



# Swiss Financial Services Act (FinSA)

## *Frequently Asked Questions (FAQs)*



## **FinSA FAQs – Introduction**

This document seeks to answer frequently asked questions from clients receiving services from UBS AG ("UBS") relating to the Swiss Financial Services Act ("FinSA").

This document is prepared in connection with our investment banking activity only and is subject to the disclaimer set out at the end of this document. All terms in this FAQ are written with reference to FinSA; except where expressly stated otherwise.



## 1. What is FinSA?

FinSA is a Swiss law<sup>1</sup> that contains rules for offering financial services and financial instruments, improving client protection and helps create uniform competitive conditions for financial intermediaries. It was passed by the Federal Assembly of the Swiss Confederation in 2018 and entered into force on 1st January 2020. There are transitional periods of up to two years for some articles of the law. (Please see transition periods in the annex 1 for a high level description of the maximum transition periods allowed). FinSA has similarities to the Markets in Financial Instruments Directive Regulation (MiFID II) introduced for European market participants in 2017, it also has a lot of differences, but both having the aim to improve client protection

## 2. What are the objectives of FinSA?

The objectives of the law are:

- to strengthen investor protection,
- to strengthen Switzerland as a financial centre,
- to create comparable conditions for financial service providers,
- to introduce cross-sectoral product documentation rules when offering financial instruments.

## 3. Which UBS entities are impacted?

FinSA impacts UBS AG, as Swiss financial service provider and/or entities and branches thereof. FinSA also impacts UBS Europe SE Swiss branch, Opfikon (although this branch is not used as a client contracting entity). In addition, FinSA impacts any UBS AG branch or affiliate outside of Switzerland, to the extent such branch or affiliate renders a financial service to a Swiss domiciled client. A full list of all UBS entities and their regulators can be found on [www.ubs.com/finsaib](http://www.ubs.com/finsaib).

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<sup>1</sup> A link to the law can be found at [www.ubs.com/finsaib](http://www.ubs.com/finsaib)



#### **4. How does this affect the clients of UBS?**

UBS as financial service provider is required by law to classify all of its clients into three segments: **retail clients**, **professional clients** and **institutional clients**. The law sets out a different level of client protection, whereby the retail client receives the most comprehensive level of protection. Depending on the different levels of protection the extent of information and documentation duties of the financial service providers varies.

If the client does not agree with the initial classification by UBS, they can request a change in their classification as far as they meet the necessary requirements. For professional clients this means they may opt for less protection as institutional clients as well as more protection as retail clients. Please contact [UBS-FinSAIB-Outreach@ubs.com](mailto:UBS-FinSAIB-Outreach@ubs.com) or your UBS sales representative for the relevant forms to request the change in classification.

#### **5. What happens to my protection under MiFID II?**

Clients do not lose any applicable and existing investor protection under MiFID II. Where a client is protected by MiFID II and FinSA, both regulations apply in parallel and independently from each other.

#### **6. What happens where there is a difference in the level of protection offered between FinSA and MiFID II?**

Where there is a difference in the level of protection offered to a client between FinSA and MiFID II the higher level of protection will prevail. (For example where a client is classified as MIFID Professional client and as FINSA Institutional client, UBS must adhere to MIFID Best Execution standards)

#### **7. What is in scope of FinSA?**

##### **7.1 Which financial services are in scope of FinSA?**

FinSA defines the following financial services:

- acquisition and disposal of financial instruments, which is deemed to be any activity addressed directly at certain clients that is specifically aimed at the acquisition or disposal of a financial instrument,
- receipt and transmission of orders in relation to financial instruments,
- administration of financial instruments (portfolio management),
- provision of personal recommendations on transactions with financial instruments (investment advice),
- granting of loans for transactions with financial instruments

## **7.2 What financial instruments are in scope of FinSA?**

The FinSA definition of financial instruments includes but is not limited to:

- equity securities:
  - shares,
  - share like securities allowing for participation or voting rights,
- debt instruments,
- units/shares in collective investment schemes (funds),
- structured products,
- derivatives:
  - financial contracts whose value depends on one or several underlying assets and which are not cash transactions,
- deposits:
  - where the redemption value or interest is risk- or price-dependent, excluding those whose interest is linked to an interest rate index

Not included are FX/PM spot transactions, claims/receivables for physical delivery or cash settlement of currencies (FX) or precious metals, custody accounts or deposits, including callable and fixed term deposits and fiduciary deposits.

## **7.3 What does FinSA set out as requirements for the provision of a financial service?**

FinSA contains rules to protect clients when they were provided with financial services. The main rules are:

- ensuring staff knowledge and training,
- providing information on financial service providers,
- providing information about risks and costs associated with financial services and instruments,
- conducting appropriateness and suitability assessments,
- ensuring documentation and rendering of account,
- ensuring transparency and care in client orders (including best execution),
- avoiding conflicts of interest,
- adhering to product documentation rules for offerings and issuance of financial instruments.

## 8. What does each client classification mean?

| <b>Client category</b>       | <b>Definition under FinSA</b>   |
|------------------------------|---|
| <b>Retail clients</b>        | <ul style="list-style-type: none"> <li>• Retail clients are clients who are neither professional nor institutional clients</li> </ul>   |
| <b>Professional Clients</b>  | <ul style="list-style-type: none"> <li>• Public entities with professional treasury operations.</li> <li>• Occupational pension schemes and other institutions whose purpose is to serve occupational pensions with professional treasury operations.</li> <li>• Companies with professional treasury operations.</li> <li>• Large companies. <ul style="list-style-type: none"> <li>○ A large company is a company which exceeds two of the following parameters: <ul style="list-style-type: none"> <li>▪ balance sheet total of CHF 20 million</li> <li>▪ turnover of CHF 40 million</li> <li>▪ equity of CHF 2 million</li> </ul> </li> </ul> </li> <li>• Private investment vehicles with professional treasury operations set-up for high-net-worth retail clients.</li> <li>• Institutional clients who opted-in to professional client status.</li> <li>• High-net worth retail clients and private investment vehicles set-up for wealthy retail clients who opted-out to professional client status.</li> </ul> |
| <b>Institutional clients</b> | <ul style="list-style-type: none"> <li>• Financial intermediaries as defined in the Banking Act (BA), the Financial Institutions Act of 15 June 2018 (FinIA) and the Collective Investment Schemes Act (CISA).</li> <li>• Insurance companies as defined in the ISA (Insurance Supervision Act).</li> <li>• Foreign clients subject to a prudential supervision as the persons listed above (institutional client, bullet 1 and 2).</li> <li>• Central banks.</li> <li>• National and supranational public entities with professional treasury operations.</li> </ul>   |

Based on the information available to us, UBS has classified its clients in one of the three categories shown above. UBS AG will cease to provide services to clients classified as retail. Provided retail clients meet the necessary requirements, there is the option to change to a professional client status which will enable a continuation of UBS AG services.



## **9. What are the different rights and obligations for each FinSA Classification?**

FinSA confers different levels of protection to clients, with retail clients receiving the most comprehensive level of protection. Please see the Client impact by topics table in annex 2, which summarises the high level differences between each classification.

## **10. Will there be any changes to Best Execution arrangements?**

No, UBS adheres to the principles of good faith and equal treatment when handling client orders and ensures to achieve the best possible outcome when executing client orders or transmitting client orders for execution (collectively "Best Execution"). More details can be found here: [www.ubs.com/ibterms](http://www.ubs.com/ibterms)

## **11. How does UBS apply appropriateness and suitability checks?**

For professional clients FinSA allows for the presumption of required knowledge and experience with regards to the provided financial instrument. UBS is not required to conduct any appropriateness or suitability checks when providing financial services to institutional clients. For execution-only transactions, UBS does neither assess its appropriateness nor its suitability, unless required by law.

## **12. Where can clients find risk information?**

UBS has provided its clients with the brochure "Risks involved in Trading Financial Instruments" that has been enclosed with the client classification email. The brochure can also be downloaded from [www.ubs.com/finsaib](http://www.ubs.com/finsaib) and is available from your UBS sales representative. Financial markets are associated with opportunities and risks and it is important that you understand the risks before using a financial service or transacting in a financial instrument.

## **13. How can clients find cost information?**

Information on the actual costs and fees of the financial transactions you have executed can be obtained from your UBS sales representative. It should be noted that both UBS and third parties may incur costs in connection with the provision of financial services.



#### **14. When will UBS be implementing FinSA?**

FinSA came into force on the 1<sup>st</sup> January 2020 and therefore UBS already operates under its rules. The majority of the articles of the act are subject to transition periods, however the articles covering advertising and, the provision of documents, are already in force. Your UBS sales representative will be able to give you more details and dates when the other articles will come into effect.

#### **15. Where can we find more information on FinSA?**

Further information on FinSA is available on the UBS website [www.ubs.com/finsaib](http://www.ubs.com/finsaib)

#### **16. Do you have any questions about FinSA?**

Should you have any additional question please contact [UBS-FinSAIB-Outreach@ubs.com](mailto:UBS-FinSAIB-Outreach@ubs.com) or your UBS sales representative and we will be happy to answer your questions.

#### **17. What happens if you are not satisfied with us?**

UBS top priority is to make sure that its clients are satisfied. If, despite this, UBS fails to fully meet your expectations at any time, please contact your UBS sales representative to try and find a way to resolve the issue together. In the event of a failure to resolve an issue, if a company is affiliated to an ombudsman there is the option of seeking mediation through an ombudsman's office. FinSA creates a requirement for UBS to become affiliated to an ombudsman and UBS expects to complete this during 2020. The ombudsman is a free and neutral information and mediation agency. Important information on the ombudsman can be found on the UBS website at [www.ubs.com/finsaib](http://www.ubs.com/finsaib)



**Annex 1 - Article transition periods**

| Transition Period (up to) | FinSA topic   |
|---------------------------|---|
| <b>6 months</b>           | <b>Duty to register</b>                                   |
|                           | <b>Affiliation with ombudsman</b>                         |
| <b>24 months</b>          | <b>Client classification</b>                              |
|                           | <b>Education of client advisors</b>                       |
|                           | <b>Information duties</b>                                 |
|                           | <b>Suitability and appropriateness</b>                    |
|                           | <b>Documentation and rendering of account</b>             |
|                           | <b>Best execution</b>                                     |
|                           | <b>Organisational measures</b>                            |
|                           | <b>Conflicts of interest</b>                              |
|                           | <b>Offering of financial instruments (Prospectus/BIB)</b> |
|                           | <b>Prospectus for Swiss collective investment schemes</b> |

## Annex 2 - Client impact by topics

| FinSA Topic              |  | FinSA Impact by Client Type |                     |   |
|--------------------------|--|-----------------------------|---------------------|---|
|                          |  | Retail Client               | Professional Client | Institutional or professional clients with opt-out <sup>1</sup> |
| FinSA Requirement Topics | Client Classification  | Yes                         | Yes                 | Yes   |
|                          | Code of Conduct <ul style="list-style-type: none"> <li>- Duty to Provide Information<sup>4</sup></li> <li>- Appropriateness &amp; Suitability<sup>4</sup></li> <li>- Documentation &amp; Rendering of Account</li> </ul> | Yes                         | Yes                 | No  |
|                          | Transparency & Care in Client Orders (reference made in the FAQs regarding higher level of investor protection applies)  | Yes                         | Yes                 | No  |
|                          | Conflict of Interests  | Yes                         | Yes                 | Yes   |
|                          | Prospectus for Securities <sup>2</sup> <ul style="list-style-type: none"> <li>- Prospectus Review</li> <li>- Prospectus / KID (BIB) Publication</li> </ul>   | Yes                         | Yes                 | Yes   |
|                          | Key Information Document (KID) / BIB <sup>5</sup>  | Yes                         | No                  | No  |
|                          | Advertising  | Yes                         | Yes                 | Yes   |
|                          | Provision of Documents   | Yes                         | Yes                 | Yes   |
|                          | Ombudsman <sup>6</sup> <ul style="list-style-type: none"> <li>- Ombudsman: Duties<sup>3</sup></li> <li>- Ombudsman: Recognition &amp; Publication</li> </ul>   | Yes                         | Yes                 | Yes   |

### Notes:

1. Opting-out only possible for: occupational pension schemes and other institutions whose purpose is to serve occupational pensions with prof. treasury operations and companies with professional treasury operations; and para 4.

2. In the case of professional clients, UBS may assume that said clients have the required level of knowledge and experience and can financially bear the investment risks associated with the financial service (art.13(3) FINSA).

3. UBS AG (as offeror or issuer) has a general regulatory obligation to publish a prospectus when in connection with publicly offerings of securities in Switzerland, or when filing for with their admission to trading on a trading venue (e.g., stock exchange) in Switzerland, for new securities (primary market) and existing securities (secondary market).

4. UBS AG, as manufacturer (issuer) of financial instruments to prepare an easy to read Key information document (KID) (or an equivalent document, e.g. a PRIIPs, or simplified prospectus) for certain financial instruments offered in Switzerland to retail clients.

5. FinSA clients will have the opportunity to contact a Swiss Ombudsman for any dispute resolution that cannot be resolved by UBS-IB directly. Details can be found on the FinSA external webpage

<https://www.ubs.com/FinsalB>



## 6. All UBS AG Swiss and non-Swiss entities affected by FinSA will be affiliated to the Swiss Banking Ombudsman.

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