



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. These rules apply to:
 - a. Providers of services and/or products/instruments (*providers* or *companies* or *employers*) that are affiliating or are affiliated to the Ombudsman Office (*FINSOM*).
 - b. Organisations that collect FINSOM's annual base tax in accordance with Art. 99 FinSO.

3 Affiliation conditions

3. Providers whose activity is subject to a self-regulatory organisation (AML-SRO), FINMA or a FinSA-registration body, can affiliate to FINSOM.
4. The company can be a sole proprietorship or in the process of incorporation and in the process of subsection at the time of affiliation. The company may be domiciled in Switzerland or abroad.
5. The affiliation can be by legal obligation (*mandatory*) or by self-regulation (*voluntary*).
6. The affiliation is in the name of the provider (*individual affiliation*).
7. The affiliation is for an indefinite period until *cancellation* (sec. 6), *resignation* (sec. 7) or *exclusion* (sec. 8).
8. The usual means of communication between FINSOM and the affiliated providers is by e-mail and the FINSOM website. FINSOM is also accessible by telephone and postal mail.
9. Affiliations, refusals and exclusions (sec. 8) are communicated to FINMA or the FinSA registration body (or *register of advisers*) according to their respective competences, including voluntary affiliations.¹
10. FINSOM may also exchange information not in the public with the FINMA, the supervisory organisation, the registration body, the reviewing body and the FDF, provided that the information is useful for the performance of their tasks and that the confidentiality of mediation is respected.²
11. Affiliated providers are required to take the necessary organisational measures to integrate FINSOM into their complaint management process, comply with FINSOM regulations, and contribute to the efficient management of their affiliation and the efficiency of the mediation procedure.

¹ Art. 83 FinSA

² Art. 88 FinSA

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4 Affiliation procedure

4.1 Registration

12. To affiliate, the provider simply needs to register by submitting the online affiliation form available on the FINSOM website or send it completed to FINSOM. There is no contract to sign.
13. It is possible to register for affiliation as of the current year (*immediate affiliation*) or in advance for the following year (*anticipated affiliation*).
14. By submitting the affiliation form, the provider becomes affiliated to *Commercial Mediation/FinSA*. It is possible to add *Workplace Mediation/EmpA*.
15. The accuracy of the data provided to FINSOM is the responsibility of the provider. It can be verified by FINSOM.
16. The affiliated provider must inform FINSOM of any changes to the registered data.

4.2 Invoicing

17. FINSOM invoices an annual base tax per *civil year* (01 January to 31 December) and possible procedural costs (*financial contributions*).
18. Financial contributions are published on the FINSOM website.
19. With reference to sec. 4.1, in the event of immediate affiliation, the first base tax is invoiced a few days after registration. In the event of anticipated affiliation, the first base tax is invoiced at the beginning of the year following the date of registration.
20. After the first base tax, FINSOM will invoice the base tax at the beginning of each civil year and any procedural fees as they arise.
21. The annual base tax shall be invoiced directly to the affiliated provider, unless otherwise instructed under sec. 4.2.1 or 4.2.2.
22. For confidentiality reasons, any procedural costs will be invoiced directly to the affiliated provider.
23. FINSOM will send its invoices by e-mail according to the data registered by the affiliated provider.
24. Unless otherwise agreed, invoices are payable within 30 days.

4.2.1 Financial Group

25. A financial group may designate an entity in the group to pay the annual base tax of the affiliated entities of the group.

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4.2.2 Art. 99 FinSO

26. FINSOM can appoint one or more third-party organisations to *collect* the annual base tax (sec. 4.2) and *transfer* it to FINSOM.
27. These third-party organisations will take the necessary measures to avoid any confusion between their activities or their relationships with providers and those of the Ombudsman Office³.
28. The termination of a relationship between a designated third-party organisation and a provider does not affect the latter's affiliation to the Ombudsman Office.

4.2.3 Outsourcing

29. For economic reasons, FINSOM may outsource its invoicing to a third-party provider independent of the financial sector.

5 Duties of affiliated companies

5.1 Duty to reply⁴

30. If a complaint is admitted to mediation, the affiliated provider must respond within 5 working days to the mandate to appear, invitations to take a position and requests for information from FINSOM or the mediator.
31. If the 5-day deadline is too short, the provider may request an extension provided it has a valid reason.
32. The provider is free to negotiate an agreement with the other party or to follow FINSOM's or the mediator's conclusions.

5.2 Duty to inform

33. FINSOM does not publish a list of affiliated providers. Public lists are maintained by FINMA, the AML-SRO or the FinSA registration body, for example.
34. The provider affiliated to Commercial Mediation/FinSA informs its clients of the company's complaint procedure to follow *before* seizing FINSOM and of the possibility of requesting mediation with FINSOM *before* a conciliation authority, a court, a court of arbitration or an administrative authority is seized or has been seized with the case.⁵

³ Art. 3 let. d of the Unfair Competition Act.

⁴ *Duty to participate*, art. 78 FinSA.

⁵ Art. 75 para 4 let. b, 8 para 1 let c. e 76 et 87 para 3 FinSA. Regarding the company's complaints procedure, see also *ISO 9001 - Quality Management System and ISO 10002 Quality management - Customer satisfaction - Guidelines for complaints handling in organisations and Guidelines on complaints-handling for the securities (ESMA) and banking (EBA) sectors* JC 2018 35, 04/10/2018.

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35. The provider affiliated with the Workplace Mediation/EmpA informs its employees of the possibility contacting FINSOM for a confidential discussion and to request mediation *before*⁶ a conciliation authority, a court, an arbitration tribunal or an administrative authority is or has been seized. The affiliated employer shall also inform its employees of their obligations to contribute to the protection of health at work by participating in a mediation procedure at the request of FINSOM.
36. The affiliated provider also informs clients or employees of:⁷
 - a. FINSOM's Name and URL address.
 - b. The language(s) in which FINSOM can be accessed (FR, DE, IT and/or EN).
37. The postal address and/or telephone number indicated on FINSOM's website can be provided at the request of a client or employee.
38. Affiliated providers are requested not to publish FINSOM's email addresses or provide this data to clients, employees or other third parties.
39. Information must be provided, respectively for Commercial Mediation/FinSA or Workplace Mediation/EmpA:⁸
 - a. When entering into a new business or employment relationship.
 - b. When a right asserted by the customer or employee is denied.
 - c. At any time upon request of a customer or employee.
40. The information is provided in an appropriate form. It may be made available in a standardised form on paper (e.g. information sheet) and/or electronically (e.g. website for Commercial Mediation/FinSA or intranet for Workplace Mediation/EmpA).⁹

5.3 Duty to finance

41. FINSOM's financial contributions respect the *principle of causality*.¹⁰
42. Affiliated providers are required to pay financial contributions (sec. 4.2).

6 Cancellation

43. If the provider does not obtain membership of an AML-SRO, FINMA authorisation or registration with a FinSA registration body, the affiliation will be cancelled.
44. In the event of cancellation, upon request with proof of refusal by the OAR-LBA, FINMA or the registration body, FINSOM will refund the annual base tax collected for the current civil year.

⁶ FC ruling 2C_462/2011 of 9.5.2012

⁷ Art. 79 para 2 et 75 para 5 FinSA

⁸ Art. 79 al. 1 FinSA

⁹ Art. 9 para 3 et 79 para 2 FinSA

¹⁰ Art. 80 FinSA and *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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7 Resignation

- 45. The provider can resign each year until 31 December (*resignation deadline*).
- 46. Resignation must be announced in writing (by post or email).
- 47. The resignation must state the reason for resignation.
- 48. When an affiliated company resigns, the annual base tax is not reimbursed.
- 49. New requests for mediation will be processed until 31 December. Ongoing proceedings shall not be interrupted. The costs of the proceedings remain payable by the resigning company.

8 Exclusion

- 50. FINSOM *must* exclude an affiliated provider for the following reasons:
 - a. The provider is not fulfilling its obligations (sec. 5), despite several reminders.
 - b. FINSOM is unable to contact the provider by email, post or telephone, despite several attempts.
 - c. The provider loses its FINMA authorisation, its AML-SRO membership or its registration in a FinSA registration body.
- 51. FINSOM *can* exclude an affiliated provider for other legitimate reasons.
- 52. The exclusion of a provider belonging to a group has no impact on the affiliation of other providers within the group.
- 53. The Director is competent to decide on exclusion.
- 54. In the event of exclusion, the annual base tax is not refunded.

9 Readmission

- 55. In the event of cancellation (sec. 6) or resignation (sec. 7), providers who meet the conditions of articles 3 or 4 may reaffiliate at any time.
- 56. In the event of exclusion (sec. 8), providers may reaffiliate if the following conditions are met:
 - a. It meets the conditions of articles 3 or 4.
 - b. It is not subject to prohibition to conduct business in the Swiss financial sector.
 - c. It settles any outstanding invoices.
- 57. Readmission is treated as a new immediate affiliation (sec. 4.1). Among other things, the base tax is invoiced.

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10 Complaints

58. In case of dissatisfaction, the provider may complain in writing to the Director, who will respond within 30 days.
59. If the provider is not satisfied with the Director's response, the company may address its grievances to the Federal Department of Finance (FDF).

11 ENTRY INTO FORCE

This regulation was adopted by the Director on **28 May 2025**. It is 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.