

General considerations regarding the jurisdiction of Austrian

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Despite the fact that the political situation in Austria, in comparison with other countries of the Western world, is considered more favorable towards Russia, banks and other service providers have recently begun to treat Russian customers with increasing suspicion and skepticism. Therefore, doing business in Austria or using Austrian jurisdiction for capital management requires additional measures. At the same time, in the case of proper and competent registration and organization, the Austrian business structure, providing a high degree of flexibility and reliable asset protection, at the moment can be even more useful than in the past.

Compliance has become more professional

In order to verify the accuracy of information provided by Russian clients, all major Austrian banks either have a staff of Russian-speaking employees responsible for compliance, or use the services of external (third-party) consultants. Russian clients can no longer expect to find a "new start" in Austria: compromising information and open source articles, including websites, are analyzed and accounted for by the compliance Department, and translated and sent to [client relations] managers who work and interact directly with clients. Also in the last three years, banks in Austria have begun to significantly improve the skills of managers responsible for compliance, and in this regard, to hire former employees of audit and consulting firms with extensive professional experience and experience related to the markets of Eastern Europe. Today, about 60% of compliance managers are hired and qualified in banks, about 25% come to banks from audit and consulting companies, and the remaining 15% have a law degree or other experience in this field. The average salary of compliance employees has increased by 45% over the past five years, even taking into account standard increases and inflation. This means that customers now face much more trained, motivated and competent compliance officers.

Many banks of Russian origin have resorted to the services of private banks such as Bank Gutmann, Wiener Privatbank, LGT, LLB (or formerly Semper Constantia), Bank Winter, Meinel Bank and similar banks in the hope of a more favorable and lenient attitude on the part of their account managers or compliance departments. Such banks do behave with clients more flexibly in the process of initial interactions, when clients open accounts and transfer money for the first time. Also, as long as the funds remain in the Bank accounts, smaller transactions – such as, for example, payments in Austria for rental payments and transportation costs – are carried out without any further problems. However, problems regularly arise during large operations. It is reported that LLB, Bank Gutmann (which took over a large part of the business and former Director from Vontobel Austria Bank), Grawe, Schelhammer & Schattera and Bank Winter began to block more and more transactions. Meinel Bank remains the most flexible in terms of compliance, but various investigations into the Bank and its management have led to increased suspicion on the part of other banks in relation to all transfers from Meinel Bank, which makes the Bank virtually useless for the client.

In this context, it is important to note that in recent years, compliance departments of both private banks and larger consumer banks have begun to regularly notify state investigative authorities about customers – in the event that these customers can not fully and convincingly prove the legality (legality) of the transaction made by them. This is usually done so that the Bank can avoid further liability. This means not only that the funds in the client's account will be blocked and his account closed, but also that he, the client, will have to face an investigation into possible money laundering. Bringing in more expensive service providers or a more respectable experienced lawyer to set up a company has not proven successful or effective in addressing these issues. Several recent cases, including the case of Erich Rabassa, a lawyer who assisted in the laundering of Russian money through the Raiffeisen Bank, legal

and judicial battles of Austrian banks with Russian clients and financial institutions – all this only increased the already existing pressure.

What about compliance today?

For the reasons described above, new strategies should be applied to work with Bank compliance, namely: instead of resorting to the services and "roofs" of prestigious private banks or large banks partially dependent on Russia, such as Raiffeisen (main, parent Raiffeisenbank), it is recommended to turn to the services of local (regional) banks (or regional Raiffeisen Banks that are technically independent from the parent Raiffeisenbank, or Sparkassen) or medium-sized banks, such as Oberbank AG. When choosing a suitable Bank, the operations planned in the following years are of priority importance, and they need to be paid more attention than the issues of prices, prestige or the presence of a branch in the Bank of Russia. Independent regional Raiffeisen banks, for example, have extensive experience in real estate transactions in their regions, and most often – even if the funds come from Russia – do not pose a problem in such transactions, as they are deeply rooted in their cities or villages and are usually associated with one or more parties involved in the transaction. Ober Bank, an average regional Bank from Upper Austria with branches and representative offices in Vienna, has an impressive track record in trade and has a staff of account managers who have a deep understanding of the import and export structure. Thanks to the correct and careful selection of the Bank (or even branch, branch of the Bank), and depending on what projects are planned, most of the problems and difficulties can be avoided.

Customers should be prepared to personally meet with the account managers assigned to them and personally brief them on the details of the planned transactions. This aspect cannot be solved by hiring expensive lawyers or consultants, but must be performed by the client (the ultimate, direct beneficiary) in order to ensure maximum effect. Such meetings should be held prior to the establishment of the business structure in Austria in order to avoid unnecessary costs. During such meetings, clients should actively voice their positions on negative information about them and openly discuss any potentially negative topics. The key importance is that the client should also be prepared to disclose their corporate structures and the roles of other persons involved (such as Directors and so on). This includes information about offshore companies, etc., information about which in our time is quite accessible and can be obtained through various databases.

The positive side of the improved skills of managers and compliance officers is that they are now more willing to understand complex explanations and analyze the client's situation in detail and in a broad context. This means that, for example, negative information about the client, distributed in the press or other media, can be countered by actively provided clear and unambiguous explanations.

Corporate Service providers, Consultants and other «Experts»

Over the past 20 years, an entire industry of corporate service professionals, adventurers who have established profitable relationships with Russian entrepreneurs, and other consultants has grown around and on the basis of capital from Eastern Europe. These companies and individuals often work on outdated business models, trying to establish close ties with wealthy clients from Eastern Europe, trying to become their Trustees (Trustees) and provide them with a full range of services (all-in-one). Since Austria is a relatively small market, these people and companies are usually well known in narrow circles of interest and thus clearly do not add credibility to the client's image, negatively affecting the client's reputation as a whole. Moreover, by positioning themselves as "problem solvers," these people and companies tend to solve emerging problems by taking on more risks while lacking the necessary grit and knowledge to develop increasingly complex, complex and, most importantly, legal structures. In many cases, problems with potential business partners and the media, banks or other institutions arise not because the Russian client is seen as problematic, but because the so-called consultants serving the

client himself have a negative history. In addition, such "consultants" serve a large network of partners and connections in Austria, which can lead to a radical increase in transaction costs for the client. In the case of failed projects or even fraud, Russian clients face enormous problems related to the difficulty of bringing former partners to justice in court, as local courts of first instance are more inclined to accept the position of the Austrian side, and usually not because of any claims against the Russian side, but simply because, even when represented by a competent Austrian lawyer, the Russian or Eastern European side usually cannot present and communicate its position as accurately as the Austrian side. The main reason for the failure of almost all failed real estate projects or corporate investment projects that have been the subject of litigation with Russian participation over the past five years was that the Russian side – after and due to the fact that the Austrian partners either did not fulfill their obligations or did not allocate the agreed co-financing-did not carry out the planned investments. Therefore, it is extremely important to apply in this case no less low standards of foresight than they would be applied in relations with Russian counterparties in Russia. Thus, a thorough check is an absolute necessity, and personal preferences or even recommendations of other Russian clients cannot replace a thorough check.

Content Is An Important Investment

When it comes to setting up structures in Austria, Russian clients – just as in Russia itself – should avoid the classic "specialists" in corporate services, providing and having at their disposal "mass registration addresses" and "mass nominee Directors". These structures have long been familiar to banks, professionals and even the media and will greatly complicate the work and functioning of the business in the Austrian environment for a client from Russia. It is strongly recommended to invest a few hundred euros per month to conduct operations structure of the office used no more than one or two other companies and to appoint a "fresh Director", acting as Director in two other companies. Even the most minimal investments in local staff, such as a part-time Secretary who takes on administrative work, significantly increase the credibility and usefulness of the structure, as well as help with solving problems in the field of compliance and taxation (with respect to tax residence). Since the classic "mailbox companies" with nominee Directors at the head become practically useless for any meaningful transaction, investing small amounts in the local content of the structure located in Austria will significantly increase its value and value.

Why Austria?

Despite tighter compliance, stricter regulations and other factors, Austria remains a very attractive and favourable jurisdiction and, moreover, has become even more favourable for those clients who are willing to invest in local content for their corporate or wealth management structures. A properly registered and established structure, a well thought out and developed "legend" behind it, the ultimate beneficial owner involved in discussions with the Bank and other parties, an organized local structure (content) – all this can serve as a reliable basis for any business group and fulfill all transaction needs, while at the same time preserving all the benefits and advantages of favorable tax and business conditions in Austria. The key factors here are proper preparation, advance and reliable intelligence, verification of information about all business partners and willingness to give convincing and satisfactory explanations to questions before they arise. Instead of hiring expensive lawyers, adventurous "consultants" and turning to private banks, clients should engage in the process of developing their "stories" and base all their decisions on detailed, long-term planning.