

Beneficial Ownership Guide for **Austria**

The purpose of this guide is to assist foreign competent authorities and other parties looking to find or request access to information on beneficial owners of a legal entity or a legal arrangement created or registered under the laws of **Austria**.

The information contained in this guide was provided by **the Federal Ministry of Finance, Austria**. This guide was produced with support from the Stolen Asset Recovery Initiative (StAR). To update information in this guide, please contact: starinitiative@worldbank.org.¹

Published: **April 8th, 2024**

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¹ Additional information on beneficial ownership provided by the Federal Ministry of Finance, Austria can be found here: https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup2/2022-November-7-11/contributions_to_CAC-COSP-WG.2-2022-CRP.1/AUSTRIA_EN.pdf

1) Legal and Regulatory Framework

1. How is the term “beneficial owner(s)” of legal entities and legal arrangements defined?

a) Term “beneficial owner” in local language:

In local language, the term “beneficial owner” is called “wirtschaftlicher Eigentümer”.

b) Which applicable laws and regulations include provisions on beneficial ownership of legal entities or arrangements? (e.g., AML legislation, company or trust laws, privacy or data protection laws, etc.)

In Austria, several laws and regulations include provisions on beneficial ownership of legal entities or arrangements. These include:

- i. *The Beneficial Owners Registry Act (BORA), BGBl. I No. 136/2017*: This Act took effect on 15 January 2018 and sets out the mechanisms and process for obtaining beneficial ownership information on legal persons and in Art. 3 it sets out the obligations of legal entities to identify and verify their beneficial owners and maintain accurate and up-to-date beneficial ownership information and to report any changes to the relevant authorities.²
- ii. Decree of the Federal Ministry of Finance on identification, verification and reporting of beneficial owners in accordance with the Beneficial Owners Register Act – (BORA) with respect to identifying, verifying the identity and reporting beneficial owners, which presented the legal opinion of the Finance Ministry on a wide range of question.³
- iii. *Financial Markets Anti-Money Laundering Act*: This Act requires legal entities to identify and verify the beneficial ownership information of their customers.⁴

c) Definition of “beneficial owner(s)” of legal entities (This includes relevant thresholds for equity ownership, voting rights, and other forms of control.)

According to Article 2 Beneficial Owners Registry Act (BORA), a “beneficial owner” means any natural person(s) who ultimately owns or controls a legal entity, including at least the following:

In the case of companies, in particular, legal entities pursuant to Article 1 para. 2 nos. 1 to 11, 13, and 14:

- a) All natural persons, that either directly or indirectly hold a sufficient percentage of the shares or voting rights (including those held in the form of bearer shareholdings), who hold a sufficient ownership interest in the company (including in the form of cooperative shares or a capital share), or who exercise control over the company:
 - aa) **direct beneficial owner**: where a natural person holds a shareholding or voting rights of more than 25% or an ownership interest of more than 25% in the company, or a natural person or several natural persons jointly exercise direct control over the company, then this/these

² Link: <https://www.bmf.gv.at/en/topics/financial-sector/beneficial-owners-register-act/legal-basis-and-FAQ.html>

³ Link: <https://www.bmf.gv.at/en/topics/financial-sector/beneficial-owners-register-act/legal-basis-and-FAQ.html>

⁴ Link: <https://www.bmf.gv.at/en/topics/financial-sector/money-laundering-and-terrorist-financing.html>

natural person(s) shall be considered as direct beneficial owner(s).

- bb) **Indirect beneficial owner:** where a legal entity holds a shareholding or voting rights of more than 25% or an ownership interest of more than 25% in the company and a natural person or several natural persons together jointly exercise direct or indirect control over this legal entity, then this/these natural person(s) shall be considered as indirect beneficial owner(s) of the company.

If several legal entities that are directly or indirectly controlled by the same natural person(s) hold a total directly held holding of shares or voting rights or an ownership interest of more than 25% of the company, then this/these natural person(s) shall be considered as beneficial owners.

A directly held holding or shares or voting rights held by one or more of the aforementioned natural persons or a directly ownership interest shall be added respectively.

Ultimate legal entities are those legal entities in a chain of participations that are controlled directly by indirect beneficial owners as well as those legal entities in which indirect beneficial owners directly hold shares or an ownership interest, if these considered with the legal entity/entities constitute the beneficial ownership. If the beneficial owner performs a function pursuant to no. 2 or no. 3, then the respective legal entity shall always be considered the ultimate legal entity.

The term legal entity as used in these points also covers comparable legal entities as defined in Article 1 located in another Member State or third country.

Control has to be considered to exist in the case of a shareholding of 50% plus one share or an ownership interest of more than 50%, held either directly or indirectly. Furthermore, control shall also be deemed to exist when the criteria pursuant to Article 244 para. 2 of the *Commercial Code (UGB)* are met, or where a function is exercised pursuant to no. 2 or 3 at an ultimate legal entity, or where the company is ultimately controlled by other means. Otherwise, a trustor or a comparable person exercises control by means of a trustee relationship or a comparable legal relationship.

- b) The natural persons that belong to the top management level of the company, once all possible means have been exhausted, and where no grounds for suspicion exist, that no person listed in lit. a can be identified.

For the companies listed below, the following applies:

- aa) In the case of ordinary partnerships and limited partnerships with their shareholders consisting exclusively of natural persons, the managing partners shall be considered as beneficial owners, provided that no grounds exist that show that the company is either directly or indirectly under the control of one or several other natural persons.
- bb) In the case of commercial and industrial cooperatives, the members of the top level of management (management board) shall be considered to be beneficial owners, or in the case that the directors are also entered in the register, then only the directors shall be considered to be beneficial owners.

In the case of companies without owners, the natural persons who belong to the management board shall be considered as beneficial owners, provided that no grounds exist that show that the company is either directly

or indirectly under the control of one or several other natural persons.

d) Definition of “beneficial owner(s)” of legal arrangements *(This includes BO definition of trusts and other similar legal arrangements, if available.)*

Article 2 BORA defines the term “beneficial owner(s)” means any natural person(s) who ultimately owns or controls a legal entity, including at least the following:

In the case of trusts, in particular legal entities pursuant to Article 1 para. 2 no. 17:

- a) the settlor/trustor(s);
- b) the trustee(s);
- c) the protector(s), if any;
- d) the beneficiaries, or - in the case that the individual persons who are the beneficiaries of the trust still need to be determined - the group of persons in whose interest the trust was established or operated (circle of beneficiaries); if persons belonging to this group receive benefits from the trust that exceed the value of EUR 2,000 in a calendar year, then they shall be considered as one-off beneficiaries in the calendar year in question;
- e) any other natural person exercising ultimate control over the trust by other means.

In the case of foundations, comparable legal entities and legal arrangements similar to trusts pursuant to Article 1 para. 2 no. 18, the natural persons who occupy comparable or similar positions to those listed in no. 2;

- a) in the case of private foundations (Article 1 para. 2 no. 12):
 - aa. the founders;
 - bb. the beneficiaries, the group of persons (circle of beneficiaries) out of which beneficiaries are selected through a special process (Article 5 PSG Privatstiftungsgesetz) - if persons from this group receive benefits from the private foundation, exceeding an amount of EUR 2 000 within a calendar year, they shall be considered as one-off beneficiaries in the relevant calendar year – or in the case of private foundations, insurance associations transformed into private foundations pursuant to Article 66 VAG 2016, savings banks transformed into the legal form of private foundations pursuant to Article 27a of the Savings Banks Act (SpG; Sparkassengesetz), foundations established for the purpose of supporting the purpose of the entity pursuant to Article 4d para. 1 EStG 1988, foundations established for the purpose of supporting employees pursuant to Article 4d para. 2 EStG 1988, foundations for the purposes of profit-sharing by workers and employees pursuant to Article 4d paras. 3 and 4 EStG 1988 shall always be considered as the circle of beneficiaries;
 - cc. the members of the management board of the foundation; any other natural person exercising ultimate control over the private foundation by other means.

- b) in the case of foundations and funds (Article 1 para. 2 nos. 15 and 16):
 - aa. the founders;
 - bb. the members of the management board of the foundation or the fund;
 - cc. the circle of beneficiaries;
 - dd. any other natural person exercising ultimate control over the foundation or fund by other means.

2. What are the different types of legal entities and arrangements that can be created in **Austria** and relevant applicable laws and regulations?

Types of legal entities	Applicable law and regulations
General Partnerships (<i>Offene Gesellschaft - OG</i>)	Commercial Code (UGB)
Limited Partnerships (<i>Kommanditgesellschaft - KG</i>)	UGB
Limited liability company (<i>Gesellschaft mit beschränkter Haftung - GmbH</i>) ⁵	Limited Liability Company Act (<i>Gesetz über Gesellschaften mit beschränkter Haftung - the GmbHG</i>) and UGB.
Stock corporation (<i>Aktiengesellschaft - AG</i>) ⁶	The Stock Corporation Act (<i>Aktiengesetz - AktG</i>) and UGB
Cooperative Societies (<i>Genossenschaft</i>)	The Cooperative Societies Act (<i>Genossenschaftsgesetz - GenG</i>)
Private Foundations (<i>Privatstiftung</i>)	Act of Private Foundations (<i>Privatstiftungsgesetz - PSG</i>)
Associations (<i>Verein</i>)	Law of Associations (<i>Vereinsgesetz - VerG</i>)
mutual insurance associations (<i>Versicherungsvereine auf Gegenseitigkeit</i>)	Insurance Supervision Act (<i>Versicherungsaufsichtsgesetz - VAG 2016</i>)
small mutual insurance associations (<i>kleine Versicherungsvereine</i>)	Insurance Supervision Act (<i>Versicherungsaufsichtsgesetz - VAG 2016</i>)
savings banks (<i>Sparkassen</i>)	Savings Bank Act (<i>Sparkassengesetz - SpG</i>)
European Economic Interest Groupings (EEIGs)	commercial and industrial cooperative societies act (EWIVG)
European companies (legal form: SE; <i>societas Europaea</i>)	Societas Europea Act (SE-Gesetz – SEG)
European cooperative societies (legal form: SCE; <i>societas cooperativa Europaea</i>)	Societas Cooperativa Europea Act (SCE-Gesetz – SCEG)
other legal entities, required to be entered into the Commercial Register	Austrian Commercial Register Act (FBG; <i>Firmenbuchgesetz</i>)
foundations and funds	Federal Act on Foundations and Funds (BStFG 2015; <i>Bundes-Stiftungs- und Fondsgesetz 2015</i>)
foundations and funds established on the basis of a provincial act, provided that the application of this Federal Act is allowed under provincial law	Act of the respective county
Flexible Company (FlexCo)	Flexible Company Act (<i>Flexible-Kapitalgesellschafts-Gesetz - FlexKapGG</i>)

3. How are legal entities formed and registered in **Austria**? How is basic and beneficial ownership information on legal entities obtained, recorded and, if relevant, verified?

(Formation/creation/registration process; types of legal entities formed directly by owners/controllers, and types that require the involvement of notary, TCSPs or other intermediary; any legal entities exempt from registration requirements; any legal entities

⁵ This is a separate legal entity from its owners, who have limited liability for the company's debts and obligations.

⁶ This is a company that has its share capital divided into shares, and its shareholders have limited liability for the company's debts and obligations.

exempt from BO disclosure requirement.)

In Austria, all legal persons (with the exception of associations) are required to be registered in the Austrian company register (“*Firmenbuch*”).⁷ This register is an electronic database administered by 16 Austrian regional courts (“*Landesgerichte*”) in accordance with the Commercial Register Act (“*Firmenbuchgesetz*” – the FBG), as well as the relevant laws for the different forms of legal persons. Associations are required to be registered in the local register of associations. The Federal Ministry of Interior keeps a central register of all associations.

Legal entities are formed and registered in Austria through a process that varies depending on the type of entity. For example, the formation process for a GmbH (limited liability company) involves drafting and notarizing the company’s articles of association, depositing the minimum share capital of €35,000 in a bank account, and registering the company with the Commercial Register. For some types of legal entities, such as general partnerships, no registration is required. However, certain partnerships, such as the *Kommanditgesellschaft* (KG), must be registered with the Company Register.

The process for the formation and registration of different legal entities is describes on the websites of the Austrian Economic Chamber, business portal of the Federal Government and the HELP service of the Federal Government.⁸

a) Basic Ownership Information

Basic information on legal entities is obtained during the registration process and is recorded in the company register. The company register is a public database that provides information on legal entities, including the name of the legal person, its legal form, its status (active or dissolved), its seat and registered address, and its directors as well as other persons with general commercial power of representation. Limited liability companies and partnerships (general or limited) are also required to submit the names and dates of birth of their shareholders (and the proportion of their share capital) to the company register. Since private foundations do not have shareholders but beneficiaries, they are required to disclose the names of the beneficiaries to the competent tax authorities and the Register of Beneficial Owners. The Association Register also contains the name of the entity, date of establishment, its seat and business address, and name, dates and places of birth of persons with statutory power of representation, which represent the management of the association.

All legal persons are required to communicate any relevant changes to their basic information either to the company register (i.e., the competent court), or to the respective register without delay. The changes that have not been notified to the relevant registry are not legally effective.

b) Beneficial Ownership Information

The BO disclosure requirement in Austria applies to all legal entities, and the information on the beneficial owner(s) is recorded in the Beneficial Owners Registry.

⁷ Art.34 para.1 AktG, Art.2 para.1 GmbHG, Art.8 GenG, Art.123 para.1 and Art.161 para.2 UGB, Art.7 para.1 PSG.

⁸ Wirtschaftskammer Österreich (WKO), www.wko.at; Wirtschaftskammer Österreich Grunderservice, www.grunderservice.at; Unternehmensserviceportal (USP), www.usp.gc.at; HELP, www.help.gv.at

Legal entities have to report the following information about their beneficial owners to the BO Register:

- First and last names
- The number and type of the official photo identification (only in case they do not have a place of residence in Austria)⁹
- Date and place of birth
- Nationality
- Place of residence
- Nature and scope of the beneficial interest.

In case of **indirect beneficial ownership**, the following information regarding the ultimate legal entity must also be reported (Article 5 para. 1. no. 2 BORA):

- if the ultimate legal entity is a legal entity under Article 1 BORA, its identification number, as well as its holding in terms of number of shares, voting rights or the holding of the beneficial owner in the ultimate legal entity;
- if the ultimate legal entity is a legal entity comparable to one defined in Article 1 BORA, with its registered office in another Member State or a third country, the name and address of the registered office of the legal entity, the legal form, the identifiers that correspond to the identification number and the identification registry as well as the holding of shares, voting rights or the holding of the beneficial owner in the ultimate legal entity.

Under Article 5 BORA, legal entities themselves must report the data about the beneficial owners to the BO Register electronically via the one-stop-shop Enterprise Service Portal (Unternehmensserviceportal, short: USP). This obligation applies to company representatives who are accountable for ensuring compliance. The Austrian reporting system also allows reports by legal professionals on behalf of their clients. This happened to be a key factor for not only a high reporting rate of more than 98,4 %, whereas around 86,4 % of all reports have been filed through legal professionals, but also for a high data quality among all reports (as of March 5, 2024).

Legal entities are required to perform an annual report of beneficial owners, which ensures that the information held in the register is current and accurate: Legal entities are required to conduct and review their due diligence requirements at least once a year. Within four weeks after the due diligence requirements, a report of beneficial owners has to be made where the changes of the beneficial ownership have to be reported or the current data has to be confirmed. In cases where changes occur in the meantime, legal entities are required to report them within four weeks of obtaining knowledge of the change.

To enhance the accuracy of data on the BO Registry, the BO register is inter-connected with other domestic registers, such as the company register, the register of associations, and the central residence register. Information on any newly formed legal entities is automatically imported and updated on the BO Register. In cases where the information on beneficial ownership is already registered in other existing registers, e.g. the

Business Register, an exemption from the reporting obligation reduces the administrative burden on legal entities (= automated reports, Article 6 BORA). Based on the source registers (e.g. the Business Register), the system automatically detects if the conditions according to Article 6 BORA are met and if so, detects the nature

⁹ If the beneficial owner to be reported has a primary residence address in Austria, data on the place of birth, the nationality and the place of residence is automatically transferred from the Central Residence Register to the BO Register.

and scope of the beneficial interest. For example, direct beneficial ownership of a natural person holding more than 25 % of company shares according to the Business Register will be automatically reported as such. In addition, relevant data from the Central residence register will be imported automatically. Any subsequent change in the source register (e.g., changes of beneficial owners or the senior management) lead to an automatic update of data in the BO Register. In the case that there is another person a beneficial owner, e.g. because of a nominee arrangement, Article 6 BORA is no longer applicable, and the undertaking has to file a report.

For the Register to be able to contribute to the prevention of money laundering and terrorist financing, it is important to ensure that the quality of the data stored in the Register is of suitable quality. To meet this requirement, the Registry Authority adopts a multi-pronged approach based on internal and external mechanisms. By so doing, it makes a significant contribution to ensuring that the data stored in the Register is suitable, accurate and up to date.

The term „external measures“ is used in this context to refer collectively to measures that are not taken directly by the Registry Authority itself. For instance, legal entities are required by law to check the details of their registered beneficial owners and to report any changes to the Beneficial Owners Register. All such alterations must be reported within four weeks of the legal entity becoming aware of change of details. It is also important to highlight an additional stipulation in this regard, which is that there is a legal requirement for obliged entities to inspect the Beneficial Owners Register, and to report any discrepancies in the record to the Registry Authority by submitting an official remark. Under this system, the results of risk-based audits intended to identify the beneficial owners of the clients/customers of obliged entities are used to improve the quality of the data in the Register.

„Internal measures“, on the other hand, are measures taken or imposed directly by the Registry Authority. The most important of these measures is risk-based supervision. As part of this process, reports to the Register are reviewed every month on a case-by-case basis, using an automated system. The system can select cases at random and on the basis of risk. Where cases are selected using a risk-based system, the system draws on multiple sources of information (including the Register of Companies, the Austrian Central Register and other statistical data). It then links this data with the information contained in reports to the Register in order to identify potentially inaccurate records. The system is also used to select cases where there is reason to believe that review might be appropriate, for example on the basis of a recommendation from a relevant authority or as a result of ongoing monitoring of the discrepancies being reported to the Register in official remarks. A number of different data sources are used as part of such reviews, including Austrian domestic registers (such as the Register of Companies, the Register of Associations and Supplementary Registers) and international databases (such as Orbis).

Where the review identifies inaccurate reports to the Register, appropriate measures (which may include the addition of official remarks to report discrepancies, formally reporting cases to other bodies, and the submission of official reports regarding the relevant records) are taken in order to correct the inaccuracies and ensure that those who fail to abide by their duty to provide accurate reports to the Register are sanctioned.

Since September 1, 2023, natural persons and organizations have been able to inspect the register of beneficial owners if they have a legitimate interest according to Art. 10 BORA.

Natural persons and organizations can request excerpts from the register for one or more legal entities if they can demonstrate a legitimate interest in preventing money laundering or terrorist financing or the implementation of directly applicable sanctions. For this purpose, an application must be submitted to the registration authority via the link below.

Furthermore, a legitimate interest shall also exist, if the applicant itself is an EU obliged entity and is not already authorised to inspect the Register pursuant to Article 9 or through the European Union's Beneficial Ownership Registers Interconnection System (BORIS) or is an obliged entity domiciled in a third country that is equivalent to this.

In addition, a legitimate interest also exists if the applicant wishes to enter a business relationship with a legal entity that is suitable for it for economic or personal reasons to justify sufficient interest surrounding the personal identity of the beneficial owner of the legal entity.

4. How are trusts and/or similar legal arrangements formed in Austria, and, if applicable, registered? How is basic and beneficial ownership information on legal arrangements obtained, recorded and, if relevant, verified? *(includes information about any obligation on trustees or persons of equivalent position or TCSPs to hold this information and submission of the information to the relevant agency, if applicable).*

In Austria, common law trusts are not recognized as a distinct legal form and cannot be set up under the Austrian law. However, trusts and other similar legal arrangements created under the law of another country may have their management in Austria, may have acquire land plots or legal entities, or may establish business relationships with obliged entities.

Trustees and a person comparable to the trustee in case of similar legal arrangements are required to hold accurate and up-to-date information on the parties to a trust or *s similar legal arrangement*. The beneficial ownership information on trusts and other legal arrangements is registered and maintained in the BO registry.

Foreign trusts and similar legal arrangements are required to register their beneficial ownership information to the Austrian BO Register when i) they are managed from Austria – this is particularly the case if the trustee has its residence or office seat in Austria; or ii) they are not managed from Austria and they establish a business relationship in Austria or which commit themselves to acquire the ownership of a plot of land located in Austria.

Austria does not have any legal arrangements that have similar legal characteristics. In the report of the Commission¹⁰ neither Germany nor Austria or any other Member State has identified the *Treuhand* as similar legal arrangement.

The *Treuhand* is a civil contract which is not regulated in law, but it is based on the general principle of the autonomy of the contracting parties and delimited by jurisprudence and doctrine. The creation of a *Treuhand* requires a person, the *Treuhand* (or trustee) who is authorized to exercise rights over property in his or her own name on the basis of and in accordance with a binding agreement with another person, the *Treugeber* (or

¹⁰ Report from the Commission to the European Parliament and the Council assessing whether Member States have duly identified and made subject to the obligations of Directive (EU) 2015/849 all trusts and similar legal arrangements governed under their laws, COM(2020) 560 final, 16.9.2020

settler). There are two main types of *Treuhand*, the *Fiducia* and the *Ermächtigungstreuhand*. With the *Fiducia* most of the rights are transferred to the *Treuhänder*, whereas the *Ermächtigungstreuhand* only entails a transfer of certain rights such as the right to manage the assets. The *Treuhand* can exist without any written record. It can be concluded between any two persons capable of being party to a contract. The *Treugeber* and the *Treuhänder* may choose to inform third parties of the legal arrangement between them (*offene Treuhand* or open *Treuhand*) or not (*verdeckte Treuhand* or hidden *Treuhand*).

Any member of the general public who can be party to a contract can act as a *Treuhänder*, however, it is often lawyers and notaries that act in this capacity. In this case, they have to apply all AML/CFT measures set out in the AML/CFT Act. In addition to that, lawyers have to register each *Treuhand* of more than EUR 40000 at the register of escrows of the competent Bar Association ("*Treuhandeinrichtung der Rechtsanwaltskammer*").¹¹ escrows maintained by the Austrian Chamber of Civil-Law Notaries.¹²

In practice, the *Treuhand* is a bipolar agreement, where one Person (*Treuhänder*) has the ownership of a specific property (shares of a company) on behalf of another Person (*Treugeber*). The *Treuhänder* has the full legal ownership but has to act on the instructions of the *Treugeber*. The *Treuhänder* has according to the *Treuhand* contract no discretion in his decisions. Any dividends are to be passed on immediately to the *Treugeber*. Despite of the duties of the *Treuhänder* according to the contract, there is no formal split of ownership. If the *Treuhänder* breaches the contract and sells the shares, the *Treugeber* loses his ownership and has no way of getting the property back. The trustor only has a civil claim for damages against the trustee but cannot take action against the new owner.

In the event of the death of the *Treugeber* (trustor), his heirs can terminate the *Treuhand* agreement and demand a transfer of the property. Thus, *Treuhand* agreements are therefore not suitable for taking legal effects for the time after the death of the *Treugeber* (trustor).

In Austria, we also do not have cases ruled by the supreme court that would support that a *Treuhand* can be set up like a trust. This discourages people, especially since trusts can easily be set up in the neighbouring state of Liechtenstein, which has the same language as Austria.

Taking this all together the *Treuhand* has the same legal effect as nominee arrangements according to Recommendation 24 of the FATF Drawing on the Registry Authority's experience in connection with trusteeships, and given the fact that there is a higher risk of beneficial ownership being concealed in these cases, trusteeships with regard to legal entities are reported to the BO-Register in cases where the *Treugeber* is becoming beneficial owner. In that case the *Treugeber* is reported as person, who controls a certain legal entity.

¹¹ Art.10a para.2, Art.27 para.1 (g), Lawyer's Act (*Rechtsanwaltsordnung* - RAO)

¹² Art.109a para.2 NO, THR 1999.

2) Available Information Sources on Legal Entities and Arrangements

1. Which registry(ies) contain basic and beneficial ownership information on legal entities and legal arrangements in Austria?

Name of Registry	Responsible Authority or body	Type of Information recorded		Types of Legal Entities/ Arrangements covered	URL (weblink) to Registry	Type of Access	Cost of Access
		Basic Information ¹³	Beneficial Ownership Information				
The BO Register	Registry Authority, established by the Federal Ministry of Finance	Yes	Yes	All types of legal entities, including foundations, foreign legal entities subject to reporting obligations in Austria, as well as trusts and similar legal arrangements ¹⁴	https://www.bmf.gv.at/en/topics/financial-sector/beneficial-owners-register-act/Register-of-Beneficial-Owner.html	Online	Authorities may access the register for free. There are charges for access by obliged entities and persons with legitimate interest.
Company Register	Ministry of Justice	Yes	Yes	All types of legal entities except trusts	https://www.firmenabc.at/	Online	Basic information is available for a nominal fee.
Land Register	District courts	Yes	No	Real estate ownership and mortgages	https://www.justiz.gv.at/web2013/html/default/3a3b23a26f30e14f012f39ea987d1b4f.en.html	Online	Basic information is available free of charge.
Escrow Register of lawyers	Competent Bar Association	Yes	No	Treuhand	N/A	Accessible to competent authorities upon request	N/A
Escrow register of notaries	Austrian Chamber of Civil-Law Notaries	Yes	No	Treuhand	N/A	Accessible to competent authorities upon request	N/A

¹³ As set out in paragraph 4(a) of the Interpretive Note to FATF Recommendation 24.

¹⁴ Including *Treuhand*.

2. What type of information is collected, maintained and accessible on the registry(ies)?

See section 5 on how foreign authorities may request information from different sources.

A. Company Registry

In Austria, the company register is *Firmenbuch*.

	Open Public Access (whether online, free or for nominal fee) ¹⁵	Restricted Access (describe access restrictions, e.g., approval, pre- registration, etc.)	Law Enforcement / Competent Authority Access only	Comments
Name of Legal Entity	X			Available online, for nominal fee
Entity Number (if any)	X			
Type of Legal Entity	X			Available online, for nominal fee
Date of Incorporation	X			
Current Status (active, etc.)	X			Available online, for nominal fee
Principal Address of Business	X			Available online, for nominal fee
Principal Purpose of Business				
Registered Capital	X			
Registered Agent Information	X			Available online, for nominal fee
Officer/ Director Information (incl. power of representation)	X			Available online, for nominal fee
Shareholder/ Member Information	X			
Memorandum	X			Available online, for nominal fee
Articles of Incorporation	X			Available online, for nominal fee
Application/ Certificate of Formation	X			
Governance Documents (e.g., bylaws, operating agreement)	X			Available online, for nominal fee
Annual/ Biennial Reports	X			For certain legal forms
Shareholder Register	X			For certain legal forms
Register of Charges				
Bank Account Information				
Payment Records				
Historical Documents (example: past annual filings)	X			

B. Beneficial Ownership Registry

¹⁵ The below information is open to public (for a fee), either for inspection at court or online.

	Inspection where a legitimate interest exists (whether online, free or for nominal fee) ¹⁶	Restricted Access (describe access restrictions, e.g., approval, pre-registration)	Law Enforcement / Competent Authority Access only ¹⁷	Comments
Data on Individuals				
Name	X	X	X	
Date of Birth	X	X	X	
Place of Birth		X	X	The place of birth can only be found in excerpts for obliged entities and authorities.
Official Identifier, such as national ID, Tax ID, Driver's license				Not found in any excerpt. However, a comparison is made for persons listed in the central population register and the internal administrative number is collected and stored. Persons without a main residence in Austria are obliged to submit a copy of an official identity document.
Nationality ¹⁸	X	X	X	
Place of Residency	X	X	X	The country of residence is shown in the public access but not the address
Contact Details		X	X	e-mail-address if submitted voluntarily
PEP Information				
Other data (e.g., verification documents-please specify) ...		X	X	Passport number and passport copies for persons without residence in Austria
Data on Entities				
Name	X	X	X	
Official identifiers, such as company registration number	X	X	X	
Jurisdiction of Incorporation	X	X	X	
Contact Details	X	X	X	
Date of Establishment	X	X	X	
Date of Dissolution	X	X	X	
Other data (e.g., state-owned enterprise, publicly listed company etc.) ...				
Data on Relationships				
Type of Relationship	X	X	X	

¹⁶ This information is available to public online, which can be ordered *via* the official website of the Federal Ministry of Finance for a user charge of EUR 4,00.

¹⁷ Law enforcement and competent authorities can access the BO Register using a government application called "WiEReg", pursuant to Article 12 of BORA. Article 12 of BORA also provides a list of authorities with access to the BO register.

¹⁸ Including, if relevant, collection of information on multiple nationalities held.

Nature of Ownership or Control (% of Ownership (values or ranges), voting rights or control through other means)	X	X	X	
Start of Relationship		X	X	
End of Relationship		X	X	
Information on Ownership Chain		X	X	Only the top level has to be reported (ultimate legal entity)
Other data ...				

3. Access for Reporting Entities with AML Obligations

a) Can domestic or foreign financial institutions and other reporting entities with AML obligations access or request information on beneficial owners held by a registry or other body? If yes, describe how.

Reporting entities under the AML obligations may access the BO Registry for a usage fee:

- Simple extracts: 4 Euro
- Extended extracts: 5 Euro
- Compliance package: 10 Euro

A lump sum payment of the fee for usage is possible upfront, which will gradually reduce fees for usage from 5 for 15 excerpts to 3.6 Euro for 7.500 excerpts.

With the recent amendment to BORA, starting with September 1, 2023, an access based on legitimate interest has been set up. The following groups will be able to inspect the register:

1. members of the journalistic profession, members of the scientific community, as well as civil society organizations that are related to the prevention of money laundering, terrorist financing or the circumvention of the sanctions. In any case, proof of the existence of a legitimate interest is a relevant journalistic or scientific contribution or an obligation of the applicant in the statute or in the mission statement to perform activities in this regard or concrete successful activities in this regard.
2. obligated entities in accordance with Directive (EU) 2015/849 in the version of Directive (EU) 2018/843 and not already in accordance with Section 9 or the system for networking the registers of beneficial owners of the European Union pursuant to Art. 30 Para. 10 and Art. 31 Para.
3. Any person that would like to enter a business relationship with a legal entity that is suitable for him due to economic or personal elements to justify a sufficient interest in the person of the beneficial owner of the legal entity.

In cases 1 and 2 there is an online application necessary, which will be processed by the Registry Authority using an online tool. In addition, in the case 3 lawyers, notaries, tax advisors or other legal professional may provide excerpts from the register.

Obligated entities may either use the web-based application “WiEReG Management System” or the “WiEReG Webservice”, which guarantee an instant access to beneficial owner data. The Webservice supports pdf and xml excerpts, which allow an import of beneficial owner data in systems of credit institutions and other obligated entities like tax advisors. In addition, the WiEReG Change Management Service informs obligated entities in the event that the beneficial owner data with regard to a customer has changed. Report forms may be also integrated in business software of tax advisors and other professional party representatives, so that reporting to the beneficial owner register is as convenient as possible.

Persons demonstrating a legitimate interest may access the register by visiting the following website starting with September 1, 2023: Public access (bmf.gv.at)

Persons demonstrating a legitimate interest may search for the legal entities by using the name or the national identifier pursuant to Article 10 BORA.

Obligated entities may search for legal entities by using the name or the national identifier and certain obligated entities may search for natural persons by using the first name, last name, and date of birth pursuant to Article 9 para 3 BORA.

The following authorities shall be authorised to inspect the Register according to Art. 12 para 1 BORA:

1. the registry authority within the powers conferred upon it in accordance with this Federal Act;
2. the Financial Intelligence Unit (Geldwäschemeldestelle) (Article 4 para. 2 BKA-G) within the powers conferred upon it in accordance with the BKA-G;
3. the following supervisory authorities within their duties for preventing the financial system from being used for the purpose of money laundering and terrorist financing:
 - the FMA in relation to its supervision of credit institutions and financial institutions pursuant to Article 25 FM-GwG;
 - the Federal Minister of Finance in relation to its supervision of holders of government-approved licences pursuant to Articles 14 and 21 GSpG; the competent regional authorities with regard to the supervision of regionally authorised parties for the operation of gaming machines and providers of betting services pursuant to Article 9 para. 1 no. 5 within the meaning of the regulations set out under regional law;
 - the Bar Association within the scope of its supervision of attorneys; the Austrian Chamber of Notaries (Notariatskammer) within the scope of its supervision of notaries;
 - The Chamber of Professional Accountants and Tax Advisors (KWT; Kammer der Wirtschaftstreuhänder) within the scope of its supervision of external auditors and tax advisors;
 - the President of the Austrian Economic Chambers (WKO) within the scope of the WKO's supervision of balance sheet accountants, accounts and payroll accountants pursuant to Article 1 BiBuG 2014;
 - the local administrative authorities within the scope of supervision of financial institutions pursuant to Article 9 para. 1 no. 3, traders on a commercial basis including auctioneers, provided that they accept payments in cash of at least EUR 10 000 pursuant to Article 365m1 para. 2 no. 1 GewO, real estate agents pursuant to Article 365m1 para. 2 no. 2 GewO, business consultants pursuant to Article 365m1 para. 2 no. 3 GewO, insurance brokers pursuant to Article 365m1 para. 2 no. 4 GewO;

4. the local administrative authorities for the purposes of initiating and conducting of administrative penal proceedings;
5. the law enforcement authorities, public prosecutors and criminal law courts;
6. the national financial administration authorities listed in Article 49 BAO within the scope of duties legally conferred upon them;
7. the Federal Fiscal Court (Bundesfinanzgericht) within the scope of duties legally conferred upon it;
8. the Oesterreichische Nationalbank for the purposes of the performance of its duties pursuant to Article 8 of the Sanctions Act (SanktG) and Article 5 of the Foreign Exchange Act of 2004 (DevG; Devisengesetz 2004);
9. the Federal Minister of the Interior for the purposes of performing the duties conferred pursuant to Article 8 SanktG;
10. the security authorities for the purposes of security policing;
11. the Directorate National Security and Intelligence Service (DSN) as well as the competent organisational unit of the regional police directorates (Landespolizeidirektionen) competent for national security in the respective provinces for the purposes of Article 1 para. 2 and Article 2a SNG;
12. health insurance providers for the purposes of combating social security fraud.

In addition, all authorities not listed in Article 12 para 1 BORA may access the register, when the access is related to a legitimate interest with respect to the prevention of money laundering, terrorist financing, the circumvention of sanctions or public procurement.

Authorities listed in Article 12 para 1 BORA may search for legal entities by using the name or the national identifier and for natural persons by using the first name, last name and date of birth.

The BO Registry Authority, the Financial Intelligence Unit (Geldwäschemeldestelle) and the Directorate of State Security and Intelligence Service as well as the organizational units responsible for state security of the state police directorates, the authorities of the federal financial administration mentioned in § 49 BAO, the Federal Financial Court, the criminal police, the health insurance institutions, the public prosecutor's offices and the courts may use in addition advanced search options according to Article 12 para 3 and 4 BORA:

- Analytical search for natural persons: searches all legal entities by entering one or several identifiers about a natural person (combinations allowed)
- Search for legal entities and ultimate legal entities: search all legal entities by entering one or several identifiers about an ultimate legal entity (combinations allowed)

In addition, the BO Registry Authority is authorized according to Article 14 para 2 BORA to perform analyses for ensuring the correctness and completeness of the data as well as for the prevention of money laundering and terrorist financing.

According to Art. 12 para 9 the BO Registry Authority and the Directorate National Security and Intelligence Service (DSN) may also search for natural persons for whom a suspicion exists that they have been sanctioned in accordance with directly applicable sanctioning measures by the European Union as well in accordance with Article 2 SanktG.

For this purpose, Bundesanstalt Statistik Österreich shall check by automated means on at least a weekly basis,

whether the suspicion exists for legal entities and natural and legal persons, which are or were the beneficial owners, legal owners or persons authorized to represent a legal entity entered in the Register, that they have been sanctioned.

3) Types of Legal Entities and Arrangements

This Guide provides information on [3-5] most relevant or most commonly used legal entities or arrangements.

Gesellschaft mit beschränkter Haftung (GmbH)

Type of legal entity	Gesellschaft mit beschränkter Haftung (GmbH)	
What is the minimum number of natural persons required for formation?	0 ¹⁹	
	Yes	No
Is there a requirement to register with the company registry or other registry?	X ²⁰	
Does the entity have a separate legal personality?	X	
Is there a requirement to report the beneficial owner(s) of this type of entity to any registry, public authority, or another body?	X ²¹	
Is there a requirement to provide verification for the identities of the beneficial owner(s)?	X	
Is there a residency requirement for directors or other officers/members holding positions?		X
Are bearer shares/share warrants permitted?		X
Is a Trust and Company Service Provider or Notary required to form this entity?		X
Is a registered agent in the jurisdiction of formation required?		X
Is the entity required to hold financial account(s) in the jurisdiction of formation?		X
Are tax filings required in the jurisdiction of formation (even if there are no direct tax liabilities)?	X	

Kommanditgesellschaft (KG)

Type of legal entity	Kommanditgesellschaft (KG)	
What is the minimum number of natural persons required for formation?	0 ²²	
	Yes	No
Is there a requirement to register with the company registry or other registry?	X ²³	
Does the entity have a separate legal personality?	X	
Is there a requirement to report the beneficial owner(s) of this type of entity to any registry, public authority, or another body?	X ²⁴	
Is there a requirement to provide verification for the identities of the beneficial owners?	X	
Is there a residency requirement for partners?		X
Is a Trust and Company Service Provider or notary required to form?		X
Is a registered agent in the jurisdiction of formation required?		X
Is the entity required to hold financial account(s) in the jurisdiction of formation?		X
Are tax filings required in the jurisdiction of formation (even if there are no direct tax liabilities)?	X	

Foreign Company

Type of legal entity	Foreign Company

¹⁹ The GmbH is required to have one shareholder; however, it is not clear if it is required to be a natural person.

²⁰ There is a requirement to register with the Company Register at the Commercial Court.

²¹ There is a requirement to report the beneficial owner(s) of this type of entity to the BO Registry in Austria.

²² The KG must have at least one general partner and one limited partner; however, it is not clear if any one of these is required to be a natural person.

²³ A KG must be registered with the commercial register (Firmenbuch) maintained by the regional courts.

²⁴ A. KG is required to report its beneficial owners to the BO Registry maintained by the Ministry of Finance

What is the minimum number of natural persons required for formation?	0 ²⁵	
	Yes	No
Is there a requirement to register with the company registry or other registry?	X ²⁶	
Does the entity have a separate legal personality?	X	
Is there a requirement to report the beneficial owner(s) of this type of entity to any registry, public authority, or another body?	X ²⁷	
Is there a requirement to provide verification for the identities of the beneficial owner(s)?	X	
Is there a residency requirement for directors or other officers/members holding positions??		X
Are bearer shares/share warrants permitted?		X
Is a Trust and Company Service Provider or notary required to form?		X
Is a registered agent in the jurisdiction of formation required?	X ²⁸	
Is the entity required to hold financial account(s) in the jurisdiction of formation?		X ²⁹
Are tax filings required in the jurisdiction of formation (even if there are no direct tax liabilities)?	X ³⁰	

²⁵ There is no specific requirement for the number of natural persons required for the formation of a foreign company in Austria.

²⁶ Foreign companies must register with the Austrian Commercial Register (Firmenbuch) before conducting business in Austria.

²⁷ Foreign companies are required to report their beneficial owners to the Austrian Central Register of Beneficial Owners.

²⁸ Foreign companies must appoint a representative in Austria for the purpose of receiving legal documents, but this representative does not need to be a registered agent.

²⁹ There is no specific requirement for a foreign company to hold financial accounts in Austria, but they may need to open a bank account in Austria to conduct business there.

³⁰ Foreign companies that conduct business in Austria are required to file tax returns and pay taxes on any income earned in Austria, even if they do not have a permanent establishment there.

4) Nominee Directors and Shareholders³¹

1. Do any special laws or regulations for the provision of nominee director services exist? Does your jurisdiction generally allow or prohibit nominee directors? If allowed:

Nominee directors are not allowed under the Austrian law.

a) For which entity types?

N/A

b) Are there any transparency requirements for nominee directors to disclose the identity of their nominator (the individual upon whose instructions they are acting) to any registry or government agency? If yes, provide details.

N/A

c) Are nominee directors required to disclose their status as nominees anywhere? If yes, provide details.

N/A

2. Do any special laws or regulations for the provision of nominee shareholding services exist? Does your jurisdiction generally allow or prohibit nominee shareholders? If allowed:

Nominee shares are not explicitly provided for under the Austrian law. However, they are not prohibited either, which means that the use of nominee shareholders is generally allowed. It is possible a person who is registered as a shareholder in the share register is different from the true owner of the shares. There are no specific laws or regulations for the provision of nominee shareholding services. Typically, the Treuhand is used as nominee arrangement in Austria.

a) For which entity types?

All types of legal entities can have nominee shareholders, as they are not prohibited under the Austrian law. Nominee shareholding services can thus be used for various types of entities, including limited liability companies, joint stock companies, and partnerships.

b) Are there any transparency requirements for nominee shareholders to disclose the identity of their nominator (the individual upon whose instructions they are acting) to any registry or government agency? If yes, provide details.

If a significant nominee arrangement exists and beneficial ownership of the nominator is established, this must be disclosed to the register authority and the information is stored and may be accessed by authorities, obligated entities and persons demonstrating an legitimate interest.

³¹ Different terminologies can be used to describe such arrangements in different jurisdictions.

See FATF Glossary definition: "Nominee is an individual or legal person instructed by another individual or legal person ("the nominator") to act on their behalf in a certain capacity regarding a legal person. A Nominee Director (also known as a "resident director") is an individual or legal entity that routinely exercises the functions of the director in the company on behalf of and subject to the direct or indirect instructions of the nominator. A Nominee Director is never the beneficial owner of a legal person. A Nominee Shareholder exercises the associated voting rights according to the instructions of the nominator and/or receives dividends on behalf of the nominator. A nominee shareholder is never the beneficial owner of a legal person based on the shares it holds as a nominee."

c) Are nominee shareholders required to disclose their status as nominees anywhere? If yes, provide details.

Nominee shareholders are required to disclose their status as nominees to the company for whose shares they are acting as nominee shareholders. In addition, they must disclose their status to the register authority if this information is requested.

5) Information Sharing/Intelligence Inquiries and MLA Requests by Foreign Authorities

1. The following authorities can be contacted to request assistance related to obtaining information through information sharing/intelligence inquiries or for MLA requests:

Name of Authority	Competence (Information Sharing Inquiry/Intelligence Requests/ MLA Request)	Web Link	Contact Information to request information
Federal Ministry of Justice	MLA Requests	https://www.justiz.gv.at/web2013/home/justiz/auslandsbeziehungen/justizielle_internat_2_en.htm	Federal Ministry of Justice Museumstraße 7 1070 Vienna, Austria Email: int-rechtshilfe@bmj.gv.at
Federal Ministry of Interior	Information Sharing Inquiry/Intelligence Requests	https://english.bmf.gv.at/financial-intelligence-unit.html	Financial Intelligence Unit (FIU) Federal Ministry of Finance Hintere Zollamtsstraße 2b 1030 Vienna, Austria Email: fiu@bmf.gv.at
Federal Criminal Police Office	Information Sharing Inquiry/Intelligence Requests	https://www.bmi.gv.at/207/Innenministerium_Wir_ueber_uns.aspx	Federal Criminal Police Office Bundeskriminalamt Josef-Holaubek-Platz 1 1090 Vienna, Austria Email: bka@bmi.gv.at
Register authority	Cooperation between the registry authority and other authorities in relation to anti-money laundering and countering the financing of terrorism as well as in enforcing sanctioning measures	https://www.bmf.gv.at/en/topics/financial-sector/beneficial-owners-register-act.html	Federal Ministry of Finance, register authority, Johannesgasse 5 1010 Wien, Austria Email: wiereg-registerbehoerde@bmf.gv.at

2. Through which channels can foreign authorities obtain information on legal entities and arrangements created or registered in Austria from different sources?

According to Art. 14a BORA the register authority and the authorities listed in Article 12 para. 1 may cooperate for the purposes of guaranteeing that the data stored in the register are appropriate, precise, and up-to-date for preventing the financial system from being used for money laundering and terrorist financing purposes and for enforcing directly applicable European Union sanctioning measures and sanctioning measures pursuant to Article 1 of the Sanctions Act (SanktG; Sanktionengesetz,) and exchange and process information, data and documents that are relevant for the assessment of the beneficial ownership of legal entities.

For the purposes listed in para. 1 of Art. 14a BORA the registry authority may cooperate, and exchange and process data as defined in para. 1 with authorities in other Member States that perform equivalent duties. Such cooperation shall also be allowed to include the conducting of ad hoc reviews by the registry authority and the subsequent submission of information, data and documents gained within the scope of such investigations. This is also permissible with regard to authorities in third countries that perform equivalent duties, if it is

guaranteed that such authorities are subject to a professional confidentiality requirement.

Name of Records/ Information Source	How can foreign authorities access information?					Name of Authority/ Contact Information	Comments
	Direct Public Access	Access upon Request	Information Sharing/Int elligence Inquiry	MLA Request	No Access		
Non-public information held by corporate registry/or other registry, incl. enclosed records		X	X			Federal Ministry of Justice (for MLA requests)	
Non-public information held by BO registry		X ³⁴	X ³⁵			Federal Ministry of Finance (BO Registry Authority)	
Non-public information held by registry of trusts and similar legal arrangements (if applicable), incl. enclosed records		X ³⁶	X ³⁷			Federal Ministry of Finance (BO Registry) or Federal Ministry of Justice (for MLA requests)	
Police records, incl. interviews with relevant individuals (directors, partners, shareholders, managers, trustees, professional staff of financial institutions, trust and company service providers, etc.)			X ³⁸	X		Federal Ministry of Justice (for MLA requests)	
Financial Intelligence Unit Records				X			
Tax Records				X			
Financial account records/documents				X			
Account records held by Trust and Company Service Providers or other DNFBPs				X			
Land Registry Records				X			
Real Estate Records				X			
Asset or Income Declarations by Public Officials				X			
Other Asset Registers (motor vehicles, boats, aircraft, jewelry, artwork)				X			

³⁴ Access upon request can be made to the competent court or the competent commercial register or the BO Registry Authority.

³⁵ Pursuant to Article 12 para 5 BORA the authorities shall in the provision of assistance submit public excerpts to the competent authorities and central reporting bodies in other Member States.

³⁶ Access upon request can be made to the competent court or the BO Registry Authority.

³⁷ Pursuant to Article 12 para 5 BORA the authorities shall in the provision of assistance submit public excerpts to the competent authorities and central reporting bodies in other Member States.

³⁸ Information sharing/intelligence queries can be made to the competent police authority or public prosecutor's office.

3. Is the Austria a signatory of other relevant international information exchange agreements covering beneficial ownership information (e.g., the OECD Convention on international tax exchange agreement)?

Austria is a signatory to several international agreements related to information exchange, including the OECD Convention on Mutual Administrative Assistance in Tax Matters and the EU Directive on Administrative Cooperation in the Field of Taxation. These agreements provide a framework for the exchange of information on beneficial ownership and other tax-related matters between countries.

4. Links to other relevant publicly available sources of information:

Resource	URL (weblink)
Austrian Ministry of Finance	https://www.bmf.gv.at/
Austrian Financial Market Authority (FMA)	https://www.fma.gv.at/en/
Austrian Federal Economic Chamber	https://www.wko.at/
Austrian Business Register	https://www.firmenbuchgrundbuch.at/firmenbuchdaten
Austrian Central Register of Beneficial Owners	https://www.bev.gv.at/BEV/BEV_english.html
Austrian Federal Chancellery	https://www.bka.gv.at/en/home.html
Austrian Federal Ministry of Justice	https://www.justiz.gv.at/home/english/
Austrian Tax Authority	https://english.bmf.gv.at/
Austrian National Bank	https://www.oenb.at/en/
Austrian Statistics	https://www.statistik.at/web_en/