

# Banking regulation in Austria: overview

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## LEGISLATION AND REGULATORY AUTHORITIES

### Legislation

#### 1. What is the legal framework for banking regulation?

Relevant sources of law governing banking regulation are:

- Austrian federal laws.
- EU regulations.
- Regulations issued by the Austrian Financial Market Authority (FMA).
- Binding Technical Standards (BTS) issued by the European Banking Authority (EBA) and EBA guidelines and recommendations.
- FMA standards, circulars and other forms of soft law interpreting the main federal laws.

The primary sources of banking regulatory law are the Banking Act (*Bankwesengesetz*) and Regulation (EU) 575/2013 on prudential requirements for credit institutions and investment firms (Capital Requirements Regulation (CRR)) together with Commission Delegated Regulations 2015/61/EU, 2015/62/EU and 2015/63/EU. The application of the CRR to credit institutions qualifying as CRR financial institutions is mandatory by virtue of a provision in the Banking Act.

The Banking Act governs the:

- Licensing of credit institutions and financial institutions (*Article 1*).
- Freedom of establishment and to provide services within the EEA (*Article 9 and following*).
- Ownership requirements (*Article 20 and following*).
- Rules on cover funds (*Deckungsstock; Article 66 and following*).
- Contractual terms such as for savings deposits (*Article 31 and following*), certain value date provisions and banking secrecy (*Article 38*).

The CRR (including the related BTS) covers:

- Minimum regulatory capital requirements and quality criteria for CET 1, AT 1 and T2 capital instruments.
- Limits on large exposures, new liquidity rules and limits on qualifying holdings outside the financial sector.
- Leverage ratios and disclosure requirements on credit institutions and investment firms.

Other relevant federal laws are the:

- Building Society Act (*Bausparkassengesetz* (BSpG)) which regulates the operation and supervision of building savings bank (*Bausparkassen*).
- Investment Fund Act (*Investmentfondsgesetz*) which regulates the operation and management of investment funds and the

Austrian Real Estate Investment Fund Act (*Immobilieninvestmentfondsgesetz*).

- Alternative Investment Fund Management Act (*Alternative Investmentfonds Manager-Gesetz*) which contains licensing and supervision of certain managers of collective investment undertakings.
- Securities Supervision Act (*Wertpapieraufsichtsgesetz*) which sets out regulations on financial instruments trading and compliance.
- Capital Market Act (*Kapitalmarktgesetz* (KMG)) which provides for rules on public offerings of securities and other capital investments.
- Payment Services Act (*Zahlungsdienstegesetz*) which regulates the performance of payment services.
- Financial Market Money Laundering Act (*Finanzmarkt-Geldwäschegesetz*) which stipulates statutory due diligence obligations relating to money laundering and terrorism financing.
- Capital Outflows Reporting Act (*Kapitalabfluss-Meldegesezt*) which imposes the obligation to report capital outflows to and inflows from Switzerland and Liechtenstein.
- Account Register and Account Inspection Act (*Kontenregister- und Konteneinschaugesetz*) which introduced a central registry for bank accounts and deposits established with Austrian credit institutions.
- In addition, there are a number of federal laws implementing EU Directives such as the:
  - Remote Financial Services Act (*Fernfinanzdienstleistungsgesetz*);
  - Financial Collateral Act (*Finanzsicherheitengesetz*);
  - E-Money Act (*E-Geld Gesetz*);
  - Consumer Loan Act (*Verbraucherkreditgesetz*);
  - Mortgage Credit Act (*Hypothekar- und Immobilienkreditgesetz*);
  - Consumer Payment Account Act (*Verbraucherzahlungskontogesetz*);
  - Deposit Guarantee Schemes and Investor Compensation Act (*Einlagensicherungs- und Anlegerentschädigungsgesetz* (ESAEG));
  - Common Reporting Standard Act (*Gemeinsamer Meldestandard-Gesetz*);
  - Act on the Recovery and Resolution of Banks (*Sanierungs- und Abwicklungsgesetz* (BaSAG)).

Secondary and tertiary EU banking supervisory legislation has been implemented into Austrian law or applies directly, leaving little room for specific Austrian banking regulations.

## Regulatory authorities

### 2. What are the regulatory authorities for banking regulation in your jurisdiction? What is the role of the central bank in banking regulation?

#### Lead bank regulators

These are the:

- European Central Bank (ECB).
- Financial Market Authority (FMA).
- Austria's central bank (*Oesterreichische Nationalbank* (OeNB)).

ECB. The ECB is responsible for banking supervision in the Euro area under the Single Supervisory Mechanism (SSM) and supervises eight significant institutions in Austria, in conjunction with the FMA and the OeNB.

Since 4 November 2014 and partly 30 December 2015, the following have been directly supervised by the ECB:

- BAWAG PSK Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG (owned by Promontoria Sacher Holding NV).
- Erste Group Bank AG.
- Volksbank Wien AG.
- Raiffeisen-Holding Niederösterreich-Wien registrierte Genossenschaft mit beschränkter Haftung.
- Raiffeisenlandesbank Oberösterreich Verbund eGen.
- Raiffeisen-Landesbanken-Holding GmbH.
- Sberbank Europe AG.
- VTB Bank (Austria) AG.

The ECB applies the relevant provisions of EU and national law to significant credit institutions or groups of credit institutions. In addition to applying European Regulations and Directives, binding Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS) drawn up by the EBA, it applies national legislation, such as the Banking Act.

**FMA.** The FMA is the supervising authority for less significant banks, institutions and groups of credit institutions, while the OeNB is responsible for their overall risk assessment. The FMA is also the supervising authority for insurance companies, pension funds, investment firms, investment management companies and payment services providers.

The FMA must act in accordance with the Banking Act, the Capital Requirements Regulation (CRR), Regulation (EU) 1024/2013 concerning policies relating to the prudential supervision of credit institutions (Single Supervisory Mechanism (SSM) Regulation) and applicable EBA guidelines and recommendations, and with due attention to financial stability, the smooth functioning of the banking system and creditor protection.

The authority can take official measures and pass certain regulations specifying supervisory obligations of less significant credit institutions. The FMA is responsible for enforcing its own administrative decisions, except for orders imposing administrative penalties.

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

The FMA is also responsible for implementing the resolution decisions of the Single Resolution Board (SRB), an EU agency qualifying as a legal entity and acting as resolution authority for significant credit institutions in the Eurozone.

As a resolution authority, it has the power to demand the:

- Implementation of measures from the recovery plan.
- Dismissal of managing directors.
- Initiation of creditor negotiations for debt restructuring.
- Convening of a shareholders' meeting.
- Making of changes to the operational or legal structures of the institution (*see also Question 24*).

**OeNB.** As well as its role in economic policy (*see below, Central Bank*), the OeNB supervises payment and settlement systems and conducts on-site inspections of significant institutions on behalf of the ECB and of less significant institutions on behalf of the FMA.

In addition, it provides:

- Reports about on-site inspections commissioned by the ECB or the FMA.
- Expert opinions on risk assessment models after a bank has submitted an application for approval.

These reports provide the basis for any official measures (administrative steps) to be taken by the ECB or the FMA. A credit institution has the right to express its opinion on the inspection report (*Article 71(6), Banking Act*).

#### Other authorities

These include:

- State commissioners.
- Austrian Control Bank (*Oesterreichische Kontrollbank AG* (OeKB)).

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

**State commissioners.** These are representatives of and accountable to the FMA. They are appointed for a maximum term of five years, have to be invited by the credit institution to company meetings and audit committees, and must object to resolutions that violate administrative decisions of the Federal Minister of Finance or the FMA. They 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.

**OeKB.** This is Austria's main provider of financial and information services to the export industry and the capital market. In particular, issuers of securities and fund companies can fulfil their reporting and disclosure obligations by using the OeKB's electronic reporting platforms.

#### Central bank

**OeNB.** The OeNB contributes to monetary and economic policy decision making in Austria and in the Euro area.

The primary focus of the OeNB is safeguarding domestic financial stability and supplying high-quality, counterfeit-proof cash. In addition, it manages reserve assets, that is, gold and foreign exchange holdings, draws up economic analyses, compiles statistical data, is active in international organisations and oversees payment systems (*see above, Lead bank regulators*).

## BANK LICENCES

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

#### Types of licence

The European Central Bank (ECB) licenses CRR credit institutions in SSM member states. The scope of the licence issued by ECB, however, also covers regulated activities under Austrian law other than taking deposits from the public and granting credits (see *below, Regulated activities*).

The Financial Market Authority (FMA) licenses all credit institutions headquartered in Austria that do not qualify as less significant CRR credit institutions but qualify as non-CRR credit institutions under Austrian law (usually CRR financial institutions).

Banking transactions that require a licence are listed in the Banking Act (*Article 7*).

Licences can be made 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 provide banking services in other member states by way of freedom to provide services or by using the freedom of establishment (*Article 10, Banking Act*).

A credit institution wishing to establish a branch in another member state must notify the FMA and provide prescribed information. The FMA must within three months of receipt of the information send it to the competent authority of the host member state, and within the same period inform the credit institution by administrative decree.

A credit institution envisaging carrying out its activities in another member state for the first time must notify the FMA, which must inform the competent authority of the host member state within one month of receiving the notification.

The ECB acts as home member state supervisory authority regarding significant Austrian CRR credit institutions that intend to provide services or establish a branch in member states outside the SSM area.

#### Regulated activities

A CRR credit institution is defined as an undertaking which takes deposits or other repayable funds from the public and grants credit for its own account (*Article 4, paragraph 1, Regulation (EU) 575/2013 on prudential requirements for credit institutions and investment firms (Capital Requirements Regulation)*).

Austrian law requires a banking licence for financial activities carried out for commercial purposes by credit institutions known as "non-CRR credit institutions" in Austria, including one or more of the following types of business:

- Deposits.
- 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.
- Securities underwriting.
- Building savings and loans.
- Investment funds.
- Real estate investment funds.
- Capital financing.

- Factoring.
- Money brokering transactions on the interbank market.
- Transactions relating to banking deposits, lending, guarantees and foreign exchange.
- Severance and retirement funds.

Austrian credit institutions (see *above*) can apply for limited licences that only cover some of the above listed banking transactions. Credit institutions that have obtained a licence for the deposit business and the lending business, as well as those that have obtained a licence for the current account business or the issue and administration of payment instruments, are by law authorised to:

- Issue electronic money in accordance with the Austrian E-Money Act.
- Provide certain payment services in accordance with the Austrian Payment Services Act.

#### 4. What is the application process for bank licences?

##### Application

The licensing process for a CRR credit institution (both significant or less significant institutions, see *Question 2*) is as follows:

The Financial Market Authority (FMA) assesses the application on the basis of the conditions in the Banking Act. If it considers that the application complies with CRR requirements, it prepares a draft decision and sends it to the ECB for a decision.

The ECB conducts its own assessment of the application based on the FMA's draft decision, and makes a final decision which is then notified to the applicant.

Licensing applications for Austrian non-CRR credit institutions (for example, CRR financial institutions) or branches of foreign credit institutions are conducted entirely by the FMA.

A link to the contact form for legal enquiries about business models can be found at: <https://www.fma.gv.at/en/banks/licencing-notification/contact-form-for-legal-enquiries-about-business-models/>

##### Requirements

Austrian non-CRR credit institutions as well as branches of foreign credit institutions must obtain a licence from the FMA (*Article 4(1)(a), Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (SSM Regulation)*). The ECB also verifies that the requirements under Austrian law are fulfilled.

- The credit 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, a forecast about the 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 qualifications for operating the undertaking.
- Identities and addresses of agents.

The licence will be issued by the FMA (or the ECB for CRR credit institutions) if the:

- Undertaking is to be a joint-stock company (including Societas Europea), a co-operative society or a savings bank.
- 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)*).
- Capital, liquidity and solvency of the institution will prospectively be sufficient.
- 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.
- FMA is not prevented from fulfilling 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 or members of the supervisory board are financially sound not facing, for example, criminal charges or convictions or bankruptcy proceedings).
- Directors are sufficiently fit and proper for operating the institution and the members of the supervisory board have sufficient professional qualifications and experience to exercise their function.
- Directors commit sufficient time to perform their functions.
- Centre of at least one director's interests is in Austria.
- Institution has at least two directors and the articles of association rule out individual powers of representation, individual powers of commercial representation and individual commercial powers of attorney for the entire business operation or, in credit co-operatives, the management of the business is restricted to the directors.
- None of the directors have another main profession outside the banking industry or outside insurance undertakings or pension funds.
- Place of establishment and the head office of the credit institution is located in Austria.

Other requirements are that at least one director speaks German and that there is an adequate programme of operations.

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

- Programme of operations.
- Governance (fitness and propriety of board members and suitable shareholders).
- Sufficient capital, liquidity and solvency.
- Compliant internal organisation (risk management, compliance, audit, and AML officer).

### Foreign applicants

A foreign (non-EU and non-EEA headquartered) credit institution that applies for a licence to operate a branch in Austria (as opposed to subsidiaries, for whom the licence procedure above applies) must enclose the following information and documents (in addition to the information listed above):

- 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.

### Timing and basis of decision

The granting of a licence for non-CRR credit institutions is declared by the FMA by a written administrative decision. The procedure lasts between six and 12 months and in exceptional cases may take longer.

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.

The application procedure for CRR credit institutions lasts between six and 12 months. The licence can be subject to conditions and requirements and limited in scope, usually based on a recommendation by the FMA. 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 has to consult the Central Bank (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 must also consult the relevant protection schemes before issuing the licence.

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 other investment or banking services.

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

The FMA 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*).

### Cost and duration

The FMA fee for issuing a licence for the operation of bank transactions is EUR10,000, the administrative decision fee is EUR100 and the extension fee for a licence is EUR2,000. The costs of the licence proceedings also depend on whether the applicants engage a lawyer. There are also annual ongoing costs for the licence.

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

A licence lapses:



- On expiry of its term.
- If one of the conditions for dissolution is met (*Article 4(2), Banking Act*).
- If the licence is relinquished.
- On the merger or demerger of relevant credit institutions.
- On the entry of a European company (*Societas Europaea; SE*) or a European co-operative society (*Societas Cooperativa Europaea; SCE*) into the registry of a new state of a registered office.

The lapsing of a licence must be declared by the FMA by an administrative decision.

A licence can be revoked by the competent supervisory authority if the business activities for which the licence was applied for are not commenced within 12 months of the licence being granted, or ceases to be conducted for longer than six months (*Article 6(1), Banking Act*).

The competent supervisory authority must revoke a licence if, for example, (*Article 6(2), Banking Act* and *Article 18, SSM Regulation*):

- The licence was obtained on the basis of incorrect information.
- Certain prudential requirements have not been fulfilled.
- Obligations to creditors have not been fulfilled.
- Bankruptcy proceedings have been initiated against the assets of the credit institution.
- The credit institution has adopted a corporate resolution to dissolve the undertaking and all banking transactions have been settled.

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

Cross-border banking activities are governed by:

- Directive 2013/36/EU on capital requirements (Capital Requirements Directive IV (CRD IV)) (*Articles 33 to 39*).
- Banking Act (*Articles 9 to 19*).
- EBA Binding Technical Standards (BTS) on the passporting and the supervision of branches (enacted as Commission Delegated Regulation (EU) 1151/2014 supplementing Directive 2013/36/EU and Commission Implementing Regulation (EU) 926/2014).

CRR credit institutions 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 them to do so (*Article 1a(1), paragraph 1, Banking Act*).

CRR credit institutions authorised in an EEA member state are in principle already authorised on the basis of their licence in their home state to also provide banking operations in other member states under the "single licence principle". Cross-border activities can either be conducted 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.

CRR credit institutions incorporated outside Austria but within the EEA must notify their home supervisory authority of their intention to conduct activities in Austria. This authority must in turn inform the FMA.

There are supplementary rules in Regulation (EU) 468/2014 (EU mechanism for banking supervision (SSM framework regulation)) for the passporting related division of powers between the ECB and the FMA, for CRR credit institutions located in or outside Eurozone member states but within the EU or the EEA.

## FORMS OF BANKS

### 6. What forms of bank operate in your jurisdiction, and how are they generally regulated? Does the regulatory regime distinguish between different forms of banks?

A bank is defined as a legal entity authorised to conduct banking activities as listed in the Banking Act which provides for two types of institutions:

Credit institutions (*Kreditinstitute*) encompassing CRR credit institutions and non-CRR credit institutions (the latter usually qualifying as CRR financial institutions).

Financial institutions (*Finanzinstitute*), apart from electronic money institutions and payment institutions not qualifying as CRR financial institutions.

The Banking Act does not distinguish between categories of banks such as universal, commercial, retail, investment, private or other banks. However, both Austrian and EU law define the following types of institutions in specific regulatory contexts:

Credit institutions of significant relevance (*Article 5(4), Banking Act*).

Credit institutions whose total assets exceed EUR1 billion or which have issued transferable securities that are admitted to listing on a regulated market (*Articles 29, 39c, 39d and 63a(4), Banking Act*).

Significant supervised institutions and groups from less significant supervised institutions and groups (*Article 2, paragraphs 16 and 23, SSM Framework Regulation*).

Globally or nationally systemically important institutions (*Articles 23b and 23c, Banking Act*).

In January 2017, there were 679 credit and financial institutions licensed in Austria, 496 banks headquartered in the European Economic Area (EEA) conducting business in Austria and 29 EEA banks established in Austria. Only eight of these 679 institutions were classed as significant in terms of the ECB's competence for prudential supervision. Only seven of these were classed as nationally systematically important institutions and none were classed as globally systematically important institutions.

### State-owned banks

There are the following state-owned banks:

- The Oesterreichische Nationalbank (OeNB) (*see Question 2*) is the most important state-owned bank and is established as a stock corporation under the Act on the Oesterreichische Nationalbank (*Nationalbankgesetz* (NBG)). Its shares are solely owned by the state. The bank's legal foundations are the:
  - Statute of the European System of Central Banks and of the ECB;
  - Act on the Austrian National Bank;
  - Foreign Exchange Act;
  - Banking Act;
  - Act on the Institution and Organisation of the Financial Market Authority.

The OeNB has a duty to ensure financial stability and money supply in Austria.

- KA Finanz AG (the bank responsible for the structured wind-down of the former Kommunalkredit AG's non-strategic loan, securities and CDS portfolio).
- Heta Asset Resolution AG (HETA) as the wind-down unit converted out of the Hypo Alpe-Adria Bank International AG by special law. HETA no longer has a banking licence, but can perform limited banking activities for wind-down purposes only, except for accepting deposits from the public and providing investment services and activities.
- Immigon Portfolioabbau AG is a wind-down unit governed by Article 162 of the Austrian Act on Bank Recovery and Resolution without a banking licence ("bad bank"). Its assets stem from the former Oesterreichische Volksbanken AG (ÖVAG).

The Austrian Control Bank (*Oesterreichische Kontrollbank AG* (OeKB)), though not state-owned, acts as a central financial and information service provider to the export sector and the capital market. It is entitled to issue guarantees on the state's behalf, and to promote exports in international trade. Its subsidiary "OeKB CSD GmbH" is the Austrian Central Securities Depositor (CSD).

### Universal banks, commercial and retail banks

There is no regulatory division of banks into universal, commercial or retail banks. A universal bank would be a bank that has obtained licences to conduct activities in all relevant aspects of Article 1 of the Banking Act. The same applies for commercial and retail banks. Requisite licences can be "tailored" to fit a bank's needs.

In the context of commercial and retail banks, regional mortgage banks (*Landes-Hypothekenbanken*) are specifically licensed in line with the Banking Act and predecessor laws.

### Investment banks

Investment banks are banks licensed to conduct investment and securities related activities under the Banking Act. Depending on the scope of investment activities, a licence is required for:

- Issue and administration of payment instruments.
- Foreign exchange and foreign currency business.
- Trading in money market instruments.
- Futures and options.
- Forward rate agreements and equity swaps trading.
- Securities.
- Derivatives.
- Securities underwriting
- Managing real estate investment funds.
- Capital financing.

### Private banks

Private banks and family offices play a relatively minor role in the banking landscape. As with other types of banks, they may need to be licensed for a variety of banking or investment or AIFM activities, depending on the services offered by the bank (such as discretionary portfolio management or management of an AIF). The largest private banks are owned by the largest Austrian or non-Austrian commercial and retail banks.

### Other banks

A pension fund (*Pensionskasse*) is a private asset management company for the purpose of investments for retirement. Savings banks (*Sparkassen*) are supposed to secure local credit needs and finance trade, commerce, and social infrastructure. They are subject to a specific corporate law regime.

Financial institutions, though not banks in a strict sense, are authorised to conduct one or more of the following activities, if conducted as their main activities:

- Leasing business.
- Providing advice on capital structure, industrial strategy and related questions, advice and services related to mergers and acquisitions.
- Credit reporting services.
- Safe deposit services.
- Payment services under the Payment Services Act.
- Issuing e-money under the E-Money Act.

Financial institutions are, with minor exceptions, generally not subject to the Banking Act and no licence needs to be obtained. Other licences such as under the Austrian Trade Code (*Gewerbeordnung*), the Payment Services Act or the E-Money Act may be required.

### Regulation of systemically important financial institutions (SIFIs)

The Banking Act (*Article 23c*) includes a special capital buffer regime for national Systemically Important Financial Institutions (Other SIFIs). An institution is classified as a national SIFI by the FMA if its failure could cause a national systemic risk. The FMA can require SIFIs to implement a capital buffer of up to 2% of common equity Tier 1 (CET 1) capital in addition to the capital requirements set out in the CRR (*Article 92*). The buffer must not lead to "unreasonable adverse effects" on the financial market of the EU or the financial markets of other member states, and must be re-evaluated on an annual basis. The individual buffer requirements for the 7 Austrian national SIFIs are 1% or 2% of the risk-weighted asset in CET 1 capital (*FMA Regulation on Capital Buffers (Federal Law Gazette No. 435/2015, as amended)*).

## ORGANISATION OF BANKS

### Legal entities

### 7. What legal entities can operate as banks? What legal forms are generally used to operate as banks?

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

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

Credit institutions cannot be established in the corporate form of joint partnerships (*OG*), limited partnerships (*KG*) or 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.

### Corporate governance

### 8. What are the legislative and non-legislative corporate governance rules for banks?

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

For example, the organisational structure of a stock corporation has three corporate layers:

- General meeting.
- Supervisory board.
- Management.

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

The management board is solely responsible for running the company and is not subject to instructions from the annual general meeting nor from the supervisory board. It is also responsible for compliance, risk management, independent audit and AML/CTF monitoring.

Under the Banking Act, management boards of credit institutions qualifying as credit institutions whose total assets exceed EUR1 billion or which have transferable securities listed on a regulated market must establish at least four mandatory committees to supervise the different aspects of the business, namely:

- Nomination committee. This committee prepares the appointments of the members of the management body before the external (FMA/ECB) "fitness and propriety" procedure will be applied.
- Remuneration committee. The remuneration committee supervises the remuneration policy, practices and incentive structure in each case in the context of controlling, monitoring and limiting risks and has to prepare decisions on remuneration by the supervisory board.
- Risk committee. The risk committee must advise the management body on risk matters.
- Audit committee. This committee supervises the audit and issuance of financial statements, the internal control system, audit function and risk management system.

## 9. What are the organisational requirements for banks?

To form an Austrian AG or GmbH the articles of association have to be set out in the form of a notarial deed and registered in the commercial register. To engage in banking, prior approval by the supervisory authority is required. Banks are in general subject to a number of organisational requirements. The Financial Market Authority (FMA) has published a detailed set of guidelines. The application and/or the scope of the organisational regulations depend on the type, scope and complexity of the business activities, investment services and other activities.

An institution which is a legal entity has to implement a comprehensive set of organisational requirements, such as establishing an organisational structure and maintaining a decision-making process to allow the clear documentation of reporting obligations and allocated functions and responsibilities (*Articles 17 and 19, Securities Supervision Act*).

The institution has to establish an internal reporting system, maintain adequate and systematic records of business activities and internal organisation and ensure the proper, fair and professional performance of tasks. It must establish mechanisms to safeguard security and confidentiality of information, ensure continuity and regularity of investment services and activities and establish effective and transparent customer service procedures.

## 10. What are the rules concerning appointment of auditors and other experts?

A separate organisational unit for auditing tasks must be established for certain credit institutions, including those which: (*Article 42, Banking Act*):

- Have a balance sheet total exceeding EUR150 million.
- Have more than 150 employees.
- Is affiliated to a credit institutions' group or to an affiliation of credit institutions and has a balance sheet total of EUR1 billion.

In other cases the audit function can be outsourced. This unit can also undertake the auditing tasks set out in the Securities Supervision Act.

Smaller credit institutions offering investment services that do not meet the size criteria of Article 42 must audit in accordance with the Securities Supervision Act (*Article 20*).

The audit is required to establish, implement and maintain an audit plan and to support management of banking business risks.

## 11. What is the supervisory regime for management of banks?

Under Austrian banking and corporate law, management boards are monitored and supervised by the:

- Board's risk manager, compliance officer and other board members.
- Internal auditor.
- Supervisory board and shareholders.
- State commissioner (*see Question 2*).
- External bank auditor.
- Lead bank regulators (*see Question 2*) (FMA/ECB and the OeNB).

Any change in the person of a management or supervisory board member must be notified in advance to the Financial Market Authority (FMA). This also applies to the head of internal audit, but not to changes of other key function holders.

Management supervision is mainly carried out by the supervisory board (*see Question 8*). The supervisory board must consist of at least three members, excluding representatives of works' councils who are entitled to delegate one representative for every two shareholder representatives to the board.

To ensure transparency and independence of members, candidates nominated for election to the board must be examined for:

- Expert knowledge.
- Professional qualifications and experience.
- Potential conflicts of interest.

Annual projections and quarterly reports as well as special reports about imminent crises must be presented to the supervisory board, which must convene on a regular basis (at least four times a year). The board can at any time audit itself or commission experts to conduct such audits. It approves the annual financial statements and arranges for the audit and approval of the consolidated financial statements.

Exchange-listed stock companies must set up an audit committee of the supervisory board, of which one member has to be a financial expert.

## 12. Do any remuneration policies apply?

Credit institutions must generally have a remuneration policy and practices.

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

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

- Financial Market Authority (FMA) and central bank (OeNB) guidelines.
- European Banking Authority (EBA) guidelines, recommendations and technical standards such as the:
  - Guidelines on Sound Remuneration Policies CRR dated 27 June 2016;
  - Guidelines on Remuneration Policies and Practices related to the sale and provision of retail banking products and services dated 28 September 2016 (*applicable 13 January 2018*).
- Sectoral remuneration guidelines applying to mutual funds management companies (UCITS) and Alternative Investment Funds (AIFMs) that are subsidiaries of Austrian licensed credit institutions.

The credit institution's supervisory board (or its remuneration committee) is in charge of examining and approving the remuneration policy. It has to monitor and implement the policy in practical terms. For certain banks a special remuneration committee must be established (*see Question 8*). The management board, however, remains responsible for the implementation of the remuneration policies.

Remuneration policies must differentiate between principles applying to all employees and those which apply to specific groups of employees only, such as management board members, risk takers and staff engaged in control functions ("identified staff"). Material risk takers (having a material impact on the institution's risk profile) have also to be identified (*Delegated Regulation (EU) 2014/604 supplementing Directive 2013/36/EU on capital requirements (Capital Requirements Directive IV)*).

## 13. What are the risk management rules for banks?

A risk management function must be established by law (*Banking Act and Article 435, Capital Requirements Regulation (CRR)*) for the purpose of control, monitoring and limitation of all risks pertaining to banking business and banking operations (*Article 39(5), Banking Act*).

Credit institutions of any legal form with total assets in excess of EUR1 billion or which have issued transferable securities listed on a regulated market must have a risk management function independent from the operational business function.

The risk management policies must be in accordance with the Securities Supervision Act (*Article 19*). A credit institution has to disclose at least once a year details of its risk management objectives and policies (*Article 435, CRR*).

The generally applicable rules on SIFIs under the Banking Act relate to the introduction of a systemic risk buffer (*see Question 17*). The consequence of non-compliance with these is that certain restrictions on dividend distribution and the establishment of a capital maintenance plan must be applied by the credit institution.

## LIQUIDITY AND CAPITAL ADEQUACY

### Role of international standards

## 14. What international standards apply? How have they been incorporated into domestic law/regulation?

Most parts of Regulation (EU) 575/2013 on prudential requirements for credit institutions and investment firms (Capital Requirements Regulation) (CRR) as well as the amendments of the Banking Act implementing Directive 2013/36/EU on capital requirements (Capital Requirements Directive IV) (CRD IV) into Austrian law entered into force on 1 January 2014.

The CRR mainly regulates solvency requirements for credit institutions and investment firms as well as liquidity coverage ratios and the disclosure of non-mandatory leverage ratios. CRD IV requires credit institutions to maintain certain capital buffers consisting of core equity capital. In addition, the European Banking Authority must issue Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS) further specifying the EU regulations. The EBA Standards have become binding and applied by credit institution and regulatory authorities of EU member states, through the adoption of delegated EU Commission regulations (for example, Commission Delegated Regulation (EU) 2015/923 and the LCR Regulation or Commission Delegated Regulation (EU) 2015/61).

### Main liquidity/capital adequacy requirements

## 15. What liquidity requirements apply?

Credit institutions must ensure that they are able to meet their payment obligations at any time (*Article 39(3), Banking Act*). The managing directors must ensure that the credit institution:

- Establishes company-specific financial and liquidity planning based on banking experience.
- Sufficiently ensures its ability to compensate for any future imbalances of incoming and outgoing payments, by constantly maintaining sufficient liquid funds.
- Has systems for monitoring and controlling the interest rate risk of all transactions.
- Structures its interest rate in line with the maturity structure of its assets and liabilities, to take potential changes in market conditions into account.
- Has documentation on the basis of which the credit institution's financial situation can be calculated with reasonable accuracy at all times, and which can be presented to the FMA on request.

The Capital Requirements Regulation (CRR) requires credit institutions to hold enough liquid assets to deal with any possible imbalance between liquidity inflows and outflows under gravely stressed conditions during a period of 30 days (Liquidity Coverage Ratio (LCR)). The LCR as a short-term liquidity business ratio is phased in as follows: 2017: 80%, 2018: 100%.

In addition, credit institutions will also by 2018 have to ensure that their long term obligations will adequately be met, with a diversity of stable funding instruments under both normal and stressed conditions.

## 16. Is a leverage ratio applicable?

The Basel III leverage ratio was introduced into EU legislation by the Capital Requirements Regulation (CRR). Currently, banks must by the end of 2021 only disclose their leverage ratios to the supervisor under the existing reporting regime, but not comply with



predefined requirements. Banks must also publish the leverage ratio in their disclosure reports at least once a year. In 2016, the European Commission submitted a legislative proposal for amending the CRR (as regards the minimum requirement for the leverage ratio) to the European Parliament and the Council. It remains to be seen whether a mandatory leverage ratio will be introduced.

## 17. What is the capital adequacy framework that applies for banks?

Minimum capital requirements of credit institutions are regulated by the Capital Requirements Regulation (*Article 92, CRR*). Accordingly credit institutions must at all times satisfy the following own funds requirements as follows:

- Common Equity Tier 1 capital ratio of 4.5% of the risk-weighted assets and other positions (RWA).
- Tier 1 capital (Common Equity Tier 1 and Additional Tier 1 capital) of 6%.
- Total capital ratio of 8%.

The introduction of new capital buffers by the Capital Requirements Directive IV (CRD IV) has been transposed into Austrian law (*Articles 23 to 23d, Banking Act*).

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

- Countercyclical capital buffer of up to 2.5% of RWA generated in the respective EU member state.
- Systemic risk buffer of at least 1% (*in force since 1 January 2014*).
- Buffer for global systemically important institutions (G-SII buffer, not relevant in Austria).
- Buffer for other systemically important institutions (O-SII buffer, for seven Austrian institutions, between 1 and 2%).

These buffers mainly serve 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, and envisage reducing systemic risks that may affect the entire economy of a member state.

## CONSOLIDATED SUPERVISION

### Role and requirements

## 18. What is the role of consolidated supervision of a bank in your jurisdiction and what are the requirements?

### Role

Parent institutions in a member state have to comply with the consolidation obligations laid down in the Capital Requirements Regulation (CRR) (*Article 17*).

The parent undertakings and their subsidiaries subject to the CRR must set up a proper organisational structure and appropriate internal control mechanisms, to ensure that the data required for consolidation is duly processed and forwarded. In particular, they have to ensure that subsidiaries not subject to the CRR requirements implement arrangements, processes and mechanisms to ensure a proper consolidation.

Institutions controlled by a parent financial holding company or a mixed parent financial holding company in a member state have to comply with the CRR, on the basis of a consolidation of that financial holding company or mixed financial holding company. This requires (among other things) that at least one member entity of the group qualifies as a CRR credit institution or CRR investment

firm and, in the case of mixed financial holding companies, another group member qualifies as a licensed insurance undertaking.

A parent institution is defined as an institution in a member state that has an institution or a financial institution as a subsidiary or which holds a participation in such an institution or financial institution, and which is not itself a subsidiary of another institution authorised in the same member state, or of a financial holding company or mixed financial holding company set up in the same member state.

Participation means rights in the capital of other undertakings which are intended to contribute to the company's activities, or the ownership, direct or indirect, of 20% or more of the voting rights or capital of an undertaking.

Institutions that must comply with the CRR on the basis of their consolidation have to undertake a full consolidation of all credit institutions, investment firms, financial institutions, ancillary services undertakings and asset management companies that are its subsidiaries or, where relevant, the subsidiaries of the same parent financial holding company or parent mixed financial holding company (*Articles 18 and 19, CRR*).

Subsidiary institutions, financial institutions and ancillary services undertakings do not have to be included in the consolidation where the total amount of assets and off-balance sheet items of the undertaking concerned is less than EUR10 million, or 1% of the total amount of assets and off balance sheet items of the parent undertaking.

### Requirements

A credit institution must prepare consolidated financial statements and a consolidated annual report for its group of credit institutions according to the rules of Article 30 of the Banking Act (*Article 59, Banking Act*). This rule regulates what is to be understood as a group of credit institutions for accounting purposes deviating from the CRR. There is a special provision for parent institutions applying International Financial Reporting Standards (IFRS) for the financial statements enabling them to use these statements for accounting purposes under the Banking Act.

### International co-ordination and co-operation

## 19. To what extent is there co-operation with other jurisdictions?

The European Central Bank (ECB) is the competent supervisory authority for significant credit institutions and significant groups of credit institutions.

Under the SSM Regulation, the Financial Market Authority (FMA) is also involved in ECB decisions relating to the grant or withdrawal of banking licences, and notifications relating to the establishment of a branch in other member states or the acquisition of a qualifying holding of a credit institution. FMA assists ECB in cases of general investigations and on-site inspections on request (see *Question 2*).

The FMA is also a member of the Board of Supervisors of the EBA which is the main decision-making body and takes policy decisions, such as on adopting draft technical standards, guidelines, opinions and reports.

## SHAREHOLDINGS/ACQUISITION OF CONTROL

### Shareholdings

## 20. What reporting requirements apply to the acquisition of shareholdings in banks?

Anyone wishing to acquire or dispose of (directly or indirectly) a participation of 10%, or to increase or decrease qualified

participation by reaching a 20%, 30% or 50% threshold of voting rights or capital in an Austrian credit institution, must inform the Financial Market Authority (FMA) in advance (*Banking Act*). This includes investors acting together. The credit institution itself must also notify the FMA of the ownership change, but only after closing.

Other reporting requirements include the following:

- Articles 91 and following of the Austrian Stock Exchange Act (*Börsengesetz (BörseG)*) governing notification obligations of purchasers and sellers of shares in a stock corporation having its registered seat and being listed on a regulated market in Austria.
- Transparency Regulation (*Transparenz-Verordnung*) details investor's transparency obligations under the *BörseG*.
- Securities Supervision Act (*Wertpapieraufsichtsgesetz, Article 11 and following*) governs certain reporting obligations in connection with the acquisition of shares in investment firms.
- Regulation on the Control of Ownership (*Eigentümerkontrollverordnung*) provides pre-closing transparency obligations in terms of investments in credit institutions, investment firms, insurance undertakings, payment institutes and e-money-institutes.
- Austrian Takeover Act (*Übernahmegesetz (ÜbG)*) sets out notification obligations in connection with takeover transactions.

Non-compliance with reporting obligations can entail administrative sanctions and usually results in a suspension of voting rights.

Additional legal restrictions are required for bank takeovers and mergers. Generally, a cross-border merger or merger of entirely national credit institutions requires special approval by the FMA to be valid (*Article 21, Banking Act*).

Special approval is also required for:

- Mergers of credit institutions.
- Reaching, exceeding or falling below the thresholds of 10%, 20%, 33% and 50% of the voting rights or capital of a credit institution or CRR credit institution domiciled in a third country.
- Any change in the corporate form of a credit institution.
- Spin-offs of credit institutions.
- Merger of credit institutions with non-banks.

If such transactions are attempted without special approval, administrative sanctions can be imposed by the FMA and the transaction becomes legally ineffective.

## 21. What approval requirements apply to the acquisition of shareholdings and of control of banks?

Apart from the requirements discussed in *Question 20*, there is generally no approval requirement. The Financial Market Authority (FMA) can, however, prohibit a transaction within 60 days of being notified. For this purpose, the FMA assesses the suitability of the proposed acquirer and the financial soundness of the proposed acquisition, in terms of reputation, financial soundness, effective supervision, risk of money-laundering or terrorist financing, among others.

If a party fails to fulfil its obligations under the Banking Act (*Article 20*), the FMA can request further information if necessary. If a party fails to notify FMA in advance of a decision to transfer shares in an Austrian bank, it will become legally suspended from exercising its voting rights.

## Foreign investment

### 22. Are there specific restrictions on foreign shareholdings in banks?

The notification requirements apply to any investors in Austrian licensed credit institutions including foreign investors. Foreign investment firms which are members of an Austrian stock exchange as well as Austrian branches of foreign investment firms and financial institutions are additionally subject to extensive transaction reporting duties (*Article 64, Securities Supervision Act*).

## RESOLUTION

### 23. What is the legal framework for liquidation of banks?

The rules on insolvency proceedings, which also apply to the liquidation of a financial institution, are in the Insolvency Act (*Insolvenzordnung*). The Banking Act contains certain insolvency provisions applying only to credit institutions.

Credit institutions are required to immediately notify the Financial Market Authority (FMA) in case of illiquidity or of overindebtedness, without the usual 60 days-grace period applying to non-banks.

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

Also, 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.

### 24. What is the resolution regime for banks?

The European Central Bank (ECB) and the Financial Market Authority (FMA) can order early intervention measures where the requirements of CRR, CRD IV or certain provisions of the Markets in Financial Instruments Regulation (MiFIR) and Directive 2004/39/EC on markets in financial instruments (MiFID) are or are likely to be infringed (*risk of infringement*).

Triggers for early intervention are (EBA's Guidelines on Early Intervention Triggers published in 2015):

- Outcomes of the supervisory review and evaluation process.
- Material deteriorations or anomalies in key indicators.
- Significant events with a possible significant impact on the financial position.

The ECB or the FMA can also impose regulatory measures such as specifying additional own funds to be held (*Article 70(4)(4a), Banking Act* and/or *Article 16(2), SSM Regulation*).

Where a failure of the credit institution cannot be avoided, it can be restructured or liquidated in an orderly manner using resolution tools, provided that resolution is in the public interest. The

resolution authorities are the Single Resolution Board (SRB) for significant institutions and the FMA for less significant institutions.

Otherwise, the credit institution has to be liquidated in bankruptcy proceedings or placed under court management. A stress test conducted by the banking supervisory authority may also show that there is a need for early intervention measures to be taken. Such a need can impair the ability of the institution to fulfil its obligations under the bonds and can lead to resolution, winding-up or bankruptcy or placing it under court-supervised management.

### **Bail-in regime**

The Act on the Recovery and Resolution of Banks (*Sanierungs- und Abwicklungsgesetz* (BaSAG), implementing Directive 2014/59/EU (the Bank Recovery and Resolution Directive) (BRRD)) covers CRR credit institutions and CRR investment firms, including certain CRR financial institutions, financial holding companies and branches of third country institutions to the extent they are part of a group of credit institutions.

BaSAG, which came into force on 1 January 2015, requires "recovery plans" to be drawn up by institutions to identify impediments to a resolution and outline measures which could guarantee an effective resolution.

In summary, the BaSAG contains provisions:

- Prescribing the production of recovery plans by banks and the production of resolution plans by the resolution authorities, including powers to remove obstacles to resolution (*prevention*).
- Enabling supervisory authorities to intervene at an early stage, including related additional powers to intervene (*early intervention*).
- Forming the basis for the establishment of a national resolution authority and for entrusting the authority with the necessary powers and tools (*resolution*).

The BaSAG is aimed at ensuring an orderly market exit of banks without causing substantial negative repercussions for financial stability, while protecting depositors and other customers and keeping taxpayers' burden to a minimum.

The FMA is established under the Act as the competent resolution authority for less significant banks in close co-operation with the OeNB. The resolution authority has far-reaching powers and resolution tools. The SRM Regulation installs the SRB (see Question 25) as the competent resolution authority for significant banks.

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).

### **Deposit Guarantee Schemes**

Directive 2014/49/EU on DGS (the Deposit Guarantee Scheme Directive, DGSD) repealed Directive 94/19/EC on DGS with effect

from 4 July 2015, to improve protection for individuals and legal entities, relating to a harmonised level of covered deposits of up to EUR100,000 per customer and bank. Deposits made by public institutions or institutional investors such as credit institutions or insurance companies are not covered.

Various transitional provisions are in force in Austria, especially until a national deposit guarantee scheme (or an institutional protection scheme recognised as a protection scheme) starts to operate on 1 January 2019.

From 1 January 2019, a single deposit guarantee and investor compensation scheme run by the Austrian Chamber of Commerce (*Wirtschaftskammer Österreich*) will assume the responsibility for the compensation of all depositors and investors in Austrian credit institutions. Alternatively, institutional protection schemes may be recognized by the FMA.

## **REGULATORY DEVELOPMENTS AND RECENT TRENDS**

### **25. What are the regulatory developments and recent trends in bank regulation?**

Greater tax transparency has led to higher costs for Austrian credit institutions following the implementation of the US Foreign Account Tax Compliance Act (FATCA) and the CRS. Further regulatory challenges are expected with MiFID II and its related texts.

Bank regulation in Austria, as in all EU member states, is also being affected by the phasing in of Basel III and the reforms introduced by Basel IV.

### **THE REGULATORY AUTHORITIES**

#### **Financial Market Authority**

T + 43 1 249 59 0 E [fma@fma.gv.at](mailto:fma@fma.gv.at) W [www.fma.gv.at/en/](http://www.fma.gv.at/en/)

#### **European Banking Authority**

T + 44 207 382 1776 E [www.eba.europa.eu/](http://www.eba.europa.eu/)

#### **Austrian Central Bank**

T + 43 1 404 20-0 W [www.oenb.at/en/](http://www.oenb.at/en/)

### **ONLINE RESOURCES**

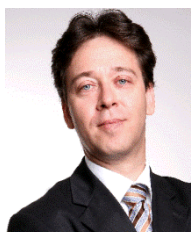
#### **EU legislation**

W [www.europa.eu/](http://www.europa.eu/) **Description.** The official EU website that provides access to information published by all EU institutions, agencies and bodies.

#### **Austrian legislation**

W [www.ris.bka.gv.at/defaultEn.aspx](http://www.ris.bka.gv.at/defaultEn.aspx) **Description.** The Legal Information System of Austria is a platform and database providing information on Austrian law. Its main contents are legislation in its current version (federal and state), law gazettes (federal and state) and case law.

## Practical Law Contributor profiles



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#### Recent transactions:

- Hypo-Alpe-Adria Bank International, in project LUX on modelling a "bad bank" for HBInt.
- Republic of Austria, in the restructuring of Hypo Alpe Adria Bank International AG.
- EPG Group, in relation to an envisaged acquisition of the Austrian business of the Hypo-Alpe-Adria International Group, Hypo-Alpe-Adria-Bank AG.
- Sberbank of Russia, on the purchase of DenizBank AG (Austria).
- Zürcher Kantonalbank, on the purchase of Privatinvest Bank AG.
- Banking regulatory advice: Sberbank Europe AG, BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG (repayment of participation capital), Svenska Handelsbanken AB (Austrian branch).
- Commerzbank AG (Austrian branch) on multiple legal questions of wholesale banking.

**Languages.** German, English

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

**Most recent publication.** *Banking and financial market regulatory compliance, in: Kofler-Senoner (Ed.), Compliance management for companies (2016), pp 290-353.*