



Federal Council launches consultation on Federal Financial Services Act and Financial Institutions Act

Bern, 27.06.2014 - The Federal Council has initiated the consultation on the Federal Financial Services Act (FFSA) and on the Financial Institutions Act (FinIA). The FFSA governs the prerequisites for providing financial services and offering financial instruments. The FinIA makes provision for a differentiated supervisory regime for financial institutions. The consultation will run until 17 October 2014.

The draft submitted for consultation consists of a Federal Financial Services Act (FFSA) and a Financial Institutions Act (FinIA). Aside from creating uniform competitive conditions for financial intermediaries, the FFSA serves particularly to improve client protection. It governs the relationship between financial intermediaries and their clients for all financial products. It includes provisions on matters such as the production of financial services subject to the obligation to publish a prospectus, the obligation to provide clients with an easily comprehensible basic information sheet, distribution and the corresponding code of conduct at points of sale, and legal enforcement.

The FFSA introduces uniform prospectus requirements for all securities that are publicly offered or traded on a trading platform. The new prospectus requirements are based on investor needs and are designed in a proportionate manner. In particular, they simplify matters for SMEs. A so-called basic information sheet now has to be prepared for each financial instrument. It should thus be possible for private clients to make informed investment decisions and genuinely compare various financial instruments. The basic information sheet is to be drafted in easily understandable language, contain key information on the product and be presented in a uniform manner irrespective of the type of financial instrument.

The focal points of the code of conduct provisions are the obligations to provide information and conduct research. Clients need sufficient information on the financial

services and financial instruments offered if they are to make investment decisions. When financial service providers advise clients or manage their assets, they have to take account of their clients' knowledge, experience, financial circumstances and investment objectives. From a substantive point of view, the rules are based on the EU's MiFID regulations.

The position of individual clients will not be effectively improved unless they can take action against the misconduct of their financial service providers by means of private actions. The FFSA therefore provides for a strengthening of the institution of the ombudsman service. Even with the new regulations, the ombudsman service is to act exclusively as a conciliation body and will not get any decision-making powers. Moreover, an arbitration solution and a new form of financing for proceedings are alternatively being put forward to facilitate the enforcement of claims. Finally, means of collective redress such as group settlement proceedings for the amicable settlement of disputes in the event of a large number of claimants are also planned.

With the FinIA, supervision of all financial service providers who operate an asset management business in any form whatsoever is to be governed in a uniform piece of legislation. In principle, the rules for financial institutions that already require a licence under existing law will be taken over from the applicable pieces of legislation without any material changes being made, but they will be harmonised in a differentiated manner according to their activity. The managers of individual client assets as well as those who manage the assets of Swiss occupational benefits schemes will also require a licence in the future.

Qualified asset managers (managers of collective investment scheme assets and those who manage the assets of Swiss occupational benefits schemes) are to be supervised by FINMA. Regarding the supervision of other asset managers, two variants are put up for discussion in the consultation: supervision by FINMA or by a supervisory organisation - or by several supervisory organisations under certain conditions. Existing asset managers can benefit from a grandfathering clause and are subject to no prudential supervision if they have sufficient experience gained from their many years of working as asset managers and confine themselves to serving existing clients.

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Documents

 [FFSA consultation draft](#) (PDF, 644 kB)

 [FinIA consultation draft](#) (PDF, 1 MB)

 [Explanatory report on the consultation draft](#) (PDF, 799 kB)

 [Regulatory impact assessment](#) (PDF, 621 kB)

 [Analysis of FinIA regulatory costs](#) (PDF, 929 kB)

 [Covering letters to the cantons](#) (PDF, 50 kB)

 [Covering letters to associations](#) (PDF, 60 kB)

 [List of addressees](#) (PDF, 52 kB)

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