

## The Financial Services Act

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The Financial Services Act, which entered into force at the same time as the Financial Institutions Act, lays down the rules that providers must observe towards their clients. It draws on European regulation while adapting it to the Swiss context.<sup>1</sup> The deadline for implementing its requirements expired on 31 December 2021.<sup>2</sup>

The Act rests first of all on a segmentation of the clientele. Clients are classified as private clients, professional clients and institutional clients, the level of protection varying according to this classification. Certain clients may, subject to conditions, waive part of the protection or, conversely, ask to be treated as private clients.<sup>3</sup>

The Act then imposes rules of conduct. The provider must inform the client about itself, about the services offered, about the risks and about the costs. It must verify that the advisory or management service is appropriate or suitable in the light of the client's knowledge, experience, financial situation and objectives. It must document the services provided and render account of them. It must execute orders on the best terms and manage conflicts of interest.<sup>4</sup> Remuneration received from third parties, on which Part B recalled the case law, must be disclosed and, in principle, passed on to the client, unless validly waived.

According to one presentation of the Act, client advisers now have a product-related obligation of training and continuing education, which falls on their employer, and the measure concerns advisers employed by a bank, an insurer or an independent wealth manager.<sup>5</sup> Advisers of unsupervised providers must be entered in a register of advisers. FINMA approved BX Swiss SA as the first registration body for client advisers with effect from 20 July 2020.<sup>6</sup>

Finally, the Act organises mediation. Providers must affiliate to an ombudsman body responsible for settling disputes with clients. Since a

revision that entered into force on 1 February 2021, this affiliation is mandatory only for providers that do not supply their services exclusively to institutional or professional clients.<sup>7</sup> The Act also regulates prospectuses and the key information document for financial instruments offered to the public.

**Key point.** The Financial Services Act classifies clients, imposes rules of information, verification, documentation and loyalty, organises the training and registration of advisers and provides for mediation. It translates into legal obligations the fiduciary duties that the Geneva tradition claimed as its own.

## 1 Notes

1. “LSFin et LEFin : 2 nouvelles lois pour encadrer l’activité de gestionnaire de fortune” (FinSA and FinIA: two new acts regulating the activity of wealth managers), Fiduciaire Bonnefous & Cie, 2 May 2022. ↩
2. PwC Switzerland, “Paquet de services LEFIN” (accessed September 2026). ↩
3. Federal Act of 15 June 2018 on Financial Services (Financial Services Act, FinSA; LSFin; SR 950.1), Art. 4 para. 1 (classification into private clients, professional clients and institutional clients) and Art. 5 paras. 1 –2: “High-net-worth private clients and private investment structures created for them may declare that they wish to be treated as professional clients (opting out)”; a client is deemed high-net-worth if they declare that they have the necessary knowledge and assets of at least CHF 500,000, or assets of at least CHF 2 million. ↩
4. FinSA (SR 950.1), Art. 8 (“Content and form of information”), Art. 10 (“Duty of verification”), Art. 11 (“Appropriateness assessment”), Art. 12 (“Suitability assessment”), Art. 15 (“Documentation”) and Art. 16 (“Rendering of account”). ↩
5. “La LSFin et la LEFin, explications et réglementations” (FinSA and FinIA, explanations and regulations), creer-entreprendre.fr, 30 March 2020. ↩
6. FINMA, press release of 7 July 2020, cited above. ↩

7. PwC and Swiss Association of Asset Managers (VSV-ASG), “Le nouveau régime de surveillance des gestionnaires de fortune : mise en œuvre” (The new supervisory regime for wealth managers: implementation), 27 August 2021. ↩

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