

The Banking Act today

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The Banking Act makes subject to authorisation by FINMA the activity of institutions which accept deposits from the public on a professional basis or which refinance themselves with several banks in order to finance an indeterminate number of persons. To obtain authorisation, a bank must in particular have an appropriate organisation, a fully paid-up minimum capital and managers who provide every guarantee of irreproachable business conduct (Art. 3 para. 2 let. c of the Banking Act (BankA; LB)). This last requirement, which concerns the competence and integrity of individuals, is an important lever of supervision.

Banks must comply with capital, liquidity and risk diversification requirements, which transpose the international standards of the Basel Committee. The final Basel III standards entered into force on 1 January 2025, as the Fondation Genève Place Financière recalls among the challenges facing the financial centre.¹ These requirements vary according to the size and risk profile of the institutions: sound small banks benefit from a lighter regime, while systemically important banks are subject to enhanced requirements.²

The Act also organises the restructuring and bankruptcy of banks, as well as depositor protection. Deposits are privileged in bankruptcy up to a certain amount, while a deposit guarantee scheme ensures their rapid repayment.³ Securities deposited by clients with a bank do not form part of the bankruptcy estate and may be segregated in favour of their owners, which constitutes an essential protection for wealth management clients.⁴

Article 47, whose history Part D has traced, protects professional secrecy under criminal law. Today it provides for a custodial sentence of up to three years for intentional breach and a fine of up to CHF 250,000 for negligence.⁵ It yields to statutory duties to provide information and to testify, as well as to the procedures of administrative assistance and automatic exchange.

After the demise of Credit Suisse, the Federal Council proposed to strengthen the framework applicable to banks, in particular the capital requirements of systemically important banks, liquidity instruments, FINMA's powers and the accountability of senior managers.⁶ These reforms primarily concern the large bank resulting from the merger, but they influence the entire sector and are the subject of intense political debate.

1 Notes

1. Allnews, 16 October 2025, presenting the economic survey of the Fondation Genève Place Financière. ↩
2. FINMA, press release of 27 November 2019, "La FINMA met définitivement en œuvre le régime des petites banques" (FINMA definitively implements the small banks regime) (finma.ch): regime in force on 1 January 2020 after a pilot phase closed on 31 December 2019 with 68 institutions; reserved for banks in supervisory categories 4 and 5 that are "particularly liquid and well capitalised", exempted from calculating risk-weighted capital ("small banks can benefit from a less complex regulatory regime at the level of the Capital Adequacy Ordinance"); eight FINMA circulars adapted; Federal Council, Report on banking stability, 10 April 2024 (requirements applicable to systemically important banks). ↩
3. esisuisse deposit guarantee up to CHF 100,000 per client and per bank; since 1 January 2023, payment to the liquidator within seven working days, pre-funding of half of the commitments in securities or cash, and the ceiling of the scheme raised to 1.6% of guaranteed deposits, or around CHF 7.9 billion; esisuisse, "Changements à compter de 2023" (Changes from 2023), esisuisse.ch (accessed September 2026). ↩
4. Art. 37d para. 1 of the Banking Act (BankA; SR 952.0): "In the event of the liquidation of the bank, deposited assets within the meaning of Art. 16 shall be segregated from the liquidation estate in favour of the depositor"; Art. 37h para. 1 BankA: "Banks shall ensure that privileged deposits within the meaning of Art. 37b held at their Swiss offices are guaranteed" (text of the Act as at 20 December 2008). ↩
5. Article "Secret bancaire", Wikipédia (fr) (accessed September 2026). ↩

6. Federal Council, Report on banking stability (too-big-to-fail report), adopted on 10 April 2024 (efd.admin.ch): 22 measures that can be implemented directly and seven measures to be examined further; senior managers regime, regulation of variable remuneration (retention periods, clawback clauses), examination of granting FINMA the power to impose fines; CDBF, “Too big to fail: A senior managers regime gaining ground in Switzerland” (cdbf.ch/en/1347). ↩

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