CHECKLIST

Founding of a limited liability company (GmbH) and a flexible company (FlexKapG)

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Here you will find all the steps required to set up a limited liability company (GmbH) or a flexible company (FlexKapG):

- ☐ Articles of association contractually agreed by shareholders as a notarial deed before an Austrian notary. A power of attorney with a notarised signature is permissible, provided that the power of attorney sets out the key provisions of the articles of association.
- ☐ Where a natural person establishes a one-person GmbH or FlexKapG using the simplified procedure, whilst at the same time being appointed as the sole managing director, and does so electronically with secure proof of identity, the requirement for a notarial deed is waived. The declaration of establishment must contain only the minimum information required by law:
  - > Company name and registered office of the GmbH or FlexKapG
  - > Share capital contribution by the respective shareholder
  - > Amount of the portion of share capital to be paid in by the shareholder
  - > Subject matter of the company
  - > Amount of share
  - > Reimbursement for costs of formation
- ☐ The minimum capital amounts to € 10,000. In principle, contributions in cash or in kind are permitted. Contributions in kind must be provided in full without delay. At least one quarter of the cash contributions must be paid in at the time of the company's formation, but in any case, a minimum amount of € 5,000.
- ☐ As a rule, if it is agreed upon that contributions in kind shall comprise more than half of the share capital, an audit of the company's formation by a court-appointed auditor is required.
- ☐ Bank confirmation or notarial confirmation on payment of minimum contributions to the share capital
- ☐ Resolution on appointing at least one managing director
- ☐ Specimen corporate signature of managing director (with notarial certification of the signature)
- ☐ If foreign companies as partners, evidence of their identity must be provided (e.g. by submitting extracts from a foreign Commercial Register or confirmation by a foreign Commercial Register or Chamber of Commerce)
- ☐ Application for registration in the Commercial Register by all managing directors (with notarial certification of signatures)

Further notes:

- Under certain circumstances, there may be an obligation to appoint a supervisory board, particularly where, on an annual average, the GmbH or FlexKapG employs more than 300 staff members. In contrast to the GmbH, a medium-sized FlexKapG is already obliged to appoint a supervisory board.
- Audit of annual financial statements prescribed by law in the case of "mid-sized" and "large" GmbHs and FlexKapGs; a "small" GmbH or FlexKapG is also legally obliged to conduct an audit if there is a legal obligation to have a supervisory board.
- In the case of a FlexKapG, the articles of association may provide for the issue of enterprise value shares amounting to up to 25% of the share capital.
- Annual financial statements of every GmbH and FlexKapG must be submitted to the Commercial Court each year.
- Exemption from the commercial register registration fee may be available under the New Companies Promotion Act (Neu-FöG).
- Minimum corporation tax per year: €500.

Further information on doing business in Austria can be found here: