

Frequently asked questions (FAQs)

Measures against authorised institutions

(last amended on 20 December 2010)

1. What options does FINMA have for intervention at supervised institutions?

FINMA issues the necessary rulings to ensure enforcement of financial market legislation and monitors compliance with legal provisions. If confronted with violations of supervisory provisions or other irregularities, it takes measures to restore compliance and rectify irregularities and issues the rulings necessary for this.

Under the terms of its authority, FINMA has substantial discretion in its choice of measures with a view to enforcing compliance with financial market legislation. The protection of creditors, investors and insured parties and the maintenance of public confidence in the financial system and the financial markets are the main criteria in this regard. In selecting suitable measures, FINMA has regard for the principle of due proportionality at all times and opts for those measures that interfere as little as possible with the rights of those affected whilst still achieving their objective.

If the institution concerned is authorised¹, the measures that FINMA can take range all the way up to the withdrawal of authorisation, which leads to the liquidation of the legal entity.

FINMA has other less drastic options available to it. It can instruct an institution subject to its supervision to improve its internal organisation, reprimand misconduct or demand the removal of directors or managers who no longer fulfil the requirement to guarantee the proper conduct of business affairs. Other options include professional debarments and confiscation of profits. FINMA can also carry out investigations, or commission third parties to conduct them on its behalf, so as to subject specific parts of an institution's business operations to independent scrutiny. If an institution is at risk of insolvency, FINMA can take protective measures.

In terms of product supervision, FINMA can oblige authorised operators of collective investment schemes to take protective measures, can have property assets of real estate funds or real estate investment funds valued by additional experts, can dismiss the regular valuation experts and can appoint an administrator for incompetent authorised institutions.

¹ www.finma.ch/e/beaufsichtigte/pages/bewilligungstraeger.aspx

2. Who can I turn to if I am in dispute with a bank?

In the event of disputes under civil law, anyone is free to consult the Swiss Banking Ombudsman²:

Swiss Banking Ombudsman

Bahnhofplatz 9

P.O. Box 1818

8021 Zurich

Phone (8.30 a.m.–11.30 a.m.):

+41 (0)43 266 14 14 German/English

+41 (0)21 311 29 83 French/Italian

Fax: +41 (0)43 266 14 15

The Ombudsman is a neutral and independent mediator. It can provide negotiated solutions but cannot issue enforceable rulings. It provides the parties with information and makes proposals for compromises. The process is free. However, this avenue is not available for disputes with companies that are not members of the Swiss Bankers Association (SBA).

3. Who assists insured persons?

Insured persons who have taken out an insurance contract with an official agency or an insurance company affiliated to the "Ombudsman of Private Insurance and of SUVA" foundation can avail themselves of the services of the private insurance ombudsman³.

Ombudsman of Private Insurance and of SUVA

RA lic.iur. Martin Lorenzon

In Gassen 14

P.O. Box 2646

8022 Zurich

Phone +41 (0)44 211 30 90

Fax +41 (0)44 212 52 20

help@versicherungsombudsman.ch

Assistant Ombudsman for French-speaking Switzerland

Olivier Subilia, Attorney-at-Law

Chemin des Trois-rois 5bis

P.O. Box 2608

1002 Lausanne

Phone +41 (0)21 317 52 71

Fax +41 (0)21 317 52 70

ombudsman@avocats-ch.ch

² www.bankingombudsman.ch/en

³ www.versicherungsombudsman.ch/html/port_e.html

Assistant Ombudsman for Ticino

Carlo Luigi Caimi, Attorney-at-Law
Via Giulio Pocobelli 8
6903 Lugano
Phone +41 (0)91 967 17 83
Fax +41 (0)91 966 72 52
avvcaimi@swissonline.ch

If insured persons have problems with their health insurance scheme or their supplementary insurance provider, they can avail themselves of the services of the Ombudsman for Health Insurance⁴. The Ombudsman deals with virtually all questions and problems that may arise between insured persons and health insurance schemes. The Ombudsman's authority extends not only to mandatory health insurance but also to the supplementary medical expenses and daily sickness benefits insurance administered by the health insurance schemes or their partners.

Ombudsman for Health Insurance

Morgartenstr. 9
6003 Lucerne
Phone +41 (0)41 226 10 10
Fax +41 (0)41 226 10 13
info@ombudsman-kv.ch

The Swiss National Bureau of Insurance (NBI)⁵ compensates for material damage and personal injuries caused by foreign motor vehicles in Switzerland.

Swiss National Bureau of Insurance

Thurgauerstrasse 101
8152 Opfikon-Glattbrugg
P.O. Box
8085 Zurich
Phone +41 (0)44 628 65 19
Fax +41 (0)44 628 60 69
nbingf@zurich.ch

4. Can I turn to FINMA too?

Client complaints are a potential source of information for FINMA in connection with its activities under supervisory law. In particular, such complaints bring irregularities at supervised institutions to FINMA's attention. Each year, FINMA receives hundreds of client complaints about institutions subject to its supervision. However, all complaints should be addressed directly to the company in question in the first instance. Complaints sent to FINMA should therefore already include the written opinion of the company concerned.

⁴ www.ombudsman-kv.ch (German, French and Italian only)

⁵ www.nbi.ch/home-003-00-en.htm

Usually, FINMA cannot offer complainants any direct support; in its capacity as supervisory authority it acts in the interests of all creditors, investors and insured persons, and not those of individuals. It therefore has no authority to replace the civil courts in deciding the claims of individual customers. Decision-making authority also resides with the criminal courts in matters of criminal prosecution and assessment of the sanctions laid down in the laws on financial market supervision or the Swiss Criminal Code. FINMA is not an arbitration body nor can it dispense any legal advice.

If FINMA instigates proceedings against a supervised institution based on a complaint from an injured client, that client has no rights as party in these proceedings. As such, FINMA is unable to inform the client of either the existence or the progress of the administrative procedure. This information is subject to official secrecy requirements, as is supervisory activity with respect to the financial markets in general.

5. Where can I find further information?

Information on FINMA rulings and measures can be found on the FINMA website⁶.

6. Who can I contact if I have further questions?

questions@finma.ch or Phone +41 31 327 91 00

⁶ www.finma.ch/e/sanktionen/enforcement/pages/default.aspx