

The revision of 2024

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The VAG of 2004 was revised in a project that began with a consultation in 2016 and ended with the adoption of the amending act by Parliament on 18 March 2022. The revised act and the revised ordinances entered into force on 1 January 2024.¹ The revision had four principal objectives: to differentiate supervision according to the protection needs of the policyholders, to introduce a restructuring regime for insurers, to modernise the rules on insurance intermediaries and to promote innovation. It also transferred essential elements of the SST into the ordinance and adjusted the rules on the conduct of business in line with the Financial Services Act (FinSA) of 2018, which had excluded insurance products from its scope.

The differentiation of supervision is based on the idea that professional policyholders do not need the same protection as consumers. Insurers whose clients are exclusively professional policyholders, such as large companies, public bodies, pension funds or other insurers, can be relieved of certain requirements, for example concerning the tied assets and the approval of the business plan.² Reinsurers and captive insurance companies, which were already subject to a lighter regime, fit naturally into this logic. The approach brings Swiss insurance supervision closer to the client segmentation of financial services law and to the distinction between large risks and mass risks in European law. It is of practical importance for the captives of Basel's pharmaceutical and chemical groups, which are examined in chapter V of this part.

The innovation provisions allow FINMA to exempt insurers with innovative business models wholly or partly from supervision, provided that the protection of policyholders is ensured by other means, for example by limiting the volume of business or the categories of clients.³ The provision responds to developments in insurance technology, such as parametric insurance, peer-to-peer models and digital distribution

platforms. It also reflects the experience of the banking sector, where the fintech licence and the sandbox under the Banking Ordinance had been introduced a few years earlier. Whether the insurance sandbox will generate significant activity remains to be seen. In the first years after 2024 the number of exempted business models appears to have been small.⁴

A further element of the revision concerns the conduct of business. The revised act introduced duties of information, of appropriateness and of documentation for so-called qualified life insurance, namely life insurance products with an investment character, such as unit-linked and index-linked policies, in which the policyholder bears investment risk. For such products, the insurer must provide a key information document and must examine whether the product is appropriate for the client, taking into account the client's knowledge and experience.⁵ These rules bring the distribution of investment-type life insurance closer to the standards of the FinSA, in the same way as the EU's Insurance Distribution Directive and the PRIIPs Regulation extended investor protection rules to insurance-based investment products. They are of direct relevance to the private client business with life insurance wrappers discussed in chapter III.

1 Notes

1. Amendment of 18 March 2022 to the Insurance Supervision Act (AS 2023 ...), in force since 1 January 2024; Federal Council dispatch of 21 October 2020 (BBl 2020 8967); revised AVO of 2023. References to be verified. ↩
2. Revised Art. 30a VAG (definition of professional policyholders) and Arts. 30b ff. VAG on the reduced supervisory requirements for insurers serving only professional policyholders; corresponding AVO provisions. Article numbers to be verified. ↩
3. Revised Art. 2 para. 3 VAG and corresponding AVO provisions on exemptions for innovative business models (insurance sandbox). Status and article numbers to be verified. ↩
4. On the use of the exemption for innovative insurance business models since 2024, see FINMA annual reports for 2024 and 2025. Status to be verified. ↩

5. Revised Arts. 39a–39k VAG (rules of conduct for qualified life insurance: key information document, appropriateness test, documentation, conflicts of interest and disclosure of remuneration); corresponding AVO provisions. Article numbers to be verified. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/basel-the-revision-of-2024