

EEA Freedom of Establishment

Establishment of a branch by an Austrian credit institution in the territory of another EEA Member State

Notification Procedure

The planned establishment of a branch in another EEA Member State must be notified to the FMA. The following information and/or documentation must be attached to this notification pursuant to Art. 10 para. 2 of the Austrian Banking Act (Bankwesengesetz – BWG): *)

- the **EEA Member State**, in whose territory the branch should be established,
- the **business plan** of the branch **)
- the **address**, at which documentation about the credit institution can be requested in the host Member State,
- the names of (at least two) **responsible managers** in the branch.

*) The business plan should also mention any circumstances that are required for the assessment of the adequacy of administrative structures and the financial situation of the credit institution by the FMA in accordance with Art. 10 para. 3 BWG.

**) The business plan should be submitted in a form of a business plan covering the next three business years, in which as a bare minimum the following information must be contained:

1. List of intended activities according to nos. 1 to 14 of Annex I of Directive 2006/48/EC
2. Strategy, marketing and sales concept
3. Assets, financial and earnings situation for the next three business years:
 - a. Composition of the balance sheet and the profit-and-loss account
 - b. Information about the figures used that the calculations used in the business plan are based
 - c. Statement of the earnings situation taking into consideration the current market situation
 - i. Predicted market share
 - ii. Expected growth
 - d. Effects of the establishment of the branch on the credit institution's own funds and liquidity positions.
4. Organisational structure of the branch
 - a. Organisation chart
 - b. Structural and procedural organisation
 - c. Staffing concept and staff development
5. Statement about internal control systems and the internal decision-making competences (e.g. sized-based constraints with regard to credit-granting powers; information about provisions affecting the power of representation of the managers of the branch) in the branch.
6. Statement about the integration of the branch into internal control procedures (IT and notifications etc.) of the credit institution
7. Proof of knowledge of necessary reporting requirements in the host Member State
8. Information about whether the financial potential of the credit institution is sufficient to sustain a branch as well as to bear start-up losses

The FMA transmits the notification to the competent authority in the host Member State including all attached annexes within three months of all information being received. The credit institution receives a confirmation letter from the FMA as soon as the notification has been forwarded.

Establishment of the branch and commencement of business operations

Once a notification has been received from the competent authority in the host Member State or - in the event that no statement is forthcoming - once an additional two month period following the confirmation of receipt by the FMA, the branch can be established and business operations commenced.