

The Supervisory Authority

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The law of 2009 created the Supervisory Authority on the Exercise of the Fiduciary Professions (*Autorità di vigilanza sull'esercizio delle professioni di fiduciario*). Its council has five members appointed by the Council of State for four years and is chaired by a magistrate (Art. 18–19 LFid).¹ The regulation of 6 November 2012 constitutes it as an "autonomous and independent administrative unit" with a secretariat divided into a legal and administrative section and an inspection section.² The Authority keeps the register of fiduciari, conducts disciplinary proceedings, investigates the unauthorized exercise of the profession and cooperates with FINMA. In 2018 it dealt with 243 cases, opened 121 and closed 122, with a staff that the parliamentary commission called modest, of 2.5 full-time positions.³

The disciplinary sanctions are a warning, a fine of up to CHF 20,000, and suspension of the authorization for two months to one year, in addition to revocation where the conditions of authorization are no longer met (Art. 21 LFid). Practising without authorization is punishable with a fine of up to CHF 50,000, rising to CHF 200,000 in serious or repeated cases (Art. 23–24 LFid).⁴ In the parliamentary debate of October 2021 it was reported that 62 charges for the abusive exercise of the profession had been brought since 2017.⁵ The Federal Supreme Court has confirmed that the absence of criminal convictions is an essential condition of the licence, upholding the revocation of the authorization of a fiduciario convicted of tax fraud.⁶

Essentials. Ticino's Law on the Exercise of the Fiduciary Professions (LFid) of 18 June 1984, in force since 1 January 1985 and comprehensively revised on 1 December 2009 (in force 1 July 2012), is the only cantonal law in Switzerland that subjects the fiduciary profession to a licence. The licence is personal and requires an excellent reputation, a recognized qualification, two years' practice in Switzerland and liability insurance. The Federal Supreme Court (2C_204/2010, 24 November 2011) annulled the annual audit requirement, the written-form rule for fund investments and an

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incomplete exemption for lawyers, but upheld the qualification requirements. A five-member Supervisory Authority keeps the register and imposes warnings, fines up to CHF 20,000, suspensions and revocations.

1 Notes

1. LFid (above), Art. 18–19. ↩
2. Regolamento sull'organizzazione e la gestione dell'Autorità di vigilanza sull'esercizio delle professioni di fiduciario of 6 November 2012, Art. 1 and 6, <https://m3.ti.ch/CAN/RLeggi/public/index.php/raccolta-leggi/pdfatto/atto/8362>. ↩
3. Commissione Costituzione e leggi, Rapporto 7753 R (above). ↩
4. LFid (above), Art. 21 and 23–24, in the version in force from 1 July 2012. ↩
5. Manna, laRegione, 18 October 2021 (above), reporting the figure given in the parliamentary debate. ↩
6. laRegione, topic page "Fiduciari", <https://www.laregione.ch/temi/fiduciari> (report of the Federal Supreme Court's confirmation of a Ticino revocation). ↩

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