

Legacy and a practitioner's view

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Looking back over 140 years, the continuity of Swiss insurance supervision is striking. The Act of 1885 established a federal authority with expert staff, a licensing requirement and a reporting duty. Each of these elements survives in today's VAG, administered by FINMA. The Kautionsgesetz and the Sicherstellungsgesetz introduced the idea that policyholders' claims must be secured by segregated assets within reach of Swiss authorities, which lives on in the tied assets of Articles 17 to 20 VAG. The Insurance Contract Act of 1908 still governs the relationship between insurer and policyholder, albeit in a much-revised form. The SVV, founded in 1900, still represents the industry from its seat in Zurich, where the ombudsman it created in 1972 still resolves disputes out of court.

The discontinuities are equally important. The paternalistic regime of preventive product control, which lasted for about a century and supported a cartelised market, gave way in the 1990s to competition and subsequent control. The crisis of 2001 and 2002 revealed that accounting-based solvency rules had hidden the true risks in insurers' balance sheets. It led to the SST, which forced insurers and their supervisor to think about the economic value of assets and liabilities. The creation of FINMA integrated insurance supervision into a single financial market authority. The revision of 2024 then introduced a restructuring regime and a customer-based differentiation that had been absent from Swiss law.

For the practitioner advising insurers, intermediaries or policyholders in Zurich, several features of the regime deserve emphasis. The first is the central role of the SST in corporate decision-making. Dividend policy, reinsurance purchases, investment strategy and mergers are assessed against their effect on the SST ratio, which makes the internal model as much a management tool as a supervisory calculation. Boards that do not understand their SST cannot govern a Swiss insurer. The second is the accessibility of the supervisor. FINMA's insurance division is organised

around key account managers and specialists in actuarial and risk-modelling questions who engage in technical discussion with the companies. That tradition goes back to Kummer and Moser and to the BPV strategy of 2006. Supervisors in Singapore and Hong Kong are generally regarded as working in a comparable way. The dialogue with some European authorities tends to be more formal.

The third feature is the importance of product and conduct supervision in segments where policyholders are vulnerable: supplementary health insurance, occupational pensions and qualified life insurance. Here FINMA's approach remains closer to the historical model of material supervision than one might expect in a principles-based regime, as the CSS ruling and the Zurich sales ban of 2026 show. The fourth feature is the differentiation between retail and professional business introduced in 2024. For commercial insurers, captives and reinsurers in Zurich, the exemptions from tied assets and from certain organisational requirements have lowered costs and made Switzerland more attractive as a location for specialty and wholesale business. The pending exemption for reinsurance brokers shows that the legislator is prepared to correct unintended consequences quickly when the competitiveness of the reinsurance hub is at stake.

A comparison with Geneva, the subject of the companion volume, is instructive. Geneva's financial centre developed around private banking, trading and wealth management, with a comparatively small insurance sector. Zurich, by contrast, became the seat of the country's largest life insurer, of the world's second-largest reinsurer and of a global multi-line group. Insurance supervision, although exercised from Bern, therefore shapes the Zurich financial centre in a way that it does not shape Geneva. The Zurich legal market reflects this. Insurance regulatory work, the drafting of reinsurance and captive structures and disputes over coverage and supervisory measures are specialities of Zurich firms, many of whose lawyers and actuaries have worked at FINMA or at one of the large groups.

Finally, the Swiss regime has an international reputation that goes beyond the equivalence decision of 2015. As one of the first operational risk-based solvency regimes in the world, the SST influenced both Solvency II and the discussions of the IAIS. The Swiss restructuring regime of 2024 anticipated the European IRRD. The combination of economic solvency measurement, asset segregation for retail policyholders and flexible treatment of professional business offers a model that other jurisdictions, including those in Asia that are developing their own risk-based capital regimes, study closely.

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