



AFFILIATION



FINANCIAL SERVICES OMBUDSMAN (FINSOM)

Affiliation

Any reference to the masculine also applies to the feminine.

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1 PURPOSE

1. Based on the Director's tasks and competences provided for in the by-laws, the present regulation sets out the **conditions for affiliation**. It supplements the by-laws.

2 SCOPE

2. This regulation applies to registering or affiliated companies.

3 COMPANY

3.1 Affiliation conditions

3. Swiss and foreign financial institutions, financial service providers and client advisers can affiliate to FINSOM.
4. Affiliation to FINSOM can be :
 - a. A condition for FINMA authorisation.
 - b. A condition for registration in a Register of Advisers.
 - c. Voluntary.
5. Contrary to the register of advisers, the affiliation of client advisers is made in the name of the company.
6. Affiliate companies must comply with FINSOM regulations.

3.2 Affiliation procedure

3.2.1 Registration

7. To affiliate, the company needs to provide the following essential data:
 - a. The contact person(s) competent to represent the company for affiliation administration and mediation.
 - b. The name et address of the company.
 - c. The category of authorisation in Switzerland.
 - d. The client category.
 - e. The data necessary for the calculation of the annual basic tax.
 - f. The languages desired for the mediation.
8. Registration is based on the principle of trust. The accuracy of the data can be verified by FINSOM, the supervisory authority or the register of advisers.
9. The affiliated company must inform FINSOM of any changes to the data recorded.

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3.2.2 Affiliation

10. The company is affiliated upon registration (see 3.2.1).
11. Affiliation is activated by payment of the annual basic fee and (if applicable) FINMA authorisation or entry in the register of advisers.
12. Affiliation renews itself annually in the absence of resignation or exclusion.

3.3 Duties of affiliated companies

3.3.1 Compliance

13. The company commits itself to respect the regulations, independence and duties of the mediation body. It shall organise itself and take all necessary measures to respect its commitments and obligations.

3.3.2 Obligation to inform

14. The affiliated company must provide adequate information on the possibility of initiating a mediation procedure with FINSOM:
 - a. When establishing a customer relationship.
 - b. When a customer complaint is rejected.
 - c. At any time, at the request of a customer.
15. The information must be provided in an appropriate form.
16. The affiliated company agrees with the client, when establishing a contractual relationship, that the procedure may be conducted in French, German, Italian or English.
17. The above provisions shall apply by analogy to Workplace Mediation.

3.3.3 Obligation to participate

18. The affiliated company must respond within the time limits granted by the mediation body, respectively the mediator, to the mandate to appear, invitations to take a position and requests for information from the mediator.

3.3.4 Obligation to finance

19. According to articles 75 para. 1 and 80 FinSA as well as the provisions on occupational health protection, affiliated companies finance the mediation body collectively and the mediation procedures individually.
20. FINSOM's financial contributions are fair and proportional to the risk of affiliated companies. They respect the "principle of causality".¹
21. Financial contributions for Commercial Mediation are subject to the approval of the Federal Department of Finance (FDF).

¹ *Resolving disputes between consumers and financial businesses: Fundamentals for a financial ombudsman*, David Thomas and Francis Frizon for THE WORLD BANK, January 2012, p. 36-37.

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- 22. Financial contributions are indicated on FINSOM's website.
- 23. Invoices are sent by email to the contact person designated by the affiliated company.

3.4 Resignation

- 24. A resignation must be submitted in writing by the affiliated company with a minimum 3 month notice before the end of the current affiliation year.
- 25. When an affiliated company resigns, the annual base tax is not reimbursed.
- 26. New requests for mediation will be processed until the end of the notice period. Ongoing proceedings shall not be interrupted. The costs of the proceedings remain payable by the resigning company.

3.5 Exclusion

- 27. In accordance with the by-laws, an affiliated company which repeatedly fails to fulfil its duties must be excluded. The annual base tax is not refunded.
- 28. "Repeatedly" means more than three times. For example, a firm that fails to pay its basic fee or procedural costs, despite three reminders, will be excluded.
- 29. The exclusion of a company belonging to a group has no impact on the affiliation of the other companies in the group.
- 30. The Director hears the affiliated company and, if applicable, consults with the supervisory authority or register of advisers before taking a position on the matter.
- 31. The final decision shall be taken by the Director, after consultation of the General Assembly.
- 32. An excluded company may appeal against the Director's decision to the Federal Department of Finance (FDF).

3.6 Readmission

- 33. In the event of a past exclusion, applications for affiliation must be addressed directly to the Director.
- 34. It is not excluded that the Director readmits an excluded company. It depends on the circumstances.

4 ENTRY INTO FORCE

This regulation was adopted by the Director on **16 January 2021**. These regulations are approved by the Federal Department of Finance (FDF).

If there are any difficulties of interpretation due to a difference between the French and English version of these by-laws, the French version prevails.