



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. Advisers (FinSA) and/or insurance intermediaries (IOA) or their employer, financial institutions (FinIA) and banks (BA) can affiliate to FINSOM for an unlimited period.
4. The affiliation is in the Swiss or foreign company's name.
5. Affiliation to FINSOM can be :
 - a. A condition for FINMA authorisation.
 - b. A condition for registration in a Register of Advisers.
 - c. Voluntary.
6. Affiliate companies must comply with FINSOM regulations.
7. The usual means of communication for affiliation and invoicing matters is by e-mail and FINSOM's website.
8. Affiliations are reported to FINMA as defined under art. 83 FinSA, including voluntary affiliations.

3.2 Affiliation procedure

3.2.1 Registration

9. 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. Target clients of the company.
 - e. The size of the company (number of employees).
 - f. The languages desired for the mediation.
10. 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 advisors.

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11. The affiliated company must inform FINSOM of any changes to the data recorded.

3.2.2 Affiliation

12. The company is affiliated upon registration (see 3.2.1) for an unlimited period.

13. Affiliation is activated by payment of the annual basic fee and (if applicable) FINMA authorisation or entry in the register of advisers.

3.3 Duties of affiliated companies

3.3.1 Compliance

14. 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

15. 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.

16. The information must be provided in an appropriate form.

17. The affiliated company agrees with the client, when establishing a contractual relationship, that the procedure may be conducted in French, German, Italian or English.

18. The above provisions shall apply by analogy to Workplace Mediation.

3.3.3 Obligation to participate

19. 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

20. For Commercial Mediation, affiliated companies finance FINSOM in accordance with Articles 75 para. 1 and 80 FinSA. The principles of FinSA are applied by analogy to Workplace Mediation.

21. FINSOM's financial contributions respect the "principle of causality".¹

22. Financial contributions for Commercial Mediation are subject to the approval of the Federal Department of Finance (FDF).

23. Financial contributions are published on the FINSOM website in a transparent manner.

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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24. Invoices are sent by e-mail according to the registered data of the affiliated company.

3.4 Resignation

25. A resignation must be submitted in writing by the affiliated company at the latest by 30th September for 31st December.

26. When an affiliated company resigns, the annual base tax is not reimbursed.

27. In case of late resignation, the annual base tax remains due.

28. 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

29. 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.

30. "Repeatedly" means more than twice. For example, a firm that fails to pay its base tax or procedural fees, despite two reminders, can be excluded.

31. The exclusion of a company belonging to a group has no impact on the affiliation of the other companies in the group.

32. 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.

33. The final decision shall be taken by the Director, after consultation of the General Assembly.

34. An excluded company may appeal against the Director's decision to the Federal Department of Finance (FDF).

3.6 Readmission

35. In the event of a past exclusion, applications for affiliation must be addressed directly to the Director.

36. 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 **21 April 2022** and replaces the one dated **28 March 2022**². 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.

² Modified titles : 3.1