

# GUIDELINES

for licence applications for **branches and representative offices of foreign banks and securities dealers in Switzerland**

Version dated 20 August 2012

---

## Purpose

These Guidelines are not legally binding. They are intended to facilitate the application procedure for both the applicant and FINMA. They list the information and documents normally required. This does not prevent the applicant from providing further information or FINMA from asking for further information and documentation. Applications are to be submitted in an **official Swiss language**. Where an application is submitted by an applicant's legal representative, the representative's power of attorney is to be submitted in the original.

The relevant legal principles on which these guidelines are based can be obtained from the Federal Office for Buildings and Logistics (FOBL) 3003 Bern (phone 031 325 50 50, Fax 031 325 50 58, Internet [www.bbl.admin.ch](http://www.bbl.admin.ch)) or downloaded on the federal authorities homepage ([www.admin.ch](http://www.admin.ch)).

## Licence application

### 1. General information

- 1.1 Purpose of opening the branch or representative office / or the foreign securities dealer
- 1.2 Planned business activities in Switzerland
- 1.3 Location of registered office/domicile in Switzerland (including exact address)
- 1.4 History, activities, current structure and organisation of the foreign bank or the foreign securities dealer and possibly of the group

### 2. Direct and indirect participations

- 2.1 List of all shareholders holding direct or indirect participations in the foreign bank or the foreign securities dealer totalling 5% or more.
- 2.2 Organisation chart showing shareholder structure (direct and indirect) in terms of both voting rights and capital.
- 2.3 Information and documents about owners of qualified or significant participations (see Art. 6 para. 1 BO, Art. 23 para. 1 SESTO).

- 2.4 Details of any agreements (such as shareholder pooling agreements) and arrangements by which control or material influence can be exercised in any other way (see Art. 3 para. 2 let. c<sup>bis</sup> BA, Art. 23 para. 4 SESTO).
- 2.5 The following signed declarations/undertakings (relevant forms are available from FINMA):
- signed by the applicant, disclosing the qualified or significant participants in the bank or securities dealer (Art. 3 para. 6 BA, Art. 28 para. 3 SESTO)
  - signed by the qualified participants, including the following additional information: shareholding on own account or held on a fiduciary basis on behalf of third parties, granting of options or similar rights on these participations (see Art. 6 para. 3 BO, Art. 28 para. 2 SESTO).

### **3. Information regarding the persons responsible for the branch or representative office**

- 3.1 Details of the composition, organisation and responsibilities of the management.
- 3.2 Personal details: full name, nationality, place of residence and date of birth.
- 3.3 Signed curriculum vitae (minimum content: personal details, education, professional qualifications and further education, mandates, record of professional activities, information regarding previous manager(s) and number of staff managed by former employer (and in prior jobs where appropriate), testimonials and references, reason for changing job).
- 3.4 Proof of good character: extract from the criminal records, character references.

### **4. Regulations and internal organisation (for branches only)**

- 4.1 Articles of association of the bank (head office) or the foreign securities dealer.
- 4.2 Regulations describing the functional and geographical area of business and a management organisation tailored appropriately to the business activities (see Art. 4 para. 1 let. g FBO-FINMA, Art. 41 para. 1 let. f SESTO).
- 4.3 Organisation chart, organisational and staff links to head office.
- 4.4 Further details regarding the organisation (staff, logistics, information technology, etc.).
- 4.5 Information regarding internal auditor(s) (function, list of obligations, responsibilities, etc.).

### **5. Business plan (for branches only)**

- 5.1 Business plan for the first three financial years (development of business operations, clientele, staff and organisation, etc.).
- 5.2 (Outline) budgets for the first three financial years (balance sheet, income statement).

### **6. Regulatory auditors (for branches only)**

- 6.1 Engagement letter concerning the regulatory audit mandate (see Art. 18 para. 1 BA, Art. 17 SESTA).
- 6.2 Completed questionnaire on services provided by accredited audit firms.

### **7. Audit firm in the licensing process (licensing auditor for branches)**

- 7.1 Engagement letter concerning the mandate as audit firm in the licensing process (licensing auditor).

- 7.2 Completed questionnaire on services provided by accredited audit firms.
- 7.3 Comprehensive statement on the licence application, the business plan and the fulfilment of all licensing requirements in accordance with the separate Guidelines on audit certificates submitted to FINMA regarding applications for institutions seeking authorisation.

## **8. Reciprocal rights and (consolidated) supervision**

- 8.1 Evidence of reciprocal rights or the existence of an international undertaking to the contrary (see Art. 3<sup>bis</sup> para. 1 let. a BA, Art. 37 SESTA).
- 8.2 Legal name of representative office/branch and status of necessary clarifications with the Commercial Register Office (see Art. 4 para. 1 let. h FBO-FINMA, Art. 41 para. 1 let. h SESTO).
- 8.3 Evidence of adequate supervision of the foreign bank or securities dealer (see Art. 4 para. 1 let. b FBO-FINMA, Art. 14 let. a FBO-FINMA, Art. 41 para. 1 let. b SESTO, Art. 49 para. 1 let. a SESTO).
- 8.4 For branches of foreign banks or securities dealers belonging to a group operating in the financial sector: evidence of adequate consolidated supervision by foreign supervisory authorities (see Art. 4 para. 2 FBO-FINMA, Art. 41 para. 3 SESTO).
- 8.5 Written confirmation from the foreign supervisory authorities that they have no objections to the opening of the branch or representative office (see Art. 4 para. 1 let. c FBO-FINMA, Art. 14 let. b FBO-FINMA, Art. 41 para. 1 let. c SESTO, Art. 49 para. 1 let. b SESTO).

## **9. General enclosures**

- 9.1 Original power of attorney (where the applicant is being represented by a third party).
- 9.2 Annual reports for the last three financial years of the parent company or the foreign organisational unit to be represented as well as of the main shareholders.