

## FINMA mandataries: a key tool of supervision and enforcement

FINMA can appoint third parties, known as mandataries, to assist it in performing its duties. It makes targeted use of this efficient, resource-saving tool in both supervision and enforcement proceedings.

Mandataries are an essential element in FINMA's repertoire of tools, giving the authority swift and flexible access to external specialists when needed and enabling complex audits or investigations to be completed within a reasonable time. Mandataries assist FINMA in fulfilling its legal remit: to protect creditors, investors and policyholders and ensure that Switzerland's financial system functions effectively.

### **Use of mandataries at authorised institutions and to tackle illegal activities**

Mandataries can be deployed in every area of FINMA's work. As each mandate is different, so too is the specialist expertise required of the mandatary. The types of mandatary are as follows:

- **Mandated auditors at authorised financial intermediaries:** Mandated auditors conduct audits on FINMA's behalf as part of ongoing supervision of a supervised institution. They are used, for example, in response to special or institution-specific events if particular expert knowledge is required, or there are doubts about the quality of the audit conducted by the audit firm.
- **Investigating agents at authorised financial intermediaries:** Investigating agents clarify circumstances relevant to enforcement proceedings or monitor the implementation of supervisory measures ordered by FINMA. In individual cases, they may be empowered to act in place of the intermediary's executive bodies.
- **Investigating agents at unlicensed financial intermediaries:** Investigating agents are also used to establish the facts where there are indications that a company or individual is operating without the licence required under financial market law. In general, the investigating agent is also empowered to act in place of the intermediary's executive bodies.

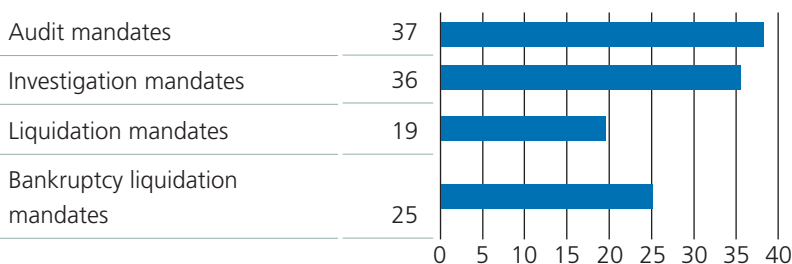
## FINMA mandataries: a key tool of supervision and enforcement

- **Restructuring agents and crisis managers at authorised financial intermediaries:** Restructuring agents are mandated by FINMA to draw up restructuring plans. Crisis managers take over the management of the financial intermediary concerned, draw up proposals for dealing with the crisis, and implement them.
- **Liquidators and bankruptcy liquidators:** Liquidators carry out liquidation where an intermediary does not have the necessary licence or has had it withdrawn. Bankruptcy liquidators are responsible for performing bankruptcy proceedings.

The selection criteria include the nature and scope of the mandate, specialist expertise and experience, language skills, costs and availability at the time. If no suitable candidate is available, FINMA may also select from outside its list. Mandataries must in all cases be independent of the supervised institution concerned.

When an investigating agent has been granted signatory powers, this is noted in the Swiss Official Gazette of Commerce. Information about the appointment of (bankruptcy) liquidators is also published on [FINMA's website](#).

**In 2014 and 2015, FINMA issued a total of 117 mandates. The breakdown is as follows:**



#### **Mandataries selected carefully and used in a targeted manner**

FINMA selects its mandataries carefully, taking account of the situation and circumstances in each individual case. Often they have to be deployed on matters of urgency. To ensure that it can choose the right mandatory swiftly when needed, FINMA maintains a [list of suitable candidates](#). They must have knowledge and experience of mandates in the specific field, as well as an appropriate infrastructure.

#### **Mandatory's performance steered and monitored by FINMA**

Mandataries are obliged to fulfil their mandates diligently and cost effectively. FINMA defines the content and the expected costs of the mandate at the outset. It also monitors discharge of the mandate on an ongoing basis and checks that costs remain proportionate. The costs of mandataries are borne by the supervised institutions concerned.

FINMA mandatory assignments are ordered by means of a contestable ruling against the supervised institution or unlicensed financial intermediary. The ruling appoints the mandatory and sets out the content of the mandate and the cost schedules for the mandatory. In general, the party affected has the opportunity to comment in advance on a mandatory assignment. If a mandate is urgent or there is a risk of collusion, the institution affected is granted a hearing after the assignment.