

FINMA Guidance 04/2023

Action plan for insurance intermediaries

21 August 2023

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1 New regulation of insurance intermediation: act now

The revised Insurance Supervision Act (ISA; SR 961.01) and the revised Insurance Supervision Ordinance (ISO; SR 961.011) will enter into force on 1 January 2024. To ensure better client protection, the requirements governing insurance intermediaries are being enhanced. This means that, as of 1 January 2024, only insurance intermediaries who comply with those enhanced requirements will be approved for the Swiss insurance market.

This guidance sets out the steps that insurance intermediaries will need to take before the end of this year. It also explains the obligations that insurance intermediaries will have to comply with under the revised law and what this means for them from 1 January 2024 onwards. Insurance intermediaries should act now to ensure they are properly informed and are taking the necessary steps.

Useful information

- [New regulation of insurance intermediation – changes taking effect as of 1 January 2024](#)
- [Video: New regulation of insurance intermediation](#)
- [Information on the Intermediary Symposium](#)
- Speech given at the [Small Insurance Company Symposium](#) on 23 May 2023
- Information on the minimum standards for training and further education as well as on the new training requirements: [Insurance Industry Vocational Training Association \(VBV\)](#)
- [Insurance Supervision Act ISA \(revised\)](#)
- [Insurance Supervision Ordinance ISO \(revised\)](#)

2 Essential steps to be taken by the end of 2023

2.1 Check whether you are subject to the new regulation

It is incumbent upon the individual insurance intermediaries to determine whether they will be subject to the provisions of the Insurance Supervision Act as of 1 January 2024, and the implications thereof. FINMA recommends that the following steps are taken by the end of 2023:

1. Clarify whether your activity is subject to supervision

Insurance intermediaries must clarify whether their planned or currently performed activity constitutes insurance intermediation.

Insurance intermediaries are individuals who offer or conclude insurance contracts¹ The ordinance issued by the Federal Council specifies that the above definition includes persons who advise clients on the conclusion of insurance contracts or who propose insurance contracts. Insurance intermediaries also include persons having an economic interest in offering and concluding insurance contracts via a website or other form of electronic medium.² Insurance intermediation taking place via, for example, websites, comparison platforms or smartphone apps without any physical presence at the point of sale has thus also been brought within the scope of the new regulation.³ Ancillary insurance intermediation is excluded from the scope of FINMA's supervisory remit.⁴

2. Clarify your type of intermediation

Insurance intermediaries must clarify whether their activity is performed on a tied or untied basis.

The revised law introduces mandatory types for insurance intermediaries as an important new feature. This means that there are now only two types of insurance intermediaries: untied or tied. Untied insurance intermediaries have a fiduciary relationship with their clients and act in their interest. All others are considered tied and have a fiduciary relationship with an insurance company⁵ From now on, insurance intermediaries may operate only as either tied or untied; they are prohibited from acting as tied and untied insurance intermediaries at the same time. As each type is subject to different rules, insurance intermediaries must therefore decide which of these mandatory types of intermediary activity they wish to adopt and take the necessary steps now to ensure compliance.

3. Update your existing register entry

Untied insurance intermediaries should ensure that their entry in the public register maintained by FINMA is up-to-date as at 15 December 2023, and that the information contained in the register is correct.

As of 1 January 2024, tied insurance intermediaries can no longer be listed in the public FINMA register. Accordingly, FINMA will remove all voluntarily listed tied insurance intermediaries from the FINMA register as at 31 December 2023.

¹ Art. 40 para. 1 ISA.

² Art. 182a ISO.

³ Explanations on the amendments to the Insurance Supervision Ordinance of 2 June 2023, p. 73.

⁴ The preconditions determining whether an activity constitutes ancillary insurance intermediation are set out in Article 2 para. 2 let. f of the ISA read in conjunction with Article 1h of the ISO.

⁵ Art. 40 ISA.

4. Comply with new obligations

Insurance intermediaries must comply with the obligations applicable as of 1 January 2024.

To operate on an untied basis, insurance intermediaries must apply for and obtain registration in the public FINMA register. All untied insurance intermediaries listed in the FINMA register as at 1 January 2024 are allowed to continue operating as untied intermediaries. However, they will have to submit follow-up documentation to ensure that FINMA also has the necessary information and documentation for all currently registered untied insurance intermediaries. There is a six month deadline starting from 1 January 2024 to submit all necessary information and documentation required for an application for registration with FINMA.⁶ For more information, see section 3.3.

2.2 Deadlines for effecting new registrations and amending existing register entries

FINMA will introduce a new electronic registration process. As of 1 January 2024, insurance intermediaries will have to perform all register-related process steps electronically. Due to this technical system change, applications for new registrations via FINMA's existing WebReg intermediary portal⁷ will only be possible until **17 November 2023**. Thereafter, new applications for registration must be submitted to FINMA in writing by post by 31 December 2023. However, in these cases, a subsequent electronic registration in the new system is still required. In addition, as of **15 December 2023**, it is no longer possible to submit **changes** to existing registrations via FINMA's intermediary portal. From 16 December 2023 until 31 December 2023, changes can only be submitted to FINMA in writing.

FINMA will assess and process the new registrations and changes to existing registrations in chronological order based on the date of receipt. There is no entitlement to have a new registration or a change to an existing register entry recorded in the public FINMA register by 31 December 2023. FINMA recommends that applications for new registrations and changes to existing entries be submitted as early as possible so that they can be processed before year-end, provided the documents are complete and the registration requirements are met.

Untied insurance intermediaries not listed in the FINMA register as at 1 January 2024, and carrying out untied insurance intermediary activities, will be acting without authorisation. FINMA will take resolute action against unauthorised activities. It will investigate concrete evidence indicating that an

⁶ See section 3.3 below.

⁷ Available at: www.finma.ch > Authorisation > Insurance intermediaries > Intermediary portal.

unauthorised activity is taking place and will, where necessary, initiate enforcement proceedings in order to restore compliance with the law.

2.3 Actions for foreign insurance intermediaries

Foreign insurance intermediaries carrying out insurance intermediation in Switzerland in accordance with current law must inform themselves of the requirements that they will need to comply with in order to perform such activities under the revised law. It is their responsibility to take the necessary steps to ensure that they fulfil these requirements by 30 June 2024.

Generally, untied insurance intermediaries acting in their own name must have their registered office, domicile, or a branch office in Switzerland. Untied insurance intermediaries with employment status are not required to be resident in Switzerland. It will suffice if their employer's domicile, registered office or branch office is in Switzerland.⁸ Reinsurance intermediaries can be exempted from this requirement.⁹ In any case, all foreign insurance intermediaries are required to provide FINMA with a domicile for service (correspondence address) in Switzerland.¹⁰

2.4 Termination of untied intermediary activities

Untied insurance intermediaries that will cease to operate as of 1 January 2024 must notify FINMA by the end of the year at the latest. This can be done electronically via FINMA's intermediary portal until **15 December 2023**, and in writing thereafter. Untied insurance intermediaries that notify FINMA by this deadline will avoid incurring the supervisory levy for the subsequent year.

2.5 Overview of actions until the end of June 2024

In summary, insurance intermediaries have to observe the following deadlines:

Timing	What to do	Key points
Now	Check whether you are subject to the new regulation	Clarify whether the planned or currently performed activity constitutes insurance intermediation.
	Check your type of intermediary activity	Determine whether that activity will be carried out on a tied or untied basis.
	Check your register entry	In the case of an untied activity, ensure that the entry in the public FINMA register is up-to-date

⁸ Art. 186 ISO.

⁹ Art. 186 para. 3 let. c ISO.

¹⁰ Art. 11 let. b of the Federal Act on Administrative Procedure (APA; SR **172.021**).

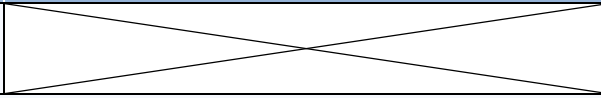
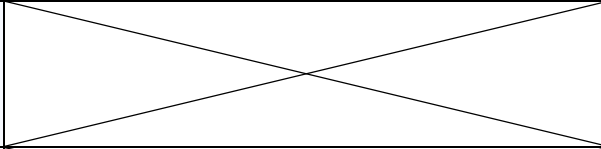
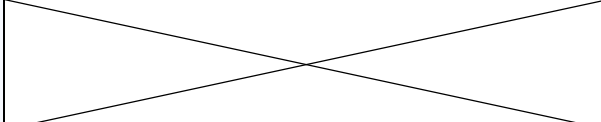
		as at 15 December 2023, and that the information contained in the entry is correct.
By 17 November 2023	New registration on the intermediary portal	New applications for registration can only be submitted via the WebReg ¹¹ intermediary portal until 17 November 2023.
Between 18 November and 31 December 2023	New registration in writing	New applications for registration may only be submitted to FINMA in writing from 18 November 2023 until the end of the year. These must be subsequently recorded electronically.
By 15 December 2023	Changes via the intermediary portal	Changes to existing registrations can only be made via FINMA's intermediary portal until 15 December 2023.
Between 16 and 31 December 2023	Changes in writing	Changes between 16 and 31 December 2023 must be submitted in writing to FINMA. These must be subsequently recorded electronically.
By 15 December 2023	Deactivation of register entry via the intermediary portal	Untied insurance intermediaries who will cease their activities at the end of the year should deactivate their entry via FINMA's intermediary portal.
By 31 December 2023	Deactivation of register entry in writing	Untied insurance intermediaries who will cease their activities at the end of the year should deactivate their entry between 16 and 31 December 2023 by submitting written notification to FINMA. These must be subsequently recorded electronically.
By 30 June 2024	Follow-up documentation	Untied insurance intermediaries who are currently registered must submit follow-up documentation by 30 June 2024.
	Foreign insurance intermediaries	Foreign insurance intermediaries must provide FINMA with a domicile for service in Switzerland. They have until 30 June 2024 to comply with the requirements under the revised ISA and revised ISO.

3 Obligations as of 1 January 2024

3.1 Obligations of untied and tied insurance intermediaries

Insurance intermediaries will have to fulfil more stringent requirements as of 1 January 2024. The most important requirements are set out in the following table, grouped according to the type of insurance intermediation.

¹¹ Available at: www.finma.ch > Authorisation > Insurance intermediaries > Intermediary portal.

Duties of untied insurance intermediaries	Duties of tied insurance intermediaries
<p>Duty to register (Art. 41 para. 1 ISA): Untied insurance intermediaries must have an entry in FINMA's public register.</p>	
<p>Guarantee of irreproachable business conduct (personal requirements and good reputation) (Art. 41 para. 2 let. b ISA in conjunction with Art. 187 ISO) Insurance intermediaries must enjoy a good reputation and guarantee compliance with their duties in accordance with the ISA. The guarantee requirement must be complied with at all times and comprises professional suitability as an insurance intermediary (training and further education) on the one hand and integrity (properness) on the other.¹³</p>	
<p>Education and further training (Art. 43 para. 1 and Art. 90a para. 4 ISA) Insurance intermediaries must possess the necessary skills and knowledge for their activities. This is a prerequisite to operate as an insurance intermediary, either on a tied or untied basis. The requirements for education and further training must be fulfilled after a two-year transitional period from 1 January 2026.</p>	
<p>Corporate governance requirements (Art. 188 ISO) As a guarantee for the fulfilment of the obligations contained in the ISA and to ensure their good reputation, insurance intermediaries must comply with certain minimum standards with regard to corporate governance.¹²</p>	
<p>Professional indemnity insurance (Art. 189 ISO) Insurance intermediaries must have professional indemnity insurance.¹³</p>	
<p>Information obligations (Art. 45 ISA). All insurance intermediaries must inform policyholders of:</p> <ul style="list-style-type: none"> • Their name and address; • Whether the mediation is taking place on a tied or untied basis; • How they can obtain information about the training and further education of the insurance intermediary concerned; • The reporting office for a liability scenario; • The processing of personal data. <p>This information must be made available to clients in a comprehensible manner on an information sheet before the conclusion of the contract.</p>	
<p>Obligations in connection with qualified life insurance policies (Arts. 39h, 39j – 39k ISA) Insurance intermediaries must provide a basic information sheet free of charge to policyholders when recommending qualified life insurance policies prior to the conclusion of the contract. Before recommending a qualified life insurance policy, insurance intermediaries must ascertain the policyholder's knowledge and experience of the relevant product and assess whether the life insurance policy in question is appropriate for the individual concerned. Insurance intermediaries must then document, among other things, which qualified life insurance policy was concluded and what knowledge and experience of the policyholder were determined.</p>	
<p>Improper conduct and conflicts of interest (Art. 45a ISA in conjunction with Art. 182c ISO) Insurance intermediaries must make appropriate organisational arrangements to identify and avoid conflicts of interest during the course of their intermediary activities. If such conflicts of interest cannot be ruled out, they must be disclosed to clients before the contract is concluded.</p>	
<p>Disclosure of compensation (Art. 45b ISA) Untied insurance intermediaries must expressly inform clients of all forms of compensation they receive from insurance companies or third parties in connection with the provision of their services.</p>	
<p>Reporting (Art. 190b ISO) Untied insurance intermediaries must submit key figures and information on their activities required for supervision to FINMA on an annual basis.</p>	

3.2 Obligations of insurance companies vis-à-vis insurance intermediaries

Insurance companies also have obligations to fulfil in connection with their intermediation activities. For example, insurance companies must now ensure that the untied insurance intermediaries with whom they collaborate are listed in the public FINMA register¹³ Collaborating with non-registered untied insurance intermediaries constitutes an unauthorised activity and will be investigated by FINMA as part of its ongoing supervision of insurance companies.

Under supervisory law, tied insurance intermediaries will be allocated to those insurance companies for which they perform intermediary activities. It is the respective insurance company with whom they have an identifiable fiduciary relationship that has to ensure compliance with statutory obligations.¹⁴ This responsibility covers all personnel involved in intermediation activities, including but not limited to its own salesforce, as well as general agents and its own electronic distribution channels such as internet platforms.

3.3 Obligation to submit follow-up documentation

Untied insurance intermediaries listed in the public FINMA register on 1 January 2024 will have until 30 June 2024 to electronically transmit all information and documents required for a registration application to FINMA. This follow-up documentation can be submitted to FINMA **at the earliest on 1 January 2024 and at the latest on 30 June 2024** via the survey and application platform (EHP). The required information and documents are set out in detail in Annex 6 of the ISO.¹⁵

FINMA will review and process the applications in chronological order according to the date of receipt. Untied insurance intermediaries that have filed their follow-up documentation with FINMA in good time will be permitted to continue pursuing their untied intermediation activity and will be listed in the public FINMA register.

The period during which untied insurance intermediaries currently listed in the FINMA register are required to submit their follow-up documentation expires on 30 June 2024. That period was set by the Swiss Federal Council and, in principle, cannot be extended by FINMA.

¹² This obligation with regard to tied insurance intermediaries must be ensured by the insurance company within the framework of Arts. 14 and 22 ISA. See also section 3.2 below.

¹³ Art. 44 para. 2 ISA.

¹⁴ Explanations on the amendments to the Insurance Supervision Ordinance of 2 June 2023, p. 80.

¹⁵ ISO available at: <https://www.fedlex.admin.ch/eli/oc/2023/356/de>.

3.4 New registration fees and supervisory levies

The new regulation mandates FINMA to supervise insurance intermediaries on an ongoing basis with a focus on client protection, particularly in terms of protecting policyholders from abuse by insurance intermediaries.

As the supervisory levies have to be self-supporting¹⁶, the enhanced requirements result in additional time and effort and thus a higher registration fee and supervisory levy. Therefore, as of 1 January 2024, the following one-off registration fees will apply per register entry¹⁷

- For legal entities: CHF 750
- For individuals:¹⁸ CHF 350

As of 1 January 2024, all insurance intermediaries¹⁹ listed in the public FINMA register will also be required to pay a uniform supervisory levy of CHF 475.00 for the year 2024. The supervisory levy will be invoiced during the third quarter of 2024 and will be determined based on the untied insurance intermediaries registered as at 31 December 2023. It will be charged annually and will be calculated in such a way that it covers the costs of the supervision of untied insurance intermediaries. It is distributed evenly over the number of register entries.²⁰

4 Intermediary symposium and contact details

Information about the new supervision of insurance intermediaries is available on the [FINMA website](#). By subscribing to the [MyFINMA](#) (push mails) and [RSS feed](#) functions, it is possible to receive news and stay up-to-date at all times.

In addition, FINMA will hold three information events in October 2023. At these events, interested untied and tied insurance intermediaries as well as representatives of insurance companies can find out about the most important changes in a direct exchange with FINMA.

[Registration for the Intermediary Symposium](#)

¹⁶ Art. 4 para. 1 and Annex 4.1 and 4.2 of the FINMA Ordinance on the Levying of Supervisory Fees and Charges (FINMA-GebV; SR **956.122**).

¹⁷ Art. 27 para. 1 FINMA-GebV. The registration fee will be levied for new registrations in the public register maintained by FINMA.

¹⁸ Including sole traders and partnerships, for each sole trader or partner.

¹⁹ Individuals and legal entities as well as sole traders and partnerships.

²⁰ Art. 27 para. 1bis FINMA-GebV.

City	Date	Time	Location	Address	Language
Bern	Monday, 23 October 2023	09:00 – 12:30	Casino	Casinoplatz 1, 3011 Bern	German
Lausanne	Thursday, 26 October 2023	09:00 – 12:30	Congres Beaulieu	Avenue des Bergières 10, 1004 Lausanne	French
Zurich	Monday, 30 October 2023	09:00 – 12:30	The Hall	Hoffnigstrasse 1, 8600 Dübendorf	German

If you have any questions concerning this guidance, or the registration or follow-up documentation processes, please contact FINMA at vermittler@finma.ch. Any questions concerning the new regulation or whether your organisation is subject to this regulation may be sent to vermittler.regulierung@finma.ch.²¹

²¹ An assessment of a duty to register and be supervised as an insurance intermediary requires the legal evaluation of a specific and isolated set of facts ahead of a registration application being submitted. These assessments by FINMA generally incur a fee.