Regulation of the Financial Market Authority (FMA) on the secure electronic submission of prospectuses; (SEPP-V; *Secure Electronic Prospectus Portal-Verordnung*)

Secure Electronic Prospectus Portal Regulation (SEPP-V)

Original Version: Federal Law Gazette II No. 129/2024

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Preamble/Promulgation clause: Based on Article 13 para. 4 of the Capital Market Act 2019 (KMG 2019; *Kapitalmarktgesetz 2019*), published in Federal Law Gazette I No. 62/2019, last amended by Federal Act in Federal Law Gazette I No. 69/2022 the following shall be determined by Regulation:

TEXT OF THE REGULATION

SECTION 1: PROSPECTUSES AND COMPARABLE DOCUMENTS REQUIRING APPROVAL

SECURE ELECTRONIC PROSPECTUS PORTAL (SEPP) AND PURPOSE OF THIS REGULATION

Article 1. (1) The Secure Electronic Prospectus Portal (SEPP) set out in this section is a web-based application operated by the FMA for the unique technical identification of a prospectus that has been submitted to the FMA electronically by automated means for data submission, as well as for other documents submitted for approval in relation to a specific issuer.

(2) The web-based application is used for electronic communications between the party submitting the document for approval (hereinafter: prospectus submitter) and the FMA pursuant to Article 13 para. 4 third sentence of the Capital Market Act 2019 (KMG 2019; *Kapitalmarktgesetz 2019*), published in Federal Law Gazette I No. 62/2019, in the version amended by Federal Act in Federal Law Gazette I No. 27/2026. It is to be used through the FMA's official Internet domain (https://www.fma.gv.at/).

IDENTIFICATION AND AUTHENTICATION OF THE PROSPECTUS SUBMITTER

Article 2. (1) Prior to using the SEPP for the first time, the user shall register as a prospectus submitter or as a natural person acting on behalf of the prospectus submitter. During the registration process for using the SEPP, the identification of the prospectus submitter or the natural person acting on their behalf and the authentication of their application shall take place using the eID function pursuant to Article 4 of the E-Government-Act (E-GovG; *E-Government-Gesetz*), published in Federal Law Gazette I No. 10/2004 in the version amended by Federal Act in Federal Law Gazette I No. 119/2022. For multifactor authentication (MFA) purposes during registered users' subsequent use of the SEPP they shall also enter an e-mail address during the registration process, which the FMA will verify and store.

(2) Prospectus submitters from other Member States in the European Economic Area (EEA) shall, as a matter of priority, use an electronic means of identification from their Member State pursuant to Article 6 para. 5 E-GovG. Where use pursuant to Article 6 para. 5 E-GovG is not possible due to circumstances outside of the prospectus submitter's control, then an electronically sealed excerpt from a register about the prospectus submitter's identity must be submitted.

(3) Every time they log in for using the SEPP in the approval procedure under prospectus law, the prospectus submitter is required to identify themselves using eID and a transaction number (TAN; *Transaktionsnummer*) sent to their e-mail address and to authenticate their login by means of multifactor authentication. Prospectus submitters who are exceptionally using the SEPP pursuant to para. 2 second sentence, shall submit a qualified electronically signed declaration (Article 3 point 12 of Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, OJ L 257, 28.08.2014, p. 73,

in the version amended by Regulation (EU) 2024/1183 amending Regulation (EU) No 910/2014 as regards establishing the European Digital Identity Framework, OJ L 2024/1183, 30.04.2024) in which they refer to the proof of identity by means of an excerpt from a register during the registration process.
(4) For the purposes of identification and authentication as well as any other checking that the asserted power of representation exists, the FMA shall process the attributes that are tied to the eID that arise from the Annex.

PROOF OF POWER OF REPRESENTATION

Article 3. (1) Prospectus submitters or the natural persons representing them, who have been identified by means of eID, shall where possible prove the power of representation asserted for prospectus submission on behalf of the issuer by means of a specific power of representation incorporated into their personal identification pursuant to Article 5 E-GovG.
(2) By way of derogation from para. 1 representatives of parties for whom, under their professional regulations, documentary evidence is replaced by a power of attorney, may rely on
1. their professional authorisation in their eID by means of a general note pursuant to Article 5 para. 2 E-GovG, or
2. a qualified electronically signed declaration in individual cases.

(3) Where it is not possible to provide proof of power of representation pursuant to para. 1 along the chain from the natural person acting, via the prospectus submitter that they are representing as application, through to the issuer ultimately being represented, and where the exception in para. 2 does not apply, then by way of exception qualified electronically signed powers of attorney or electronically sealed excerpts from a register shall be submitted as proof of power of representation along the chain through to the issuer ultimately being represented.

ELECTRONIC PROOF OF PROSPECTUS APPROVAL

Article 4. To electronically prove that the prospectus or other document pursuant to Article 13 para. 4 KMG has been approved, the FMA shall add an approval remark with official signature on the final document submitted for approval.

SECTION 2: WHITE PAPERS, MARKETING COMMUNICATIONS AND COMPARABLE DOCUMENTS REQUIRING APPROVAL

WHITE PAPERS, MARKETING COMMUNICATIONS AND COMPARABLE DOCUMENTS REQUIRING APPROVAL

Article 4a. Submissions of white papers, marketing communications and comparable documents requiring to be submitted pursuant to Article 4 (3) third subparagraph, Article 8 paras. 1 and 2 and Article 12 (2) of Regulation (EU) 2023/1114 on markets in crypto-assets, and amending Regulations (EU) 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937, OJ L 150, 09.06.2023, p. 40, in the version of the corrigendum in OJ L 2024/90658, 30.10.2024, in electronic form, shall be made using the web-based application pursuant to Article 1. Articles 1 to 3 shall apply to such submissions subject to the provision that use of the web-based application pursuant to Article 1 is used exclusively for electronic, automation-based data submission, and is used instead of the prospectus submitter of the party subject to the submission obligations.

SECTION 3: FINAL PROVISIONS

FINAL PROVISIONS

Article 5. (1) The chosen form of all personal designations used in this Regulation applies equally for all genders.

(2) The Regulation shall enter into force on 01 January 2025.

(3) The label and heading of Section 1, Article 1 para. 1 and para. 2 first sentence, Section 2 as well as the label and heading of Section 3 in the version of the Regulation amended in Federal Law Gazette II No. 182/2026 shall enter into force on 01 August 2026.

ANNEX 1: ANNEX TO THE SEPP-V:

Attributes processed by the FMA that are tied to the eID

1. Forename
2. Surname
3. Date of birth
4. Sector-specific personal identifier (SSPI)
5. Issuing country
6. Authentication level
7. ID Austria level
8. Types of identity
9. Signature certificate
10. Type of representation
11. OID of the type of representation
12. OID of the official or the representative of the party acting in a professional capacity
13. Official or the representative of the party acting in a professional capacity
14. Type of undertaking represented
15. SourcePIN of undertaking represented
16. Name of the undertaking represented
17. SSPI of the represented person
18. Forename of the represented person
19. Surname of the represented person
20. Date of birth of the represented person
21. List of the SSPIs of the represented person
22. List of the encrypted sector-specific (third party) personal identifiers (eSSPIs)