



Bilger, L.  
YEM Foundation  
<https://yem.foundation/>

April 19<sup>th</sup> 2024

By registered mail

Finanzmarktaufsicht  
Abteilung IV/4  
Herrn  
Mag. Markus Öhlinger, LLM  
Otto-Wagner-Platz 5

Division IV/4  
Combating unauthorized business operations  
Markus Öhlinger, LLM

A-1090 Wien

Subject: FMA publication on the investor warning of 13.05.2023, including in the official gazette of the Wiener Zeitung

Here: Attention! The FMA warns against entering into transactions with: YEM/YEM Foundation

Dear Mr. Öhlinger,  
Ladies and Gentlemen!

The Financial Market Authority (FMA) is a public law institution with its own legal personality established by constitutional provision to carry out banking supervision, insurance supervision, pension fund supervision and securities supervision. The FMA also acts as the national resolution authority.

The FMA is responsible for enforcing the supervisory laws listed in the Financial Market Authority Act. It is responsible for the entire federal territory of Austria and is not bound by any instructions in the performance of its duties.

As we understand it, the FMA's statutory supervisory tasks are divided into two different approaches, so-called "solvency supervision" and "market and conduct supervision". As a non-profit YEM Foundation registered in the USA, we now have the following reputation-damaging picture of the FMA:

Categories:

### **Investor alert**

"ANNOUNCEMENT

Attention! The FMA warns against entering into transactions with:

YEM/YEM Foundation allegedly based in the United States of America and the European Union.

Web: [www.yem.foundation](http://www.yem.foundation); [www.truthaboutyem.com](http://www.truthaboutyem.com) [Link to external site. Opens in new window.](#)

This provider is not authorized to provide banking services in Austria that require a license. The provider is therefore not permitted to commercially issue and manage means of payment such as credit cards, bank checks and traveler's checks, whereby the credit period for credit cards is not limited (Section 1 para. 1 no. 6 of the Austrian Banking Act)."

**The above publication is based on Section 4 (7) of the Austrian Banking Act and was also published in the Official Gazette of the Wiener Zeitung on May 13, 2023.**

In this context, we would like to point out the following points:

Due to the above registration and the fact that we do not carry out any direct business activities, we see no legal justification to publicly defame us in this way.

The FMA had no legal basis for this.

The FMA had also not consulted the YEM Foundation beforehand, as it would have been obliged to do.

The FMA is requested to provide proof that the YEM Foundation itself wanted to place business with YEM in Austria.

- The YEM Foundation does not do any business
- Moreover, the YEM is an authorized digital currency

On February 27, 2018, the Federal Ministry of Finance confirmed in a public letter (2018/0163969) under which circumstances digital currencies such as YEM are to be treated as fiat currencies:

"So-called virtual currencies (cryptocurrencies, e.g. Bitcoin) are treated as legal tender, provided that these so-called virtual currencies have been accepted by the parties to the transaction as an alternative contractual and direct means of payment and serve no purpose other than to be used as a means of payment (see ECJ judgment of 22/10/2015, C-264/14, Hedqvist, BStBI 2018 II p. xxx)

What YEM holders do or do not do is not under the control of the YEM Foundation.

As an authority, the FMA Austria is also bound by law. It may only do what it is explicitly permitted to do by law. It is certainly not permitted to publicly defame a foundation registered abroad without any indication, without any evidence, in such a way that a German law firm is currently publicly using the above-mentioned investor warning from the FMA in the hope of attracting clients or drawing attention to itself!

According to the definition of Austrian law, we see room for a cease-and-desist declaration as generally explained: If a [legal entity](#) (natural person, corporation, other associations of persons, the state with public administration) violates certain absolute rights of others, the [law](#) grants the rights holders a cease-and-desist claim. This can initially be enforced out of court by means of a warning letter and a [cease-and-desist declaration](#).

Accordingly, please also regard this letter as a warning letter.

We request that you respond promptly within a maximum of 10 days of receiving this letter.

Please send your notification and rectification to my home address on the envelope.

Bilger, L.



Bilger, L., Präsidentin YEM Foundation

<https://yem.foundation/>