



Capital Market Act

(KMG – Kapitalmarktgesetz)

Full title

Federal Act on the Public Offerings of Securities and other Capital Investments and the Repealing of the Securities Issuing Act (KMG; Kapitalmarktgesetz)

Original Version: Federal Law Gazette I No. 625/1991

As amended in:

Federal Law Gazette: 331/1993; 532/1993; 210/1994; from 1997 onwards Federal Law Gazette I unless stated otherwise 60/1998; 63/1999; 2/2001; 97/2001; 35/2003; 80/2003; 78/2005; 48/2006; 60/2007; 69/2008; 145/2011; 83/2012; 70/2013; 135/2013; 184/2013; 69/2015; 98/2015; 114/2015; 150/2015; 107/2017; 149/2017; 48/2018.

Other parts of the Text

The National Council has decided by resolution:

Text

Definitions

Article 1. (1) The following definitions shall apply for the purposes of this Federal Act:

1. public offering: a communication to the general public in any form whatsoever and in whatsoever means, which contains sufficient information about the conditions relating to an offer (or an invitation to subscribe) or securities or investments and about the securities or investments to be offered, in order to place an investor in a position, to decide to purchase or subscribe to such securities or investments. This definition shall also apply to the placement of securities or investments by financial intermediaries;
2. issuer: a legal entity which issues or plans to issue securities or investments;
3. investments: property rights for which no securities are issued, arising from the direct or indirect investment of capital of several investors for their collective account and collective risk or for the collective account or risk together with the issuer if the management of the capital invested is not overseen by investors themselves; All transferable, securitised rights that are not mentioned in no. 4 are to be understood as investments as defined in this Federal Act; money-market instruments with maturities shorter than twelve months are not subject to the obligation to publish a listing prospectus pursuant to Article 2;
4. securities: transferable securities as defined in Article 4 (1) (18) of Directive 2004/39/EC with the exception of money market instruments as defined in Article 4 (1) (19) Directive 2004/39/EC with maturities of less than 12 months;
- 4a. equity securities: shares and other transferable securities equivalent to shares in companies, as well as any other type of transferable securities giving the right to acquire any of the aforementioned securities as a consequence of their being converted or the rights conferred by them being exercised, provided that securities of the latter type are issued by the issuer of the underlying shares or by an entity belonging to the group of the said issuer;
- 4b. non-equity securities: all securities that are not equity securities;
5. investor: anyone acquiring a transferable security that was the subject matter of an offering subject to the obligation to produce a prospectus, or an investment that was the subject matter of an offering subject to the obligation to produce a prospectus;
- 5a. qualified investor: a professional client pursuant to Article 66 or Article 67 of the Securities Supervision Act 2018 (WAG 2018; Wertpapieraufsichtsgesetz 2018), published in Federal Law Gazette I No. 107/2017, or an eligible counterparty pursuant to Article 68 provided that it has not



- applied to be treated as a professional client; investment firms and credit institutions shall communicate their classification upon request to the issuer without prejudice to the relevant data protection rules;
6. persons making an offering (“offeror”): a legal entity or natural person that publicly offers securities or investments;
 7. small and medium-sized enterprises (SMEs): companies, which, according to their last annual or consolidated accounts, meet at least two of the following three criteria: an average number of employees during the financial year of less than 250, a total balance sheet not exceeding EUR 43 million and an annual net turnover not exceeding EUR 50 million;
 8. credit institutions: an undertaking as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013;
 9. regulated market: a market pursuant to Article 1 no. 2 of the Stock Exchange Act 2018 (BörseG 2018; Börsegesetz 2018), published in Federal Law Gazette I No. 107/2017;
 10. offering programme: a plan that allows non-equity securities of similar type and/or class, including any type of warrant, to be issued continuously or repeatedly during a defined issue period;
 11. securities issued in a continuous or repeated manner: tap issues or at least two separate issuances of securities of a similar type and/or class within a twelve month period;
 12. home Member State:
 - a) for all issuers of securities not mentioned in lit. b, the EEA signatory state in which the issuer has its registered office;
 - b) for any issues of non-equity securities whose denomination per unit amounts to at least EUR 1,000, and for any issues of non-equity securities giving the right to acquire any transferable securities or to receive a cash amount, as a consequence of their being converted or the rights conferred by them being exercised, provided that the issuer of the non-equity securities is not the issuer of the underlying securities or an entity belonging to the group of the latter issuer, depending on the choice of the issuer, the offeror or the person applying for admission, as the case may be, of the EEA signatory state where the issuer has its registered office, or the EEA signatory state where the securities were or are to be admitted to trading on a regulated market or the EEA signatory state where the securities are offered to the public. The same regime shall be applicable to non-equity securities denominated in a currency other than the Euro provided the value of such minimum denomination is approximately Euro 1,000;
 - c) For all third country issuers of securities not listed in lit. b, depending on the choice of the issuer, the offeror or the person applying for admission, either the EEA signatory state where the securities are intended to be publicly offered for the first time after 1 October 2015, or the EEA signatory state where the first application for admission to trading on a regulated market was made contingent on a later selection by the third country issuer
 - aa) if the home Member State determined does not coincide with the issuer's choice or
 - bb) in the instances pursuant to Article 1 no. 14 lit. a sublit. bb BörseG 2018.
 13. host Member State: the EEA signatory state in which a public offering is made or admission to trading is sought, when this State is not the home Member State;
 14. collective investment undertaking other than the closed-end type: investment funds and investment companies,
 - a) the objective of which is the collective investment of capital deposited by the public and which operate according to the principle of risk diversification, and
 - b) the units of which are, at the holder’s request, repurchased or redeemed, directly or indirectly, out of the assets of such undertakings;
 15. units of a collective investment undertaking: securities issued by a collective investment undertaking as representing the rights of the participants in such an undertaking over its assets;
 16. approval: the positive act upon conclusion of the checking of the completeness of the prospectus by the competent authority of the home Member State – including the consistency and the comprehensibility of the information given in the prospectus;
 17. base prospectus: a prospectus that contains all relevant information set out in Article 7 paras. 1 to 4 and the provisions of Regulation (EC) No. 809/2004 of the Commission of 29 April 2004 and in the case of a supplement also the details listed in Article 6 to be amended and supplemented about the issuer as well as the transferable securities to be publicly offered or to be admitted to trading, as well as at the choice of the issuer, the final terms of the offering;



18. key information: basic and appropriately structured information, that are to be made available to investors, to enable them to understand the type and risk of the issuer, guarantor and the transferable securities being offered to them or that are intended to be admitted to trading on a regulated market, and to allow them irrespective of Article 7 para. 2 no. 2 to decide which securities they should pursue further. Giving due consideration to the respective offer and the respective transferable securities, the key information shall comprise the following aspects:
- a) a brief description of the risks and essential features that apply to the issuer and any guarantor including the assets, liabilities and financial situation;
 - b) a brief description of the risks related to the investment in the relevant security and the key features of the investment including any rights attached to the securities;
 - c) the general terms of the offering including an estimation of the costs that shall be billed to the investor by the issuer or offeror;
 - d) specific details regarding the admission to trading;
 - e) reasons for the offering and about how the proceeds are to be used;
19. entities with low market capitalisation: an entity listed on a regulated market, whose average market capitalisation on the basis of end-year quotes for the previous three calendar years was less than EUR 100 million.

(Note: para. 2 was repealed by the amendment published in Federal Law Gazette I No. 83/2012)

(Note: para. 3 was repealed by the amendment published in Federal Law Gazette I No. 83/2012)

(4) The regulations contained in this Federal Act that are addressed to the offeror shall also apply to the issuer provided that the issuer makes a public offering subject to the obligation to publish a prospectus within Austria itself.

Offerings Subject to the Obligation to Publish a Prospectus

Article 2. (1) A public offering shall be permissible within Austria on the condition that a prospectus is drawn up and approved in accordance with the provisions of this Federal Act and published at latest one banking day prior to the offering.

(2) In the case of investments, the scrutinising of the prospectus pursuant to Article 8 para. 2 shall replace the approval of the FMA. The provisions pursuant to Articles 6a, 7a, 7b, 7c, Article 8 para. 1, Articles 8a, 8b and 8c, Article 10 para. 1, Article 10 para. 3 last sentence, Articles 16c and 17b shall not apply in the case of public offerings of investments; for the purposes of Articles 15 and 16 a scrutinised prospectus shall be equivalent to an approved prospectus and the scrutinised amended and supplemented information shall be equivalent to the approved amended and supplemented information.

Exemptions from the Obligation to Publish a Prospectus

Article 3. (1) The obligation to publish a prospectus pursuant to Article 2 shall not apply to:

1. Securities issued by the Austrian Federal Government (Bund), Regional Governments (Länder) or the Oesterreichische Nationalbank as well as unconditionally guaranteed securities issued by the Federal Government or Regional Governments;
- 1a. Non-equity securities issued by an EEA signatory state or by a regional or local authority of an EEA signatory state or a central bank of an EEA signatory state, provided that in the respective EEA signatory state mentioned, non-equity securities issued by the Republic of Austria or non-equity securities of the Austrian regional governments or non-equity securities issued by the Oesterreichische Nationalbank are also exempt from the obligation to publish a prospectus to the same extent;
- 1b. Securities that are unconditionally and irrevocably guaranteed by an EEA signatory state or by one of a EEA signatory state's regional or local authorities, provided that in the respective EEA signatory state the securities guaranteed by the Republic of Austria or by Austrian regional government are also exempt from the obligation to publish a prospectus to the same extent;
2. non-equity securities issued by an international organisation under public law, to which Austria belongs, and the European Central Bank;
3. non-equity securities issued in a continuous or repeated manner by credit institutions, provided that those securities
 - a) are not subordinated, convertible or exchangeable;
 - b) do not give a right to subscribe to or acquire other securities, and which are not linked to a derivative instrument;
 - c) certify the receipt of repayable deposits;



d) are covered by a deposit guarantee scheme as defined in Directive 94/19/EC.

This condition pursuant to lits. c and d shall be waived for securities with a total value of less than EUR 75 million, with this ceiling being calculated over a period of twelve months;

4. unit certificates of investment funds pursuant to Article 3 para. 2 no. 30 of the Investment Funds Act 2011 (InvFG 2011; Investmentfondsgesetz 2011) published in Federal Law Gazette I No. 77/2011 and unit certificates pursuant to Article 1 of the Real Estate Investment Fund Act (ImmoInvFG; Immobilien-Investmentfondsgesetz), published in Federal Law Gazette I No. 80/2003, as well as open AIFs that fulfil the requirements of Delegated Regulation (EU) No. 694/2014 supplementing Directive 2011/61/EU with regard to regulatory technical standards determining types of alternative investment fund managers, OJ L 183, 24.06.2014, p. 18;
5. participation certificates pursuant to Article 6 Participation Fund Act (Beteiligungsdsgesetz);
6. Dividends distributed to existing shareholders in the form of equities of the same class as the equities for which such dividends are to be distributed, provided that a document has been published that contains information about the number and type of equities and in which the reasons and specific details about the offering are stated;
7. shares issued in substitution for shares of the same class already issued, provided that the issuing of such new shares does not involve any increase in the issued capital;
8. securities that are intended to be offered or allocated in connection with a takeover by means of an exchange offer, or offered or allocated in connection with a merger or demerger, provided that a document was published the details of which are equivalent from the perspective of the competent authority to those of a prospectus; in this case the requirements of Union legislative acts are to be observed;
9. an offering of securities or investments addressed to investors, who acquire securities or investments for a total consideration of at least EUR 100 000 for each separate offer as well as an offering of securities or investments with a minimum denomination per unit of EUR 100 000;
10. an offering of securities or investments with a respective total consideration of less than EUR 2 million; this ceiling must include all receipts from offerings for securities or investments exempted from the obligation to produce a prospectus in accordance with this item from the last twelve months;

(No.10a repealed by Article 1 no. 4 of the amendment published in Federal Law Gazette I No. 48/2018)

11. an offering of securities or investments that exclusively addresses qualified investors;
12. securities, which current or former directors or employees are offered or allotted by their employer or an associated company or are intended to be allotted, provided that the company has its headquarters or its registered office within the European Union and provided that a document is made available that contains information about the number and type of securities and in which the reasons and specific details about the offering are stated; this shall also apply to a company established outside the European Union, the securities of which are authorised to be traded on a regulated market or the market of a third country. In the latter case, the exemption from publication shall apply if sufficient information is available including the aforementioned document at least in one of the languages commonly used in the international financial community and the European Commission has passed a resolution regarding the equivalence for the relevant market of the third country; the FMA may file a petition with the European Commission to have such a resolution on equivalence passed in this context; the application shall state the reasons for the equivalence; these may be assumed where the legal and supervisory framework of the third country at least fulfils the following conditions:
 - a) the markets are subject to licensing and effective ongoing supervision and enforcement;
 - b) the markets have clear and transparent rules for the admission of securities to trading provided these securities can be traded in a fair, orderly and efficient manner and are freely tradeable;
 - c) the issuer of the securities are subject to ongoing disclosure obligations which they must comply with in regular intervals so as to ensure a high degree of investor protection; and
 - d) market transparency and integrity are guaranteed, by the prevention of market abuse in the form of insider dealings and market manipulation;
13. shares in the capital of central banks of EEA signatory states;
14. Offers that are addressed to less than 150 natural or legal persons per EEA signatory state that are not qualified investors;

(Note: No.15 repealed by Article 1 no. 4 of the amendment published in Federal Law Gazette I No. 48/2018)



(Note: no. 16 was repealed in the amendment published in Federal Law Gazette I No. 78/2005)

(2) Irrespective of para. 1 nos. 1, 1a, 1b, 2, 3 and 10, issuers, offerors or persons who apply for the admission to trading on a regulated market shall have the right to prepare a prospectus as defined in this Federal Act when securities are publicly offered or are admitted to trading. If this right is exercised, then all legal consequences that arise from the obligation to publish a prospectus pursuant to Article 2 or Article 46 of the Stock Exchange Act 2018 (BörseG 2018; Börsegesetz 2018) shall apply.

(3) In the event of any subsequent resale of securities and of a final placement of securities by financial intermediaries, no further prospectus shall be required to be published where a valid prospectus as defined in Article 6a exists and where the issuer or the person responsible for the preparation of the prospectus has agreed to its use in a written agreement. Any subsequent resale of securities or investments, which had previously been exempt from the obligation to publish a prospectus pursuant to para. 1 nos. 9 to 11 and 14 is to be considered as a separate offer, and the definition set out in Article 1 para. 1 no. 1 shall apply for the purpose of deciding whether this subsequent resale is considered to be a public offering. When placing securities or investments through financial intermediaries a prospectus shall be required to be published when none of the conditions listed pursuant to para. 1 nos. 9 to 11 and 14 are met for the final placement and a public offering exists.

(4) The FMA may define the minimum contents of the documents pursuant to para. 1 nos. 6, 8 and 12 by issuing a Regulation. Article 10 shall apply regarding the type of publication.

(5) If a proposed issuance may lead to the outstanding amount of all funds received as a result of the place of investments issued pursuant to para. 1 no. 10 without the need for a prospectus exceeds the amount of EUR 5 million across a seven year observation period, then by way of derogation from para. 1 no. 10 the obligation to publish a prospectus pursuant to Article 2 shall apply.

Advertising

Article 4. (1) Every type of advertising that refers to a public offering of securities or investments or to the admission to trading on a regulated market shall be required to observe the principles listed in paras. 2 to 5. Paras. 2 to 4 shall only apply to those cases in which the issuer, offeror or the person submitting the application for admission to trading is subject to the obligation to publish a prospectus.

(2) All advertisements shall be required to indicate that a prospectus has been published including any details to be amended or supplemented or is awaiting publication, and where investors may obtain the prospectus.

(3) Advertisements shall be required to be clearly recognisable as such. The information contained in advertisements shall not be allowed to be either inaccurate or misleading. Furthermore, this information shall also not be allowed to contradict the information contained in the prospectus or any amendments or supplementary information in the case that such items have already been published, or the information required to be contained in the prospectus, in the case that the prospectus is only to be published at a later date.

(4) In any case, all information concerning the public offering or the admission to trading on a regulated market that is disclosed in an oral or written form, even where it is not for advertising purposes, must be consistent with the details contained in the prospectus including any amendments or supplementary information.

(5) When no obligation to publish a prospectus exists pursuant to this Federal Act, then material information provided by an issuer or an offeror and addressed to qualified investors or special groups of investors, including information that is disclosed in the context of events regard the offering of securities, shall be disclosed to all qualified investors or special categories of investors to whom the offer is exclusively addressed. Where a prospectus is required to be published, then such information must be included in the prospectus or in a supplement (amendments or supplementary information) to the prospectus pursuant to Article 6 para. 1.

(6) The FMA may check whether the principles listed in paras. 2 to 5 have been observed when advertising a public offering of securities or an admission to trading on a regulated market. It shall perform such checks, in particular where there is a founded suspicion of a violation of the provisions of paras. 1 to 5.

Consumer Transactions

Article 5. (1) Where an offering subject to the obligation to publish a prospectus is offered without the prior publication of a prospectus or information pursuant to Article 6, then investors, who are consumers as defined in Article 1 para. 1 no. 2 of the Consumer Protection Act (KSchG;



Konsumentenschutzgesetz), then they shall be allowed have the right to withdraw from the offering or to cancel their contract.

(2) Regardless of the right to withdraw or cancel pursuant to para. 1, investors, who are consumers as defined in Article 1 para. 1 no. 2 KSchG, may cancel a contract where it was not confirmed to them pursuant to Article 13 no. 3 that they were acquiring an investment in real estate.

(3) Such a cancellation of the contract must be made in writing; it shall however suffice for the consumer to return the document containing his/her her contract declaration or that of the seller, to the seller or the seller's agent who took part in the contract negotiations, with a remark that makes it recognisable that the consumer rejects the drawing up of or continuation of the contract. It shall suffice if the declaration of cancellation is sent within the period stated in para. 4.

(4) The right of cancellation in accordance with para. 1 shall expire one week after the day on which the prospectus or the information pursuant to Article 6 was published. The right to cancel pursuant to para. 2 expires at the end of one week after the day on which the consumer has received confirmation of the acquisition pursuant to Article 14 no. 3.

(5) Any agreements contrary to the provisions of paras. 1 to 4 to the detriment of the consumer shall be invalid.

(6) All further reaching rights of investors arising out of other provisions shall remain unaffected.

Supplement to the Prospectus

Article 6. (1) Every significant new circumstance, or every material mistake or inaccuracy relating to the information included in the prospectus which might influence the assessment of the securities or investments and which occurs or is noticed between the time of the prospectus being approved and the final closing of the offer to the public or, where this is later, the time of commencement of trading on a regulated market, shall be required to be mentioned in a supplement (amendment or supplementary information) to the prospectus. Such a supplement (amendment or supplementary information) shall be required to be published and deposited by the applicant (Article 8a para. 1) in accordance with the same arrangements as were applied when the original prospectus was published and deposited. At the same time as it is published, the supplement shall also be submitted by the applicant to the FMA for approval and shall be approved by the FMA within seven banking days following receipt of the subject to the conditions pursuant to Article 8a being met; the FMA shall send a copy of the approval to the Notification Office. In the event that the outcome of the approval procedure leads to the text of the supplement being amended, this this shall also be published along with a corrigendum to the publication that has already been made. Summaries or any translations required shall also be modified as necessary to ensure that they too are amended by the information contained in the supplement.

(1a) In the case of supplements to securities prospectuses the applicant (Article 8a para. 1) shall initially only file the unapproved published version of the supplement with the Notification office with a declaration that this is identical to the version that has been submitted to the FMA for approval. The first sentence of Article 8a para. 7 shall apply for the submission of the approved final version of the supplement.

(2) If the prospectus relates to a public offering of securities or investments, then investors who have already committed themselves to the acquisition or subscription of the securities or investments concerned before the supplement is published shall have the right to retract their commitments to do so within two working days following the publication of the supplement, on the proviso that the new circumstance or the mistake or inaccuracy pursuant to para. 1 occurred prior to the final closing of the public offering and the delivery of the securities or investments. That period may be extended by either the issuer or the offeror. The final date for the right of withdrawal must be stated in the supplement. Article 5 shall apply accordingly. If an investor is a consumer as defined in Article 1 para. 1 no. 2 of the Consumer Protection Act (KSchG; Konsumentenschutzgesetz), then the deadline named in Article 5 para. 4 shall apply when offering investments.

(3) The deadline pursuant to para. 1 shall be shortened by two banking days, provided that a checked supplement pursuant to Article 8 para. 2a has been submitted to the FMA, or a supplement accompanied by an opinion pursuant to Article 8 para. 2c in connection with securities that are to be admitted to trading on the Vienna Stock Exchange (Wiener Börse).

(4) In the case of supplements (amendments or supplementary information) of prospectuses for investments the requirement for their being approved by the FMA shall cease to apply. Such supplements shall instead be required to be checked pursuant to Article 8 para. 2. Otherwise, para. 1 shall apply to supplements to prospectuses for investments on the condition that the offeror has sent the audit certification of the prospectus auditor to the Notification Office without delay.



Validity of the Prospectus

Article 6a. (1) A prospectus shall be valid for a period of twelve months after its publication for public offerings or admissions to trading on a regulated market, provided that the prospectus is amended by any supplements required pursuant to Article 6.

(2) In the event of an offering programme, the previously file base prospectus shall be valid for a period of up to twelve months.

(3) In the case of non-equity securities pursuant to Article 7 para. 4 no. 2, the prospectus shall remain valid until none of the securities in question are no longer issued on a continuous or repeated basis.

(4) A registration document that has been filed in advance and approved as defined in Article 7 para. 3 shall be valid for a period of a maximum of twelve months.

(5) The registration document that was updated pursuant to Article 6 or Article 7a para. 4, accompanied by the securities description and the summary description shall be considered to constitute a valid prospectus.

Content of the Prospectus

Article 7. (1) The prospectus must contain all information which, according to the particular nature of the issuer and of the securities or investments being publicly offered or admitted to trading on a regulated market, which is necessary to enable investors to make an informed judgement about the assets and liabilities, financial situation, profit and losses, and the future prospects of the issuer and of any guarantor, as well as all rights associated with such securities or investments. This information is to be presented in a form that is easy to analyse and easily comprehensible.

(2) The prospectus shall contain information concerning the issuer and the securities to be publicly offered or is intended to be admitted to trading on a regulated market. It shall also contain a summary, which contains in a brief manner and in easily comprehensible language, in the language in which the prospectus was originally drawn up. The form and content of the summary of the prospectus shall be required in conjunction with the prospectus itself to provide relevant information about the material aspects of the securities about which they refer, to provide assistance to investors in reviewing the issue of whether or not they should invest in such securities. The summary shall be required written in a uniform format to facilitate the comparability of summaries with those for other similar securities, and shall furthermore contain the all key information about the relevant securities to provide assistance to investors in reviewing the issue of whether or not they should invest in such securities. The summary must furthermore include warnings that

1. it is intended to be understood as an introduction to the prospectus, and
2. the investor should base every investment decision regarding investment in the relevant securities on the scrutiny of the entire prospectus, and
3. where claims relating to the information contained in a prospectus are brought before a court, the plaintiff investor might, under the application of national law of the EEA signatory states, have to bear the costs of translating the prospectus before the legal proceedings are initiated, and
4. those persons, who have submitted the summary including a translation of it, and have applied for its notification, may be made liable, however only in the case that the summary is misleading, inaccurate or inconsistent, when read together with the other parts of the prospectus.

If the listing prospectus concerns the admission of non-equity instruments with a minimum denomination of EUR 100,000 to trading to a regulated market, then no summary shall be required.

(3) The issuer, offeror or person requesting the admission to trading on a regulated market may draw up the prospectus either as a single document or split into several separate documents. Where a prospectus comprises of several separate documents, then the required information shall be split into a registration document, a securities note and a summary. The registration document shall contain the information relating to the issuer. The securities note shall contain the information concerning the securities to be publicly offered or to be admitted to trading on a regulated market.

(4) For the following types of securities, the prospectus may, at the choice of the issuer, offeror or person asking for the admission to trading on a regulated market, consist of a base prospectus containing all relevant information concerning the issuer and the securities being publicly offered or to be admitted to trading on a regulated market:

1. non-equity securities, including warrants of any kind that are issued within an offering programme;



2. non-equity securities that are issued continuously or on a repeated basis by credit institutions,
 - a) provided that the proceeds derived from the issue of the said securities, are placed in assets under the prevailing national legislation that provide sufficient coverage for the liabilities arising from the relevant securities until their maturity date, and
 - b) provided that such proceeds shall, in the event of the insolvency of the concerned credit institution, without prejudice to the provisions of Directive 2001/24/EC, as a priority be allocated to repay the principal and accrued interest thereupon.

The information stated in the base prospectus shall be supplemented, as necessary pursuant to Article 6, with updated information on the issuer and on the securities to be offered to the public or to be admitted to trading on a regulated market. If the final terms of the offer are not included in either the base prospectus or a supplement, the final terms shall be provided to investors and filed with the FMA or with an entity commissioned by the FMA for a reasonable fee, and the FMA or the entity commissioned by the FMA with this task for a reasonable fee shall notify the competent authority of the host Member State(s) as soon as a public offering is made and the submission, filing or notification becomes practicable, and where at all possible, prior to start of the offering or admission to trading. In the case that the FMA is the competent authority, it shall be required to notify the final terms to ESMA. The final terms shall contain only information that relates to the securities note and do not serve as a supplement to the base prospectus. The issuing volume and the offer price shall be included in the final terms or must be explained therein as defined in para. 5 no. 1.

(5) In the event that the final offer price and the issuing volume of the securities, which will be offered to the public are not mentioned in the prospectus, either

1. the criteria and/or the conditions, upon the basis of which the aforementioned values are defined, or in the case of the offer price a maximum price must be listed in the prospectus, or
2. it must be stipulated in the prospectus that the consent to acquire or to subscribe to the securities may be withdrawn within two banking days following the depositing of the final offer price and the total amount of securities to be publicly offered.

The final offer price and volume of the securities issue shall be filed with the FMA or an organization charged with such task by the FMA for an appropriate fee and published pursuant to Article 10 para. 3.

(6) The FMA may permit upon request of the issuer, the offeror or the person applying for the admission of the securities to a regulated market, by means of an administrative decision that certain information may be omitted from the prospectus, which is otherwise required pursuant to this Federal Act or pursuant to Regulation (EC) No. 809/2004 or pursuant to the delegated legal acts pursuant to Article 7 (1) of Directive 2003/71/EC, when

1. the publication of the relevant details is detrimental to the public interest, or
2. the publication of the relevant details would be seriously detrimental to the issuer, provided that the omission of such details would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, offeror or guarantor, if any, and of the rights attached to the securities to which the prospectus relates are material, or
3. the relevant information is of minor importance for a special offering or a special admission to trading on a regulated market and the assessment of the financial position and the future prospected of the issuer, offeror or guarantor will not be influenced

(7) In the exceptional event that certain details required pursuant to this Federal Act or Regulation (EC) No. 809/2004 or pursuant to the delegated legal acts pursuant to Article 7(1) of Directive 2003/71/EC to be included in the prospectus that are not appropriate in relation to the scope of operations or the legal form of the issuer or to the securities to which the prospectus relates, then the prospectus shall contain information equivalent to the required information irrespective of it containing appropriate information for investors. Where no such corresponding details exist, this requirement shall not apply.

(7a) Where securities are guaranteed by a Member State, an issuer, an offeror or an person applying for admission to trading on a regulated market is not obliged when drawing up the prospectus to supply information about the guarantor.

(8) The securities prospectus shall be drawn up pursuant to Regulation (EC) No. 809/2004. Paras. 2 to 7 shall not apply to prospectuses for investments. The prospectus for investments shall be drawn up pursuant to Schedule C in either German or English.

(8a) By way of derogation from para. 8, provided that the offering of securities or investments has a total consideration within the European Union of less than EUR 5 million during a twelve month period, a simplified prospectus must be drawn up pursuant to Annex F. In the case of securities, a prospectus pursuant to para. 8 first sentence may be drawn up on a voluntary basis instead. Paras. 2 to 7 shall not



apply to investments. The simplified prospectus for investments must be prepared in German or English. When a planned issuance may lead to the total consideration within the European Union reaching or exceeding the amount of EUR 5 million within twelve months as a result of the issuance of securities or investments, then Article 7 para. 8 shall apply to the relevant issuance. Issuances pursuant to the Alternative Financing Act (AltFG; Alternativfinanzierungsgesetz) must be included. This shall apply irrespective of the application for Article 3 para. 1 no. 10 for securities.

(9) The FMA may prescribe by means of a Regulation a fee for the filing of documents. These fees shall not be allowed to exceed the average level of fees for official acts taking into consideration a fixed amount component.

Article 7a. (1) It shall be permitted for information to be incorporated into the prospectus in the form of references to one or more previously or simultaneously published documents that have been approved in accordance with this Federal Act or the Stock Exchange Act which have been deposited with the FMA as the competent authority of the home Member State or by an organisation charged with such task by the FMA for an adequate fee. The information must be the information most recently made available to the issuer. The summary shall not be allowed to contain any information in the form of a reference.

(2) When information is incorporated in the form of a reference, a list of cross-references must be provided to allow investors to easily identify specific items of information.

(3) An issuer whose registration document has already been approved by the FMA shall only be required to prepare a securities note and a summary if the securities are being publicly offered, or, which have been admitted to trading on a regulated market.

(4) In such a case, the securities note must contain the details that would usually be included in the registration document, when there have been massive changes or new developments since the approval of the last update of the registration document that could influence the assessment of the investor, provided that such details are not contained in a supplement pursuant to Article 6. The securities note and the summary are approved separately.

(5) If an issuer has filed one registration document that has not been approved, then all documents including updated information are to be approved.

Use of Language

Article 7b. (1) If a security is only intended to be publicly offered in Austria or is only intended for admission to trading on a regulated market to be sought in Austria, then the the prospectus shall be drawn up and published in German or English or in another language that is recognised by the FMA by means of a Regulation.

(2) Prospectuses that are otherwise submitted to the FMA as competent authority of the home Member State are to be drawn up in the languages mentioned in para. 1, but, instead of these languages, may also be drawn up at the choice of the issuer, the offeror or the person submitting the application for admission to trading, in another language that is commonly used in international financial circles. The FMA may in such cases also prescribe by means of a Regulation that a translation of the summary is published in German. Should the prospectus submitted to the FMA as competent authority of the home Member State relate to securities that are neither being publicly offered in Austria, nor for which an application for admission to trading in Austria is being submitted, then the prospectus may also be drawn up in another language that is customary in the sphere of international finance in addition to the languages mentioned in para 1. Should the prospectus submitted to the FMA as competent authority of the home Member State relate to non-equity securities with a minimum denomination of EUR 100,000 for which admission to trading on a regulated market is intended to be applied for, then the prospectus may also be drawn up in another language customary in the sphere of international finance in addition to the languages mentioned in para. 1.

(3) Prospectuses that have merely been notified to the FMA pursuant to Article 18 of the Directive 2003/71/EC may also be published in another language that is customary in the sphere of international finance in addition to the languages mentioned in para. 1 at the discretion of the issuer, offeror or the person applying for admission to listing. The FMA may in such cases also prescribe by means of a Regulation that a translation of the summary is published in German.

Issuers incorporated in Third Countries

Article 7c. (1) The FMA may, as the competent body of the home Member State of issuers with their registered office in a third country, authorise a prospectus drawn up in accordance with the legal provisions applicable in a third country for an offering to the public or for the admission to trading on a regulated market, where



1. this prospectus was drawn up in accordance with the international standards set by international organisations of securities supervision authorities including the IOSCO disclosure standards; and
2. the information requirements, including information of a financial nature, are equivalent to the requirements set out in this Federal Act.

(2) Where securities issued by an issuer with its registered office in a third country are publicly offered in Austria or are admitted to trading on a regulated market, then Article 7b and Article 8b shall apply.

Scrutiny of the Prospectus

Article 8. (1) The prospectus as applicable including the signature of the prospectus auditor pursuant to para. 2a or the opinion of Wiener Börse AG pursuant to para. 2c, is to be attached to the application for the approval of the prospectus submitted to the FMA. The application as well as all versions of the prospectus including the final version for approval are to be submitted electronically to the FMA. The FMA may stipulate by means of a Regulation how a clear technical allocation of the prospectus to the issuer should be ensured in accordance with the current technical state of the art. If a prospectus is submitted in an orderly manner in accordance with such standards, then this shall justify the absolute presumption that the prospectus has been drawn up by the issuer or by someone on his/her behalf. The third and fourth sentences shall also apply to the signature of the prospectus auditors pursuant to para. 2a and the signature of the opinion by Wiener Börse AG pursuant to para. 2c.

(2) The prospectus in the case of investments must be signed with the suffix “als Emittent” (“as issuer”). This signature shall justify the absolute presumption that the prospectus has been drawn up by the issuer or by someone on his/her behalf. In the case of a prospectus for investments, it is to be checked

1. by a cooperative auditing association for credit cooperatives under the Schulze-Delitsch system or the Raiffeisen system, or
2. by the auditing unit of the Sparkassen-Prüfungsverband, or
3. by a certified external auditor or an external auditing company, or
4. by
 - a) a credit institution as defined in Article 1 para. 1 of the Banking Act (BWG; Bankwesengesetz) that is authorised to perform transactions pursuant to Article 1 para. 1 nos. 9, 10 or 11 BWG and with eligible own funds of more than EUR 18.2 million; or
 - b) a credit or financial institution which conducts its business activity in Austria on the basis of Articles 9, 11 or 13 BWG via a branch or under freedom to provide services, provided that it is authorised to conduct comparable transactions in its home Member State (Article 4 (1) (43) of Regulation (EU) no. 575/2013), as listed in Article 1 para. 1 nos. 9, 10 or 11 BWG and has eligible own funds available of more than EUR 18.2 million;

for its correctness and completeness, and where this exists to be signed by the prospectus auditor included the place and date and with the suffix “als Prospektkontrollor” (“as prospectus auditor”). This signature shall justify the absolute presumption that the signatory has scrutinised the prospectus and has found it to be correct and complete. The issuer shall provide the auditor with all documents that he/she might need to enable an audit of the information contained in the prospectus with regard to its indisputable correctness and completeness. The prospectus auditor shall on the basis of the most recent report by the auditor about the issuer pursuant to Article 273 of the Austrian Commercial Code (UGB; Unternehmensgesetzbuch), where the issuer is subject to a statutory audit requirement, and shall examine with due professional care all the documents that are to be supplied by the issuer to determine whether the prospectus contains the details required pursuant to Article 7 and whether it correctly depicts the prevailing legal and economic status. The documents to be provided by the issuer shall be subjected to an audit on the basis of a sample regarding their correctness and completeness. Where the suspicion arises that the documents or the details contained in the prospectus are not fully correct or complete, then the prospectus auditor shall perform further audit measures to clarify the matter; in the event that the suspicion turns out to be well-founded, the prospectus auditor shall request that the required corrections and supplements are made in the prospectus. Auditors as defined in no. 3 shall be required to conclude acquire a liability insurance policy with an insurance undertaking that is licensed to perform insurance business in Austria, which covers the risk arising out of the prospectus auditing activity, with the coverage being at least EUR 3.65 million per yearly insurance period, and for which the insurance premium is required to have been paid up in full prior to the publication of the prospectus; the insurer shall inform the Notification Office in writing about the existence of such insurance as well as that the premium has been received.

All English translation of the authentic German text is unofficial and serves merely information purposes. The official wording in German can be found in the Austrian Federal Law Gazette (Bundesgesetzblatt; BGBl.). All translations have been prepared with great care, but linguistic compromises had to be made. The reader should also bear in mind that some provisions of these laws will remain unclear without certain background knowledge of the Austrian legal and political system. Please note that these laws may be amended in the future and check occasionally for updates.



(2a) In the case of prospectuses for securities, para. 2 shall apply subject to the condition that the scrutiny criteria for the prospectus are the completeness, coherence and comprehensibility of the details contained in the prospectus. However, the audit method using only random samples within the prospectus pursuant to para. 2 shall not suffice. The signature of the prospectus auditor justifies the irrevocable assumption that the signatory has scrutinised the prospectus and has found it to be complete, coherent and comprehensible. In the event that the applicant submits a prospectus that has already been scrutinised pursuant to this paragraph with his applicant pursuant to Article 8a then the deadlines pursuant to Article 8a shall each be shortened by three banking days. During the approval pursuant to Article 8a, the FMA shall be justified to rely on the prospectus auditor's auditing of the prospectus, and to base its administrative decision approving the prospectus in this audit opinion, unless the FMA has justified doubts regarding the correctness and completeness of the audit opinion about the prospectus and regarding the expertise or diligence of the prospectus auditor or ought to have had such doubts had the appropriate level of diligence been applied. This shall apply in the same way to prospectus audits performed by prospectus auditors that have been instructed by the FMA to perform this task, especially in the case that no audit declaration by the prospectus auditor has been attached to the prospectus. In no case shall prospectus auditors be considered as bodies of the FMA as per the definition in the Liability of Public Bodies Act (AHG; Amtshaftungsgesetz).

(2b) The FMA shall maintain a list of suitably qualified external auditors and external auditing companies, from which the prospectus auditor may be selected, provided that he/she is required to be a member of this professional group. The Chamber of Professional Accountants and Tax Advisors may provide the FMA with suitable candidates for the list.

(2c) In the case of prospectuses for securities that are intended to be admitted to trading on the Vienna Stock Exchange (Wiener Börse), the deadline pursuant to Article 8a shall only be shortened by three banking days where the applicant has attached an opinion by Wiener Börse AG contained a declaration to its application pursuant to Article 8a, stating that it has scrutinised the prospectus and found it to be complete, coherent and comprehensible. For the approval pursuant to Article 8a the FMA shall be entitled to rely on the opinion of Wiener Börse AG pursuant to this paragraph and to use it as the basis for its administrative decision approving the prospectus, unless the FMA has well-founded doubts regarding the correctness and completeness of the opinion, or the expertise or due diligence of Wiener Börse AG, or should have had such doubts had it applied the appropriate due care. This shall equally apply to opinions by Wiener Börse AG requested by the FMA itself, especially where no such statement by Wiener Börse AG has been attached to the prospectus. In no case shall Wiener Börse AG be deemed to be a body of FMA as per the definition in the Liability of Public Bodies Act (AHG; Amtshaftungsgesetz).

(3) Where the nominal value of the entire issue or the selling price of the entire issue or the total of the capital invested exceeds EUR 730,000 or its corresponding value in a foreign currency or in an accounting unit, the prospectus audit shall be allowed

1. to be conducted by a prospectus auditor in accordance with para. 2 no. 1 1st case, in the case that the issuer
 - a) belongs to the trade association of credit cooperatives according to the Schulze-Delitsch System as a member, or
 - b) is a credit or financial institution in which one or more members of the trade association pursuant to lit. a, directly or indirectly holds a participation of at least 25%;
2. to be conducted by a prospectus auditor in accordance with para. 2 no. 1 2nd case, in the case that the issuer
 - a) belongs to the trade association of credit cooperatives according to the Raiffeisen System as a member, or
 - b) is a credit or financial institution in which one or more members of the trade association pursuant to lit. a, directly or indirectly holds a participation of at least 25%;
3. to be conducted by a prospectus auditor in accordance with para. 2 no. 2, in the case that the issuer
 - a) belongs to the trade association of Sparkassen (savings banks) as a member, or
 - b) is a credit or financial institution in which one or more members of the trade association pursuant to lit. a, directly or indirectly holds a participation of at least 25%;

Securities and investments of the same issuer that were the subject of a public offering within the preceding twelve months shall be included when calculating the total amount.

(4) No reasons for exclusion shall be allowed to exist for prospectus auditors. The circumstances listed in Article 271 and Article 271a of the Austrian Commercial Code (UGB; Unternehmensgesetzbuch) shall applying accordingly as reasons for exclusion.



(5) The auditing of the prospectus by a credit or financial institution as defined in para. 2 no. 4, for whom a reason for exclusion as defined in para. 4 exists, shall be permissible despite the provisions of para. 4 when the prospectus is also audited by an additional prospectus auditor as defined in para. 2 nos. 1 to 4 against whom no reason for exclusion exists. Where grounds exist to assume partiality on the part of the prospectus auditor as defined in Article 271 and Article 271a UGB, the prospectus as well as any amendments or supplements to it, shall only then be considered to have been audited when in addition to the partial prospectus auditor another impartial prospectus auditor as defined in para. 2 nos. 1 to 4 has also duly signed the audit opinion. The reversal of the burden of proof pursuant to Article 11 para. 1 shall be borne by the credit or financial institution against whom reasons for exclusion are given. The restriction stipulated in Article 8 para. 3 for prospectus auditors shall not apply in the case that they are performing the audit as additional auditors as defined in this paragraph.

(6) Where the prospectus auditor is a credit institution, regardless of the reasons for exclusion that might exist pursuant to para. 4, the issuer shall not be allowed, either directly or indirectly, to hold shares in the credit institution that reach or exceed 10 percent of its nominal capital.

(7) The existence of a reason for exclusion may not be used as argument against anyone who quotes incorrect or incomplete information from the prospectus.

(8) The prospectus for investments must be submitted with the necessary signatures including the signature of the prospectus auditor, by the offeror to the Notification Office in a timely manner to ensure that it is available at latest on the banking day of the publication.

Approval of the Prospectus

Article 8a (1) The FMA shall approve prospectuses provided that Austria is the home Member State, as the competent administrative authority of the home Member State for applications by the issuer or offeror or the person applying for admission to trading on a regulated market, when the prospectuses are complete, coherent and comprehensible and where they otherwise fulfil the conditions required pursuant to this Federal Act. The FMA may make use of the services of the persons listed in Article 8 para. 2 as prospectus auditors or otherwise as experts in the approval procedures to assist in the assessment of the completeness, coherence and comprehensibility of the prospectuses. In procedures relation to applications for the approval of securities prospectuses, which are intended to be admitted to trading on the Vienna Stock Exchange (Wiener Börse AG), the FMA may, prior to approval, obtain an opinion from Wiener Börse AG as defined in Article 8 para. 2c provided that such an opinion has not already been attached to the application. Any fees charged by prospectus auditors, experts or by Wiener Börse AG as an expert providing an expert opinion shall be borne in all cases by the applicant.

(2) During the approval procedure, the FMA shall be authorised to:

1. require the inclusion of addition details in the prospectus, where required for investor protection reasons, from issuers, offerors or persons applying for admission to trading on a regulated market;
2. require the submission of information and documents from issuers, offerors or persons applying for admission to trading on a regulated market, as well as from persons, who control them or are controlled by them;
3. require auditors and managers of the issuer, offeror or person asking for admission to trading on a regulated market, as well as financial intermediaries commissioned to carry out the placement of the public offering and to apply for admission to trading, to provide information;
4. suspend a public offering or an admission to trading for a maximum of ten consecutive banking days respectively, where adequately reasoned suspicions exist, that there has been a breach of the provisions of this Federal Act or against Articles 46 et seq. BörseG 2018;
5. prohibit or suspend advertising for a maximum of ten consecutive banking days respectively, where adequate reasons exist for the assumption that there has been a breach against the provisions of this Federal Act;
6. prohibit a public offering, when it determines that there has been a breach against the provisions of this Federal Act, or where an adequately reasoned suspicion exists, or that it would breach them;
7. suspend trading on a regulated market for a maximum of ten consecutive banking days or to demand the suspension of trading from the relevant regulated markets, when adequate grounds exist for the assumption, that there was a breach of the provisions of this Federal Act or against Articles 46 et seq. BörseG 2018;
8. prohibit trading on a regulated market, when it determines that there was a breach against the provisions of this Federal Act or against Article 46 et seq. BörseG 2018;



9. announce the fact that an issuer is failing to comply with its obligations; Article 16a para. 2 shall apply.

(3) The FMA shall notify the issuer, the offeror or the person asking for admission to trading on a regulated market of its decision by means of an administrative decision within ten banking days of the prospectus being submitted regarding the approval of the prospectus. In the event that no administrative decision is issued by the FMA within the deadlines listed in his paragraph and in para. 4 regarding the prospectus, then this shall not be deemed to constitute an approval.

(4) The time limit referred to in para. 3 shall be extended to twenty banking days if the public offer relates to securities issued by an issuer that does not yet have any securities admitted to trading on a regulated market and that has not previously offered securities to the public.

(5) If the FMA arrives at the conclusion based on reasonable grounds, that the documents submitted to it are incomplete or that they require supplementary information to be submitted, the time limits stated in paras. 3 and 4 shall apply only from the date on which this information is provided by the issuer, the offeror or the person asking for admission to trading on a regulated market. In the case referred to in para. 3, the FMA shall notify the issuer within ten banking days from the date of the submission of the application in the event that the documents are incomplete.

(6) The FMA may transfer the task of the approval of a prospectus to the competent authority of another EEA signatory state, provided that the European Securities and Market Authority (ESMA) (Regulation (EU) No. 1095/2010) has been informed in advance of this and competent authority in question agrees to this request. Such a transfer shall be notified to the issuer, the offeror or the person asking for admission to trading on a regulated market within three working days from the date of the decision taken by the FMA. The FMA may also accept the transfer of the approval for a prospectus from the competent authority of the home member state of another EEA signatory state. The deadline pursuant to para. 3 shall begin to apply from the date of the decision of the competent authority transferring the approval. Any wrongful conduct by the competent authority of another EEA signatory state shall not be attributed to the Republic of Austria as responsible legal entity. Article 28 (4) of Regulation (EU) No. 1095/2010 shall not apply to the transfer of the approval of the prospectus pursuant to this paragraph.

(7) The FMA shall send the approved prospectus to the Notification Office on the day of the approval being granted. Furthermore, the FMA shall make the prospectus available to the ESMA without delay following its approval. This shall also apply to the approval of supplements.

(8) After admission of the securities to trading on a regulated market, the FMA shall also have the power to

1. require the issuer to disclose all material information that may influence the assessment of the securities admitted to trading on regulated markets to guarantee investor protection or the smooth operation of the market;
2. suspend the securities from trading or to require the relevant regulated market to suspend trading, where it is of the opinion that trading would be detrimental to the interests of investors' on the basis of the issuer's situation;
3. ensure that those issuers whose securities are traded on regulated markets comply with the obligations in accordance with Articles 102 and 103 of Directive 2001/34/EC and that in all EEA signatory states in which the public offering is made or the securities are admitted to trading, where all investors receive the same information and all securities holder who are in the same position are treated equally by the issuer.
4. conduct on-site inspections to verify compliance with the provisions of this Federal Act and the delegated legal acts of Directive 2003/71/EC.

(9) FMA must inform ESMA at the same time on of the approval of the prospectus and all supplements to the prospectus as it also informs the issuer, the offeror or person submitting an application for admission to trading on a regulated market. Furthermore, the FMA shall also send a copy of the prospectus and all supplements to the prospectus to ESMA.

Community-wide scope of approved Prospectuses

Article 8b. (1) Without prejudice to Article 8c – in cases where Austria is not the home Member State – the prospectus for an offer to the public or admission to trading on a regulated market approved by the home Member State and any supplements required thereto shall be valid for the public offer or the admission to trading in any number of host member states, provided the FMA and ESMA have been informed (notified) pursuant to Article 18 of Directive 2003/71/EC. The FMA shall not conduct an approval procedure for such prospectuses. This prospectus shall be deemed to have been approved as defined in this Federal Act.

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(2) If any significant new circumstances, material mistakes or inaccuracies as defined in Article 6, have arisen since the approval of the prospectus by the competent authority of the home Member State, the FMA – provided it has gained such knowledge – may draw the attention of the competent authority of the home Member State that the new details require approval (by way of the publication of a supplement to be approved pursuant to Article 13 (1) of Directive 2003/71/EC).

(3) The FMA as the competent authority of the home Member State shall in turn submit within three working days a certification of approval to the competent authorities of the host Member States and ESMA following a request by the issuer or the person responsible for the drawing up of the prospectus, or in the event that the request was submitted together with the prospectus, within one banking day following the approval of the prospectus, in which it attested that the prospectus was drawn up pursuant to Directive 2003/71/EC, as well as a copy of the prospectus. Where applicable, this notification shall be accompanied by a translation of the summary produced under the responsibility of the issuer or person responsible for drawing up the prospectus. The same procedure shall be followed for any supplement to the prospectus. The issuer or the person responsible for the preparation of the listing prospectus shall be sent the certificate of approval at the same time as it is sent to the competent authority of the host Member State.

(4) Any application of the provisions of Article 7 paras. 6 and 7 shall be stated and justified in the certificate.

Breaches of obligations by Issuers from the EEA

Article 8c. (1) Where the FMA as the competent authority of the host Member State determines that irregularities have been committed by the issuer or by the financial intermediaries in charge of the placement of the public offering or that the issue has not complied with the obligations conferred upon it from the admission to trading on a regulated market, then it shall refer these findings to the competent authority of the home Member State and ESMA.

(2) If, despite the measures taken by the competent authority of the home Member State or where such measure prove not to be expedient, the issuer or the financial intermediary in charge of the placement of the public offering continues to breach the relevant legal or regulatory provisions, the FMA shall take all the appropriate measures to protect investors after informing the competent authority of the home member state and ESMA, as the competent authority of the host Member State and shall inform the European Commission and ESMA about the measures taken at the earliest opportunity.

Restrictions on the Issuance of Debt Securities

Article 9. (1) The Federal Minister of Finance shall be empowered, when doing so is necessary to prevent any serious disruptions to the orderly functioning of the capital market, following a consultation of the Oesterreichische Nationalbank, to determine by means of a Regulation for a maximum duration of six months, that

1. the initial public offering of cash-denominated debt securities or of specific types of debt securities shall only be permissible with his written approval, and/or
2. a risk assessment conducted in accordance with internationally recognised criteria about the issuer and the issuance pursuant to Article 10 para. 1 must be published and submitted to the Notification Office prior to the initial public offering of cash-denominated debt securities or of specific types of debt securities.

(2) Approvals pursuant to para. 1 no. 1 shall only be granted where by doing so the orderly functioning of the capital market shall not be endangered.

(3) For conducting a risk assessment pursuant to para. 1 no. 2 only firms shall be deemed to be suitable that are able to provide proof of at least ten years of relevant experience in this field or joint stock companies that have at least one management and one representative body that is able to prove that it has at least ten years of recognized relevant experience.

(4) Para. 1 shall not apply to the Oesterreichische Nationalbank. The Oesterreichische Nationalbank shall inform the Ministry of Finance of any observations or findings within the capital market sector of a basic nature or of particular significance, and shall provide detail explanations that the Federal Minister of Finance deems to be necessary as well as making documents available and drawing up expert opinions. Furthermore, it shall also provide the Federal Ministry of Finance access by automated means to all capital-market relevant data at all times, on the basis of

1. reporting pursuant to this Federal Act and on the basis of Regulations issued on the basis of this Federal Act and



2. data processed in aggregated form on the basis of reporting in accordance with the Foreign Exchange Act (Devisengesetz) that are necessary for the performance of the tasks of the Federal Minister of Finance in accordance with para. 1.

Publication of the prospectus

Article 10. (1) No prospectus shall be allowed to be published prior to it having been approved by the FMA.

(2) Following its having been approved, the prospectus shall be published by the issuer, offeror or person requesting admission to trading on a regulated market as soon as practicable, in any case, however, at the latest one banking day prior to the commencement of the public offering or the admission to trading of the securities involved. In addition, in the case of an initial public offering of a class of shares that are not already admitted to trading on a regulated market, but which are intended to be admitted to trading for the first time, the prospectus must be published at least six banking days prior to the conclusion of the offer.

(3) The prospectus shall be deemed to be published as defined in this Federal Act, if it

1. has been published in the *Amtsblatt zur Wiener Zeitung* (official Gazette of the Wiener Zeitung) or in at least one newspaper with nationwide circulation, or
2. has been made available to the general public in printed form free of charge at the competent bodies of the market, upon which the securities are intended to be admitted to trading, or at the registered office of the issuer and at the premises of financial intermediaries that place or sell the securities, including paying agents, or
3. has been published on the website of the issuer or on the website of the financial intermediaries placing or selling the securities, including paying agents, or
4. has been published on the website of the regulated market for which the admission to trading was applied, or
5. has been published on the website of the FMA or on the website of an entity that has been charged with such a task by the FMA for an adequate fee, when the FMA has decided to provide this service.

If the prospectus is published pursuant to nos. 1 or 2, then the issuer, the offeror or the person submitting an application for admission to trading on a regulated market shall additionally be required to publish the prospectus on a website pursuant to nos. 3, 4 or 5. The FMA must – provided that Austria is the home Member State – be notified in advance of how the prospectus will be published and where it may be obtained; the criteria for the publication pursuant to no. 1 may be defined by the FMA by means of a Regulation.

(4) The issuer shall in any case – provided that Austria is the home Member State – publish a notification pursuant to para. 3 no. 1 from which it is apparent how the prospectus has been made available otherwise pursuant to para. 3 and where it may be obtained.

(5) The FMA shall publish on its website or on the website of an entity that has been charged with such a task by the FMA for an adequate fee for a period of 12 months, at its discretion, all the prospectuses approved, or at least the list of prospectuses that were approved pursuant to Article 8a, as applicable including a link (hyperlink) to the prospectus published on the website of the issuer, or on the website of the regulated market.

(6) In the case that the prospectus consists of several individual documents and/or incorporating details in the form of references, then the documents and details that form as a whole the prospectus may be published and circulated separately, when the said documents are made available free of charge to the public in accordance with the provisions set out in para. 3. It shall be indicated in every document where the other constituent documents of the full prospectus may be obtained.

(7) The wording and format of the prospectus, and/or the supplements to the prospectus that are published or made available to the public must at all times be identical to the original version that was approved by the FMA.

(8) If the prospectus is published in an electronic format, then upon request a paper copy must nonetheless be made available to the investor free of charge by the issuer, the offeror, the person requesting admission to trading or by the financial intermediaries placing or selling the securities.

(9) The FMA as the competent body of the host Member State must publish on its website a list of the certificates it has received pursuant to Article 8b on the approval of prospectuses and all supplements to prospectuses, as applicable including an electronic link (hyperlink) to the documents published on the website of the competent authority of the home Member State, of the issuer or of the regulated market.



The published list must always be kept up-to-date, and every entry must be retrievable for at least twelve months on the website.

Responsibility attaching of the Prospectus

Article 11. (1) The following shall be liable for damages towards every investor that have arisen as a result of the investor placing their trust in the correctness of the details contained in the prospectus or other details required in accordance with this Federal Act (Article 6), which are significant with regard to the assessment of securities or investments:

1. the issuer for any incorrect or incomplete information arising from their own negligence or the negligence of their staff or other persons whose services were used to draw up the prospectus,
2. the prospect auditor for incorrect or incomplete scrutiny due to their own negligence or the negligence of their staff or other persons whose services were used for the auditing the prospectus,
- 2a. the prospectus auditor for investment prospectuses, although only for any incorrect or incomplete scrutiny due to their own gross negligence or the gross negligence of their staff or other persons whose services were used for the auditing the prospectus,
- 2b. Wiener Börse AG for incorrect or incomplete opinions pursuant to Article 8 para. 2c, in the case of securities prospectuses admitted to trading on the Vienna Stock Exchange (Wiener Börse), however only due to their own negligence or the negligence of their staff or other persons whose services were used for opinions pursuant to Article 8,
3. any person, who has accepted the contract declaration of the investor in their own name or on behalf of others, and the broker of the contract, provided that the person involved performs the brokering of securities or investments on a commercial basis and they or their staff have recognised the incorrectness or incompleteness of the details as defined in no. 1 or in the scrutiny, or are unaware of this due to gross negligence, and
4. The auditor of the financial statements, who being aware of the incorrectness or incompleteness of the details as defined in no. 1 and in the knowledge of the annual financial statement that he has confirmed is a document that constitutes a document for the scrutiny of the prospectus, has provided an audit opinion for an annual financial statement.

In the event of a reason for exclusion exists against the prospectus auditor, the investor shall not be required to prove the existence of the fault listed in no. 1 or 2. Liability pursuant to no. 3 shall only exist towards those investors, whose contract declaration was received by a liable party or where the liable party mediated their purchase of securities or investments. Liability shall exist for a summary including any translation where it, read together with the other parts of the prospectus, is misleading, inaccurate or inconsistent. The same shall also apply when it is read together with the other parts of the prospectus and not all of the material information is provided to be of assistance to investors when reviewing the issue of whether to invest in such securities. The summary shall also contain a clear warning drawing attention this fact and with respect to the previous sentence. The persons pursuant to no. 1 and 2 as well as any guarantor shall be clearly identified in the prospectus with their names and functions stated – or in the case of legal persons, their names and registered offices; furthermore, the prospectus shall also contain the wording of the respective declarations made by the persons mentioned in Article 8, and furthermore in the case of other guarantors that to their knowledge the details in the prospectus are correct and that no circumstances have been omitted that may affect the relevance of the prospectus. Anyone who makes an offer that is subject to the obligation to publish a prospectus in Austria without the approval of the issuer in accordance with Article 3 para. 3 shall be liable towards investors, who have assumed during the offering or invitation to subscribe instead of the issuer in accordance with no. 1, provided that the issuer did not know or did not need to know that the prospectus was the subject of an offering pursuant to Article 2 without its approval and the issuer informed the Notification Office and the FMA about the unlawful use of the prospectus without delay, after having gained knowledge of the unlawful usage or having had to have known about it. The Notification Office must proceed pursuant to Article 12 para. 2 with the notifications received.

(2) In the case of securities or investments with foreign issuers, liability pursuant to para. 1 no. 1 shall also be assumed by the party placing the offering subject to the obligation to publish a prospectus in Austria.

(3) Where several parties are liable, then they shall be jointly and severally liable. Their liability shall not be mitigated by virtue of the fact that others are also liable for compensation of the same damages.

(4) Liability to the detriment of investors may neither be restricted nor excluded in advance.



(5) Compensation claims for damages may not be derived from the circumstance that the securities or investments contained in the prospectus were not acquired as a result of incorrect or incomplete information.

(6) The amount of the liability towards each individual shall be limited on the basis of the purchase price paid by the investor plus fees and interest from the date of purchase, provided that the action causing the damage to occur was performed intentionally. In the case of the acquisition occurring at no charge, then the last paid acquisition price plus fees and interest as of the date of acquisition shall apply.

(7) Claims by investors in accordance with this Federal Act must be filed with a court within ten years following the conclusion of the offering subject to the obligation to publish a prospectus; the right to claim damages shall otherwise expire.

(8) Claims for damages arising from violations of other legal provisions or from breaches of contract shall remain unaffected by these provisions.

Notification Office

Article 12. (1) The Oesterreichische Kontrollbank Aktiengesellschaft is the Notification Office in accordance with this Federal Act. It shall scrutinise the received securities prospectuses and other details for the existence of the approval by the FMA or a confirmation of notification and retain them for safekeeping and shall scrutinise investment prospectuses and other details in accordance with this Federal Act for the existence of the necessary signatures (issuer, prospectus auditor) pursuant to Article 8 para. 2 or Article 14 no. 2 and retain them for safekeeping. In the case that the FMA does not conduct an approval procedure pursuant to Article 8b para. 1, it shall submit the prospectus to the Notification Office along with a confirmation of the notification of the prospectus; in this case the scrutinising of the prospectus by the Notification Office shall not include checking for the existence of the approval by the FMA; the Notification Office shall be allowed to destroy the prospectuses and other details filed in accordance with this Federal Act at earliest 15 years after their having been filed with the Notification Office. The Notification Office shall be authorised to charge providers notifying or filing a prospectus an appropriate fee for its services.

(2) The Notification Office is obliged to respond to enquiries as quickly as possible, at latest however within five working days, about whether a prospectus or other details in accordance with this Federal Act, for securities or investments that are the object of the enquiry have been published and filed with the Notification Office and whether the investment prospectus or other details in accordance with this Federal Act contain the necessary signatures in accordance with this Federal Act and whether the securities prospectus or other information in accordance with this Federal Act bear the approval of or confirmation of notification from the FMA. At the same time, responses are to be given to about the publication medium, the date of publication, where the publication may be obtained as well as the insurance of the prospectus auditor. To this end, the offeror shall inform the Notification Office immediately of the publication medium, the date of publication, where the publication may be obtained provided that such information is not apparent from submitted prospectus or from the information about any amendments or addenda. The Notification Office shall provide a copy of the prospectus, or any other information, to persons interested for a cost-covering fee upon request.

(3) Furthermore, the Notification Office shall also

1. analyse the information in the prospectuses about the securities, investments and issuers statistically and using computer assistance, where there is necessary to fulfil its duties in accordance with this Federal Act;
2. report regularly to the Federal Ministry of Finance, the FMA and the Oesterreichische Nationalbank about the developments that have been observed in the capital market as well as without delay where special circumstances prevail;
3. provide the FMA and the Oesterreichische Nationalbank with computer-assisted access at all times to information based of reports pursuant to this Federal Act as well as Regulations issued on the basis of this Federal Act.

(Note: paras. 4 and 5 were repealed in the amendment in Federal Law Gazette I No. 78/2005)

Issuing Calendar

Article 13. (1) Anyone intending to offer securities or investments within Austria for the first time is obliged to inform the Notification Office as soon as possible about the issuer, the planned timing of the issuance, the total volume, denomination, and term in the case of public offerings of any other conditions as well as, if applicable, any circumstances that constitute an exemption from the obligation to publish a prospectus pursuant to Article 3; specific individual details that can only be determined shortly before



the subscription period may be submitted at a later date. When stating the prevailing circumstances in relation to the exemption from the obligation to publish a prospectus, the relevant circumstance for this exemption in accordance with Article 3 or other provisions set out in Federal Acts shall expressly be stated. Furthermore, for the purpose of unique identification of the issuance to be reported in the case of securities issuances or of securitised investments pursuant to Article 1 para. 1 no. 3, the offeror shall disclose the ISIN number assigned by the Oesterreichische Kontrollbank Aktiengesellschaft (Austria's domestic ISIN issuing body) or by a foreign ISIN issuing body or an equivalent identification number.

(2) The reporting requirement pursuant to para. 1 shall not apply to securities or investments pursuant to Article 3 para. 1 nos. 4 to 6, 10, 12 and 13.

(3) The Notification Office shall publish the reports received in the form of an anonymised overview on a monthly basis. The Notification Office shall disclose the publication medium and any changes in the Official Gazette "*Amtsblatt zur Wiener Zeitung*". It shall reply to enquiries by issuers regarding planned issues anonymously.

(4) If the Notification Office, has reasonable doubts on the basis of the notifications received pursuant to para. 1 regarding the application for an exemption from the obligation to publish a prospectus in the case of an issuance contrary to the information submitted pursuant to para. 1, then it shall inform the offeror of this circumstance. Should the Notification Office have founded suspicions based on notifications received pursuant to para. 1 of an act that is punishable by a court of law pursuant to Article 15 para. 1 no. 1 that a public offering has been made without the required prospectus pursuant to Article 2 having been issued, then it shall immediately inform the FMA of this fact.

(5) Claims for damages may not be filed on the grounds that notifications to the FMA pursuant to para. 4 were made improperly and negligently, or have not been made.

Special Provisions for Investments in Real Estate

Article 14. Collective investment undertakings in real estate exist where investments are issued or offered by issuers who make predominantly make profits either directly or indirectly from the capital invested either for the purpose of, or in actual practice, from the rental or transference of real estate to third parties. For these types of collective investment undertakings in real estate, the following additional provisions shall also apply:

1. The prospectus (Article 7) must be supplemented by the information contained in Scheme D;
2. The scrutiny of the prospectus must be conducted by a prospectus auditor pursuant to Article 8 para. 2 no. 3 or 4; Article 8 para. 2 final sentence shall apply subject to the proviso that with regard to the insurance contract the coverage sum per one year insurance period shall be at least EUR 18.2 million;
3. The acquisition of the investment is to be confirmed to the investor in written form at the time the contract is concluded; the confirmation shall contain the main characteristics of the investment, in particular its equivalent value and the legal status of the investor as well as a the publication medium and date of publication of the prospectus as well as any other information required in accordance with this Federal Act; the confirmation is to be issued by the issuer; where the issuer is foreign it shall be issued by the offeror; in the case that both the issuer and the offeror are foreign, then it shall be issued by the broker;
4. The issuer shall draw up a statement of accounts pursuant to Annex E for each undertaking for collective investments on an annual basis;

the method applied for calculating the value of properties shall be the same within each undertaking for collective investments in real estate; the financial statements shall be examined by an auditor for correctness and integrity applying Articles 268 to 276 of the Austrian Commercial Code (UGB; Unternehmensgesetzbuch) accordingly; if the audit opinion does not give rise to any objections, the auditor shall confirm this with the following annotation: "After having conducted our due audit of the statement of accounts, we hereby certify that they are in compliance with statutory requirements. The valuation of real estate properties shall correspond to the principles stated in the prospectus and in the statement of accounts. The statement of accounts present a true and fair view of the financial position of the undertakings for collective investments in accordance with generally accepted accounting principles."

5. The issuer shall publish the audited statement of accounts complete with the audit opinion within six months of the end of the financial year, or where there is no financial year by 30 June of each calendar year, in accordance with the regulations about the publication of the prospectus in accordance with Article 10;



6. The auditor of the statement of accounts shall be liable towards investors as defined in Article 275 UGB.

Penal Provisions

Article 15. (1) Any person who in connection with a public offering of securities or investments that are subject to the obligation to publish a prospectus pursuant to this Federal Act:

1. offers securities or investments, without an approved prospectus or the prescribed amendments or supplementary information in accordance with Article 6 having been published in a timely manner, or
2. provides incorrect commendatory information regarding material circumstances pursuant to Article 7 that influences the decision to acquire such instruments in a published prospectus or a published amendment or supplementary information in accordance with Article 6 or conceals detrimental facts, or
3. fails in contradiction of the provisions of Article 14 to publish a statement of accounts, or
4. states in a statement of accounts published pursuant to Article 14 regarding material circumstances as defined in Article 7 inaccurate commendatory information or conceals detrimental facts,

shall, provided that the act is not punished more severely under other legal provisions, be punished by the court with a custodial penalty or up to two years imprisonment or with a fine of not more than 360 times the per diem rates for fines.

(2) Any person who pursuant to para. 1 nos. 1 and 2 voluntarily prevents the acquisition of securities or investments prior to the payment required for acquisition is made, shall not be punished. The offender shall also not be punished where the payment is not made without his/her intervention, but where the offender unwittingly has voluntarily and seriously made efforts to prevent the payment

(3) Penal liability in accordance with para. 1 shall be repealed subject to the conditions of Article 167 of the Criminal Code (StGB; Strafgesetzbuch) on the grounds of active repentance, provided that the damage that is made good, relates to the total payment required for the acquisition including any associated ancillary costs.

Article 16. Any person, who in connection with a public offering of securities or investments that are subject to the obligation to publish a prospectus pursuant to this Federal Act, or who in conjunction with the admission to a regulated market (Article 46 BörseG 2018):

1. offers or commercially brokers securities or investments, where the prospectus or the amending or supplementary information in accordance with Article 6 or publication thereof contradicts the regulations set forth in this Federal Act, or as the issuer draws up or publishes a statement of accounts that contradicts this Federal Act;
2. acts as a prospectus auditor as an issuer, who makes in a prospectus or in amending or supplementary information in accordance with Article 6, or as an issuer or auditor in a statement of accounts provides incorrect information or as the expert pursuant to Article 8 para. 2 or para. 5 or Article 14 no. 2 signs a prospectus, without have concluded the respective prescribed insurance policy;
3. engages in solicitation in violation of the provisions of Article 4;
4. as an offeror of debt securities for which a rating is to be published pursuant to Article 9, fails to publish a rating or does not submit it to the Notification Office on time;
5. as an offeror does not notify the Notification Office pursuant to Article 12, or as a person subject to reporting requirements does not notify the Notification Office pursuant to Article 13, even in such cases where no public offering has been made or where no obligation to prepare a prospectus exists;
6. as an offeror fails to send the prospectus or the amended or supplemented information pursuant to Article 6 to the Notification Office in a timely manner pursuant to this Federal Act;
7. offers debt securities without the necessary authorisation in accordance with Article 9 para. 1 no. 1 from the Federal Minister of Finance;
8. signs a prospectus or amending or supplementary information in accordance with Article 6 despite the existence of reasons for exclusion as a prospectus auditor (except in the case of also being simultaneously signed by an independent auditor), or audits a statement of accounts as an auditor or initiates such an audit or review by an auditor or prospectus auditor against whom such reasons for exclusion exist, or offers securities or investments without informing the



Notification Office in a timely manner about the corresponding insurance or having paid the insurance premium;

9. acts contrary to the instruction of the FMA in accordance with Article 8a para. 2 nos. 4 to 8 or Article 8a para. 8 nos. 1 to 3 or does not submit the prospectus auditor's audit certificate to the Notification Office without delay pursuant to Article 6 para. 4, or omits to submit the notification to the FMA pursuant to the Article 10 para. 3, or omits to publish the notification pursuant to Article 10 para. 4, or engages in solicitation or published in contradiction of Chapter V of Regulation (EC) No 809/2004, or
 10. offers securities under Article 3 para. 3 without having the required consent of the issuer of the person responsible for the drawing up of the prospectus,
- commits an administrative offence and shall be punished by the FMA with a fine of up to EUR 100 000.

Article 16a. (1) The FMA may provide information about or publicly announce measures or sanctions imposed for breaches against the provisions of this Federal Act or the Stock Exchange Act, only in accordance with nos. 1 to 3.

1. In the event of an official act being performed during pending proceedings, the FMA shall not mention the names of the parties involved, unless they are already publicly known or the general public has a predominant interest in learning these names.
2. In the event of a sanction being imposed, the FMA may provide information on or make public the names of the persons or companies upon which the sanctions have been imposed, the names of those companies for which persons are responsible upon whom sanctions have been imposed as well as the nature of the sanctions imposed. Sanctions in the meaning of these provisions shall be understood to be all legal acts of the FMA taken after proceedings have been concluded by means of an administrative decision being issued.
3. The FMA shall desist from providing information in relation to an official act or from making a publication about this act, when:
 - a) providing the information or making it public would pose a serious threat to the stability of financial markets; or
 - b) providing the information or making it public would lead to disproportionately large damage being incurred by an involved party affected by the information or the act of making it public; or
 - c) the conducting of proceedings or taking of measures which are in the interest of the public may be thwarted, hampered, delayed or jeopardised by providing this information.

(2) Any person about whom information has been made public or provided may file a request for review with the FMA of the legality of making the information public or providing it pursuant to para. 1, which shall be carried out in proceedings culminating in an administrative decision. In this case, the FMA shall announce the initiation of such proceedings in the same manner. If within a review being conducted, it is found that information has been made public or provided unlawfully, the FMA shall correct the information made public or provided or, upon request of the person concerned, retract it or remove it from its website. If an appeal against an administrative decision, which has been announced pursuant to para. 1, is granted suspensory effect in proceedings conducted in front of a court of law, then the FMA shall make this known in the same manner. The publication or disclosure of information shall be corrected, upon request of the concerned party revoked, or removed from the Internet when the administrative decision has been repealed.

Article 16b. (1) All persons who work for, or have worked for the FMA, including the Notification Office shall be bound by the obligation to keep official secrets. Information that is considered bound by official secrecy shall not be permitted to be passed on to other persons or authorities unless such action is taken on the basis of legal provisions.

(2) Para. 1 shall not prevent the FMA and the competent bodies of other EEA signatory states from exchanging confidential information or forwarding confidential information to ESMA or the European Systemic Risk Board (ESRB) taking into consideration the applicable restrictions of Regulation (EU) No. 1095/2010 or Regulation (EU) No. 1092/2010 on financial supervision of the European Union at the macro level and for the establishment of a European Systemic Risk Board with respect to company-specific information and effects on third countries. The Information exchanged in this manner by the FMA, the competent bodies of other EEA signatory states and ESMA or ESRB shall be considered subject to professional secrecy and all persons that work or have worked at the competent authorities that receive such information shall be bound to comply with this obligation to maintain secrecy.

(3) Valid provisions in accordance with other Federal Acts regarding the obligation to maintain professional secrecy shall not be affected by the provisions of this Federal Act.



Cooperation with the Competent Authorities of other EEA Signatory States

Article 16c. (1) The FMA shall cooperate with the competent authorities for approvals of other EEA signatory states whenever necessary for the purpose of carrying out its duties and for exercising its powers. The FMA shall render assistance to the competent approval authorities of other EEA signatory states and shall make use of such official assistance from these authorities. In particular, they shall exchange information and cooperate where more than one home member state authority is competent for an issuer, because it issues various classes of securities, or where the approval of a prospectus pursuant to Article 8a para. 6 has been transferred to the competent approval authority of another EEA signatory state. They shall also closely cooperate when the suspension or prohibition of trading for securities is required, which are traded in various EEA signatory states, to ensure a level playing field between various trading venues and to ensure investor protection. The FMA, as the competent authority of the host Member State, may request where applicable the official assistance of the competent authority of the home Member State from the stage at which the case is scrutinized, in particular, where a new or rare class of securities is involved. The FMA as competent authority of the home Member State may request information from the competent authority of the host Member State about any aspects of the relevant market. Without prejudice to § 8a, the FMA may consult the operators of regulated markets as necessary and, in particular, when making a decision to suspend trading or to request a regulated market to suspend or prohibit trading.

(2) The FMA may refer cases to ESMA in which a request for cooperation, in particular for the exchange of information has been rejected, or where there has not been any response within a reasonable period of time.

Transitional and Final Provisions

Article 17. (1) For offers that are subject to the obligation to publish a prospectus in accordance with this Federal Act that have been made after 30 September 1991, and which are still in effect at the time this Federal Act entering into force, a prospectus shall be published, provided that the offer is still valid, however, at latest six months after this Federal Act has entered into force.

(2) Para. 1 shall not apply to publicly offered securities that are already listed on the Official Market of Vienna Stock Exchange at the time of this Federal Act entering into force.

(3) In the case of investments in real estate pursuant to Article 14 that were offered to the public prior to this Federal Act entering into force, statements of account shall be published for the first time within six months after the closing of the first financial year after the entry into force of this Federal Act, or where a financial year is not stated, then by 30 June 1993.

Article 17a. Where references are made in this Federal Act that refer to persons only in the masculine form, they shall refer equally to men and women. The applicable gender-specific form is to be used when applied to specific persons.

Article 17b. (1) Issuers with their register office in a third country, whose securities have already been admitted to trading on a regulated market in Austria, may select the FMA as being their competent authority, provided that this would have been permissible in the case of admission pursuant to Article 1 para. 1 no. 12c, and must notify the FMA of this decision by 31 December 2005.

(2) Debt securities pursuant to Article 3 para. 1 no. 3 KMG in the version of the Federal Act amended in Federal Law Gazette I No. 80/2003 shall be allowed to be offered in Austria until 31 December 2008, without a prospectus pursuant to Article 2 being required to be drawn up.

(3) In the case of offerings subject to the obligation to produce a prospectus pursuant to Article 2 KMG in the version amended in Federal Law Gazette I No. 80/2003, which commenced before 10 August 2005 and which concluded before 10 November 2005, it shall suffice by way of deviation from Article 2 KMG in the version of this Federal Act to publish a prospectuses drawn up and scrutinised pursuant to the provisions of the Capital Market Act in the version amended in Federal Law Gazette I No. 80/2003. Article 8b para. 3 shall not apply to prospectuses prepared in this manner.

(4) Article 102 para. 5 of the Banking Act published in Federal Law Gazette No. 532/1993 shall no longer apply.

(5) Article 73d para. 5 of the Insurance Supervision Act in the version as amended by Federal Law Gazette No. 769/1992 shall no longer apply.

Article 17c. For the enforcement of an administrative decision in accordance with this Federal Act, the amount of EUR 35 000 shall apply instead of a lower amount as stated in Article 5 para. 3 of the Administrative Enforcement Act (VVG; Verwaltungsvollstreckungsgesetz).



Article 17d. In the case of administrative offences pursuant to Article 16, the period of limitation of 18 months shall apply instead of the period of limitation set out in Article 31 para. 1 Administrative Penal Act (VStG; Verwaltungsstrafgesetz).

Article 17e. Regulations issued on the basis of this Federal Act may be enacted as of the day following its promulgation.

Article 18. (1) The Securities Issuing Act (Wertpapier-Emissionsgesetz) published in Federal Law Gazette No. 65/1979 shall expire as soon as this Federal Act enters into force.

(2) Where reference is made in other Federal Acts to the Securities Issuing Act then they shall be superseded by the corresponding provisions of this Federal Act.

(3) Where reference is made in this Federal Act to other Federal Acts, then such references shall apply to the version currently in force.

(4) Where this Federal Act refers to Regulation (EC) No 809/2004 means that unless otherwise stipulated, Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements (OJ L 149 of 30 April 2004, p. 1) in the version of the corrigenda in OJ L 215 of 16 June 2004, p. 3 and OJ L 186 of 18 July 2005, p. 3 shall apply.

(5) Where this Federal Act refers to Directive 2003/71/EC, and unless otherwise stipulated, Directive 2003/71/EC as amended by Directive 2010/73/EU on the amendment to Directive 2003/71/EC regarding the listing prospectus to be published in the case of public offerings of securities or in the case of admission to trading and on the amendment to Directive 2001/34/EC (OJ L 345 of 31.12.2003 p. 64) as amended by Directive 2010/73/EU, OJ L 327 of 11 December 2010, p. 1 shall apply.

(6) Where this Federal Act refers to Directive 2014/51/EU, this means unless otherwise stipulated, Directive 2014/51/EU amending Directive 2003/71/EC and Directive 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 153, 22.05.2014, p.1 shall apply.

Entry into Force

Article 19. (1) This Federal Act shall enter into force on 1 January 1992.

(2) Regulations issued on the basis of this Federal Act may be enacted as of the day following its announcement.

(3) Article 3 para. 1, Article 7 and Article 12 paras. 4 and 5 in the version of the Federal Act amended in Federal Law Gazette No. 532/1993 shall enter into force on 1 January 1994.

(4) Article 8 paras. 2 to 5, Article 11 para. 1, Article 12 para. 2, Article 14 no. 2 and Article 16 nos. 2 and 8 as well as Annexes A, B and C in the version of the Federal Act amended in Federal Law Gazette No. 210/1994 shall enter into effect on 1 March 1994.

(5) Article 3 para. 1 no. 15 in the version of the Federal Act amended in Federal Law Gazette I No. 60/1998 shall enter into force upon Austria's participation in the third level of the Economic and Monetary Union (EMU) without a waiver as defined in Article 109k of the Treaty establishing the European Community (EC-Treaty).

(6) Article 13 paras. 1, 4 and 5 in the version of the Federal Act amended in Federal Law Gazette I No. 63/1999 shall enter into force on 1 May 1999.

(7) Article 3 para. 1 no. 13, Article 7 para. 1, Article 10 para. 1 nos. 3 and 4 and para. 2 in the version of the Federal Act amended in Federal Law Gazette I No. 2/2001 shall enter into force on 1 January 2001.

(8) Article 3 para. 1 nos. 9 and 10, Article 8 para. 2 nos. 4 lits. a and b, Article 8 para. 3, Article 14 no. 2 and Article 16 in the version of the Federal Act amended in Federal Law Gazette I No. 2/2001 shall enter into force on 1 January 2002.

(9) Article 6 para. 4 and Article 7 paras. 3 and 4 in the version of the Federal Act amended in Federal Law Gazette I No. 97/2001 shall enter into force on 1 August 2001.

(10) Article 3 para. 1 no. 4 in the version of the Federal Act amended in Federal Law Gazette I No. 80/2003 shall enter into force on 1 September 2003.

(11) Article 1 paras. 1 to 4, Article 2, Article 3 para. 1 to 4, Article 4, Article 6, Article 6a, Article 7, Article 7a, Article 7b, Article 7c, Article 8 paras. 2, 2a, 2b, 3, 4, 5 and 8, Article 8a, Article 8b, Article 8c,



Article 10, Article 11 para. 1, Article 11 para. 7, Article 12 paras. 1 and 2, Article 13 paras. 1, 2, 4 and 5, Article 14, Article 15 para. 1, Article 16, Article 16a, Article 16b, Article 16c, Article 17a, Article 17b, Article 17c, Article 17d and Article 17e in the version of the Federal Act amended in Federal Law Gazette I No. 78/2005 shall enter into force on 10 August 2005. Article 3 para. 5, Article 12 paras. 4 and 5 and Annexes A and B shall expire at the end of 9 August 2005.

(12) Article 1 para. 1 nos. 4 and 9 in the version of the Federal Act amended in Federal Law Gazette I No. 60/2007 shall enter into force on 1 November 2007.

(13) Article 10 para. 3 and para. 4 in the version of the Federal Act amended in Federal Law Gazette I No. 69/2008 shall enter into force on the day after publication.

(14) Article 8a paras. 6, 7 and 9, Article 8b paras. 1 and 3, Article 8c, Article 10 para. 9, Article 16b para. 2 and Article 16c paras. 1 and 2 in the version of the Federal Act amended in Federal Law Gazette I No. 145/2011 shall enter into force on 31 December 2011.

(15) Article 1 para. 1 nos. 5a, 17, 18 and 19, Article 3 para. 1 nos. 3, 6, 8, 9, 10, 12 and 14, Article 3 para. 3, Article 6 paras. 1 and 2, Article 6a paras. 1, 4 and 5, Article 7 paras. 2, 3, 4, 6, 7 and 7a, Article 7a paras. 1 and 4, Article 7b para. 2, Article 8 para. 2, Article 8a para. 8 no. 4, Article 8b para. 3, Article 10 para. 3 no. 3 and Article 11 para. 1 in the version of the Federal Act amended in Federal Law Gazette I No. 83/2012 shall enter into force on 1 July 2012. Article 1 paras. 2 and 3 shall expire at the end of 30 June 2012.

(16) Article 17d in the version of the Federal Act amended in Federal Law Gazette I No. 70/2013 shall enter into force on 1 January 2014.

(17) Article 3 para. 1, Article 8a para. 2 no. 9 and Article 16a para. 2 in the version of the Federal Act amended in Federal Law Gazette I No. 135/2013 shall enter into force on 22 July 2013.

(18) Article 1 para. 1 no. 8, Article 8 para. 2, Article 8 paras. 4 and 5 and Article 14 nos. 4 and 6 in the version of the Federal Act amended in Federal Law Gazette I No. 184/2013 shall enter into force on 1 January 2014.

(19) Article 2 para. 1, Article 3 para. 1 no. 10a, Article 7 para. 8a and **Annex F** in the version of the Federal Act amended in Federal Law Gazette I No. 114/2015 shall enter into force on the first day of the month following its announcement.

(20) Article 1 para. 1 no. 12 lit. c, Article 3 para. 1 no. 4, the concluding part of Article 7 para. 4, Article 13 para. 1, Article 10 para. 3 no. 3, the introductory section of Article 16 as well as Article 18 paras. 5 and 6 in the version of the Federal Act amended in Federal Law Gazette I No. 98/2015 shall enter into force on 26 November 2015.

(21) Article 1 para. 1 no. 5a; Article 1 para. 1 no. 9; Article 1 para. 1 no. 12 lit. c sublit. bb; Article 3 para. 2; Article 8a para. 2 nos. 4, 7 and 8 and Article 16 in the version of the Federal Act amended in Federal Law Gazette I No. 107/2017 shall enter into force on 3 January 2018.

(22) Article 2 para. 2, Article 6 Abs. 1a, Article 8 paras. 1, 2 and 8, Article 8a para. 7, Article 12 paras. 1 and 2 in the version of the Federal Act amended in Federal Law Gazette I No. 149/2017 shall enter into force on 3 January 2018.

(23) Article 1 para. 1 no. 9, Article 3 para. 1 no. 10, Article 3 para. 5 and Article 7 para. 8a, in the version of the Federal Act amended in Federal Law Gazette I No. 48/2018, shall enter into force on 21 July 2018. Article 2 para. 1 second sentence, Article 3 para. 1 nos. 10a and 15 shall be repealed at the end of 20 July 2018.

Enforcement

Article 20. The following entities are responsible for the enforcement of this Federal Act:

1. the Federal Minister for Justice with regard to Articles 5, 11 and 15;
2. the Federal Minister of Finance with regard to all other provisions.

Schedule C

LAYOUT FOR THE PROSPECTUS FOR THOSE INVESTMENTS AND SECURITIES TO WHICH THE SCHEDULES A AND B DO NOT APPLY

(If the Schedule is to be applied to securities, the term “investment” is to be replaced by “security”)

CHAPTER 1

Information about Parties Liable pursuant to Article 8 and Article 11.

(Name, position)

CHAPTER 2

Information about the Investment

1. Investment terms, in particular, any rights attached to the investment;
2. The registrar, depository and paying agent;
3. Overview of any asset rights issued to date,
4. Legal status of the investment (shares, creditor’s rights or mixed form), total amount, denomination as well as purpose of the offer,
5. Type of investment fund (open-ended or closed type),
6. Type and number of other undertakings for collective investments of the issuer or any other undertakings for collective investments that may influence the investment;
7. Stock exchanges on which the investments subject of the public offering and any other securities of the issuer are already listed or traded;
8. Any third parties guaranteeing the investment;
9. Persons who have firmly underwritten the offering or act as guarantor for it;
10. Information pursuant to Schedule A, Chapters 3 to 5 and/or Schedule B, 3 and 4 on those persons to whom the capital raised through the issue is available for business purposes if these persons are not identical with the issuer;
11. Any taxes levied on income earned on the investment (for example capital yields tax, foreign withholding taxes);
12. Subscription period;
13. Any restrictions to the tradeability of the investment offered and name of the market on which it can be traded;
14. Distribution, administration and management costs listed by amount and method of calculation;
15. Information on valuation principles;
16. Information on any liens or liabilities;
17. Details on the preparation of the financial statements and of the statement of accounts, if available;
18. Provisions on the distribution and use of the net profit or surplus for the year;
19. Most recent statement of accounts including audit opinion;
20. Description of the purchase price of the investment including all extra charges;
21. Type and scope of surety for an investment recorded in a public register;
22. Information on future prospects of the investment;
23. Conditions and calculation of the offer price for investments issued after placement of the initial issue;
24. Information on any pre-emptive rights granted to existing investors and their prices in the event of an increase in investment volume, information on how the assets and earnings growth of existing investors is protected against new investors;
25. Description of the possibilities and costs of selling the investment at a later time;
26. Services of the management company and the costs charged;
27. Periods of notice granted by the management company;



28. Provisions on the settlement and position of investors in the event of insolvency;
29. Securities identification number (if available).

CHAPTER 3

Information about the Issuer

1. Name and registered office of the issuer, object of the company;
2. Description of the legal and economic status, in particular, information on the share capital or other capital of the company equivalent to share capital, its denomination including the designation of any different classes of shares;
3. Members of the bodies of the management, administration and supervision (name, position);
4. Names of shareholders who directly or indirectly play – or could play - a controlling role in the management of the issuer;
5. Most recent financial statements including any management report and audit opinion(s).

CHAPTER 4

Information on the Custodian Bank (if applicable)

1. Name and registered office of the company;
2. Financial statements including the audit opinion.

CHAPTER 5

1. Type and scope of information the investors receive on a regular basis on the economic development of the investment;
2. Any other information needed by the investor to reach an informed judgement as defined in Article 7 para. 1.

CHAPTER 6

Audit Certificate of the Prospectus Auditor

Schedule D

**LAYOUT FOR THE ADDITIONAL PROSPECTUS FOR INVESTMENTS IN REAL ESTATE
(ARTICLE 14)**

CHAPTER 1

Information about Parties Liable pursuant to Article 8 and Article 11.
(Name, position)

CHAPTER 2

Information on Investments in Real Estate Offered

1. Legal form of the investment, total volume and any denomination,
2. Type of undertakings for collective investments (open-ended or closed),
3. Type, number and location (in or outside the country) of the available real estate and type and projected number of properties,
4. Principles according to which the acquisition, sale and administration of the real estate is conducted,
5. Distribution and management costs of collective investment undertakings broken down by amount and type of billing including details of the services performed by the management,
6. Legal relations of collective investment undertakings with third parties involved in the distribution and management of the collective investment undertakings and the costs invoiced by third parties and their services performed or to be performed,
7. Valuation methods that must be consistent within each undertaking for collective investments,
8. For each property: acquisition costs, space available for rent, year of construction, sum of costs of renovation, maintenance, upkeep and improvement work done, sum of costs of planned renovation, maintenance, upkeep and improvement work, method of calculation of overhead costs,
9. Liens entered in the property register or other liabilities insofar as material for the valuation of property; for each property,
10. Details on the method of calculation of the annual net profit or surplus for the year and the preparation of the annual report,
11. Provisions on the distribution and use of the net profit or surplus for the year,
12. Presentation of the purchase price of the investments offered for sale including all additional charges,
13. Type and scope of the collateral entered in the land register as surety for the investment,
14. Future position and rights of investors in the event of structural changes,
15. Information on any pre-emptive rights of existing investors and their price and/or price determination in the event of an increase in the investment volume; information on how the assets and earnings growth of existing investors is protected in contrast to new investors or may be adequately compensated,
16. Projections on profitability and method of calculation,
17. Description to dispose of the investment and calculation of the selling price,
18. Provisions on the settlement and hierarchy of investors in the event of insolvency.

CHAPTER 3

**Information on Third Parties involved in the Distribution and Management of the
Collective Investment Undertakings**

1. Name and registered office of the company, purpose of business,
2. Persons responsible for the management and oversight over the management,
3. Most recent annual financial statement including the audit opinion and, if available, the annual report.



CHAPTER 4

Information above Insurance Coverage by Property

Fire insurance, sum insured and level of coverage.

CHAPTER 5

Type and Scope of Regular Information for Investors on the Economic Development of the Investment

CHAPTER 6

If available, statement of accounts for the previous year

Schedule E

LAYOUT FOR THE STATEMENT OF ACCOUNTS OF UNDERTAKINGS FOR COLLECTIVE INVESTMENT IN REAL ESTATE

I. Information on the Rights of Investors

A. Financial statements

- a) Inflow of funds
 - 1. from the issue of investments,
 - 2. from real estate,
 - 3. from the sale of real estate,
 - 4. from investments in undertakings for collective investment in real estate,
 - 5. from the sale of investments in undertakings for collective investment in real estate,
 - 6. from investments in companies,
 - 7. from the sale of investments in companies,
 - 8. from other asset rights, broken down by type of asset right,
 - 9. from the sale of other asset rights, broken down by type of asset rights,
 - 10. from other cash flows of incoming funds,
 - 11. other incoming funds.
- b) Outflow of funds
 - 1. into real estate,
 - 2. into investments in undertakings for collective investment in real estate,
 - 3. into participations in companies,
 - 4. into other asset rights, broken down by type of asset rights,
 - 5. construction costs,
 - 6. remuneration and administration costs, broken down by type of remuneration and cost,
 - 7. into the formation of reserves, broken down into individual types of asset rights,
 - 8. from other cash outflows,
 - 9. other outflows.
- c) Net profit/loss for the year

B. Alternative to A - Calculation of profits according to applicable legal provisions

II. Information on Assets

A. Investment per property

- a) Location
- b) Size
- c) Year of construction
- d) Year of acquisition
- e) Acquisition costs, broken down into purchase price and ancillary costs, or construction costs
- f) Space available for rent
- g) Method of calculation of overhead costs
- h) Total costs of renovation, maintenance, upkeep, improvement and extension work carried out
- i) Total costs for planned renovation, maintenance, upkeep, improvement and extension work
- j) Administration costs where not included in the overhead costs
- k) Requirements of building authorities if these are relevant for the valuation of the property
- l) Liens entered in the property register and other liabilities, where material to the valuation of the property
- m) Fire insurance, sum insured and level of coverage



B. Investments in undertakings for collective investment in real estate, by undertaking for collective investment

1. Issuer
 - a) Firm
 - b) Register
 - c) Legal form
 - d) Year of incorporation
 - e) Registered office/headquarters
 - f) Purpose of business
 - g) Members of the management, administration and supervisory bodies (name, position)
2. Book value of the investment
3. Distribution from the investment

C. Investments in companies, by participation (if not listed under B)

1. Company
 - a) Firm
 - b) Register
 - c) Legal form
 - d) Year of incorporation
 - e) Registered office/headquarters
 - f) Purpose of business
 - g) Members of the management, administration and supervisory bodies (name, position)
2. Book value of the participation
3. Distribution from the participation
4. Company key performance indicators (pursuant to Article 2 of the BMF Regulation of 29 September 1982, published in Federal Law Gazette No. 505/1982)
 - a) Equity ratio
 - b) Cash flow to operating output
 - c) Profitability of total capital
 - d) Effective debt-to-cash flow ratio
 - e) Number of employees
5. Direct and indirect participations by the entity listed in C, where the calculated holding is at least 25%
 - a) Firm
 - b) Legal form
 - c) Costs of acquisition
 - d) Term

D. Other asset rights, by asset right

- a) Type of asset right
- b) Capital invested
- c) Profitability of capital invested
- d) Possibilities of cancellation and periods of notice

E. Investment reserves broken down by type

F. Managerial, personnel and material costs if not listed under II. A)

III. Distribution per investment

1. Total volume of investments
2. Denomination
3. Net profit for the year
4. Distribution per investment

IV. Presentation of Performance by Investment

1. Total assets including presentation of valuation methods



2. Assets by investment
3. Profitability of investment and method of calculation

V. Explanations

VI. Disclosure Requirements

VII. Audit Opinion



Schedule F

LAYOUT FOR THE SIMPLIFIED PROSPECTUS FOR INVESTMENTS AND SECURITIES

(If the Schedule is to be applied for securities, then the term “investment” used therein is to be replaced by the term “security” accordingly)

CHAPTER 1

Information about Parties Liable pursuant to Article 8 and Article 11.

(Name, position)

CHAPTER 2

Information about the Investment

1. Investment terms, in particular, any rights attached to the investment,
2. The registrar, depository and paying agent,
3. Overview of any asset rights issued to date,
4. Legal status of the investment (shares, creditor’s rights or mixed form), total amount, denomination as well as purpose of the offer,
5. Type of investment fund (open-ended or closed type),
6. Any third party guarantees for investment;
7. Persons who have firmly underwritten the offering or act as guarantor for it,
8. Any taxes levied on income earned on the investment (for example capital yields tax, foreign withholding taxes),
9. Subscription period,
10. Any restrictions to the tradeability of the investment offered and name of the market on which it can be traded,
11. Information on any liens or liabilities,
12. Provisions on the distribution and use of the net profit or surplus for the year,
13. Description of the purchase price of the investment including all extra charges,
14. Type and scope of surety for an investment recorded in a public register,
15. Description of the possibilities and costs of selling the investment at a later time,
16. Provisions on the settlement and position of investors in the event of insolvency,
17. Securities identification number (if available),
18. Miscellaneous distribution, administration and management costs listed by amount and method of calculation.

CHAPTER 3

Information about the Issuer

1. Company name, registered office and purpose of business,
2. Description of legal and economic status, in particular, information on the share capital or other capital of the company equivalent to share capital, its denomination including the designation of any different classes of shares,
3. Members of the management, administration and supervision bodies (name, position);
4. Names of shareholders who directly or indirectly exercise – or could exercise - a controlling role in the management of the issuer;
5. The most recent annual financial statement including any management reports and audit opinion(s).



CHAPTER 4

Information on the Custodian Bank (if applicable)

1. Name and registered office of the company;
2. Annual financial statement including audit opinion.

CHAPTER 5

1. Type and scope of information the investors receive on a regular basis on the economic development of the investment;
2. Any other information needed by the investor to reach an informed judgement as defined in Article 7 para. 1.

CHAPTER 6

Audit Certificate of the Prospectus Auditor



Transposition Note

Article 1

(Note: from Federal Law Gazette I No. 78/2005, regarding Articles 1 to 4, 6 to 8c, 10 to 16c and 17a to 17e, Federal Law Gazette No. 625/1991)

This Federal Act transposes Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64).

Article 1

(Note: from Federal Law Gazette I No. 60/2007 regarding Article 1, Federal Law Gazette No. 625/1991)

This Federal Act transposes Directive 2004/39/EC of the European Parliament and the Council on Markets in Financial Instruments, the amendment to Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Directive 93/22/EEC of Council (OJ L 145, 30.04.2004, p.1) in the version of Directive 2006/31/EC of the European Parliament and the Council on Markets in Financial Instruments with respect to certain periods (OJ L 114, 27.04.2006, p. 60) and Directive 2006/73/EC of the Commission implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organizational requirements and operating conditions for investment firms and specific terms for the purposes of said Directive (OJ L 241, 02.09.2006, p. 26).

Article 1

(Note: from Federal Law Gazette I No. 69/2008 regarding Article 10, Federal Law Gazette No. 625/1991)

This Federal Act shall transpose Directive 2007/16/EC of the European Commission implementing Directive 85/611/EC of the Council (OJ L 375, 31.12.1985, p. 3) on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as amended by Directive 2005/1/EC of the European Parliament and of the Council (OJ L 79, 24.03.2005, p. 9) with respect to the explanation of certain definitions (OJ L 79, 20.03.2007, p. 11).

Article 1

(Note: from Federal Law Gazette I No. 145/2011, in relation to Articles 8a to 8c, 10, 16b and 16c, Federal Law Gazette No. 625/1991)

This Federal Act shall transpose:

1. Directive 2010/76/EU amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies (OJ L 329, 14.12.2010, p. 3) and
2. Directive 2010/78/EU amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331 15.12.2010, p. 120).

Article 1

Transposition Note

(Note: from Federal Law Gazette I No. 107/2017, regarding Articles 1, 3 and 16 of the version published in Federal Law Gazette I no. 625/1991)

This Federal Act transposes the following legal acts of the European Union:

1. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173, 12.06.2014, p. 349, last amended by Directive (EU) 2016/1034, OJ L 175, 23.06.2016, p. 8, as amended by the corrigendum, OJ L 64, 10.03.2017, p. 116, and
2. Commission Delegated Directive (EU) 2017/593 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the



provision or reception of fees, commissions or any monetary or non-monetary benefits, OJ L 87 p. 500.

Furthermore this Federal Act serves for the effective enforcement of the following legal acts of the European Union:

1. Regulation (EU) No 600/2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, OJ L 173, 12.06.2014, p. 84, most recently amended by Regulation (EU) 2016/1033, OJ L 175, 23.06.2016, p. 1;
2. Commission Delegated Regulation (EU) 2017/565 supplementing Directive 2014/65/EU as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, OJ L 87 p. 1; and
3. Commission Delegated Regulation (EU) 2017/567 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions, OJ L 87, p. 90.

Article 1

Transposition Note

(Note: from Federal Law Gazette I No. 135/2013, in relation to Articles 3, 8a and 16a, Federal Law Gazette No. 625/1991)

This Federal Act transposes

1. Directive 2011/61/EU on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010 OJ L 174, of 01.07.2011, p. 1, in the version of the corrigendum published in OJ L 155, 27.04.2012, p. 35; and
2. the conditions for the implementing of
 - a) Regulation (EU) No. 345/2013 on European venture capital funds, OJ L 115, 25.04.2013, p. 1; and
 - b) Regulation (EU) No. 346/2013 on European Social Entrepreneurship Funds, OJ L 115, 25.04.2013, p. 18

Article 1

(Note: from Federal Law Gazette I No. 184/2013, regarding Articles 1, 8 and 14 of the version published in Federal Law Gazette I no. 625/1991)

This Federal Act shall transpose Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.06.2013. p. 338, and amending supervisory law to Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176, 27.06.2013 p. 1, as well as the transposition of Directive 2011/89/EU amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate, OJ L 326, 08.12.2011 p. 113.

Article 1

Transposition Note

(Note: from Federal Law Gazette I No. 69/2015, regarding Articles 10 and 18 of the version published in Federal Law Gazette I no. 625/1991)

The purpose of this Federal Act shall be to implement Regulation (EU) No. 909/2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012, OJ L 257 of 28.08.2014 p. 1.