

Intermediaries Symposium

New regulation of insurance intermediation from 2024

BERN

23 October 2023
Casino

LAUSANNE

26 October 2023
Théâtre de Beaulieu

ZURICH

30 October 2023
The Hall

LUGANO

8 November 2023
Hotel de la Paix

Agenda Part 1



Video message from Birgit Rutishauser, FINMA CEO ad interim



How will the new regulation affect you?



Registration

Live demo: Registering on the FINMA portal



The new obligations in insurance intermediation



Training and professional development



Quick survey



Break (25 mins)

Agenda Part 2



Tied intermediaries and their relationship with the insurance company



Key deadlines



FINMA's role



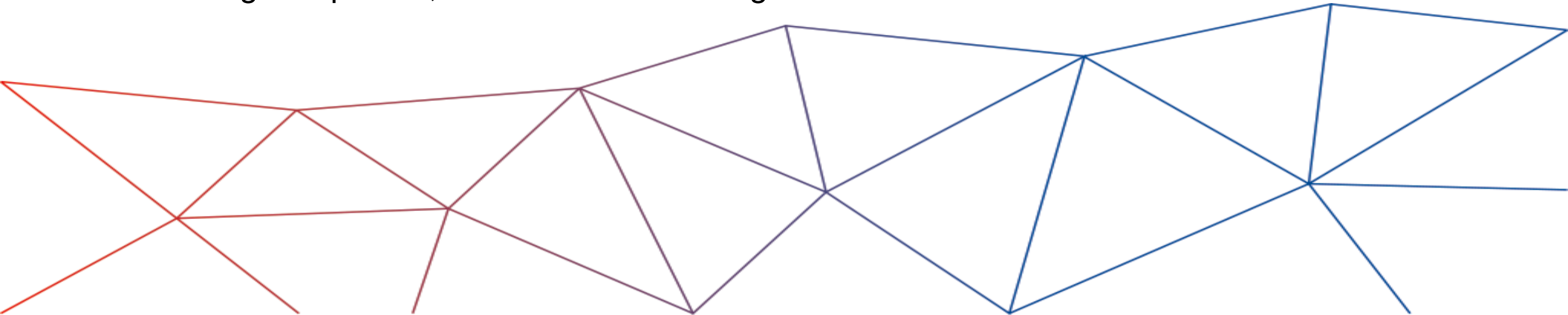
Panel discussion



Quick survey

How will the new regulation affect you?

Philipp Lüscher
Head of Legal Expertise, Authorisation and Registration



Who is subject to the Insurance Supervision Act (ISA) from 1 January 2024?

Status quo	From 1 January 2024
<p>Insurance intermediaries are persons who offer or conclude insurance contracts on behalf of insurance companies or other persons</p>	
<p>Untied intermediaries must be registered with FINMA and have an entry in FINMA's public register</p>	
<ul style="list-style-type: none"> • Untied intermediaries are not connected financially or in any other way to an insurance company • Tied intermediaries: criteria set out in the Insurance Supervision Ordinance (ISO) • Tied intermediaries may register in the FINMA register 	<ul style="list-style-type: none"> • Untied intermediaries have a fiduciary relationship with their clients and act in their interests • Tied intermediaries: <u>No</u> criteria in the revised ISO; intermediaries who do not meet the criteria of untied are defined as tied • Tied intermediaries cannot <u>not</u> register with FINMA (exception listed in Art. 42 para. 4 revised ISA)

→ From 1 January 2024 intermediaries will be defined as either tied or untied: never both at the same time

How are tied and untied intermediaries defined from 1 January 2024?

- No fixed list of criteria, instead the key distinction is the fiduciary relationship and acting in the interests of clients (= untied intermediary)
- Indication that the intermediary does not have a fiduciary relationship with the client (= tied intermediary):
 - Employment or mandate relationship with an insurance company (e.g. sales reps, agents)
 - Offering products from one insurance company per insurance branche (lack of choice for the client)
 - Conflicts of interest (Art. 182c rev. ISO)
 - Financial/economic dependence on a single insurance company
 - Being incorporated into an insurance company's organisational structure (lack of organisational and/or entrepreneurial autonomy), e.g. as an outsourcing partner (e.g. policy management)
 - Qualified participation (10% or more) by an insurance company in the intermediary or vice versa
 - Staff of insurer and intermediary are interlinked

What falls under the definition of intermediation?

- Giving advice and making proposals **for the purpose of concluding an insurance contract**
 - = All activities and persons that materially assist or advise the client in making an offer or concluding a contract
 - = The entire value chain is included (i.e. division of labour within the organisation)
 - ≠ Activities and persons without direct client responsibilities (back office, reception)
 - ≠ Merely informing the client about the possibility of obtaining advice or concluding a contract
- **The principle of technological neutrality applies**

Online platforms

The following are defined as insurance intermediaries:

- Persons who have a financial interest in offering or concluding an insurance contract via a website or other electronic medium and
 - who provide information on insurance contracts based on individualised criteria
 - or
 - provide a ranking of insurance products (including product or price comparisons)

= online platforms and smartphone apps that propose insurance contracts with a view to concluding them

≠ purely providing comparative lists or media reporting

≠ providing information and data without a financial interest

- FINMA practice on division of labour within groups: All activities along the value chain that materially assist and advise the client in his / her decision conclude an insurance contract are subject to supervision

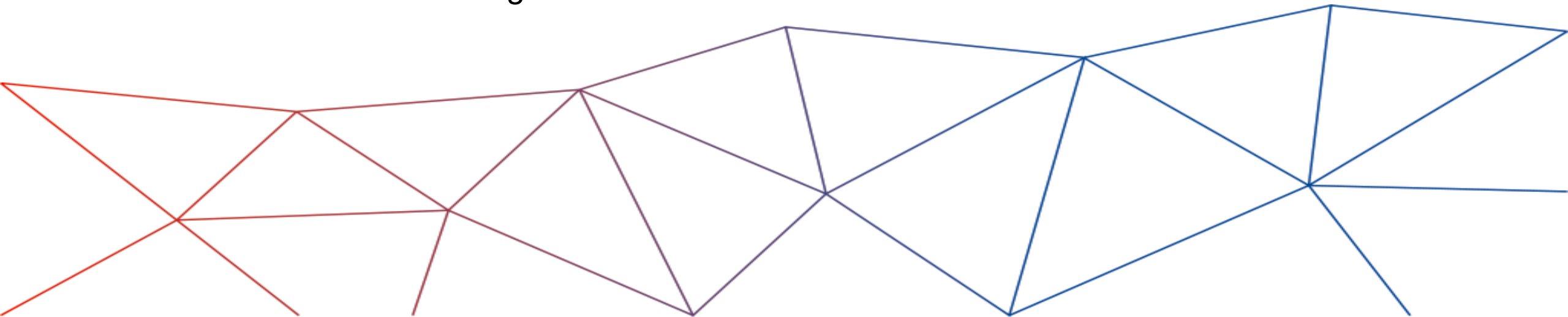
What requirements do I have to meet as an intermediary? *

	Duties as untied intermediary	Duties as tied intermediary
	Registration requirement	Fulfilled by intermediary <u>and/or</u> insurer
Registration in FINMA's public register	✓	
Relevant qualifications for the activity (training and professional development) and a good reputation	✓	✓
Corporate governance requirements	✓	✓
Financial security	✓	✓
Avoiding improper conduct and conflicts of interest	✓	✓

* [20230821-finma-guidance-04-2023.pdf](#)

Registration of intermediaries

Noémie Savaria
Head of Authorisation and Registration



Why do I have to clarify my intermediary type now?



There will be a legal and technical **system change** on 31 December 2023



Untied insurance intermediaries

Those registered in the FINMA register on 1 January 2024 will remain in the register



Tied insurance intermediaries

Those registered in the FINMA register on 1 January 2024 will be removed from the register, except tied intermediaries as defined in Article 42 para. 4 rev. ISA

Those who are removed from the register on 1 January 2024 and would like to register again, must go through a new registration process

→ The time for intermediaries to check their registration entries is NOW!

Key deadlines in the run-up to 31 December 2023



N.B. The intermediary portal will have limited functionality during this period



- New registrations **up to 17 November 2023**
- Changes **up to 15 December 2023**
- Deactivations **up to 15 December 2023**



After these deadlines, information can only be submitted to FINMA by post until **31 December 2023**, with no guarantee that it will be processed before the year-end.



Please check and make changes to your registration data NOW

Follow-up documentation from 1 January 2024 to 30 June 2024

Follow-up documentation for all registered insurance intermediaries needs to be submitted through the **survey and application platform (EHP)** between 1 January 2024 and 30 June 2024



- All registered intermediaries who **have not filed their follow-up documentation** by 30 June 2024 **will be deleted**
- Anyone who is removed on 1 July 2024 and **wants to register again** must go through a new registration process

Requirements for follow-up documentation and new registrations

Annexe 6 rev. ISO sets out detailed requirements for registration and follow-up documentation, such as:



- Commercial register excerpt, UID no.
- ID and OASI no., CV
- Description of business activity
- Criminal records excerpt
- Excerpt from debt collection register
- Information on pending and completed legal proceedings
- Corporate governance requirements (internal policies)
- Proof of training and further education
- Proof of professional indemnity insurance

Description of the insurance intermediation activities

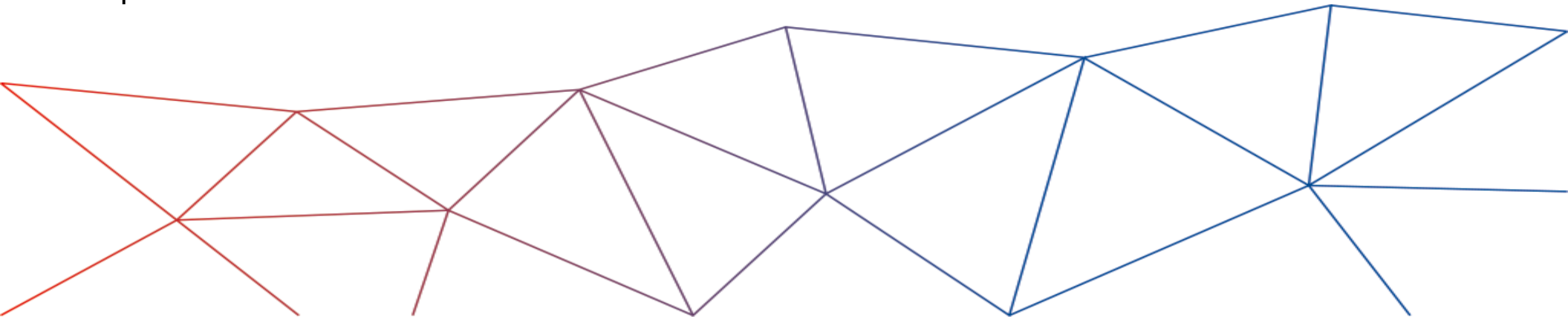


Specification of insurance branche (life, non-life, reinsurance, special product categories)

Internal policies → Self-declaration for insurance intermediaries < 10 staff; Documentation required for insurance intermediaries > 10 staff

Registering on the FINMA portal

Serge Selhofer
Supervision of Insurance Intermediaries



First step: access and login to the FINMA portal

You interact electronically and digitally with FINMA

This is done via the survey and application platform (EHP)

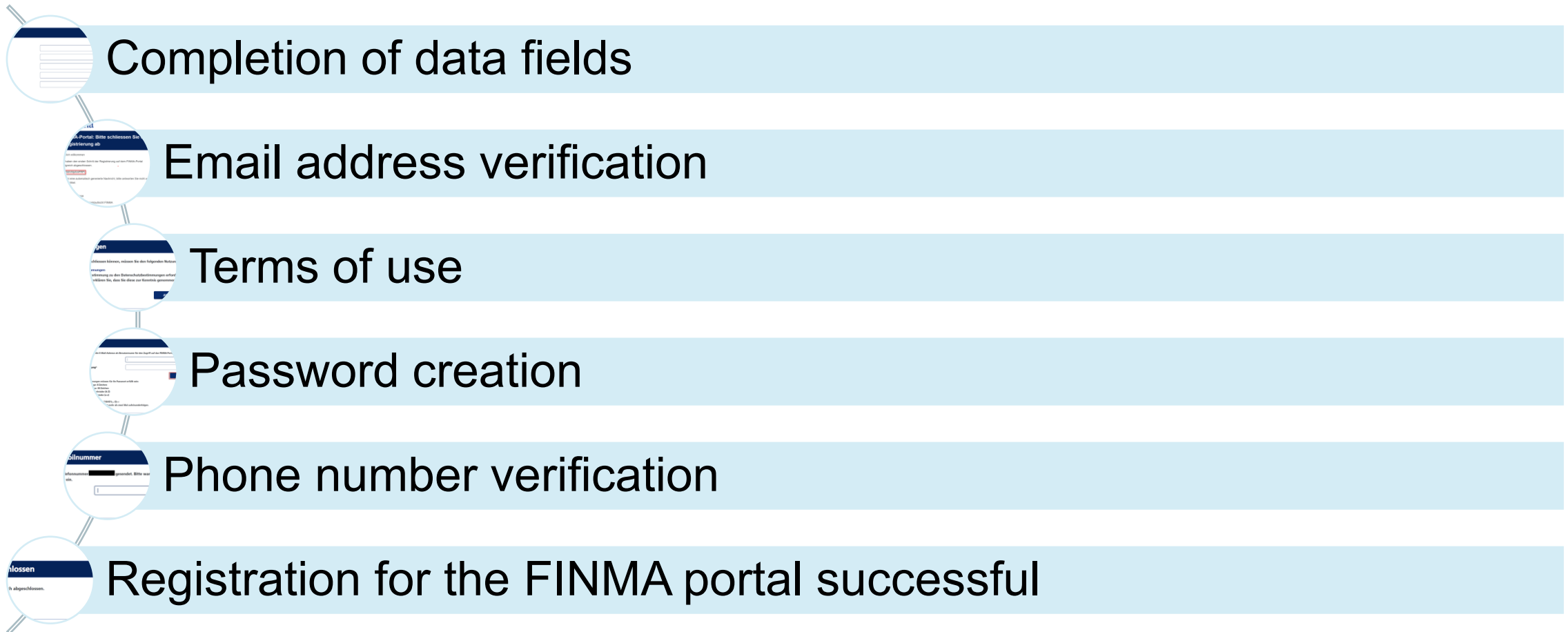
As a first step, you need to set up an account via the FINMA login process

Already possible now

→ Link: [Digital exchange with FINMA](https://www.finma.ch/en/finma/digital-exchange/) (https://www.finma.ch/en/finma/digital-exchange/)



FINMA portal registration



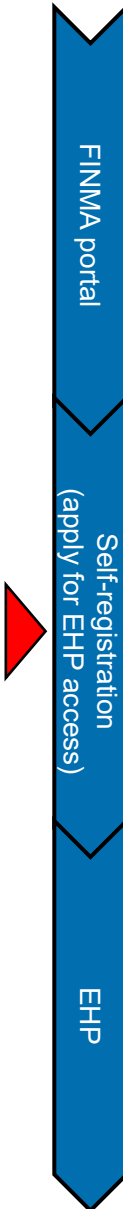
Self-registration (SelfReg): entering your details to register

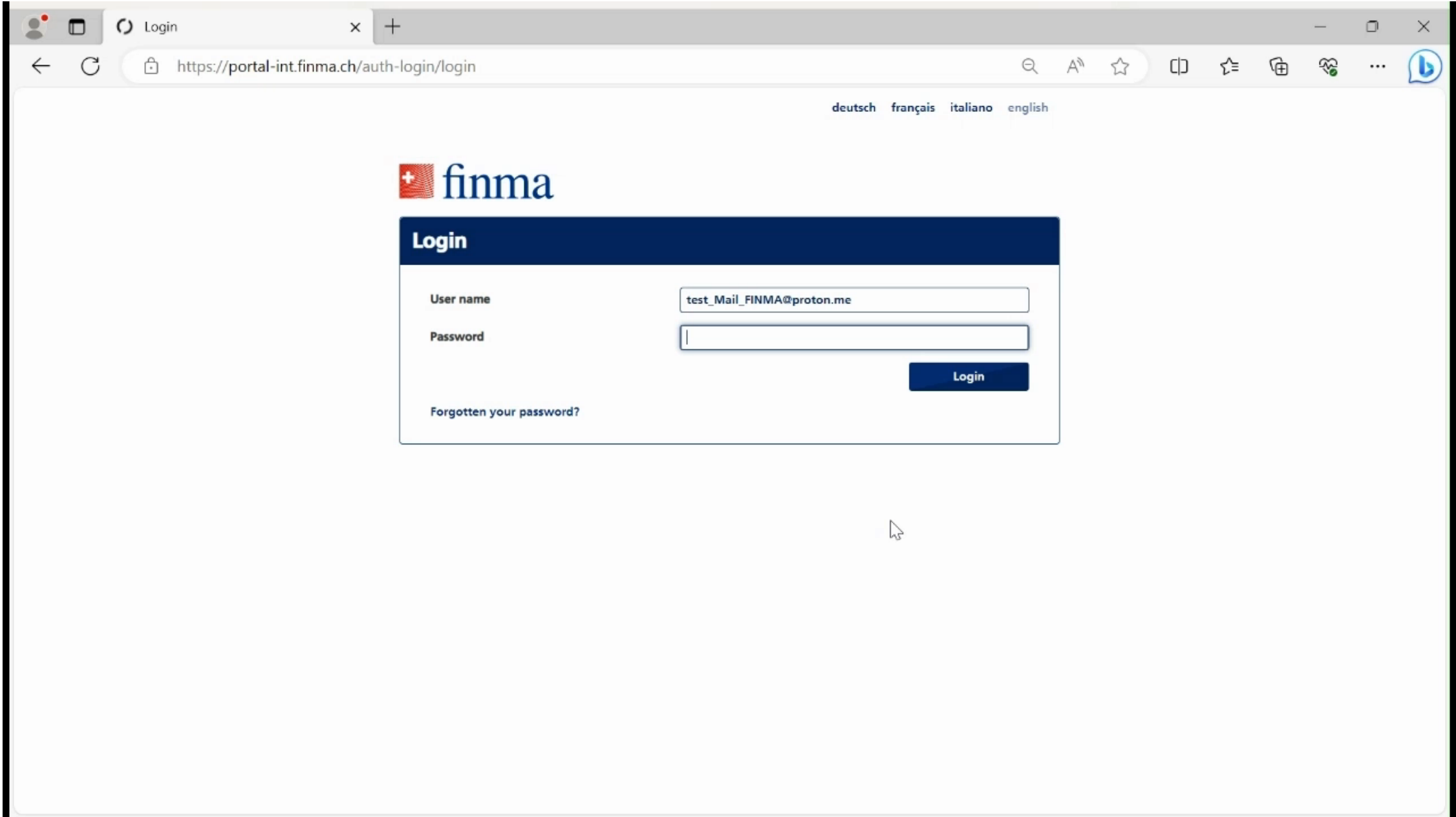
You begin the process by means of self-registration

Your FINMA login will take you to the registration page


You then enter the details of the individual, legal entity or partnership and the details to register as an insurance intermediary

Available from 1 November 2023





deutsch français italiano english



Login

User name

Password

[Forgotten your password?](#)

Login



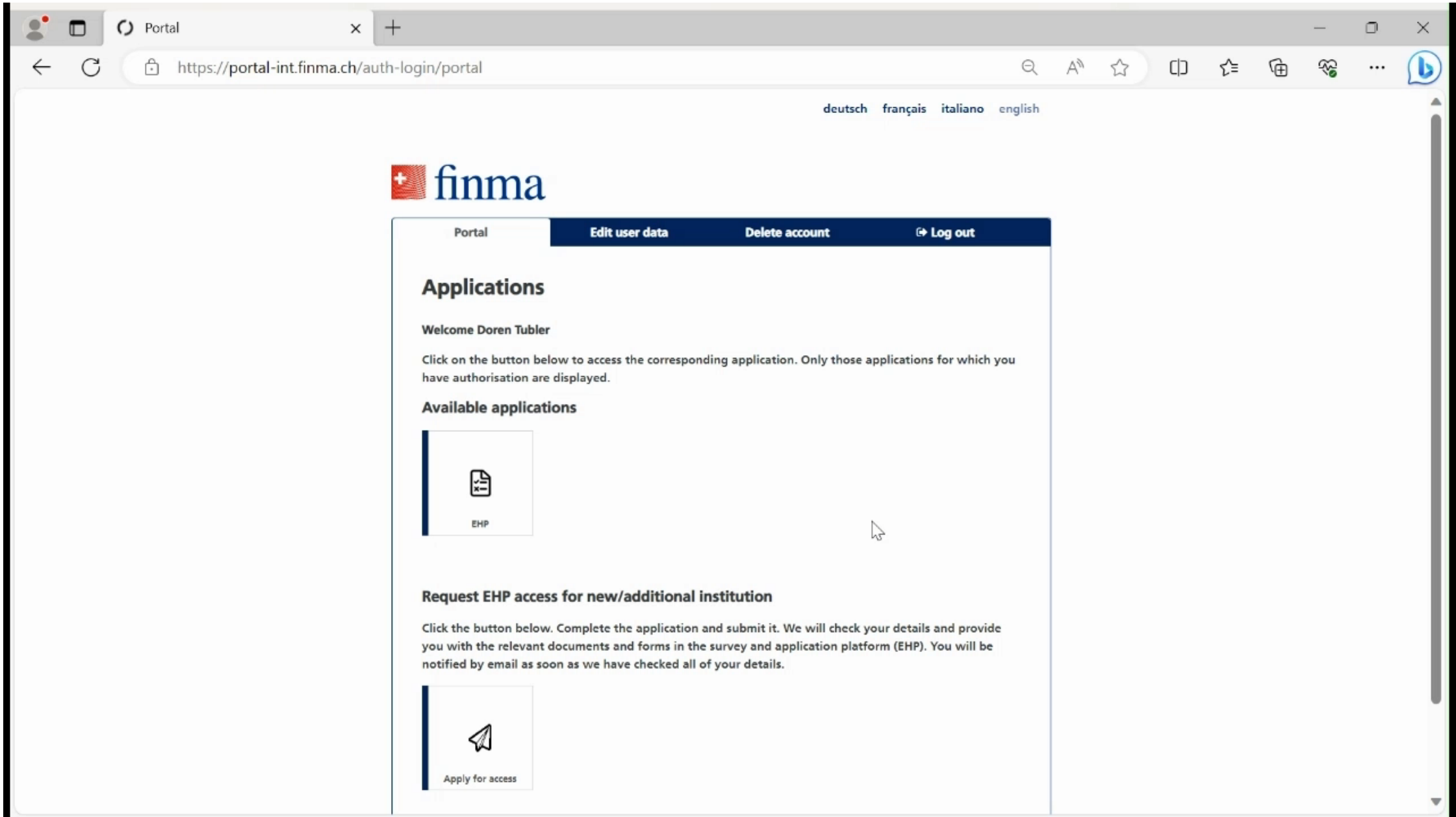
EHP access: forms for the registration application or follow-up documentation

You will be given access to the EHP together with the forms you need for a new registration or follow-up documentation as an intermediary

Available from 1 January 2024

After FINMA has reviewed your registration application you will be registered via the EHP:

- A notification will show you whether your registration or follow-up documentation has been submitted
- Possible statuses are: “submitted”, “in review”, “corrections required”, “registered” or “rejected”
- In addition FINMA may communicate with you via the notification function, for example to inform you if any corrections need to be made to the registration application

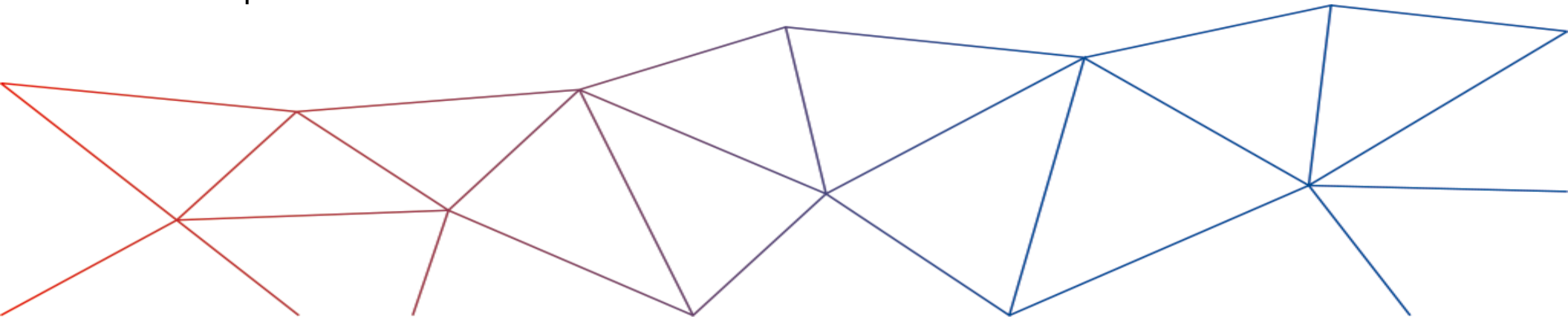


The screenshot shows a web browser window with the URL <https://portal-int.finma.ch/auth-login/portal>. The page features the finma logo at the top left and a navigation bar with links for "Portal", "Edit user data", "Delete account", and "Log out". The main content area is titled "Applications" and includes a welcome message for "Doren Tubler". It lists "Available applications" with a button for "EHP" (represented by a document icon) and a section for "Request EHP access for new/additional institution" with a button for "Apply for access" (represented by a paper plane icon).



The new obligations in insurance intermediation

Serge Selhofer
Head of Supervision of Insurance Intermediaries



FINMA's supervisory mandate



The legislation imposes **two clear obligations on FINMA** (ISA Art. 46 para. 1 lets. b and f)

→ Continuous monitoring of the intermediaries' guarantee to comply with their duties in accordance with the ISA.

→ Protecting clients from potential abuse by insurance intermediaries

Client protection must focus on the **point of sale (PoS)**, where insurance intermediation takes place:



→ on the telephone

→ at the kitchen table

→ in a meeting room

→ on the web/internet

→ on a smartphone

→ in a virtual room

→ ...?

} as a traditional intermediary

} as a platform or app

} as an avatar, chatbot, VR headset

Safeguarding the point of sale: supervisors intervene if...

...intermediaries breach their duty to inform clients



- Missing data on the information sheet, such as
 - name and/or address
 - whether an intermediary is tied or untied
 - the intermediary's qualifications or how clients can obtain information about it
 - the reporting office for a liability scenario
 - how personal data will be processed
- The information provided is not up-to-date or inaccurate/false

...intermediaries act improperly, for example by



- giving the impression that they are untied
- using FINMA's logo, or
- telling the client they are “acting on behalf of FINMA”

Safeguarding the point of sale: supervisors require disclosure and transparency

Before the client signs an insurance contract you have intermediated, the following information must be disclosed:



- **Conflicts of interest that could adversely affect the intermediation:**

- Avoid or
- Disclose



- **Compensation** of all kinds (commission, fees etc.)

- Obligation to disclose
- Obtain waiver from client confirming compensation does not need to be passed on to them
- Option for the compensation to be passed on in full



- There are special obligations for **qualified life insurance policies** (provision of basic information sheet free of charge, intermediary must perform a suitability check for the life insurance product and document this)

Monitoring the point of sale



Technical and capacity limits mean it is impossible to permanently monitor and check every PoS and intermediary



- FINMA's supervision employs the following **tools and instruments**:
 - Act on information and complaints
 - Take random samples and review them
 - Carry out fact-finding (letters/emails, phone calls)
 - Request and analyse data and information on a case-by-case basis
 - Conduct on-site reviews
 - Handover to enforcement where necessary
- Building up **data-driven supervision** to provide inputs for human supervision
 - Systematically collecting data and information from the intermediaries (Art 190b ISO)
 - Web scraping
 - Use of machine learning, AI etc.



New: Reporting

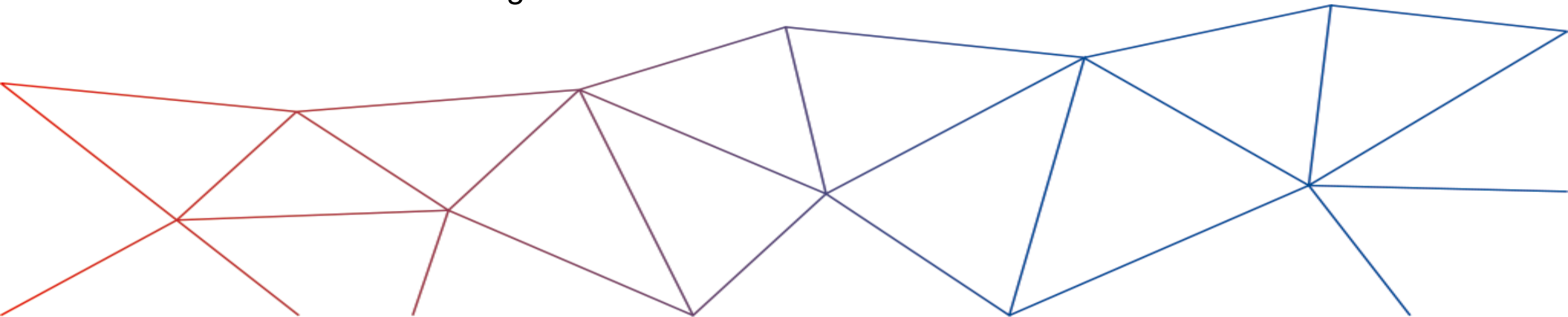
As an untied intermediary you are required to provide FINMA with data and information on your activities annually (Art. 190b rev. ISO)

- In accordance with ISO-FINMA (currently in public consultation), FINMA will specify and communicate the dataset that needs to be reported at the end of September each year
- For the financial year 2024 a minimal set of additional data and information will be requested alongside the follow-up documentation
 - No. of employees who fall under the definition of insurance intermediary in ISO
 - Insurance branches intermediated
 - Total commission income and total no. of policies intermediated
 - Commission per partner, per intermediary, per insurance branche
 - Other compensation / commission (e.g. trail commission)
- Further and more detailed information on this issue to follow



Training and professional development

Noémie Savaria
Head of Authorisation and Registration



Minimum standards as industry self-regulation



Training: necessary **capabilities and knowledge** are a prerequisite for acting as an insurance intermediary



Sector to determine minimum standards for training and professional development



FINMA recognises the minimum standards

Capabilities and knowledge

Capabilities

- Acquiring new customers
- Advising customers
- Customer service

Knowledge

- Basic knowledge of the insurance market
- Property, personal and financial insurance
- Legal and regulatory requirements
- Product knowledge

→ Evidence of training and professional development by means of completing an exam

Role of industry body

- Ensures the minimum standards are being met
- Reports to FINMA if the training requirements have not been met, or are no longer met, by the insurance intermediary

What do insurance intermediaries have to do?

Training

To acquire knowledge and skills

→ Initial professional qualification

Professional development

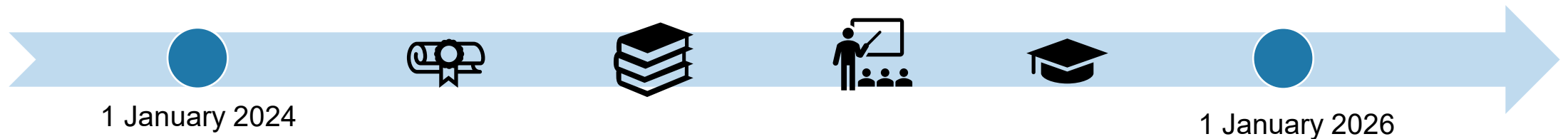
Maintain and update skills and acquire specialist knowledge

→ Recertification

→ Evidence of training and professional development by means of completing an exam

Transitional period

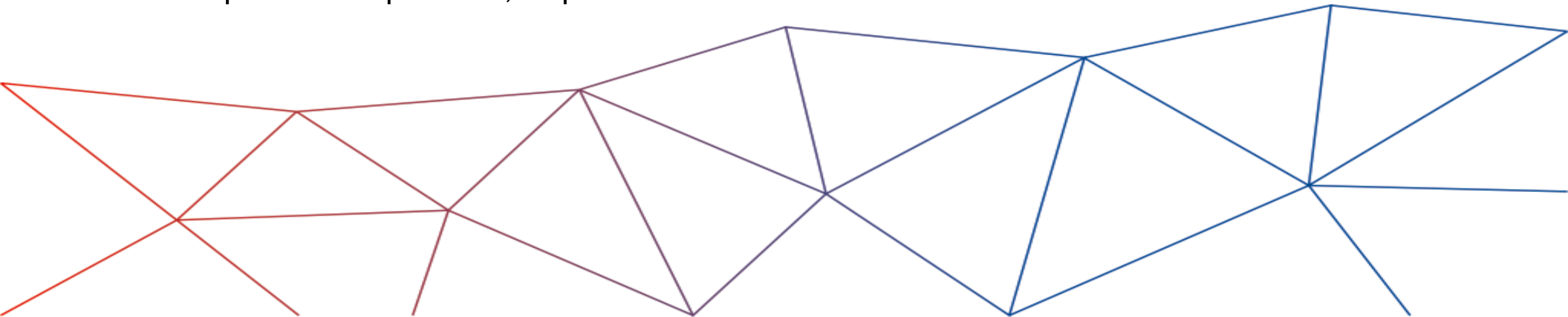
- The requirements for training and professional development must be met by 31 December 2025
- The 2-year transitional period will enable the following:
 - Defining the minimum standards
 - Developing training courses
 - Time for training and professional development courses to be completed
 - Time for candidates to complete exams



Tied intermediaries & their relationship with the insurance company

Claudine Delavy

Senior Supervision Specialist, Supervision of Insurance Intermediaries

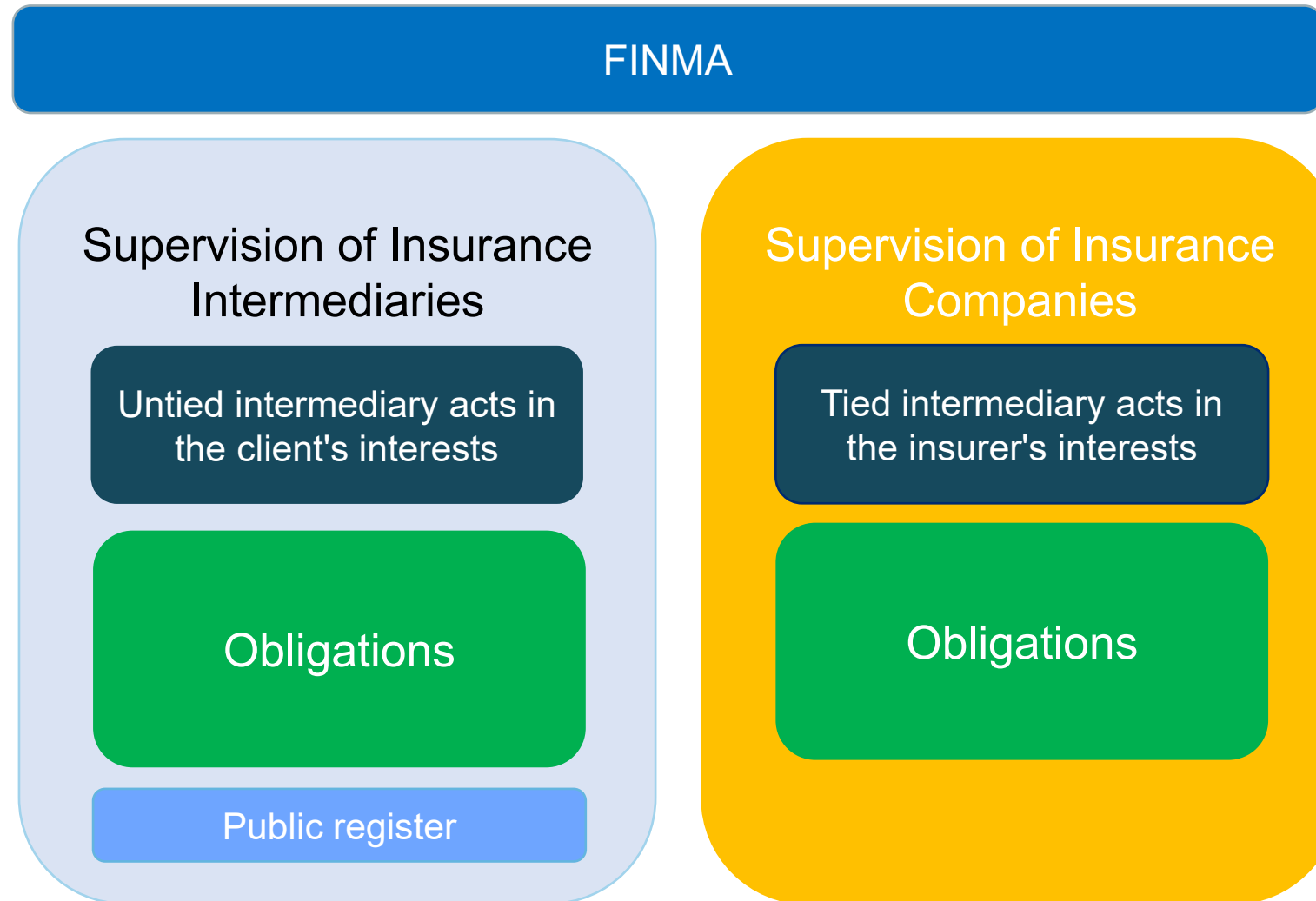


What are insurance companies' obligations with regard to tied intermediaries?


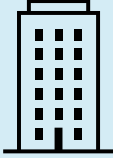

- Tied insurance intermediaries are assigned for supervisory purposes to the insurance company they are tied to, or for which they offer or conclude insurance contracts in accordance with Article 40 ISA
- The insurance company has a direct duty of supervision over tied insurance intermediaries:
 - Verifying the good reputation of tied insurance intermediaries
 - Ensuring their tied intermediaries guarantee compliance with their duties in accordance with the ISA



Overview of future supervisory architecture

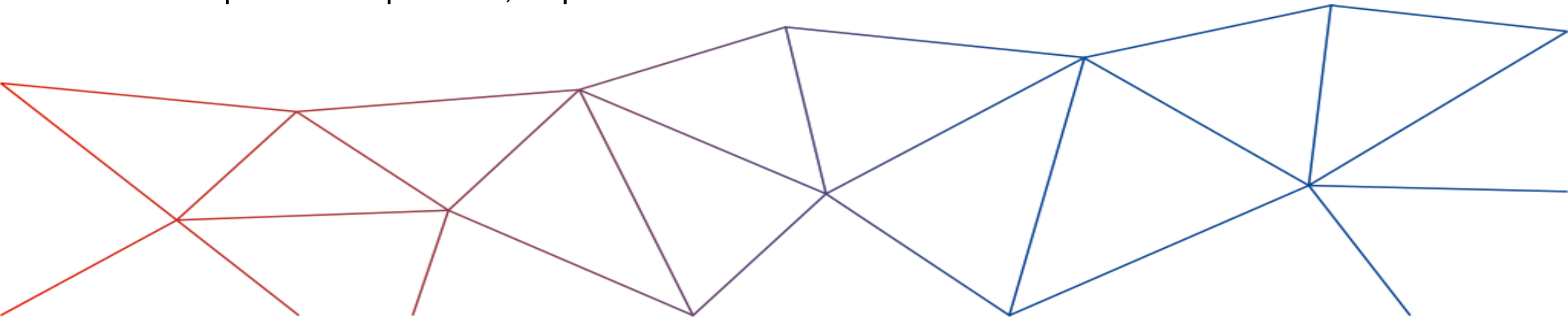


What obligations does a tied intermediary have to fulfil, either directly or indirectly via the insurance company?

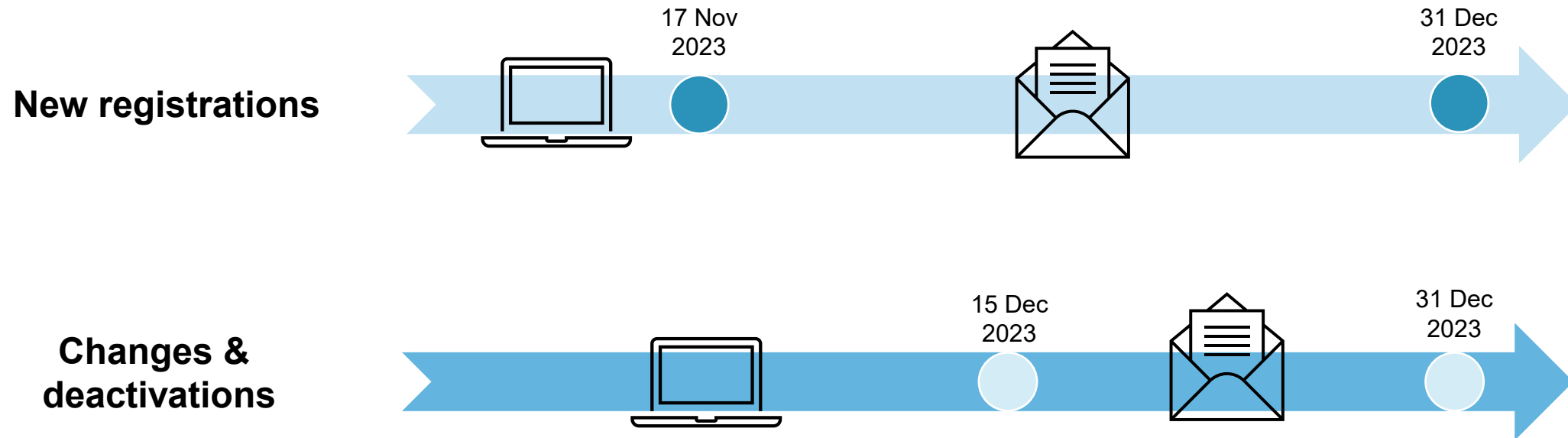
			
Voluntary registration in the public FINMA register is no longer possible			✗
Relevant qualification for the activity (training and professional development) and a good reputation	✓		
Corporate governance requirements		✓	
Financial security		✓	
Disclosure requirements under Article 45 ISA	✓		
Obligations for disclosure, suitability checks and documentation for qualified life insurance (Art. 39ff. ISA)	✓	✓	
Avoiding improper conduct and conflicts of interest		✓	

Reminder of key deadlines

Claudine Delavy
Senior Supervision Specialist, Supervision of Insurance Intermediaries

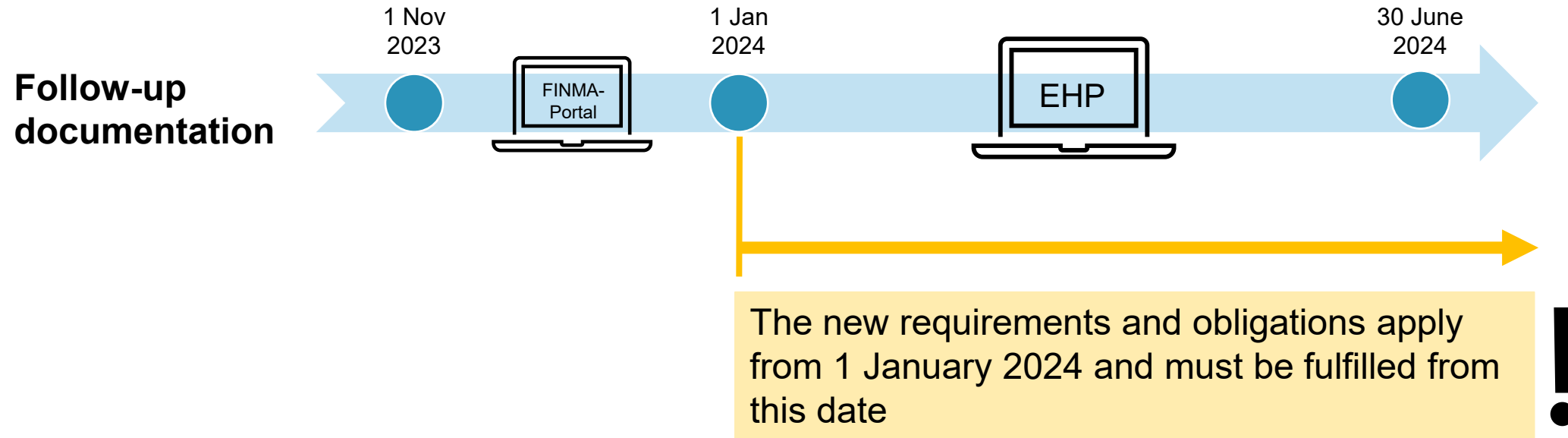


Overview of the key deadlines



- Anything submitted in hard copy has to be submitted electronically at a later date
- The above deadlines cannot be extended

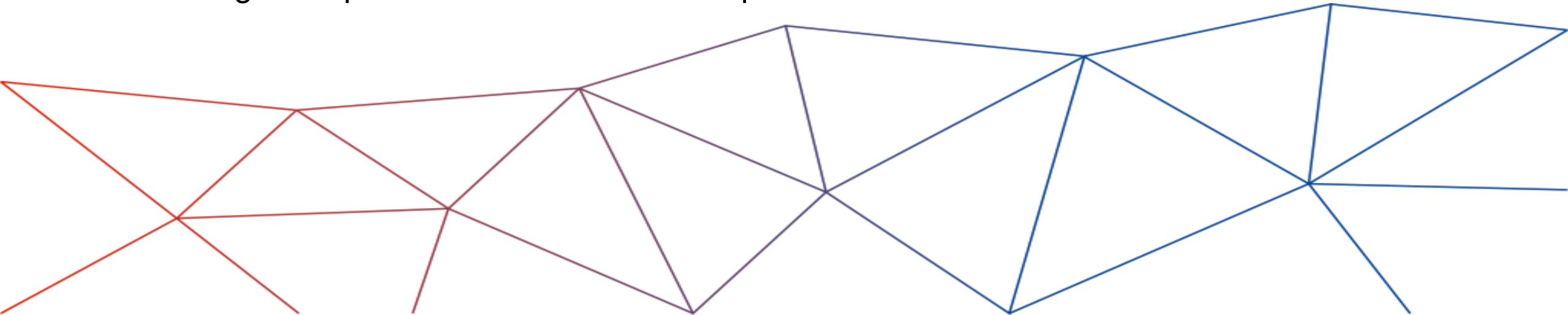
Overview of the key deadlines



- Foreign intermediaries also have to fulfil the requirements under the new regulations by 30 June 2024
- The above deadlines cannot be extended

FINMA's role

Markus Geissbühler
Head of Digital Supervision of Insurance Companies & Intermediaries



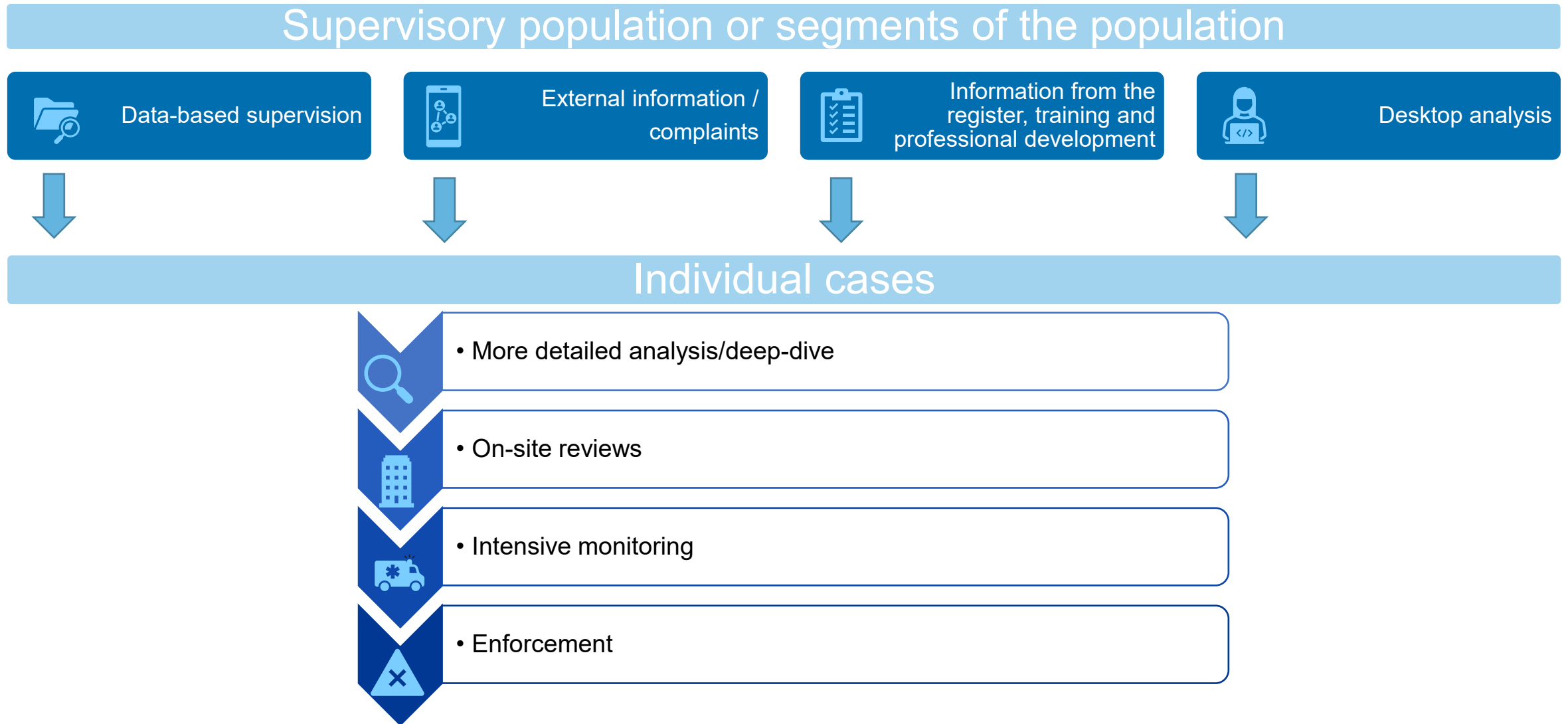
Inputs

- FINMA's set-up
- Supervisory approach
- Areas of supervisory focus
- Enforcement tools
- Cost of supervision

FINMA's set-up follows the objective of the new intermediary regulation: protection from abuse



FINMA's approach to supervision



Areas of supervisory focus



Communication: Informing intermediaries of news, changes and developments through various channels



Register: Reporting obligations



Point of sale: Information, complaints, enquiries and investigations, digital scanning



Training: Recognition of minimum standards, monitoring CPDs



Reporting: Data-driven supervision, monitoring overall market



Intervention: Rectifying malpractice

Enforcement tools



Protective measures to safeguard clients



Deleting a registration



Public warning list



FINMA has the duty to file a criminal complaint in the event of:

- Breaches of information obligations
- Unauthorised activities



Action against any authorised insurance companies involved

The costs of the new supervision

Fees and Levies Ordinance: the new area of supervision must be self-financing through supervisory levies and fees

Registration fees, valid for 2024:

- for individuals: CHF 350 (previously CHF 300)
- for legal entities: CHF 750 (previously CHF 300)

Annual supervisory levy for all registered persons and entities in 2024:

- CHF 475 annually (previously CHF 150)

Stay connected....

