolution entities (internal MREL).
- From 12 May 2028, for resolution entities not covered by the SRM-Regulation whose resolution group's total assets exceed EUR30 billion and whose preferred resolution strategy primarily envisages the sale of business tool or bridge institution tool, the MREL must be at least 15% of TREA on a risk-weighted basis and 4.5% of TEM (total exposure measure) on a leverage basis.

Simplified Resolution Plan

Banks which are not G-SIIs, top tier banks or "fished banks" (entities qualified as top-tier banks due to their systemic risk by the SRB or by the FMA, despite not exceeding the EUR100 billion total asset threshold) are "other banks subject to resolution". All MREL and relating minimum subordination requirements must be complied with by CRR credit institutions and other entities belonging to the same credit institution group.

LSIs that are subject to a simplified resolution plan (about 320 in Austria) that will be resolved in regular insolvency proceedings are prescribed an MREL quota equalling their regulatory minimum capital requirement by the FMA as resolution authority.

Individualised Resolution Plan

LSIs which are subject to resolution proceedings (about 18 in Austria) are prescribed an MREL quota and must have full resolution plans.

Their MREL quotas are prescribed by the FMA/SRB and correspond to:

- The sum of:
 - a loss absorption amount equalling the Total SREP Capital Requirement Ratio (Pillar 1 and Pillar 2); and
 - a recapitalisation amount (equalling the Pillar 1 and Pillar 2 capital requirements including the Market Confidence Buffer);
- Market Confidence Buffer amounting to the Combined Buffer Requirement (CBR) minus the countercyclical capital buffer. Non-Pillar 1 banks subject to resolution proceedings may be subject to additional subordination MREL

requirements if the resolution authority deems this necessary to eliminate potential "no creditor worse off" (NCWO) risks, however, in general they do not have any subordination MREL requirement.

Pillar 1 Resolution Entities

Top tier banks and fished banks must fully be compliant with MREL quotas prescribed by the FMA/SRB and certain minimum subordination requirements.

However, GSIIIs, top tier banks and fished banks qualifying as resolution entities must comply with additional MREL minimum quotas.

Related disclosure (publication) requirements also apply.

16. Are there any protections available to customers of a bank that has failed?

Austrian Deposit Guarantee Schemes

There are currently three Austrian deposit guarantee schemes in Austria:

- [*Einlagensicherung Austria GmbH*](#) (ESA).
- [*Österreichische Raiffeisen-Sicherungseinrichtung eGen*](#) (ÖRS).
- [*Sparkassen-Haftungs GmbH*](#).

Deposit guarantee schemes protect savers and accountholders if a payout event occurs. A payout event occurs if:

- A bank is not in the position to repay deposits that are due.
- Insolvency proceedings are initiated regarding a bank.
- A supervised management procedure is imposed.
- An official payment stop is imposed.

The schemes cover credit balances held in current, salary, student and pensions accounts, savings books and accounts including term deposit accounts, securities clearing accounts and saving and loan contracts.

Deposits including interest of up to EUR100,000 per eligible depositor and bank are covered.

A depositor is the holder of a credit balance on a bank's accounts. Deposits held in foreign currencies are also covered, but are paid out in euros.

Credit balances held by natural persons irrespective of the nationality as well as by legal entities are covered.

Deposits made by public institutions or institutional investors such as credit institutions or insurance companies are not covered.

For joint accounts, all holders are entitled to claims in equal shares. The payout must take no more than seven working days from the payout event.

For a payout to be made, the depositor does not need to file an application but must inform the deposit guarantee facility that they hold an account.

Austrian Investor Compensation Schemes

There are three investor compensation schemes in Austria:

- Einlagensicherung Austria GmbH (ESA).
- Österreichische Raiffeisen-Sicherungseinrichtung eGen (ÖRS).
- Sparkassen-Haftungs GmbH.

Investor compensation is provided if a bank is unable to transfer or deliver securities to another custody account as instructed.

A payout occurs if a bank becomes subject to either:

- Bankruptcy or receivership proceedings or to a moratorium declared by an administrative authority.
- The determination of an agreement measure taken in another member state of a bank voluntarily having become a member of the Austrian compensation scheme.

Earnings that accrue between the occurrence of the compensation case and the payment of the secured amount are taken into account by the investor compensation scheme of up to:

- EUR20,000 for natural persons.
- 90% of the secured amount in the case of legal entities.

Amounts resulting from the recovery of the customer's securities (dividend income, current payments, redemption or sales procedures) are protected by the deposit guarantee scheme (up to EUR100,000 per customer).

Contrary to the procedural rules under the deposit guarantee scheme, a claim under the investor compensation scheme requires a written application to the scheme that must be submitted within 12 months of the date the payout case arose. The ESA compensates payout cases within three months from assessment of the amount due and a finding that the claim is justified.

See *Question 15, Resolution Tools*, for forthcoming changes under BRRD III implementation in relation to DGS claims and financing.

Conduct of Business

17. What conduct of business standards apply to banks' deposit-taking and lending activities?

The conduct standards for lending activities are based on:

- FMA ICAAP Minimum Standards (February 2024).
- FMA Minimum standards for the risk management and granting of foreign currency loans and loans with repayment vehicles (August 2023).
- FMA Minimum standards for the loan business and other transactions entailing counterparty risks (28 April 2022).
- EBA guidelines on loan origination and monitoring (EBA GL 2020/06 dated 29 May 2020).
- The Consumer Credit Act 2026 and the *Mortgage and Real Estate Credit Act* 2016 as well as implementing regulations issued by the FMA under these Austrian laws. There is extensive case law issued by Austrian courts relating to this legislation.
- The EU Commission's implementing regulations on the replacement of the CHF-LIBOR by SARON and on the replacement of EONIA by €STR, which apply to existing loans granted by Austrian credit institutions.
- Austrian and EU case law (rendered by the Supreme Court and by the ECJ) on:
 - section 879(3) of the Civil Code (validity control of general business conditions and of pre-formulated contractual clauses),
 - section 879(1) and (2) of the Civil Code (prohibition of usury loans and of violation of bonos mores); and
 - consumer protection laws.

- The Austrian KIM-Regulation (issued by the FMA in 2022) was replaced by an FMA circular (recommendation) on private residential real estate lending in 2025.

Deposit business conduct standards are as found in:

- Articles 31 and 32 of the Banking Act on savings books and accounts, and interpretative guidance issued by the FMA on the scope of "deposit business" triggering a licence requirement.
- FMA circulars on designing savings books, the disposal of balances on savings accounts and KYC rules to prevent AML risks.
- Extensive case law on the interpretation of the above statutory provisions.

The EBA's guidelines on internal governance, the management of ESG and operational risks remain unaffected by the above rules.

From 2025, banks and other finance entities have been required to introduce an extensive framework on governance and monitoring of ICT-risks beyond the EBA's guidelines and the NIS 2 rules ([DORA](#) and [Commission Delegated Regulation \(EU\) 2024/1773](#)), also governed by EBA guidelines.

The ECB issued a Guide on outsourcing cloud services in 2025 addressing the support of critical or important functions by cloud service providers.

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Areas of practice. Banking and finance, capital markets, tax law, financial services regulation, insurance supervision law, derivatives and investment funds (UCITS and AIFs).

Recent transactions:

- An Austrian holding company on reviewing its credit (financing) structure in the light of CRD VI third-country branch's licencing regime (2026).

- ODDO BHF SCA on the partial transfer of investment services business by an Austrian bank to ODDO BHF SCA resulting in the establishment of an Austrian branch (2025).
- Agri Europe Cyprus Ltd on its attempted takeover of a stake in Addiko Bank AG (2025 and 2026).
- EBRD on reselling its stake in Erste Bank Hungary Zrt to Erste Group Bank (year-end 2023).
- Hypo-Alpe-Adria Bank International, in project LUX on modelling a "bad bank".
- Republic of Austria, in the restructuring of Hypo Alpe Adria Bank International AG.
- OeNB on financial services regulatory and other issues (2022-2023 and 2026).
- Banking regulatory advice: BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG (repayment of participation capital), Svenska Handelsbanken AB (Austrian branch).
- Wiener Börse AG on regulatory, governance and securities laws questions.
- European Bank for Reconstruction and Development (EBRD) on converting its indirect stake in a listed Austrian bank into a direct participation and on exercising its pertaining voting rights.

Languages. German, English.

Professional associations/memberships. European Community Studies Organisation (ECSA) Austria.

Most recent publications:

- *Commentary on Sections 60 to 63b Austrian Banking Act (bank audit), in: Laurer/Schuetz/Kammel/Ratka, Bankwesengesetz-Kommentar (Sept 2026).*
- *Case Note on Supreme Court judgement 7 Ob 169/24i: Arrangement fees as reflected in the ECJ's most recent case law and the consequences for existing consumer loan contracts, ZFR 2025, 276.*
- *Case Note on Supreme Court judgement 10 Ob 23/23i: Liability for misstatements in prospectuses relating to real estate investments – legal boundaries for the prospectus controller's due diligence, ZFR 2024, 322.*
- *Commentary on Section 86a BaSAG, in Kammel/Schütz (Ed.) BaSAG-Bankensanierungs- und –abwicklungsgesetz (2024).*
- *The Austrian Banking Limited Liability Company (Bank-GmbH) in Foglar-Deinhardstein/Aburumieh/Hoffenscher-Summmmer (Eds.), GmbH Gesetz über Gesellschaften mit beschränkter Haftung (2024).*

- *Commentary on Articles 111 to 117 MiCAR, in Raschauer/Ficulovic/Knobl/Kreisl/Pfurtscheller/Pracht/Silbernagl/Stern/Wessely/Wolfbauer, Kommentar zur MiCAR-Markets in Crypto-Assets Regulation (2024).*
- *Commentary on Arts 12, 13 and 15 Market Abuse Regulation, in: Gruber (Ed.), BörseG 2018, MAR (2020).*
- *The Rules of Conduct pursuant to the Austrian Securities Supervision Act 2018 – Systematic Overview based on the Requirements of MiFID II, OeBA 2018, pp 460-478.*

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