

EEA Freedom of Establishment

Notification on provisions under Austrian law applicable to branches [September 2018]

CRR-credit institutions from EEA Member States, providing activities in Austrian by means of a branch must comply with the following provisions under Austrian law (incl. Article 9 para. 7 Austrian Banking Act; Bankwesengesetz – BWG):

Austrian Banking Act ¹	
Article 22b.	Measures for the limitation of systemic risks in real estate financing
Articles 31 to 32	Savings deposits
Article 33	Special provisions for mortgage and immovable property loan agreements
Articles 34 to 37	Consumer protection
Article 37a	Deposit Guarantee Scheme
Article 38	Banking secrecy
Articles 39, 39a, 39e and 41	Due diligence and reporting obligations
Article 44 paras. 3 to 6	Accounting provisions
Articles 60 to 63	The obligation to appoint a bank auditor, their qualitative requirements and specific obligations
Article 65 para. 3a	Publication of the annual financial statement
Articles 66 to 68	Obligation to satisfy the regulations regarding cover reserves when taking gilt-edged deposits
Articles 74 to 75	Reporting obligations
Article 93 para. 1	Information sharing for deposit guarantee and investor compensation purposes
Article 94	Protection of Designations
Article 95 paras. 3 and 4	Employee savings banks and special-purpose savings entities

¹ The authoritative wording of the respective legislative provisions may be found in German in their current versions in the Legal Information System of the Republic of Austria (Rechtsinformationssystem des Bundes) (<http://www.ris.bka.gv.at/bundesrecht>).

Financial Markets - Anti-Money Laundering Act (FM-GwG)¹

The FM-GwG is applicable to branches of CRR-credit institutions pursuant to Article 1 in conjunction with Article 2 no. 1 leg.cit. active under the freedom of establishment.

Depending on their purpose of business, credit institutions from Member States shall also have to comply with the other Federal Acts and EU Regulations listed in Article 69 BWG² as well as the following provisions:

Securities Supervision Act 2018 (WAG 2018; Wertpapieraufsichtsgesetz 2018)¹

Articles 47 to 54	Obligation to act in the client's best interest
Articles 55 to 59	Suitability and appropriateness of investment services
Articles 60 and 61	Reporting obligations towards clients
Articles 62 to 64	Best execution of services
Article 65	Handling of client orders
Articles 66 to 67	Professional clients
Article 69	Information regarding client rating
Article 70	Marketing, reporting and disclosure duties
Regulation (EU) No 600/2014 (MiFIR)¹	
Articles 14 to 26	Transparency for systematic internalisers and investment firms trading OTC; transaction reporting
Payment Services Act 2018¹	
Articles 5 and 6	Access to payment systems
Articles 32 to 87	Transparency of conditions, information requirements for payment services; rights and obligations when providing payment services

Furthermore, all Regulations and Administrative Decisions issued on the basis of the aforementioned legislation must also be complied with.

² Article 69 para. 1 BWG lists the following federal acts or EU regulations: the Savings Banks Act (SpG; Sparkassengesetz), the Building Society Act (BSpg; Bausparkassengesetz), the Regulation Implementing the Mortgage Bank Act and the Mortgage Bond Act (Einführungsverordnung zum Hypothekenbank- und zum Pfandbriefgesetz), the Mortgage Bank Act (HypBG; Hypothekenbankgesetz), the Mortgage Bond Act (PfandbriefG; Pfandbriefgesetz), the Act on Funded Bank Bonds (FBSchVG; Bankschuldverschreibungsgesetz), the Investment Fund Act 2011 (InvFG 2011; Investmentfondsgesetz), the Securities Deposit Act (DepotG; Depotgesetz), the Act on Severance and Retirement Funds for Salaried Employees and Self-Employed Persons (BMSVG; Betriebliches Mitarbeiter- und Selbständigenvorsorgegesetz), the Real Estate Investment Fund Act (ImmoInvFG; Immobilien-Investmentfondsgesetz), the Financial Conglomerates Act (FKG; Finanzkonglomeratengesetz), the Deposit Guarantee Schemes and Investor Compensation Act (ESAEG; Einlagensicherungs- und Anlegerentschädigungsgesetz) and Regulation (EU) No 575/2013, Title IV of Regulation (EU) No 909/2014, the Central Securities Depositories Enforcement Act (ZvVG; Zentralverwahrer-Vollzugsgesetz), published in Federal Law Gazette I No. 69/2015 and the technical standards relevant for banking supervision that are specified in Articles 10 to 15 of Regulation (EU) No 1093/2010 and Articles 10 to 15 of Regulation (EU) No 1095/2010.