

## **Austria**

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### **For insurance undertakings**

General good provisions regulating insurance distribution in addition to those set out in the Insurance Distribution Directive (Article 11(2))

### **Information requirements and conduct of business rules**

<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
Article 17: General principle	<b>Section 128 (5) VAG 2016 in connection with Section 107 Telecommunications Act 2003 (Telekommunikationsgesetz, TKG 2003):</b>  The Austrian law foresees special rules for determining whether the delivery of unsolicited messages advertising an insurance contract is admissible. Section 107 TKG 2003 is partly based on the Directive 2002/58/EC.	X	X
Article 18: General information provided by the insurance intermediary or insurance undertaking			

<p>Article 19: Conflicts of interest and transparency</p>			
<p>Article 20: Advice, and standards for sales where no advice is given</p>	<p><b>Section 131(3) VAG 2016:</b></p> <p>According to Article 20 (1), subparagraph 1 of the IDD, the insurance distributor must obtain information from the policyholder, which are necessary to specify the customer’s demands and needs. “Insurance distributor” means any insurance intermediary, ancillary insurance intermediary or insurance undertaking. In Austria, this obligation also has to be fulfilled by the insurance distributor primarily. In addition, the insurance undertaking is only free of this obligation if the contract is distributed by an authorised third party and the insurance undertaking has no reason to assume that the policyholder is offered contracts that do not correspond to their demands and needs.</p> <p><b>Section 132 (3) VAG 2016:</b></p> <p>According to Article 20 (1), subparagraph 3 of the IDD, the insurance intermediary or insurance undertaking is responsible for the advice. In Austria, this obligation also has to be fulfilled by the insurance distributor primarily. In addition, the insurance undertaking is only free of this obligation if the contract is distributed by an authorized third party and the insurance undertaking has no reason to assume the third party advises the policyholder not properly.</p> <p><b>Section 135c (3) VAG 2016:</b></p> <p>Section 135c (3) VAG 2016 foresees a standardised information sheet which contains the information listed in Section 133 (2), number 1-9 also for pure life insurance products according to Article 2 (17), letter b of the IDD. Information obligations in connection with life insurance products are specified in the <b>Life Insurance Information Requirements Regulation</b>.</p>	<p>X</p>	<p>X</p>

	<p><b>Section 133 (2) VAG 2016:</b></p> <p>According to Article 20 (5) and (6), the information listed in Article 20 (8) of the IDD only has to be provided in relation to non-life insurance products. According to Section 133 (2), number 1-9 the information listed in Art 20 (8) has to be provided in relation to all insurance contracts.</p>		
Article 21: Information provided by ancillary insurance intermediaries			
Article 22: Information exemptions and flexibility clause	<p><b>Section 130 (1), number 1 VAG 2016:</b></p> <p>According to Section 130 (4) VAG 2016, the name, the address and the legal form of the insurance undertaking and, where appropriate, of the branch concluding the insurance contract has to be announced irrespective of whether it is a distribution in relation to the insurance of large risks. According to Article 22 (1), subparagraph 1 of the IDD, the information referred to in Articles 18, 19 and 20 need not be provided when the insurance distributor carries out distribution activities in relation to the insurance of large risks.</p> <p><b>Section 132 (1) and (2) VAG 2016</b></p> <p>The national provision contains a compulsory advice except in relation to the insurance of large risks. Only at the express wish of the customer the advice can be omitted.</p>	X	X
Article 23: Information conditions	<p><b>Section 128a (2) VAG 2016 in connection with Section 5a (1) Insurance Contract Act (Versicherungsvertragsgesetz, VersVG):</b></p> <p>Concerning information after the conclusion of the contract, Section 128a (2) VAG refers to Section 5a (1) VersVG. Section 5a (1) specifies in which way electronic communication can be agreed.</p>	X	X

	<p><b>Section 5a (9) Insurance Contract Act (Versicherungsvertragsgesetz, VersVG)</b></p> <p>Section 5a (9) VersVG specifies Article 23 (5), letter d by defining how long information has to be reasonably available on the website.</p>		
Article 24: Cross-selling			
Article 25: Product oversight and governance requirements			
<b>Additional requirements in relation to insurance-based investment products</b>			
<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
Article 26: Scope of additional requirements			
Article 27: Prevention of conflicts of interest			
Article 28: Conflicts of interest			
Article 29: Information to customers			

Article 30: Assessment of suitability and appropriateness and reporting to customers	<p><b>Section 135a in connection with Section 131 (3) and 132 (3) VAG 2016:</b></p> <p>According to Article 30(1), the insurance intermediary or undertaking is responsible for providing the advice and undertaking the suitability assessment. According to the national provision of Austria, the insurance undertaking is only free of this obligation if the insurance undertaking has no reason to assume that the third party advises the policyholder not properly.</p>	X	X
<b>Scope, registration and organisational requirements</b>			
<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
Article 1: Scope			
Article 2: Definitions			
Article 3: Registration			
Article 10: Professional and organisational requirements			
Article 14: Complaints			
<b>Other themes</b>			
<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>

Not applicable	<b>Section 135e VAG 2016</b>  Information obligations: The Austrian law foresees special information obligations for health or accident insurance which is operated in a manner similar to life insurance. Information obligations in connection with health insurance products are specified in the Information Requirements Regulation for Health Insurance.	X	X
Not applicable			
Not applicable			
General good provisions referred to in Article 180 of Solvency II			
<b>Solvency II Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
...	National provisions for the protection of the general good, to which the performance of insurance and reinsurance distribution by insurance and reinsurance undertakings in Austria are subject, are published on the website of the FMA:  <a href="#">Supervisory disclosure   FMA Österreich</a> : National provisions for the protection of the general good	X	X
Other general good provisions (not related to IDD and Solvency II), such as money-laundering and taxation provisions, which are relevant for insurance distributors doing cross-border business			
<b>Underlying Article from EU legislation, if applicable</b>	<b>Specific national legislative provision(s) and or links to the relevant websites of the Ministries where further information on the rules can be found</b>	<b>FoS</b>	<b>FoE</b>

...	National provisions for the protection of the general good, to which the performance of insurance and reinsurance distribution by insurance and reinsurance undertakings in Austria are subject, are published on the website of the FMA:  <a href="#">Supervisory disclosure   FMA Österreich</a> : National provisions for the protection of the general good	X	X
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**For insurance intermediaries**

General good provisions regulating insurance distribution in addition to those set out in the Insurance Distribution Directive (Article 11(2))

**Information requirements and conduct of business rules**

IDD Article	Specific national legislative provision(s)	FoS	FoE
Article 17: General principle			
Article 18: General information provided by the insurance intermediary or insurance undertaking	<p>Art. 1 of the Professional Rules for insurance intermediaries (Standesregeln für Versicherungsvermittler):</p> <p>Insurance intermediaries in the different forms as "insurance agent", "insurance broker and consultant in insurance matters" have in business dealings as such to occur. The papers and documents used in the insurance intermediation have to have the name and address, the GISA number, clearly visible in the header or in the footer as well as the designation "insurance agent" or "insurance broker and consultant in insurance matters" and all agency relationships.</p> <p>Businesspeople who have the right to insurance brokerage on the basis of an authorization for commercial asset advice, have the right to do business and on papers and documents clearly visible in the header or in the footer to indicate that they are used for insurance intermediation with regard to life and accident insurance. The notice must contain the information whether the activity is carried out as an insurance agent or as an insurance broker and advisor in insurance matters.</p> <p>Businesspeople who carry out the activity of insurance brokerage as an ancillary business, have in business dealings and on papers and documents clearly visible in the header or in the footer to indicate the restricted trade. The notice must contain the information as to whether the activity is carried out as an insurance agent or as an insurance broker and advisor in insurance matters.</p> <p>Is there an entitlement to receive premiums for the insurance company or from</p>	x	x

	amounts intended for the customer, this is also to be clearly stated in the papers and documents used.		
Article 19: Conflicts of interest and transparency			
Article 20: Advice, and standards for sales where no advice is given	<p><b>Art. 3 of the Professional Rules for insurance intermediaries (Standesregeln für Versicherungsvermittler):</b></p> <p><u>Before</u> submitting the policyholder's contract declaration, the insurance broker must determine the customer's wishes and needs based on the information provided by the customer.</p> <p>The insurance <u>broker is obliged to advise</u> the customer in the sense of a personal recommendation and to explain why a certain product best suits the wishes and needs of the customer.</p> <p>The obligation does not apply if an activity in the form of an insurance agent, provided that he acts only for one insurance company, or - if the insurance products are not in competition with one another - the policyholder wishes to conclude a specific contract and after a corresponding warning in a separate declaration has demonstrably not sought advice.</p> <p>If an insurance broker informs the customer that he is advising on the basis of a balanced and personal investigation, he is obliged to refer his advice to an investigation within the meaning of Section 28 subparagraph 3 of the Broker Act (Maklergesetz), to be supported by insurance contracts offered on the market. In the case of insurance agents acting to several companies with competing products, this applies to the limited extent of the insurance contracts.</p> <p>In the distribution of pure life insurance products according to Art. 2(17), letter b IDD a standardized information sheet on insurance products in accordance with Art. 133 para 3 Insurance Supervision Act 2016 (VAG 2016) has to be given.</p>	x	x

Article 21: Information provided by ancillary insurance intermediaries			
Article 22: Information exemptions and flexibility clause			
Article 23: Information conditions			
Article 24: Cross-selling			
Article 25: Product oversight and governance requirements			
<b>Additional requirements in relation to insurance-based investment products</b>			
<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
Article 26: Scope of additional requirements			
Article 27: Prevention of conflicts of interest			
Article 28: Conflicts of interest			

Article 29: Information to customers			
Article 30: Assessment of suitability and appropriateness and reporting to customers			
<b>Scope, registration and organisational requirements</b>			
<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
Article 1: Scope			
Article 2: Definitions			
Article 3: Registration	<p><b>Art. 137b. Trade Act 1994 (Gewerbeordnung 1994)</b></p> <p>The activity of insurance intermediation may be carried out <u>either</u> in the form of "insurance agent" <u>or</u> in the form of "insurance broker and consultant in insurance matters", depending on the actual relationship with insurance companies. (This is compulsorily being concluded from Art 18 IDD by AT)</p>	x	x
Article 10: Professional and organisational requirements	<p><b>Art. 137b. Trade Act 1994 (Gewerbeordnung 1994)</b></p> <p>Ancillary intermediaries have to give evidence of at least five hours of professional training or further education per year. The responsible specialist organizations of the Austrian Chamber of</p>	x	x

	<p>Commerce have curricula for the training content. The curriculum must provide that at least half of the training obligation may be carried out only by certain independent educational institutions. The curriculum requires confirmation of the Federal Minister for Digitization and Business Location.</p> <p><b>Art. 137c. Trade Act 1994</b></p> <p>Austrian law must be applicable to the insurance contract and the place of jurisdiction must be Austria. For insurance intermediaries who are authorized to act as insurance agents or insurance brokers and consultants in insurance matters, a time limit on additional coverage is not permitted. Several companies that have submitted a declaration of liability are jointly and severally liable where there is no direct attribution.</p> <p>If insurance agent activities are intended, each individual agency relationship including insurance branch (es) must be specified.</p> <p>If professional liability insurance or other liability insurance is no longer available, the authority must immediately initiate trade withdrawal proceedings and, if a new professional liability insurance or liability insurance cannot be proven immediately, withdraw the trade license within two months at the latest. Complaints against withdrawal notices have no suspensive effect. The initiation of the business withdrawal procedure must be noted in the register (GISA). If an activity in another signatory state to the EEA is recorded in the GISA, the authority informs the competent authorities of the other signatory state to the EEA of the deletion.</p>		
Article 14: Complaints			
<b>Other themes</b>			
<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
Not applicable			
Not applicable			

General good provisions referred to in Article 180 of Solvency II			
Solvency II Article	Specific national legislative provision(s)	FoS	FoE
...	<p>National provisions for the protection of the general good, to which the performance of insurance and reinsurance distribution by insurance and reinsurance intermediaries in Austria are subject, are published on the website of the BMDW:</p> <p><a href="https://www.bmdw.gv.at/en/Topics/Enterprise/InsuranceMediation.html">https://www.bmdw.gv.at/en/Topics/Enterprise/InsuranceMediation.html</a> ...</p>	x	x
Other general good provisions (not related to IDD and Solvency II), such as money-laundering and taxation provisions, which are relevant for insurance distributors doing cross-border business			
Underlying Article from EU legislation, if applicable	Specific national legislative provision(s) and or links to the relevant websites of the Ministries where further information on the rules can be found	FoS	FoE
...	<p>National provisions for the protection of the general good, to which the performance of insurance and reinsurance distribution by insurance and reinsurance intermediaries in Austria are subject, are published on the website of the BMDW:</p> <p><a href="https://www.bmdw.gv.at/en/Topics/Enterprise/InsuranceMediation.html">https://www.bmdw.gv.at/en/Topics/Enterprise/InsuranceMediation.html</a></p>	x	x