



Regulation supplementing the Building Society Act

(BSpkV; Bausparkassengesetzverordnung)

Full title

Regulation of the Austrian Financial Market Authority (FMA) supplementing the Building Society Act
Original version: Federal Law Gazette II No. 355/2009.

Amendments: Federal Law Gazette II: nos. 52/2019, 53/2022, 79/2023.

Preamble/Promulgation clause

Based on Article 11 paras. 1 and 2 of the Building Society Act (BSpG; Bausparkassengesetz) published in Federal Law Gazette no. 532/1993, last amended by federal act in Federal Law Gazette No. 199/2021, the following shall be determined by Regulation:

Text

Maximum amount of a building savings loan that may be obtained by the holder of a building savings contract

Article 1. (1) The total amount of building savings loans that may be obtained by a holder of a building savings contract including outstanding building savings loans shall not be allowed to exceed a total of EUR 260,000.

(2) Building savings loans from large scale building savings contracts, building savings loans until they are split into apartments that are privately owned, as well as building savings loans for large construction projects, in which there are no privately owned apartments, shall be excluded from the limit pursuant to para. 1.

Large-scale building savings contracts

Article 2. (1) Large-scale building savings contracts are contracts where the amount of the loan exceeds EUR 520,000; such contracts are concluded for financing a specific large construction project. A partial or full change to other large construction projects shall be permissible for exceptional reasons.

(2) The share of non-assigned large-scale building savings contracts shall not be allowed to exceed 10 % of the total unallocated contractual sum of a building society.

(3) The share of large-scale building savings contracts concluded within a calendar year, measured as a proportion of the total contractual sum of the building savings contracts concluded by the building society during this calendar year, shall not be allowed to exceed 5 %.

Large Construction Projects

Article 3. (1) Large construction projects are housing-related measures pursuant to Article 1 para. 3 BSpG, where they relate to at least four apartments, that are either legally or architecturally linked to one another.

(2) Where the financing of large construction projects related to apartments in private ownership, then the building savings loans shall be broken down and allocated among the owners of the apartments commensurate to their utilisation.

(3) The transferring of building savings contracts within the scope of large construction projects shall only be admissible under the conditions named in Article 4 para. 2.

Transferring of building savings contracts

Article 4. (1) The transferring of a building savings contract shall only be permissible:

1. to heirs or legatees,
2. To natural persons determined by means of a court order or an official order,
3. between direct relatives, siblings, spouses, and cohabiting persons; cohabiting for the purpose of this Regulation shall be deemed to exist where proof is provided of a common place of residence for at least six months.



4. within the scope of a large construction project,
5. in the case of the building savings loan having already been paid out.

(2) The transferring of building savings contracts within the scope of a large construction project shall take place under the following conditions:

1. The share of the building savings contract attributable to the owners of apartments following the completion of the large construction project and once owners of apartments have been established must be transferred at the earliest possible opportunity,
2. The share of the building savings contract transferred to the owner of the apartment or the part attributed to the individual apartment (rental apartments or apartments in a cooperative) of the total contractual sum shall not be allowed to exceed the amount defined in Article 2 para. 1; the maximum loan amount stated in Article 1 para. 1 must be observed.

Uncollateralised Loans

Article 5. A loan of up to EUR 40 000 shall be allowed to be granted in the case of loans, for which collateral does not appear necessary pursuant to Article 10 para. 4 no. 2 BSpG.

Allocation to the Building Society Protection Fund

Article 6. (1) The allocation to the fund shall occur at the end of every financial year, whereby the existing surpluses or shortfalls from building savings deposits in relation to the building society loans on the allocation dates stated in the General Conditions for Building Savings and Loan Business shall be applied for the purpose of calculating the additional return mentioned in Article 8 para. 4 BSpG. Where the total of the surpluses exceeds the total of the shortfalls (difference) then the additional return shall be calculated using the following formula:

$$\frac{\textit{difference}}{\textit{number of allocation dates}} \times (\textit{non collective interest rate} - \textit{collective interest rate})$$

(2) The rate of interest rate payable outside the collective interest shall be calculated based on the interest income from investments in bridging loans (Article 8 para. 2 BSpG) and investments in accordance with Article 8 para. 3 BSpG. The interest rate payable in the collective corresponds to the applicable interest rate for building savings loans.

Deployment of the Building Society Protection Fund

Article 7. (1) The funds held in the fund shall be deployed for interest support, where the waiting period for building savings contracts under the NORMAL tariff had to be increased by more than half a year within a twelve-month period without allocation of funds from outside of the collective.

(2) Insofar as it is necessary for averting an impending threat to maintaining the ability to allocate, the funds held in the fund may also be deployed with the consent of the Federal Minister of Finance, where the conditions listed in para. 1 are not met.

Loans to Associated Undertakings

Article 8. Loans in accordance with Article 2 para. 1 no. 2 lit. d BSpG shall be allowed to be granted for a total of up to 60 % of the amount of the building society's eligible capital pursuant to Part 2 of 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, most recently amended by Regulation (EU) 2021/558, OJ L 116 of 06.04.2021, p. 25 and the corrigendum published in OJ L 398, 11.11.2021, p. 32; the permissible amount for an individual to an individual undertaking is 15 %.

Guarantees pursuant to Article 2 para. 1 no. 5 BSpG

Article 9. Guarantees pursuant to Article 2 para. 1 no. 5 BSpG are to be included in the limits for the banking transactions listed in Article 2 para. 1 nos. 1 and 2 BSpG.

Entry into force

Article 10. (1) This Regulation shall enter into force on 1 January 2010.

(2) The Regulation of the Federal Minister of Finance on the implementation of the Building Society Act, published in Federal Law Gazette No. 1993/880 in the version amended by the Regulation published in Federal Law Gazette II No 2001/412 shall be repealed at the end of 31 December 2009.