PANORAMIC

FINANCIAL SERVICES COMPLIANCE

Switzerland

LEXOLOGY

Financial Services Compliance

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Switzerland

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REGULATORY FRAMEWORK

Regulatory authorities
What national authorities regulate the provision of financial products and services?

In Switzerland, different authorities (public and private) are involved in the regulation and supervision of the provision of financial services and products.

The primary authority for supervising the provision of financial services, as well as certain products, is the Swiss Financial Market Supervisory Authority (FINMA). FINMA is a single, integrated supervisory authority across different sectors. FINMA also has regulatory powers with regard to technical implementing provisions where federal acts or ordinances delegate such power to FINMA, whether in the form of ordinances or circulars. FINMA also publishes guidances on regulatory matters, which are soft law tools aiming to encourage and promote certain application of the financial market regulation in practice.

In addition to FINMA, the Swiss National Bank (SNB) is in charge of ensuring the stability of the Swiss financial market and oversees systematically important financial market infrastructures and has certain supervisory powers in this regards, primarily in terms of macro-prudential supervision.

Other authorities also have supervisory powers, notably the Federal Audit Oversight Authority, in charge of the supervision of audit firms and Swiss Takeover Board supervising public takeover offers.

With regard to portfolio managers and trustees, they are subject to the day-to-day supervision of specific Supervisory Organisations (SOs), which are themselves authorised and supervised by FINMA. There are currently five SOs and each portfolio manager and trustee in Switzerland must be affiliated to one of them (in addition of being authorised by FINMA).

Finally, different self-regulatory organisations (SROs) and industry specific organisations (eg, the Swiss Banking Association (SBA) and the Asset Management Association Switzerland (AMAS)) are involved in the regulation and supervision of financial intermediaries, financial services and financial products.

Law stated - 7 August 2025

Regulatory authorities
What activities does each national financial services authority regulate?

FINMA, as the primary regulator in Switzerland, oversees and regulates all types of activities in the financial and insurance sectors, including banking services, securities services, portfolio management and trustee services, asset management services, financial market infrastructures and FinTech.

The SNB's regulatory powers are much more limited, covering systematically important financial market infrastructures and related macro-prudential supervision of the Swiss financial system.

SOs are in charge of the ongoing supervision of portfolio managers and trustees authorised by FINMA, including in terms of compliance with anti-money laundering (AML) regulations and the Financial Services Act (FinSA) and its implementing Ordinance (FinSO).

SROs supervise financial intermediaries which are not already supervised by FINMA and a SO (eg, financial advisers, payment services and money transmitting services) for the purpose of ensuring compliance with AML regulations.

The SBA is active in the area of banking, securities trading and related risks, AML regulations and sustainable/ESG finance. It has issued various self-regulatory rules and standard agreements, which are widely used by the financial services industry.

Finally, the AMAS is the industry and self-regulatory organisation for the fund and asset management industries, issuing different technical guidelines and a code of conduct recognised by FINMA as a minimum standard for the fund and asset management industries.

Law stated - 7 August 2025

Regulatory authorities

What products does each national financial services authority regulate?

In terms of financial products' regulation, a key distinction shall be made between the offering of (1) collective investment schemes within the meaning of the Collective Investment Schemes Act (CISA) and its implementing Ordinance (CISO) and (2) other financial instruments under the FinSA, namely, a general category covering equity securities, debt instruments, units in collective investment schemes, structured products and derivatives, as well as certain deposits and bonds.

Regarding collective investment schemes, a further distinction should be made between Swiss vs foreign collective investment schemes and, more recently, with the limited qualified investor fund (L-QIF), a new fund vehicle available since March 2024. FINMA is responsible for monitoring Swiss collective investment schemes approved or authorised by it, in order to ensure in particular that they comply with the specifications set out in their fund contract and prospectus. With the exception of L-QIF, FINMA must approve the fund contract of a Swiss collective investment scheme. Regarding L-QIF, which are inspired by the reserved alternative investment fund under Luxembourg law, no FINMA's authorisation is required, but this vehicle is limited to qualified investors and is suited for alternative investment. Furthermore, a financial institution supervised by FINMA must manage the L-QIF. Regarding foreign collective investment schemes, they are supervised by the responsible authority in their country of origin. Representatives of foreign collective investment schemes who are located in Switzerland and authorised by FINMA are responsible for complying with the statutory provisions governing these schemes.

Regarding other financial instruments, the FinSA introduced a cross-sector regulation for the offering of financial instruments. The FinSA regulates the provision of financial services (eg, portfolio management, investment advice services) relating to financial instruments and introduces an harmonised prospectus' regime for the public offering or the admission to trading on a trading venue of financial instruments qualifying as securities. Several exemptions to the prospectus obligation are however available, notably in case of a public

offer addressed solely at professional clients or addressed at fewer than 500 investors (including retail clients). Each prospectus must be reviewed and approved by an independent reviewing body (itself authorised by FINMA), in principle prior to its publication (subject to exception). There are currently two reviewing bodies in Switzerland.

Law stated - 7 August 2025

Authorisation regime

What is the registration or authorisation regime applicable to financial services firms and authorised individuals associated with those firms? When is registration or authorisation necessary, and how is it effected?

FINMA grants five distinct types of authorisation: licensing, recognition, authorisation, approval and registration. The level of supervisory oversight depends on the specific type of authorisation issued. Any individual or entity seeking to conduct financial market activities in Switzerland must submit an application to FINMA and obtain prior authorisation, confirming that they meet the applicable regulatory requirements. Authorisation is granted only to applicants who fulfil the necessary financial, personnel, and organisational criteria. In the case of legal entities, the licence is issued to the entity itself and not to its managers or shareholders. If, at any point, the conditions for authorisation are no longer met, FINMA may impose administrative measures, which can include, in severe cases, the withdrawal of the authorisation and the ordering of liquidation.

With regard to financial services, the most common type of authorisation granted by FINMA is a licence under the Federal Institutions Act (FinIA) and its implementing ordinances (FinIO and FinIO-FINMA). The term 'financial institutions' encompasses portfolio managers, trustees, managers of collective assets, fund management companies and securities firms. Each financial institution is subject to general and specific licensing criteria and requirements at the level of the entity, but also at the level of its directors, in particular for ensuring the general Swiss financial market law requirement of an irreproachable business conduct.

The FinIA further provides for a system of 'authorisation cascade', allowing banks within the meaning of the Banking Act to also operate as securities firms, managers of collective assets, portfolio managers and trustees. An authorisation as a securities firm also authorises an entity to operate as a manager of collective assets, a portfolio manager and a trustee. An authorisation to operate as a fund management company also authorises an entity to operate as a manager of collective assets and a portfolio manager. Finally, an authorisation to operate as a manager of collective assets also authorises an entity to operate as a portfolio manager.

There is no longer an authorisation for the distribution/marketing of collective investment schemes. Furthermore, the mere activity of investment adviser is not subject to FINMA licensing requirements. However, pursuant to the FinSA, individuals performing financial services on behalf of a Swiss or foreign financial services provider are characterised as client advisers.

Client advisers of Swiss financial services providers, which are not subject to FINMA supervision, and client advisers of foreign financial services providers must register with a client adviser register. However, client advisers of a foreign financial services provider that is subject to prudential supervision in its home jurisdiction do not have to register, provided

that they render their services exclusively to per se professional and institutional clients. The term 'client adviser' can be misleading as it also encompasses financial services that are not strictly related to investment advisory (eg, offering financial instruments in Switzerland).

The FINMA licence or registration, if required, shall be obtained prior the beginning of any regulated activity. The application process is in principle conducted online, via the dedicated platform set by the FINMA (EHP platform).

Law stated - 7 August 2025

Legislation

What statute or other legal basis is the source of each regulatory authority's jurisdiction?

The Financial Market Supervision Act (FINMASA) is the legal statute establishing the organisation and supervisory instruments of FINMA.

The FINMASA also lists the different financial market acts for which FINMA has supervisory powers:

- the Mortgage Bond Act;
- the Insurance Contract Act;
- the CISA;
- the Banking Act;
- the FinIA;
- the FinSA;
- the Anti-Money Laundering Act;
- the Insurance Supervision Act; and
- the Financial Market Infrastructure Act.

Those financial market acts, along with the FINMASA and the National Bank Act (which regulates the SNB and its mandate), compose the Swiss financial market legal framework since 1 January 2020 (the date of the entry into force of the FinIA and the FinSA).

Statutory provisions are also detailed in ordinances issued by the Federal Council and FINMA for almost every financial market regulation. FINMA also issues circulars on the application of the financial market acts, to the extent required for the purposes of supervision and limiting itself as far as possible to a principles-based approach. Switzerland, as the European Union, also has a 'three levels regulation', with parliamentary acts, Federal Council ordinances and FINMA circulars and guidances, but less detailed regulations, limited as much as possible to the definition of principles and leaving rooms for more interpretation and self-regulation.

Law stated - 7 August 2025

Legislation

What principal laws and financial service authority rules apply to the activities of financial services firms and their associated persons?

In Switzerland, financial services providers and their associated persons are primarily regulated under the FinSA and the FinIA, which both came into effect on 1 January 2020.

The FinSA governs the provision of financial services, the rules of conduct for financial services providers and the issuance of financial instruments. It is a harmonised and cross-industries regulation, applying to any person providing financial services on a professional basis in Switzerland or for clients in Switzerland. The FinIA is another harmonised legislation at the institutions' level, governing inter alia the licensing requirements, the organisational conditions for financial institutions, as well as the supervisory regime of financial institutions. It is important to note that financial institutions (under FinIA) and financial services providers (under FinSA) are two different legal concepts. A case by case analysis is therefore required to determine if a financial service provider also falls within the scope of the FinIA and requires a license from FINMA as a financial institution.

Regarding collective investment schemes, licensing requirements for fund management companies and asset managers of collective investment schemes have been incorporated into the FinIA and the point of sale/rules of conduct for the marketing of collective investments schemes are reflected in the FinSA. The CISA continues however to apply, but its scope of application has been substantially reduced as a result of the entry into force of the FinSA and the FinIA. The CISA contains product-level requirements for Swiss and foreign collective investment schemes offered to investors in Switzerland.

A particular attention shall also be paid to the AMLA. The AMLA applies to financial intermediaries comprising (1) regulated entities (typically financial institutions under the FinIA), but also (2) any person who, in a professional capacity, accept or hold on deposit assets belonging to others or who assist in the investment or transfer of such assets.

Finally, the Financial Market Infrastructure Act (FMIA) is also a harmonised legislation, governing inter alia derivatives trading, market conduct rules and licensing requirements for financial market infrastructures.

The above mentioned acts are completed by various ordinances, circulars and self-regulations, which play an important role in financial services compliance. In practice, it is therefore required to navigate through different levels of regulations in order to have a comprehensive view of the regulation applicable to a considered activity. In terms of financial services, examples of relevant binding self-regulations are the FINMA circular on the rules of conduct under FinSA (Circular 2025/2), the circular governing outsourcing under FinIA (Circular 2018/2) and the circular on market conduct rules (Circular 2013/8). FINMA also publishes non-binding guidances, some of them are relevant for the financial services industry. FINMA notably issued a recent guidance relating to governance and risk management when using artificial intelligence (Guidance 08/2024), which invites financial institutions using AI to consider the impact of its use on their risk profile and to align their governance, risk management and control systems accordingly.

At the level of industry organisations, it is worth mentioning the SBA Code of Conduct with regard to the exercise of AML due diligence, completed by its official commentary, as well as the Code of the Conduct of the AMAS for the funds and asset management industries, and recognised as minimum standards by FINMA.

Law stated - 7 August 2025

Scope of regulation

What are the main areas of regulation for each type of regulated financial services provider and product?

Financial services providers may qualify as financial institutions under the FinIA or not. For instance, a financial service provider providing only investment advisory services would not be regulated under the FinIA but remains regulated under the FinSA. The client advisers working for this financial service provider would notably have to be registered in a register of advisers and comply with the rules of conduct under the FinSA.

Financial services providers qualifying as financial institutions under the FinIA have to obtain authorisation from FINMA prior to starting a supervised financial activity. Financial institutions comprise:

- portfolio managers;
- trustees;
- managers of collective assets;
- fund management companies; and
- securities firms.

The main areas of regulation for financial institutions under the FinIA relate, in particular, to their organisation and their minimum capital requirement. They must establish appropriate corporate management rules and be organised in such a way that they can fulfil their statutory duties. They must also identify, measure, control and monitor their risks, including legal and reputational risks, and organise an effective internal control system. Moreover, the regulatory framework requires that the financial institutions are effectively managed from Switzerland, which implies that the persons entrusted with management must be resident in a place from which they may effectively exercise such management. The persons responsible for the administration and management of financial institutions and their qualified participants (ie, any individual or legal entity that directly or indirectly owns at least 10 per cent of the capital or voting rights of a licensed institution, or that can otherwise influence its business activities in a significant manner must provide the guarantee of an irreproachable business conduct).

On a products and services level, the FinSA governs the provision of financial services, the rules of conduct for financial services providers and the issuance of financial instruments. More specifically, a financial services provider under the FinSA is defined as any person that is providing financial services in Switzerland or to clients in Switzerland on a professional basis. The following activities are defined as financial services under the FinSA:

- acquisition or sale of financial instruments for the account of a client;
- acceptance and transmission of orders regarding financial instruments;
- management of assets for the account of a client (portfolio management);
- provision of personal recommendation regarding the acquisition or sale of financial instruments (investment advice); and
- provision of loans for the execution of transactions regarding financial Instruments (Lombard lending).

It is worth mentioning that corporate finance advisory, underwriting of financial instruments, acquisition finance and lending not qualifying as Lombard lending do not qualify as financial services within the meaning of the FinSA.

The FinSA provides for a client classification regime, a comprehensive set of rules of conduct, and rules on prospectus (applying to issuers of securities) and key information documentation (applying to producers of financial instruments and typically structured products).

Law stated - 7 August 2025

Additional requirements

What additional requirements apply to financial services firms and authorised persons, such as those imposed by self-regulatory bodies, designated professional bodies or other financial services organisations?

In Switzerland, financial services providers are subject to a comprehensive regulatory framework that extends beyond the primary financial market acts. In addition to requirements set out by Swiss federal law, additional obligations may arise from SROs and industry organisations, in particular the SBA regarding the banking industry and the AMAS regarding the funds and asset management industries.

The SBA is a major industry organisation in Switzerland that plays an important role in shaping best practices and standard-setting for financial institutions, particularly banks. The SBA issued binding code of conduct, guidelines and standard agreements, notably the Swiss master agreement for OTC derivatives and its related annexes, which can be used as an alternative to the ISDA Master Agreement. The SBA also plays a key role in defining and detailing the various risks involved in trading financial instruments. It publishes and updates a risks' information brochure that is widely used by banks and portfolio managers in Switzerland as an information tool for financial services' clients. Furthermore, the SBA Code of Conduct with regard to the exercise of AML due diligence is a binding self-regulation for banks and securities firms, focusing on the identification of the contracting party and the beneficial owner of assets, as well as the prohibition of active assistance in the flight of capital and tax evasion. This SBA Code of Conduct is completed by an official commentary, also issued by the SBA, widely used by the Swiss financial institutions.

More recently, the SBA published guidelines for the financial services providers on the integration of ESG-preference and ESG-risks into investment advice and portfolio management services. Those guidelines defines minimum standards within the financial services industry and are mandatory for SBA members wishing to propose ESG investments to clients and to take into account clients' ESG preference. It is worth mentioning that those guidelines follows the same legal structure and approach as the FinSA rules of conduct, thus facilitating their implementation by financial institutions.

The AMAS has taken a similar approach as the SBA and issued, among other guidance, a Code of Conduct recognised by FINMA as a minimum standard. It aims at maintaining and promoting the quality and standing of Swiss funds and asset management in Switzerland and abroad and to ensure the transparency, functionality and high standard of the market for collective investment schemes.

Law stated - 7 August 2025

ENFORCEMENT

Investigatory powers

What powers do national financial services authorities have to examine and investigate compliance? What enforcement powers do they have for compliance breaches? How is compliance examined and enforced in practice?

Enforcement differs fundamentally from ongoing supervision. The Swiss Financial Market Supervisory Authority (FINMA)'s supervisory activities entail continual interaction with supervised institutions in all key areas and at all hierarchical levels, often by way of informal discussions. Enforcement, on the other hand, deals with specific topics and only happens when financial market laws have potentially been violated or discrepancies arise. FINMA starts by informally investigating a suspected violation and then initiates formal proceedings where necessary to restore compliance with the law. Supervision continues as normal alongside this process.

In Switzerland, there is a dual compliance system, where regulatory auditors, typically private audit firms appointed by each supervised institution or directly by FINMA, conduct regular compliance reviews. FINMA performs many supervisory activities itself, but private firms also play an important role in the area of auditing and supervision. These auditors assess the supervised institutions and compile regulatory audit reports, which are submitted to FINMA and, in the case of portfolio managers and trustees, also to the relevant supervisory organisation. Based on these reports, FINMA may issue recommendations, mandate follow-up audits, or initiate other enforcement actions.

Additionally, FINMA investigates any information it receives regarding potentially unauthorised activities. Such reports can come from market participants, investors, or other third parties. If there are sufficient grounds for suspicion, FINMA may launch formal investigative proceedings to determine whether enforcement measures are necessary.

Law stated - 7 August 2025

Disciplinary powers

What are the powers of national financial services authorities to discipline or punish infractions? Which other bodies are responsible for criminal enforcement relating to compliance violations?

FINMA is an administrative authority and, as such, does not have powers to impose criminal sanctions or civil liability. Besides FINMA, criminal prosecution authorities, supervisory organisations and self-regulatory organisations are also involved in enforcing financial market laws. Where irregularities fall under criminal law, FINMA may file a complaint with the competent authorities (Federal Department of Finance, Office of the Attorney General and cantonal prosecutors).

FINMA has a broad range of enforcement instruments to uphold supervisory law. When applying these instruments, it is bound to observe constitutional principles and the rules governing administrative activity. FINMA's goal in enforcement proceedings is to impose the measures it deems most proportionate. The enforcement instruments are notably the following:

- precautionary measures;
- ordering a supervised institution to restore compliance with the law;
- declaratory rulings;
- prohibiting individuals from exercising a professional activity;
- cease-and-desist orders and bans on trading;
- publication of rulings (name and shame);
- disgorgement of profits;
- withdrawal of licences; and
- ordering the liquidation of financial institutions.

As mentioned above, for criminal enforcement of compliance violations, responsibility lies primarily with the cantonal prosecutors and the Office of the Attorney General of Switzerland. These authorities are empowered to investigate and prosecute criminal offences under the Swiss Penal Code and specific provisions of financial market legislation, such as insider trading, market manipulation, money laundering. In practice, FINMA may refer cases to these bodies if it uncovers evidence of criminal conduct during its supervisory or enforcement activities.

Law stated - 7 August 2025

Tribunals

What tribunals adjudicate financial services criminal and civil infractions?

When criminal offences are identified and the facts are sufficiently established, FINMA submits a criminal complaint under administrative criminal law directly to the Federal Department of Finance (FDF). The FDF acts as the competent authority for prosecuting administrative offences such as breaches of disclosure obligations or unauthorised activity in the financial markets. If the FDF issues a sanction, the decision can be appealed before the Federal Criminal Court, and subsequently, a further appeal may be brought before the Federal Supreme Court.

As for civil violations, legal proceedings typically occur in two instances, generally within the canton where the parties are domiciled. These proceedings usually relate to disputes between private parties, such as contractual breaches or liability issues involving financial service providers. A final appeal may be submitted to the Federal Supreme Court, which serves as the highest judicial authority in Switzerland.

Law stated - 7 August 2025

Penalties

What are typical sanctions imposed against firms and individuals for violations? Are settlements common?

FINMA has different enforcement instruments at its disposal, but it has no right to impose monetary fines. It is worth mentioning that the Federal Council recently issued on 6 June 2025 a package of proposed measures to reinforce the Swiss banking regulations. One of the key proposed measures are the faculty to impose monetary fines, but this regime is still subject to the consultation and then parliamentary procedures.

As of the date of this contribution, the typical sanctions and measures imposed by FINMA are the following:

- Precautionary measures: FINMA takes appropriate precautionary measures where there is a risk to investors, policyholders, creditors or the financial market as a whole. A typical example is appointing an investigating agent.
- Restoring compliance with the law: FINMA can restore compliance with the law through investigations or with enforcement proceedings. Depending on the nature of the violation or irregularity, FINMA can impose conditions on the organisation or internal processes of the company concerned, temporarily or permanently restrict its business activities, or order it to change the composition of its ultimate management within a specific deadline.
- Declaratory rulings: FINMA can use declaratory rulings to sanction licence holders and individuals found to have committed market abuse. Declaratory rulings have no direct legal effect and do not give rise to any liability under civil or criminal law. They represent the mildest form of official sanction and are intended to encourage compliance with supervisory law and prevent repeated violations.
- Industry bans: FINMA can ban individuals responsible for serious violations of supervisory law from acting in a senior function at a supervised institution for up to five years.
- Cease and desist orders and activity bans: where FINMA identifies financial market participants operating without the requisite authorisation, it can issue a ruling expressly banning those responsible from continuing to operate. It also has the power to impose an activity ban on persons trading in financial instruments on behalf of a supervised institution who have seriously violated the applicable standards. An activity ban can also be imposed on client advisers employed by a supervised institution if they seriously violate the applicable standards.
- Publication of final rulings: FINMA can publish its final rulings and name those involved, once a ruling becomes legally binding (name and shame).
- Profit disgorgement orders: FINMA can confiscate profits generated or losses avoided through serious violations of supervisory law by supervised institutions or individuals in senior functions. Any confiscated assets that do not have to be paid out to injured parties are passed to the federal government.
- Withdrawal of authorisation, liquidation and bankruptcy: FINMA can withdraw its authorisation of individuals and legal entities that no longer meet the authorisation requirements or have committed serious violations of supervisory law. The law requires certain licence holders to be liquidated when this happens. FINMA also applies these rules to financial market participants operating without the requisite

authorisation. For instance, FINMA recently withdrawn the authorisation of Flowbank, a bank notably active in crypto-assets and securities trading, and ordered its liquidation.

The Swiss regulatory framework does not establish a formal settlement procedure. Nevertheless, during enforcement proceedings, the supervised entity under investigation by FINMA typically takes all reasonable steps to re-establish compliance with the law. This proactive approach is often intended to mitigate the consequences of the supervisory breach and reduce the likelihood of severe measures being imposed by FINMA.

Law stated - 7 August 2025

COMPLIANCE PROGRAMMES

Programme requirements

What requirements exist concerning the nature and content of compliance and supervisory programmes for each type of regulated entity?

The Federal Institutions Act (FinIA) defines general organisational requirements for financial institutions, which are completed and detailed by the Swiss Financial Market Supervisory Authority (FINMA) in its Circular 2017/1 relating to the corporate governance, risk management and internal controls (for banks), and the recent Circular 2023/1 relating to operational risks and resilience, which is primarily relevant for the risk management function. The requirements of those two circulars primarily apply to banks and securities firms, but set out market standards that are also relevant and followed by other financial institutions.

Furthermore, in case of outsourcing of a significant function, the requirements of the FINMA Circular 2018/3 apply.

Under the FinIA, all financial institutions shall establish appropriate corporate management rules and be organised in such a way that they can fulfil their statutory duties. They shall identify, measure, control and monitor their risks, including legal and reputational risks, and organise effective internal controls systems. Financial institutions have some flexibility when determining their organisational principles, which shall be adapted to their business models and size.

This principle of proportionality is expressly stated in the Circular 2017/1 and Circular 2023/1, pursuant to which the requirements of the Circulars must be implemented on a case-by-case basis, by taking into account the size, complexity, structure and risk profile of each institution. FINMA can ease or strengthen the requirements in individual cases. Small banks and securities are also exempted from certain requirements of the two circulars 2017/1 and 2023/1. Furthermore, the Circular 2018/3 (relating to outsourcing) provides that small financial institutions do not have to maintain separate compliance and risk management functions, but may assign the responsibilities of those two functions to one member of the executive committee. The operational tasks related to these functions can be outsourced.

The Circular 2017/1 contains specific requirements applicable to the compliance function, which is part of the independent internal control systems described in the circular.

The compliance function shall be independent from the revenue-generating units, with a compensation system that shall not create incentives which could lead to conflicts of interest. Regarding specifically the duties and responsibilities of the compliance function, the Circular 2017/1 lists the following minimum activities:

- conducting an annual assessment of the compliance risk of the institution's business activities and developing a risk-oriented activity plan for approval by the executive committee. The activity plan must also be made available to internal audit;
- reporting promptly to the executive committee on any major changes in the compliance risk assessment;
- reporting annually to the board of directors on the assessment of compliance risk and the activities of the compliance function. A copy of the relevant reports must be provided to internal audit and the regulatory audit firm; and
- reporting serious compliance breaches and matters with far-reaching implications in a timely manner to the executive committee and the board of directors, as well as supporting the executive board in its choice of appropriate instructions and measures. Internal audit must be informed accordingly.

In case of outsourcing, one of the key requirements of the Circular 2018/3 is to ensure that the appointed third-party service provider complies with the Swiss supervisory regulations applicable to the outsourcing company. The outsourcing company, its regulatory audit firm and the FINMA must therefore be able to verify this compliance by the service provider and the outsourcing agreement shall specifically reflects this auditing right.

Law stated - 7 August 2025

Gatekeepers

How important are gatekeepers in the regulatory structure?

Financial institutions shall implement appropriate internal control systems, which are defined as the control structures and processes which at all levels of an institution form the basis for achieving its business objectives and ensuring orderly business operations. An effective internal control systems consists of control activities that are integrated into business processes, appropriate risk management and compliance processes, and monitoring bodies – particularly an independent risk control and compliance function – which adequately reflect the size, complexity and risk profile of an institution, in accordance with the principle of proportionality.

The person acting as chief compliance officer is in principle a member of the executive committee, and this person may potentially also be in charge of the risk management function, depending on the size of the financial institutions. The responsibilities of the chief compliance officer have increased over the years and this person must provide a guarantee of an irreproachable business conduct. This is a general regulatory requirement of the FinIA and the Banking Act, applicable to persons responsible for the administration and management of the financial institutions. Those persons must also have a good reputation and have all the qualifications required for their functions. FINMA exercises an enhanced administrative supervision over the persons subject to this guarantee, including but not limited to the chief compliance officer.

In addition to the internal control systems, banks and securities firms shall establish an internal audit function under the Circular 2017/1. If it seems inappropriate to appoint an internal auditor by application of the principle of proportionality, the relevant duties and responsibilities can be delegated to an internal auditor of another company of the same group, a second audit firm that is independent of the regulatory audit firm or is an independent third party.

The internal audit function reports directly to the board of directors or its audit committee, and fulfils the auditing and monitoring responsibilities assigned to it in an independent manner. This means in particular that it has an unlimited right of inspection, information and audit within the regulated entity.

The main roles of the internal auditor are to deliver independent audits and assessments of the appropriateness and effectiveness of the regulated entity's organisation and business processes, particularly with regard to the internal control systems, and to ensure that the executive board, the board of directors or its audit committee and the regulatory audit firm are informed about the risk assessment and audit objectives.

Special rules apply to portfolio managers and trustees under the FinIA. Under the FinIA, a risk-based approach is used with respect to separate internal audit and risk management functions. Small portfolio managers and trustees are thus not required to have an independent internal audit and risk management function if they have up to five full-time employees or annual gross earnings of less than 2 million Swiss francs and if they have a non-high-risk business model.

Law stated - 7 August 2025

Directors' duties and liability

What are the duties of directors, and what standard of care applies to the boards of directors of financial services firms?

Under Swiss corporate law, the board of directors is responsible for the ultimate management and oversight of the company. Each director has a duty of loyalty towards the company and must act in the company's best interests (still generally considered as the common interests of all shareholders and, in addition, of all other stakeholders of the company) In safeguarding such interests, directors have a general duty of care, which involve specific duties, notably the obligation to carry out their duties personally, to attend the meetings of the board and to actively participate in the decision-making process. Directors must also have the required expertise and the prerequisite specialist knowledge and experience of the banking and financial services sector. Each director shall provide the guarantee of an irreproachable business conduct and FINMA approves the appointment of each director as part of the licensing process, but also each time there is a change of director.

FINMA Circular 2017/1 lists different duties and responsibilities of the board of directors, which is in charge of the guidance, supervision and control of thee institutions. As such, the board of directors shall define the business strategy and the guiding principles for the institutions' corporate culture. It is responsible for ensuring an adequate organisation, and appropriate and effective internal control systems. The board of directors approves and periodically assesses the requirements profile for the other members of the executive

committee, as well as for the chief risk officer and the head of internal audit. The board of directors shall validates the risk policy and the basic features of institution-wide risk management and is responsible for issuing regulations, establishing and monitoring an effective risk management function, and managing overall risks.

At the member level, Circular 2017/1 provides that at least one third of the board of directors shall consists of independent members. FINMA may approve exceptions (eg, for domestic financial groups) where there is good reason for doing so.

The day-to-day management of the financial institution is performed by the executive managers.

Law stated - 7 August 2025

Directors' duties and liability

When are directors typically held individually accountable for the activities of financial services firms?

FINMA's enforcement proceedings are traditionally focused on the institutions, rather than members of the management. FINMA may, however, target an individual person as part of an enforcement proceeding, typically when the guarantee of an irreproachable business conduct is threaten. From a regulatory perspective, directors and other members of senior management of financial institutions can be held responsible for significant breaches of their duties. As part of its enforcement instruments, FINMA may order bans of a professional activity for a member of the management.

In the aftermath of the Credit Suisse's crisis, on 6 June 2025 the Federal Council issued a package of proposed measures to reinforce the Swiss banking regulations. One of the key proposed measures are the faculty to impose monetary fines, but also the introduction of a senior managers regime under Swiss law, applicable to banks. This regime would be limited to the board of directors, the executive committee and the heads of control and key functions. Each senior manager within the scope of this regime would have clear and documented responsibilities. In accordance with the general principle of proportionality, the scope of the senior managers regime would be adapted to the structure, size and business model of each bank. The proposed regulatory package also includes additional enforcement instruments for FINMA, notably for a stricter regulation of bonuses for systematically important banks. Consultation proceedings on the proposed package should start in autumn 2025, and then the legislative process will take place, resulting in probable amendments of the proposed regime.

Law stated - 7 August 2025

Private rights of action

Do private rights of action apply to violations of national financial services authority rules and regulations?

In Switzerland, financial services regulations generally do not confer private rights of action. Enforcement is primarily the responsibility of FINMA and criminal prosecutors. A violation of

regulatory provisions alone does not entitle a private party to bring a claim. However, clients of financial services providers may initiate civil proceedings for breaches of contract, namely, violations of the contractual obligations between the financial service provider and the client. In such cases, although regulatory non-compliance does not directly give rise to liability, Swiss regulatory law can 'radiate' into the private law sphere by influencing the interpretation of contractual duties by the civil court. Thus, a financial service provider's failure to comply with a rule of conduct may be considered by the civil court when analysing the contractual breach. The civil court is, however, not bound by the regulatory provisions and tends to have a broaden interpretation of the regulatory requirements.

Where Swiss regulations explicitly allows civil actions based on financial regulatory breaches (eg, prospectus and key information document's liability under FinSA), plaintiffs must still demonstrate concrete individual damage for their claim to succeed, as well as a causal link between the regulatory breach and the damage.

Law stated - 7 August 2025

Standard of care for customers

What is the standard of care that applies to each type of financial services firm and authorised person when dealing with retail customers?

Financial services providers and authorised individuals are required to adhere to specific rules of conduct at the level of the point of sale when providing financial services. Those rules of conduct do not only apply to retail clients, but also apply to professional clients under FinSA. However, under certain circumstances, professional clients may waive some of the rules of conduct. The below table provides an overview of the rules of conduct under FinSA.

Obligation	Retail Client	Professional Client	Institutional Client
Information obligations towards clients	Yes	Yes, but waiver possible	No
Obligation to provide key information document for execution only services, to the extent such key information document is available	Yes	No	No
Obligation to conduct suitability or appropriateness	Yes	Yes, but assumptions available for	No

test (relevant for investment advice and portfolio managements services)		facilitation purposes	
Documentation obligation	Yes	Yes, but waiver possible	No
Accountability obligations	Yes	Yes, but waiver possible	No
Transparency obligation	Yes	Yes	No
Best execution obligation	Yes	Yes	No

Furthermore, the guarantee of irreproachable conduct requires that all financial service providers and their directors act with loyalty and diligence, and ensure that clients receive all necessary and relevant information.

On 31 October 2024, FINMA issued the new FINMA Circular 2025/2 Rules of Conduct under FinSA/FinSO. The Circular provides guidance on the implementation of selected aspects of the rules of conduct and organisational requirements applicable to financial services providers under the FinSA and entered into force on 1 January 2025. The Circular covers a selection of topics and questions that have arisen in FINMA's practice regarding the FinSA. For instance, the Circular 2025/2 provides clarification on the information duty, especially for a better identification of transaction versus portfolio based investment advice and enhanced risk disclosures in relation to contracts for differences and risk concentrations. The Circular also provides guidance regarding the process of creating a client risk profile as a basis for the review of appropriateness and suitability, as applicable, and further guidance relating to the disclosure of third-party benefits, in light of the practice developed by the civil courts.

Regarding collective investment schemes, the AMAS' Code of Conduct also provide clarifications as to the duties with which persons administering, holding or representing collective investments schemes as well as their agents shall comply when dealing with clients.

Law stated - 7 August 2025

Standard of care for customers

Does the standard of care differ based on the sophistication of the customer or counterparty?

Yes, financial services providers have to classify their clients into retail, professional and institutional. As an alternative to classification, a financial services provider can decide to treat all its clients as if they were retail clients. The client classification impacts the scope

of applicable conduct rules. Institutional and professional clients may lower their client status by declaring they are opting in. On the other hand, retail clients may, if they meet the below eligibility criteria, declare in writing or in another form of text in an opting out declaration to be considered as professional clients. Financial service providers must inform their institutional clients and professional clients that they may opt in, and inform retail clients about the possibility and consequences of opting out and their obligation to inform the financial services provider about changes of their financial situation that may lead to a re-assessment of their right to opt out.

Law stated - 7 August 2025

Rule-making
How are rules that affect the financial services industry adopted? Is there a consultation process?

In Switzerland, new legislation (including that affecting the financial services sector) is typically preceded by a formal consultation process. These consultations occur at various stages of the legislative procedure, with longer consultation periods generally applying to parliamentary acts compared to implementing ordinances or regulatory provisions issued by supervisory authorities such as FINMA. The consultation process is generally open to all interested stakeholders, allowing for broad input. Notably, key industry bodies, such as the Swiss Banking Association, the Asset Management Association Switzerland and relevant self-regulatory organisations, actively participate to ensure that industry perspectives are considered at an early stage of the legislative development.

Law stated - 7 August 2025

CROSS-BORDER ISSUES

Cross-border regulation
How do national financial services authorities approach cross-border issues?

As a general rule, banking services or securities firms services (eg, brokerage services) may be provided to clients in Switzerland on a cross-border basis without triggering Swiss licensing or registration requirements. However, if a foreign bank or foreign financial institutions (as defined under Swiss law) establishes a physical presence in Switzerland, such as by employing staff on a permanent basis to act on its behalf, licensing obligations under Swiss law will be triggered, either as a branch office or as a representative office (depending on the nature of the activity conducted in Switzerland). The Swiss Financial Market Supervisory Authority (FINMA) interprets the existence of a branch office broadly. In addition to a formally registered branch offices of foreign entities, also defactobranches in the form of a factual Swiss presence may trigger a licence requirement.

Under the Financial Services Act (FinSA), client advisers of foreign financial service providers must register with a client adviser registered in Switzerland. However, this obligation does not apply where the foreign financial service provider is subject to prudential supervision abroad and the client advisers exclusively provides the services only to per se professional

or institutional clients. Additionally, foreign financial service providers must be affiliated with a Swiss ombudsman service, unless they provide financial services solely to per se professional and institutional clients, in which case an exemption may apply.

The FinSA also has a cross-border scope of application. Financial services providers based outside Switzerland offering financial services or products on a cross-border basis to clients in Switzerland thus fall within the scope of the FinSA. Swiss financial services providers must apply the FinSA regardless of whether they provide financial services for clients in Switzerland or abroad.

Law stated - 7 August 2025

International standards

What role does international standard setting play in the rules and standards implemented in your jurisdiction?

International standard-setting plays an important role in shaping the Swiss legislative process, and such standards are often considered during the drafting and implementation of new laws. This is especially true with regard to legislative developments within the European Union (EU) and the European Economic Area (EEA). Although Switzerland is not a member of either the EU or the EEA, it generally seeks to align its financial services legislation with EU and EEA frameworks, particularly in areas where European regulations establish third-country regimes that require the adoption of equivalent and comparable rules as a condition for market access. The FinSA, for instance, was partially inspired by the MiFID II and the EU Prospectus Regulation. The FMIA is partially inspired by the EMIR Regulation.

Law stated - 7 August 2025

UPDATE AND TRENDS

Key developments of the past year

Are there any other current developments or emerging trends that should be noted?

The Swiss financial regulatory landscape continues to evolve in response to both technological innovation and increasing demands for transparency and accountability.

The recent Swiss Financial Market Supervisory Authority (FINMA)'s Circular 2025/2, which provides guidance on the implementation of selected aspects of the rules of conduct and organisational requirements applicable to financial services providers under the Financial Services Act (FinSA), is fully applicable since 30 June 2025. The Circular covers a selection of topics and questions that have arisen in FINMA's practice regarding the FinSA. For instance, the Circular 2025/2 provides clarification on the information duty, especially for a better identification of transaction versus portfolio-based investment advice and an enhanced risk disclosures in relation to contracts for differences and risk concentrations. The Circular also provides guidance regarding the process of creating a client risk profile as a basis for the review of appropriateness and suitability, as applicable, and further guidance relating to the disclosure of third-party benefits, in light of the practice developed by the civil courts.

The use of artificial intelligence (AI) in the financial services industry is also increasing. This is associated with both opportunities and risks. Contrary to the EU, Switzerland has not (yet) regulated the development of AI systems and innovation. Switzerland continues to rely on a technology-neutral and principle-based regulatory approach. FINMA has, however, recently published Guidance 08/2024 relating to the governance and risk management when using AI. In a nutshell, while acknowledging the opportunities that AI has to offer, FINMA highlights a series of supervisory findings relating to AI and suggests measures to address specific risks. FINMA notably expects supervised institutions to have AI governance in place, with clear definition of responsibilities and accountability for the development, implementation, monitoring and use of AI. More generally, FINMA expects supervised institutions to determine and understand the risks associated with their use of AI applications.

Another major trend shaping Swiss financial landscape is the accelerating tokenisation of financial and real-world assets. Switzerland has a favourable and attractive legal frameworks regarding cryptoassets and DLT systems. The Swiss legislator has improved the regulatory frameworks for tokens representing rights, such as asset tokens and utility tokens, by adopting in 2021 the Federal Act on the Adaptation of Federal Law to Developments in Distributed Ledger Technology, which amended various Swiss law to take into account the specificity and opportunities of distributed ledger technology. More recently, FINMA approved the first blockchain-based infrastructure for the trading and settlement of tokenised securities.

Finally, ESG investing remains a prominent but increasingly scrutinised area. As investor appetite for sustainable financial products grows, FINMA has intensified its efforts to prevent and combat greenwashing by closely monitoring the consistency and credibility of ESG-related claims (cf FINMA Guidance 05/2021). Since 1 January 2025, misleading greenwashing's claims may also trigger penalties under the Federal Unfair Competition Act. Financial institutions are expected to demonstrate substantive integration of sustainability factors into their investment processes, ensure transparency in disclosures, and establish robust internal governance around ESG labelling and marketing. In response, many institutions tend to become more cautious in the design and promotion of ESG offerings, with an emphasis on verifiable impact, risk-adjusted returns and alignment with regulatory expectations.

Law stated - 7 August 2025