

*English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.*

## **Federal Act on the Swiss Financial Market Supervisory Authority (Financial Market Supervision Act, FINMASA)**

of 22 June 2007 (Status as of 1 January 2022)

---

*The Federal Assembly of the Swiss Confederation,*

based on Articles 95 and 98 of the Federal Constitution<sup>1</sup>,  
and having considered the Federal Council Dispatch dated 1 February 2006<sup>2</sup>,  
*decrees:*

### **Title 1            General Provisions<sup>3</sup>**

#### **Art. 1            Subject matter**

<sup>1</sup> The Confederation shall create an authority for the supervision of the financial markets in accordance with the following acts (the financial market acts):

- a. Mortgage Bond Act of 25 June 1930<sup>4</sup>;
- b. Federal Act on Contracts of Insurance of 2 April 1908<sup>5</sup>;
- c. Collective Investment Schemes Act of 23 June 2006<sup>6</sup>;
- d. Banking Act of 8 November 1934<sup>7</sup>;
- e.<sup>8</sup> Financial Institutions Act of 15 June 2018<sup>9</sup>;
- f. Anti-Money Laundering Act of 10 October 1997<sup>10</sup>;
- g. Insurance Supervision Act of 17 December 2004<sup>11</sup>;

AS 2008 5207

<sup>1</sup> SR 101

<sup>2</sup> BBl 2006 2829

<sup>3</sup> Amended by Annex No II 16 of the Financial Institutions Act of 15 June 2018, in force since 1 Jan. 2020 (AS 2018 5247, 2019 4631; BBl 2015 8901).

<sup>4</sup> SR 211.423.4

<sup>5</sup> SR 221.229.1

<sup>6</sup> SR 951.31

<sup>7</sup> SR 952.0

<sup>8</sup> Amended by Annex No II 16 of the Financial Institutions Act of 15 June 2018, in force since 1 Jan. 2020 (AS 2018 5247, 2019 4631; BBl 2015 8901).

<sup>9</sup> SR 954.1

<sup>10</sup> SR 955.0

<sup>11</sup> SR 961.01

h.<sup>12</sup> Financial Market Infrastructure Act of 19 June 2015<sup>13</sup>;

i.<sup>14</sup> Financial Services Act of 15 June 2018<sup>15</sup>.

<sup>2</sup> This Act establishes the organisation and the supervisory instruments of this authority.

## **Art. 2** Relationship with the financial market acts

<sup>1</sup> This Act applies unless the financial market acts provide otherwise.

<sup>2</sup> International treaties concluded within the context of international withholding tax and their associated international agreements, specifically in relation to transnational audits and market access, take precedence over this Act and financial market legislation.<sup>16</sup>

## **Art. 3** Supervised persons and entities

The following are subject to financial market supervision:

- a. persons and entities that under the financial market acts require to be licensed recognised, or registered by the Financial Market Supervisory Authority; and
- b. collective capital investments;
- c.<sup>17</sup> ...

## **Art. 4**<sup>18</sup> Objectives of financial market supervision

In accordance with the financial market acts, financial market supervision has the objectives of protecting creditors, investors, and insured persons as well as ensuring the proper functioning of the financial market. It thus contributes to sustaining the reputation, competitiveness and sustainability of Switzerland's financial centre.

<sup>12</sup> Inserted by Annex No 13 of the Financial Market Infrastructure Act of 19 June 2015, in force since 1 Jan. 2016 (AS **2015** 5339; BBl **2014** 7483).

<sup>13</sup> SR **958.1**

<sup>14</sup> Inserted by Annex No 4 of the Financial Services Act of 15 June 2018, in force since 1 Jan. 2020 (AS **2019** 4417; BBl **2015** 8901).

<sup>15</sup> SR **950.1**

<sup>16</sup> Inserted by Art. 46 of the FA of 15 June 2012 on International Withholding Tax, in force since 20 Dec. 2012 (AS **2013** 27; BBl **2012** 4943).

<sup>17</sup> Repealed by Annex No 8 of the FA of 20 June 2014 (Consolidation of Oversight through Audit Companies), with effect from 1 Jan. 2015 (AS **2014** 4073; BBl **2013** 6857).

<sup>18</sup> Amended by Annex No II 16 of the Financial Institutions Act of 15 June 2018, in force since 1 Jan. 2019 (AS **2018** 5247; BBl **2015** 8901).

**Title 2 Financial Market Supervisory Authority<sup>19</sup>****Chapter 1 General Provisions<sup>20</sup>****Art. 5<sup>21</sup>** Legal form, seat and name

<sup>1</sup> The authority that supervises the financial market is a public law institution with its own legal personality and official seat in Bern.

<sup>2</sup> Its name is the «Swiss Financial Market Supervisory Authority (FINMA)».

<sup>3</sup> It organises itself according to the principles of good corporate governance and economic management. It keeps its own accounts.

**Art. 6** Tasks

<sup>1</sup> FINMA carries out its supervision according to the financial market acts and this Act.

<sup>2</sup> It fulfils the international tasks that are related to its supervisory activity.

**Art. 7** Principles of regulation

<sup>1</sup> FINMA exercises its regulatory powers by issuing:

- a. ordinances, where so provided in the financial market legislation; and
- b. circulars on the application of the financial market legislation.

<sup>2</sup> It issues ordinances and circulars only to the extent required for the purposes of supervision, limiting itself as far as possible to the definition of principles. In doing so, it takes account of overriding federal law and in particular of:<sup>22</sup>

- a. the costs that the supervised persons and entities incur due to regulation;
- b. the effect that regulation has on competition, innovative ability and the international competitiveness of Switzerland's financial centre;
- c.<sup>23</sup> the different sizes, complexities, structures, business activities and risks of the supervised persons and entities; and
- d. the international minimum standards.

<sup>3</sup> It supports self-regulation and may recognise and implement the same as a minimum standard within terms of its supervisory powers.

<sup>19</sup> Inserted by Annex No II 16 of the Financial Institutions Act of 15 June 2018, in force since 1 Jan. 2020 (AS 2018 5247, 2019 4631; BBl 2015 8901).

<sup>20</sup> Inserted by Annex No II 16 of the Financial Institutions Act of 15 June 2018, in force since 1 Jan. 2020 (AS 2018 5247, 2019 4631; BBl 2015 8901).

<sup>21</sup> Amended by Annex No II 16 of the Financial Institutions Act of 15 June 2018, in force since 1 Jan. 2019 (AS 2018 5247; BBl 2015 8901).

<sup>22</sup> Amended by Annex No II 16 of the Financial Institutions Act of 15 June 2018, in force since 1 Jan. 2020 (AS 2018 5247, 2019 4631; BBl 2015 8901).

<sup>23</sup> Amended by Annex No II 16 of the Financial Institutions Act of 15 June 2018, in force since 1 Jan. 2020 (AS 2018 5247, 2019 4631; BBl 2015 8901).

<sup>4</sup> It provides for a transparent regulatory process and the appropriate participation of the parties concerned.

<sup>5</sup> It issues guidelines on the implementation of these principles. In doing so, it acts in agreement with the Federal Department of Finance (FDF)<sup>24</sup>.

## **Chapter 2 Organisation**

### **Section 1 Management Bodies and Staff**

#### **Art. 8 Management bodies**

The management bodies of FINMA are:

- a. the Board of Directors;
- b. the Management Board;
- c. the Auditor.

#### **Art. 9 Board of Directors**

<sup>1</sup> The Board of Directors is the strategic management body of FINMA. It has the following tasks:

- a. It determines the strategic objectives of FINMA and submits them to the Federal Council for approval.
- b. It decides on matters of substantial importance.
- c. It issues the ordinances delegated to FINMA and decides on the circulars.
- d. It supervises the Management Board.
- e. It establishes an internal audit unit and provides for internal controls.
- f. It draws up the annual report and submits it to the Federal Council for approval prior to publication.
- g. It appoints the Chief Executive Officer, subject to approval by the Federal Council.
- h. It appoints the members of the Management Board.
- i. It issues the organisational regulations and the guidelines on information activities.
- j. It approves the budget.

<sup>2</sup> It comprises seven to nine expert members, who are independent of the supervised persons and entities. The Board of Directors is appointed for a term of office of four years; each member may be reappointed twice.

<sup>24</sup> Name in accordance with Annex No 4 of the Financial Services Act of 15 June 2018, in force since 1 Jan. 2020 (AS 2019 4417; BBl 2015 8901). This amendment has been made throughout the text.

<sup>3</sup> The Federal Council appoints the Board of Directors. In doing so, it must ensure the appropriate representation of both genders. It appoints the Chair and the Vice-Chair. It determines the level of remuneration. Article 6a of the Federal Personnel Act of 24 March 2000<sup>25</sup> applies by analogy.

<sup>4</sup> The Chair may not carry out any other economic activity nor hold any federal or cantonal office unless this is in the interest of the fulfilment of the tasks of FINMA.

<sup>5</sup> The Federal Council removes members of the Board of Directors and approves the decision of the Board of Directors to terminate the employment of the Chief Executive Officer if the requirements for holding office are no longer fulfilled.

#### **Art. 10** Management Board

<sup>1</sup> The Management Board is the operational management body. It is headed by a Chief Executive Officer.

<sup>2</sup> It has the following tasks in particular:

- a. It issues rulings in accordance with the organisational regulations.
- b. It prepares the files and materials on which the Board of Directors bases its decisions and reports to it regularly, and in the case of special events immediately.
- c. It carries out all the tasks that are not assigned to another management body.

<sup>3</sup> The organisational regulations regulate the details.

#### **Art. 11** Supervision areas

<sup>1</sup> FINMA is divided into supervision areas. The organisational regulations regulate the details.

<sup>2</sup> The Federal Council and the Board of Directors ensure the appropriate representation of the various supervision areas on the Board of Directors and the Management Board.

#### **Art. 12** Auditor

The Federal Audit Office is the external auditor and provides the Board of Directors and the Federal Council with a report on the result of its audit.

#### **Art. 13**<sup>26</sup> Staff

<sup>1</sup> The employment of FINMA staff is governed by public law.

<sup>2</sup> Article 6a of the Federal Personnel Act of 24 March 2000<sup>27</sup> applies by analogy.

<sup>25</sup> SR 172.220.1

<sup>26</sup> Amended by Annex No 4 of the FA of 14 Dec. 2012, in force since 1 July 2013 (AS 2013 1493; BBl 2011 6703).

<sup>27</sup> SR 172.220.1