



# Fintech 2025

Ninth Edition



Contributing Editors:

**David Ives, David Shone & James Cook**  
Slaughter and May

**glg** Global Legal Group

# Expert Analysis Chapter

1

EU and UK Operational Resilience: One Aim, Two Approaches

David Shone, Martijn Stolze, Tabitha Harris &amp; Emily Bradley, Slaughter and May

## Q&A Chapters

4

**Australia**Peter Reeves, Emily Shen & Meg Dalco,  
Gilbert + Tobin

16

**Austria**Mag. Johannes Frank & Mag. Christoph Renner,  
Herbst Kinsky Rechtsanwälte GmbH

21

**Bahamas**Christel Sands-Feaste, Portia J. Nicholson &  
Julia Koga da Silva, Higgs & Johnson

27

**Bahrain**Saifuddin Mahmood & Mohamed Altraif,  
Hassan Radhi & Associates

34

**British Virgin Islands**

Andrew Jowett &amp; Patrick Gill, Appleby (BVI) Limited

39

**Colombia**Carlos Carvajal & Santiago Garzón,  
Lloreda Camacho & Co

44

**Cyprus**Xenia Kasapi & George Economides,  
E & G Economides LLC

52

**Denmark**Tue Goldschmieding, Morten Nybom Bethe &  
David Telyas, Gorrisen Federspiel

58

**Egypt**Ibrahim Shehata, Hesham Kamel & Hamza Shehata,  
Shehata & Partners Law Firm

65

**France**

Bena Mara &amp; Félix Marolleau, Bredin Prat

72

**Ghana**Kwesi Dadzie-Yorke, Gregory K.B. Asiedu,  
Edinam Ama Priscilla Amekpleame &  
Sharon Efram Ashun, Asiedu & Yorke

79

**Greece**Marios D. Sioufas, Aikaterini Gkana &  
Athanasia Vaiopoulou, Sioufas & Associates Law Firm

85

**Hong Kong**

Vincent Chan, Slaughter and May

100

**India**Anu Tiwari, Hamraj Singh, Jemima Chelliah &  
Shrudula Murthy, Cyril Amarchand Mangaldas

109

**Indonesia**Chandra Kusuma, Andina Aprilia,  
Rinjani Indah Lestari & Lintang Rogokhi Martimbo,  
Foster Legal

117

**Ireland**Sarah Cloonan & Katie Keogh,  
Mason Hayes & Curran LLP

127

**Isle of Man**Claire Milne & Katherine Garrood,  
Appleby (Isle of Man) LLC

132

**Japan**Koji Kanazawa, Katsuya Hongyo & Shun Komiya,  
Chuo Sogo LPC

138

**Korea**Donghwan Kim & Jung Hyun Park,  
DLG Law Corporation

145

**Malaysia**Christina Kow, Timothy Siaw & Krystle Lui,  
Shearn Delamore & Co.

153

**Malta**

Dr. Ian Gauci &amp; Dr. Cherise Abela Grech, GTG

159

**Netherlands**Mariska Enzerink, Pete Lawley, William Slooff &  
Lisa Brouwer, De Brauw Blackstone Westbroek

169

**Norway**Markus Nilssen, Eirik Basmo Ellingsen,  
Kari Bryge Ødegården & Sander Bøe Bertelsen,  
Advokatfirmaet BAHN AS

178

**Philippines**Enrique V. Dela Cruz, Jr., Jay-R C. Ipac &  
Terence Mark Arthur S. Ferrer, DivinaLaw

187

**Portugal**

Hélder Frias, Uría Menéndez

196

**Saudi Arabia**Ghazal Tarabzouni, Kenan Nagshabandi,  
Khawla Alnajafi & Sally Khalil, Hammad & Al-Mehdar

203

**Singapore**Kenneth Pereire, Lin YingXin & Sreya Violetta Sobti,  
KGP Legal LLC

## Q&A Chapters Continued

**209**

### **Spain**

Leticia López-Lapuente & Isabel Aguilar Alonso,  
Uría Menéndez

**219**

### **Sweden**

Anders Bergsten & Carl Johan Zimdahl,  
Mannheimer Swartling

**226**

### **Switzerland**

Daniel Flühmann & Peter Ch. Hsu, Bär & Karrer

**235**

### **Taiwan**

Jaclyn Tsai, Jaime Cheng & Lilian Hsu,  
Lee, Tsai & Partners Attorneys-at-Law

**242**

### **Thailand**

Papon Charoenpao & Karanaporn Monsatta, PDLegal

**249**

### **United Arab Emirates**

Abdus Samad & Luca Rayes Palacín, Afridi & Angell

**255**

### **United Kingdom**

David Ives & David Shone, Slaughter and May

**264**

### **USA**

Brian S. Korn & Bernhard Alvine,  
Manatt, Phelps & Phillips, LLP



# Austria



Mag. Johannes Frank



Mag. Christoph Renner

Herbst Kinsky Rechtsanwälte GmbH

## 1 The Fintech Landscape

**1.1 Please describe the types of fintech businesses that are active in your jurisdiction and the state of the development of the market, including in response to the COVID-19 pandemic and ESG (Environmental, Social and Governance) objectives. Are there any notable fintech innovation trends of the past year within particular sub-sectors (e.g. payments, asset management, peer-to-peer lending or investment, insurance and blockchain applications)?**

Austria hosts a growing and increasing FinTech ecosystem that spans across a wide array of business models, including payment services, digital asset management, crowdfunding and peer-to-peer lending, neobanking, RegTech, InsurTech and blockchain-based platforms.

The payment sector dominates the Austrian FinTech landscape, with licensed payment institutions and electronic money institutions leveraging Application Programming Interface-based architectures and Single Euro Payments Area instant payment solutions.

The COVID-19 pandemic accelerated the digital transformation of financial services, catalysing adoption among consumers and reinforcing demand for digital onboarding, identity verification and contactless payment systems. Austrian regulators responded with pragmatic supervisory approaches, including regulatory measures and dialogue-driven engagements with FinTech operators, which facilitated continuity and resilience. Environmental, Social and Governance (ESG) considerations have notably gained traction across financial services, and Austrian FinTechs have responded by integrating sustainable finance analytics, carbon footprint tracking and ESG-compliant investment modules into their product offerings. This trend is reinforced by the EU Sustainable Finance Disclosure Regulation, which is directly applicable in Austria.

Over the past year, Austria has seen several notable innovation trends across FinTech sub-sectors:

- In the crowdfunding space, platforms have increasingly focused on community-based and ESG-oriented investment projects, including green energy and social infrastructure.
- The InsurTech sector has evolved with machine learning to optimise underwriting processes and streamline claims handling.
- Blockchain applications have remained a key driver of innovation, particularly in the tokenisation of financial instruments (such as shares, bonds or real estate), supported by a favourable legal framework introduced under the Austrian Digital Assets Act.

**1.2 Are there any types of fintech business that are at present prohibited or restricted in your jurisdiction (for example cryptocurrency-based businesses)?**

Austria does not explicitly prohibit any specific FinTech business models. However, crypto-related services are subject to mandatory Austrian Financial Market Authority (FMA) registration and strict anti-money laundering (AML) compliance. Please note that any offering of regulated financial services without a licence is strictly prohibited and subject to enforcement by the Austrian FMA.

## 2 Funding For Fintech

**2.1 Broadly, what types of funding are available for new and growing businesses in your jurisdiction (covering both equity and debt)?**

In Austria, there are generally the following equity and debt financing instruments for young and growing businesses:

- Equity funding: angel investments, venture capital and crowdfunding under the legal framework for Alternative Financing (*Alternativfinanzierungsgesetz*) and European Crowdfunding Service Providers (*Schwarmfinanzierungsverordnung*).
- Convertible instruments: convertible loans or simple agreements for future equity.
- Public grant programmes and co-financing schemes (e.g. through the Austrian Research Promotion Agency (FFG) or the Austrian Wirtschaftsservice (aws)) provide significant non-dilutive support.
- On the debt side, bank loans, venture debt and subordinated instruments are available.
- The development of debt crowdfunding and tokenised debt instruments is emerging, but still at an early stage.

**2.2 Are there any special incentive schemes for investment in tech/fintech businesses, or in small/medium-sized businesses more generally, in your jurisdiction, e.g. tax incentive schemes for enterprise investment or venture capital investment?**

Direct public funding and co-financing instruments are available through institutions such as the aws and the FFG. These include grants, convertible loans and guarantees for early-stage and technology-driven companies, including FinTechs. Austria does not currently offer a dedicated tax relief scheme for private investments in startups but there is such a scheme



for investments into alternative (venture capital or private equity) investment funds.

### 2.3 In brief, what conditions need to be satisfied for a business to IPO in your jurisdiction?

In order to be admitted to regulated trading on the Vienna Stock Exchange (Prime and Standard Market), the following requirements must be met:

- **Stock Company:** the company must be incorporated as a stock company – *Aktiengesellschaft* (AG) – under Austrian law; limited liability companies are not eligible for listing on regulated markets.
- **Prospectus:** the company must prepare a prospectus in accordance with the EU Prospectus Regulation, subject to approval by the Austrian FMA.
- **Legal Compliance:** the issuer's incorporation and governance must comply with its home country's laws.
- **Minimum Equity Capital:** at least EUR 1 million for shares and EUR 250,000 for other securities.
- **Company History:** the issuer must have existed for at least three years and published financial statements, with exceptions possible.
- **Regulatory Compliance:** the issuer must adhere to all relevant legal and regulatory requirements.
- **Accounting Standards:** the issuer must apply International Financial Reporting Standards or other internationally renowned accounting principles.
- **Denomination and Distribution:** securities must be appropriately structured for trading and sufficiently distributed among the public (typically at least 25% or, in some cases, 10% held by at least 50 investors).
- **Market Capitalisation:** the listed shares must have EUR 20 million in market capitalisation if at least 25%, or EUR 40 million if less than 25%, is held by at least 50 investors.
- **Complete Issuance:** the application must cover all securities of the same type unless exceptions are justified.
- **Exchange and Subscription Rights:** if securities grant rights to other securities below EUR 50,000 in denomination, the underlying securities must also be admitted or adequately disclosed.

Further to that, please note that there are other market segments available for listing with the Vienna Stock Exchange, which may have less requirements as they qualify as multi-lateral trading facilities rather than as regulated markets. Therefore, the minimum equity capital may only be at least EUR 70,000, more than 20 different shareholders may suffice, national accounting standards may be applicable and the market capitalisation of only EUR 10 million may be sufficient.

### 2.4 Have there been any notable exits (sale of business or IPO) by the founders of fintech businesses in your jurisdiction?

Austria has seen several notable founder exits in the FinTech space, primarily through strategic acquisitions. Shpock, a mobile marketplace with integrated payment features, was acquired by Schibsted, and ready2order, a cloud-based point-of-sale and payments provider, was sold to Unzer in 2022. Additionally, kompany, a RegTech firm, was acquired by Moody's. While no FinTech IPO has taken place yet, later-stage companies like Bitpanda signal growing exit potential.

## 3 Fintech Regulation

### 3.1 Please briefly describe the regulatory framework(s) for fintech businesses operating in your jurisdiction, and the type of fintech activities that are regulated.

FinTech businesses in Austria are subject to a function-based regulatory framework, meaning that regulation depends primarily on the nature of the activity performed, rather than the label "FinTech" as such.

The key regulatory frameworks are as follows:

- The Austrian Banking Act (BWG) – applicable to deposit-taking, lending and other core banking services.
- The Payment Services Act 2018 (ZaDiG 2018) – governing payment initiation, account information and other payment services in line with Payment Services Directive 2.
- The Electronic Money Act (E-GeldG 2010) – applicable to issuance of electronic money.
- The Securities Supervision Act (WAG 2018) and the Alternative Investment Fund Managers Act – regulating investment services and asset management.
- The Financial Markets Anti-Money Laundering Act (FM-GwG) – registration and compliance duties for virtual asset service providers, including exchanges and custodians.
- The Alternative Financing Act – setting out rules for public crowdfunding offerings.
- And, most recently, regulatory alignment with the EU Markets in Crypto-Assets Regulation (MiCAR) and the Digital Operational Resilience Act (DORA), which are expected to significantly impact FinTech operators from 2024/2025 onwards.

In practice, FinTechs may require a licence or registration with the Austrian FMA depending on whether their business model qualifies as a banking, investment, payment, electronic money, alternative investment fund management or crypto-asset service.

### 3.2 Are financial regulators and policy-makers in your jurisdiction receptive to fintech innovation and technology-driven new entrants to regulated financial services markets, and if so how is this manifested? Are there any regulatory 'sandbox' options for fintechs in your jurisdiction?

Austria takes a function-based and innovation-friendly regulatory approach to FinTech. The Austrian FMA maintains a dedicated FinTech contact point, enabling early regulatory dialogue and informal guidance for emerging business models.

In 2020, Austria introduced a formal regulatory sandbox regime under the Financial Market Innovation Act. The sandbox allows selected firms to test innovative financial services under close Austrian FMA supervision for a limited time, often in parallel with a phased licensing process.

In addition, national initiatives such as the FinTech Advisory Board and participation in EU-level digital finance strategies (such as MiCAR or DORA) reflect a broader policy commitment to financial innovation while maintaining supervisory integrity.

**3.3 What, if any, regulatory hurdles must fintech businesses (or financial services businesses offering fintech products and services) which are established outside your jurisdiction overcome in order to access new customers in your jurisdiction?**

Foreign FinTechs must carefully assess whether their activities result in a cross-border service triggering the application of Austrian regulatory laws. In Austria, a licence or registration may be required if the service is actively directed at Austrian clients, regardless of the provider's domicile (exceptions apply under certain circumstances to securitisation special purpose entities where the transaction qualifies as a Simple, Transparent and Standardised securitisation under the EU Securitisation Regulation, or – particularly in the case of bespoke, single-transaction structures – where it can be substantiated that the initiative originates primarily from the sellers).

Key regulatory hurdles include:

- **Licensing Requirements:** if the foreign FinTech offers services that fall under a respective regulatory act, such as the BWG, ZaDiG 2018, E-GeldG 2010 or WAG 2018, it may require a licence from the Austrian FMA, unless an EU passporting regime applies.
- **No Reverse Solicitation Exception:** in general, Austria does not recognise a reverse solicitation exemption.

**3.4 How is your regulator approaching the challenge of regulating the traditional financial sector alongside the regulation of big tech players entering the fintech space?**

Austria applies a technology-neutral and activity-based regulatory framework, meaning that both traditional financial institutions and Big Tech firms must comply with the same rules if they offer regulated financial services in Austria. There is no distinction made between providers based on their size or industry sector. Instead, the focus lies on whether the service provided requires a licence under existing legislation, such as the BWG or ZaDiG 2018.

At the same time, the Austrian FMA pays close attention to new business models, especially where Big Tech firms offer finance solutions, act as critical IT service providers or control access to customer data.

Austria supports EU-wide efforts to ensure that Big Tech companies are effectively supervised, and that fair competition, financial stability and consumer protection are preserved as the financial sector becomes increasingly digital.

## 4 Other Regulatory Regimes / Non-Financial Regulation

**4.1 Does your jurisdiction regulate the collection/use/transmission of personal data, and if yes, what is the legal basis for such regulation and how does this apply to fintech businesses operating in your jurisdiction?**

Yes, the collection, use and transmission of personal data in Austria is strictly regulated. The legal basis is primarily the EU General Data Protection Regulation (GDPR), which is directly applicable, supplemented by national rules under the Austrian Data Protection Act (*Datenschutzgesetz*).

FinTech businesses operating in Austria must ensure full compliance with GDPR principles.

**4.2 Do your data privacy laws apply to organisations established outside of your jurisdiction? Do your data privacy laws restrict international transfers of data?**

Austria's data protection framework is governed by the GDPR, which applies not only to entities established within the EU, but also to organisations based outside the EU if they target individuals in Austria through the offering of goods or services or monitor their behaviour. With respect to international data transfers, Austria follows the GDPR's strict transfer regime.

**4.3 Please briefly describe the sanctions that apply for failing to comply with your data privacy laws.**

The GDPR's sanctions regime provides for administrative fines of up to EUR 20 million or 4% of global annual turnover, whichever is higher. Furthermore, if an infringement of the GDPR results in damages, there is also the possibility of claiming damages under the GDPR.

**4.4 Does your jurisdiction have cyber security laws or regulations that may apply to fintech businesses operating in your jurisdiction?**

The GDPR and the Austrian Network and Information Systems Security Act, which implements the EU NIS Directive, apply to certain digital service providers and operators of essential services. Furthermore, the EU NIS2 Directive was to be implemented in EU Member States by 17 October 2024. While Austria has not implemented the EU NIS2 Directive yet, national legislation is likely to be issued soon, resulting in additional cyber security requirements.

**4.5 Please describe any AML and other financial crime requirements that may apply to fintech businesses in your jurisdiction.**

FinTech businesses operating in Austria are subject to a comprehensive AML and counter-terrorist financing regime. The primary legal basis is the FM-GwG, which implements the EU AML Directives and is supplemented by sector-specific regulations such as the BWG, ZaDiG 2018, WAG 2018 and E-GeldG 2010.

FinTechs become subject to AML obligations when they carry out regulated activities, such as payment services, electronic money issuance, investment services or virtual asset services. The Austrian regime also applies to operators of crowdfunding platforms within the scope of the European Crowdfunding Service Providers Regulation. These entities must comply with strict requirements regarding customer due diligence, transaction monitoring and identification of politically exposed persons.

FinTechs are further required to establish and maintain effective internal AML systems, including the appointment of an AML officer, the implementation of risk-based policies and procedures, and staff training.

The Austrian FMA pursues a proactive supervisory approach and has made it clear that AML compliance is expected to be robust, documented and proportionate to the risk profile of the business – regardless of its size or digital business model.

#### 4.6 Are there any other regulatory regimes that may apply to fintech businesses operating in your jurisdiction (for example, AI)?

FinTech businesses in Austria may also be subject to further legal frameworks, depending on their business model. This includes, in particular, the forthcoming EU AI Act, which will introduce a risk-based regulatory regime for AI systems, including those used in credit scoring, fraud detection or robo-advice. Once in force, the AI Act will apply directly in Austria and impose transparency, risk assessment and documentation requirements on FinTechs using high-risk AI.

## 5 Technology

#### 5.1 Please briefly describe how innovations and inventions are protected in your jurisdiction.

Innovations and inventions in Austria are protected through a comprehensive system of intellectual property (IP) rights, in line with both national and EU law. Patentable inventions are protected under the Austrian Patent Act, provided they are novel, involve an inventive step and are industrially applicable. Applications can be filed nationally with the Austrian Patent Office, or via the European Patent Office or under the Patent Cooperation Treaty.

Software-based innovations can benefit from copyright protection under the Austrian Copyright Act, provided they are sufficiently original. Trademarks and designs may also be registered to protect product identity and visual elements.

In addition, trade secrets benefit from protection under the Austrian Trade Secrets Act, implementing the EU Trade Secrets Directive, provided that appropriate confidentiality measures are in place.

#### 5.2 Please briefly describe how ownership of IP operates in your jurisdiction.

In Austria, ownership of IP generally vests in the creator or inventor, unless contractually agreed otherwise.

#### 5.3 In order to protect or enforce IP rights in your jurisdiction, do you need to own local/national rights or are you able to enforce other rights (for example, do any treaties or multi-jurisdictional rights apply)?

IP rights can be enforced in Austria both on the basis of nationally registered rights and international or EU-wide rights, depending on the nature of the protection and the applicable legal instruments.

#### 5.4 How do you exploit/monetise IP in your jurisdiction and are there any particular rules or restrictions regarding such exploitation/monetisation?

In Austria, IP can be exploited and monetised through a variety of legal mechanisms, including assignment, licensing, franchising, pledging and contribution in kind to a company.



**Mag. Johannes Frank** is a partner at Herbst Kinsky Rechtsanwälte GmbH, which he joined in 2012. He specialises in the fields of banking and capital markets law, corporate/M&A and private equity, finance, venture capital and startups, FinTech (including crypto assets and non-fungible tokens) and real estate law.

He advises Austrian and international clients across the full transactional spectrum, with a focus on venture capital, M&A, cross-border corporate structuring, financial regulatory matters, and the legal implementation of innovative financing and tokenisation models. Johannes regularly acts for investors, financial institutions and founders in complex capital markets and venture deals, and represents clients in related regulatory proceedings and contractual matters.

**Herbst Kinsky Rechtsanwälte GmbH**

Dr. Karl Lueger-Platz 5  
1010 Wien  
Austria

Tel: +43 1 904 21 80-0

Email: [johannes.frank@herbstkinsky.at](mailto:johannes.frank@herbstkinsky.at)

LinkedIn: [www.linkedin.com/in/johannes-frank-3896004a](https://www.linkedin.com/in/johannes-frank-3896004a)



**Mag. Christoph Renner** is an attorney at Herbst Kinsky Rechtsanwälte GmbH, which he joined in 2019. He specialises in capital markets law, corporate/M&A and private equity, finance, FinTech (including crypto assets and non-fungible tokens), sustainability, as well as venture capital and startup advisory.

He advises Austrian and international clients on all aspects of corporate and financing transactions, with a particular focus on technology-driven business models, digital financial products, ESG-compliant investment structures and early-stage financing. His practice regularly includes the structuring of equity and token-based investments, the negotiation of shareholder arrangements, and regulatory matters at the intersection of innovation and financial law.

Before joining Herbst Kinsky, Christoph worked in the capital markets compliance department of Raiffeisen Bank International in Vienna, with a focus on capital market compliance and internal controls.

**Herbst Kinsky Rechtsanwälte GmbH**

Dr. Karl Lueger-Platz 5  
1010 Wien  
Austria

Tel: +43 1 904 21 80-0

Email: [christoph.renner@herbstkinsky.at](mailto:christoph.renner@herbstkinsky.at)

LinkedIn: [www.linkedin.com/in/christoph-renner-b0b52b193](https://www.linkedin.com/in/christoph-renner-b0b52b193)

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The driving force behind Herbst Kinsky lies in its curiosity and openness towards emerging developments in law and business. With an understanding of the intricate interplay between law and new technological advancements, the firm advises clients on technology startups, including areas such as AI, metaverse, SaaS solutions, blockchain, quantum technology and aerospace, providing support to these ventures, from their establishment and financing rounds, to the creation and negotiation of crucial contracts, regulatory compliance and other matters relevant to their market presence.

Over the years, Herbst Kinsky has been recognised with numerous awards and accolades. In 2023, three of its partners were rated among the top 50 finance lawyers in Austria by *Borsianer*. The firm was also ranked in eight practice groups in *The Legal 500 EMEA 2022* and acknowledged by *Chambers and Partners Europe 2023* for its expertise in five practice areas.

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The **International Comparative Legal Guides** (ICLG) series brings key cross-border insights to legal practitioners worldwide, covering 58 practice areas.

**Fintech 2025** features one expert analysis chapter and 35 Q&A jurisdiction chapters covering key issues, including:

- The Fintech Landscape
- Funding For Fintech
- Fintech Regulation
- Other Regulatory Regimes / Non-Financial Regulation
- Technology