

Information for licence applicants (January 2016)

The prerequisites for the operation of contractual insurance business in Austria are set out in the **Insurance Supervision Act 2016** (*Versicherungsaufsichtsgesetz – VAG 2016*; Federal Law Gazette no. 1978/569 as last amended) and in the regulations enacted on the basis of this Act.

The operation of contractual insurance business in Austria is only permitted by entities with the following legal form:

1. A joint stock company with its registered office in Austria
2. An european company with its registered office in Austria
3. A mutual association with its registered office in Austria
4. A small mutual association with its registered office in Austria
5. A branch of an insurance undertaking with its registered office in an EEA Member State
6. A branch of an insurance undertaking with its registered office in a third country (special rules apply to Switzerland)
7. By means of the freedom to provide services through an insurance undertaking with its registered office in an EEA Member State.

The award of a **licence** by the FMA is a prerequisite in cases 1, 2, 3, 4 and 6.

The most important legal provisions with regard to obtaining a licence are **Articles 6, 7, 8, 10, 88 to 91, 106 to 113, 117 to 123 and 169 to 194 VAG 2016, as well as Annex A to the VAG 2016**. If the intended scope of operation is limited in Austria, in addition to Articles 6, 7, 8, 10 VAG 2016, in particular Articles 82 to 90 VAG (for small mutual associations) have to be observed.

Depending on the intended legal form and the insurance class concerned, the corresponding special rules set out in the VAG must also be adhered to.

With regard to legal form these are:

- In the case of joint stock companies, the Stock Corporation Act (Aktengesetz - AktG)
- In the case of European companies (SE), Council Regulation on the Statute for a European Company (SEG)
- In the case of mutual associations, Articles 35 to 51 VAG 2016
- In the case of small mutual associations, Articles 68 to 79 VAG 2016
- In the case of a branch of an insurance undertaking with its registered office in an EEA Member State, Article 20 VAG 2016
- In the case of a branch of an insurance undertaking with its registered office in a third country, Articles 13 to 18 VAG 2016

- In the case of a branch of an insurance undertaking with its registered office in Switzerland, Articles 13 to 19 VAG 2016
- In the case of business carried out under the freedom to provide services within the EEA, Articles 22 and 23 VAG 2016

With regard to insurance classes these are:

- For life assurance, Articles 92, 114 to 116, 252 to 254 and 300 to 302 VAG 2016
- For life assurance in the form of occupational group insurance, Articles 93 to 98 VAG 2016
- For health insurance, Articles 101, 102, 114 to 116, 252, 255 and 300 to 302 VAG 2016
- For accident insurance, Articles 103, 114 to 116 and 255 VAG 2016
- For legal expenses insurance, Article 99 VAG 2016
- For motor insurance, Article 100 VAG 2016

Motor insurance is also subject to the terms of the **Motor Insurance Act** (*Kraftfahrzeug-Haftpflichtversicherungsgesetz 1994 - KHVG*; Federal Law Gazette 1994/651, as last amended).

In the event of unauthorised business operations in Austria or in the event of brokerage activities being carried out for an undertaking that is not authorised to operate in Austria, the FMA will impose an **administrative penalty** of up to **€ 100,000** according to Article 329 VAG 2016.