

FINMA's powers and their limits

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The Swiss Financial Market Supervisory Authority (FINMA) licenses and supervises banks, insurers, portfolio managers, trustees and other financial intermediaries. This article describes the instruments it can deploy when the law is breached, the actors through which it supervises and the limits of its powers, which have been debated since the collapse of Credit Suisse. Knowing the range of measures helps compliance officers and counsel gauge what exposure a supervisory finding carries for an institution and for the individuals who run it.

1 An integrated supervisor working through intermediaries

FINMA was created by the Financial Market Supervision Act of 22 June 2007 (FINMASA) and began operating on 1 January 2009. According to the federal release of 9 December 2008, it combined the Swiss Federal Banking Commission, the Federal Office of Private Insurance and the Anti-Money Laundering Control Authority. It grants licences, supervises institutions and issues ordinances and circulars. When the law is breached, FINMA also enforces it.

Its rule-making shows how supervision is calibrated to size and risk. FINMA announced on 27 November 2019 that its small banks regime would apply definitively from 1 January 2020, after a pilot phase that closed on 31 December 2019 with 68 institutions. The regime is reserved for banks in supervisory categories 4 and 5 that are particularly liquid and well capitalised, which are exempted from calculating risk-weighted capital, while eight FINMA circulars were adapted to accommodate it. At the other end of the scale, circular 2018/3 on outsourcing, in force since 1 April 2018 according to FINMA's release of 5 December 2017, rests on the principle that an institution remains responsible for the activities it outsources.

FINMA does not act alone. Audit firms conduct prudential audits on its behalf under the so-called dual system inherited from the Banking Act of 1934. Supervisory organisations, which FINMA itself licenses and supervises, monitor independent portfolio managers and trustees. Self-regulatory organisations oversee certain financial intermediaries in the fight against money laundering. The Swiss Bankers Association issues professional rules, including the Agreement on the Swiss banks' code of conduct with regard to the exercise of due diligence, which FINMA may recognise as minimum standards.

This architecture lets the authority concentrate its own resources on the largest institutions and the riskiest situations. It also has limits. Audit firms are paid by the institutions they audit, which can create tensions, while the quality of an audit depends on the competence and independence of the auditors. Supervisory organisations, some of which grew out of former self-regulatory organisations, as Allnews anticipated on 30 September 2019, need sufficient means to check a large number of firms. In the model for portfolio managers, the supervisory organisation carries out the day-to-day checks while FINMA remains responsible for enforcing the law when irregularities arise, as the authority stated in its release of 7 July 2020.

2 The enforcement toolkit

FINMA's page on its enforcement instruments lists the measures available to it. They comprise provisional measures, orders to restore compliance with the law, declaratory rulings, industry bans, bans on carrying on business without a licence, publication of final rulings, confiscation of profits, withdrawal of the licence, liquidation and bankruptcy. The authority can therefore intervene at every stage, from securing a situation while the facts are established to ending an institution's existence.

The industry ban targets individuals. Based on Article 33 FINMASA, it can last up to five years and is directed at persons responsible for serious violations of supervisory law while exercising a management function, according to FINMA's explanatory page on the measure. The requirement that those who manage a bank provide every guarantee of irreproachable business conduct, laid down in Article 3 paragraph 2 letter c of the Banking Act (BankA), reinforces this personal dimension. Because the requirement concerns both competence and integrity, it gives the supervisor a significant lever over who may hold office.

Confiscation of profits reaches gains made in breach of the law. Publication of a final ruling adds a reputational consequence to the legal one, which for an institution serving international private clients can weigh as heavily as

the measure itself. Withdrawal of the licence remains reserved for serious cases.

3 A power the authority lacks

FINMA has no power to impose fines on institutions. The question has been debated since the crisis at Credit Suisse. In its report on banking stability adopted on 10 April 2024, the Federal Council identified 22 measures that could be implemented directly and seven that required further study. Among the proposals were a senior managers regime for executive accountability and rules on variable remuneration involving deferral periods and clawback clauses. The report also proposed examining whether FINMA should be given the power to fine.

These reforms concern first the large bank that emerged from the merger, although they influence the entire sector and remain the subject of intense political debate. The discussion has also covered FINMA's capacity to intervene directly and the resources at its disposal.

4 Competence and follow-through

Capital, liquidity and risk diversification requirements, which transpose the standards of the Basel Committee, form the prudential core of bank supervision. The final version of Basel III entered into force on 1 January 2025, as the Fondation Genève Place Financière recalled in its survey presented by Allnews on 16 October 2025. Small, sound banks benefit from the lighter regime described above, whereas systemically important banks are subject to stricter requirements.

FINMA has pressed institutions to strengthen their expertise. At a conference held on 8 April 2025, it called for greater competence, according to the account given in the survey of the Fondation Genève Place Financière that Allnews presented on 16 October 2025. The call concerns risk management, compliance and anti-money laundering in particular, where the growing complexity of rules and risks demands qualified specialists. In the new regime for independent portfolio managers, the specialist publication LExpert Invest reported that FINMA had authorised 365 portfolio managers and 11 trustees in 2022, against 2,589 applications announced two years earlier. The same publication stated that FINMA had to take action against firms suspected of failing to comply with the new rules. The report illustrates that delegated supervision still leads back to the authority once enforcement becomes necessary.

5 What to take from it

A broad but fine-free toolkit. FINMA can restore compliance, confiscate profits, ban individuals, publish rulings and withdraw licences. It cannot fine institutions, a gap that the Federal Council's report of 10 April 2024 proposed to examine.

Individuals are in scope. Industry bans of up to five years and the requirement of irreproachable business conduct extend supervisory consequences to the managers themselves.

Delegation has a backstop. Audit firms and supervisory organisations do much of the checking, while responsibility for enforcing the law stays with FINMA.

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