

In 2014, FINMA published a strategic enforcement policy replacing the earlier version from 2009.

The term “enforcement” covers all the investigations, proceedings and measures undertaken by FINMA relating to violations of financial market law. It is mainly conducted in three areas: supporting supervision of authorised institutions; combating insider trading and manipulation in market supervision; and halting the activities of unauthorised financial intermediaries.

### The 2009 enforcement policy

FINMA adopted its first enforcement policy in December 2009. It contained 13 principles governing FINMA’s enforcement activity, including general statements on enforcement at FINMA and its internal organisation. It also contained principles for making information public and for deploying agents, as well as explanatory notes on proceedings against individuals and on cooperation with prosecutors, other administrative bodies and self-regulatory organisations.

The content of the policy was strongly influenced by the situation in 2009, when FINMA did not yet have a separate Enforcement division and enforcement functions were spread across various organisational units within the authority. Moreover, the Financial Market Supervision Act (FINMASA) had only just created new enforcement instruments such as industry bans and the power to order the disgorgement of profits. The primary aim of the policy was therefore to establish a uniform approach within FINMA and curb public expectations that the new instruments would be deployed across the board. It had little to say on the strategic orientation of enforcement.

### The 2014 enforcement policy

The new enforcement policy<sup>28</sup> sets out how FINMA uses enforcement to achieve its supervisory objectives. To enhance the deterrent effect of enforcement, FINMA has stepped up its action against individuals for alleged serious violations of supervisory law. In particular, the policy highlights that FINMA gives high priority to combating market abuse and insider trading in the Swiss securities market, with particular emphasis on the market conduct of prudentially supervised institutions and their employees. It also stresses that FINMA takes resolute action against unlicensed financial intermediaries.

Unlike the earlier document, the enforcement policy is purely strategic in nature. Operational matters have been transferred to other vehicles. The principles governing communication are now set out in a communication policy.<sup>29</sup>

<sup>28</sup> Enforcement policy dated 25 September 2014, p. 31 (see also <http://www.finma.ch/d/aktuell/Documents/ll-finanz-marktenforcement-20140925-d.pdf>).

<sup>29</sup> See “FINMA and its national stakeholders”, section on Communication policy, p. 15.

# Enforcement policy

FINMA takes enforcement action as a visible means of achieving its supervisory objectives. Enforcement aims to remedy shortcomings, restore compliance with the law and exert a deterrent effect by imposing sanctions for violations of the law. Serious lapses are dealt with as a matter of priority.

- FINMA’s enforcement activities support its supervision of licence holders. To promote compliance with regulatory requirements, FINMA takes targeted action to respond to serious violations of the law, specifically violations of business conduct rules.
- FINMA’s enforcement activities are primarily directed against serious violations of market integrity and market manipulation performed by all participants in the Swiss securities market; where licensed market participants and their employees are concerned, FINMA also acts in response to serious market abuse in similar markets in and outside Switzerland.
- FINMA follows up indications of unauthorised business activities that do not comply with the requirements set out in financial market legislation.
- FINMA takes targeted action against individuals responsible for serious violations of supervisory law.
- FINMA initiates insolvency measures deemed necessary and appropriate in individual cases. Insolvency proceedings are mainly conducted by external liquidators appointed by FINMA.
- FINMA views the rapid provision of international cooperation as an important contribution to global efforts to ensure the proper functioning and integrity of the financial markets, particularly where market supervision and unauthorised activities are concerned.
- FINMA ensures that its dealings with prosecutors and other authorities are conducted in line with its supervisory objectives.