

Leaflet minimum content of information, diligence and transparency directives for financial institutions according to Art. 17 FinIA

1. General remarks

All financial institutions shall be appropriately organized in accordance with the Federal Act on Financial Institutions FinIA. The supervisory organizations and the Swiss Financial Market Supervisory Authority particularly check that the financial institution set up comprehensive and appropriate directives concerning its planned and performed activities.

This particularly includes code of conduct directives concerning information, diligence and transparency obligations as set forth by the Financial Services Act FinSA. The directives shall define the terms and instructively record how to comply with the aforementioned code of conduct obligations.

This leaflet is not exhaustive but lists all aspects which usually need to be laid down and reflect the minimum content from FINcontrol Suisse Ltd's perspective. The way in which the above-mentioned code of conduct obligations is regulated may vary. FINcontrol Suisse Ltd reviews compliance with above-mentioned aspects on the occasion of the (preliminary) affiliation as well as in the context of the ongoing supervision. Code of conduct directives also form a mandatory document for approval by the Swiss Financial Market Supervisory Authority FINMA.

2. Content of directives

	Subjects to be addressed	Remarks
1.	Objective / basis / target	<p>The directives shall initially describe the subject area. The objective shall describe what is regulated by the directives:</p> <ul style="list-style-type: none"> - Understanding of what is meant by obligations on information, diligence and transparency - Instruction regarding implementation of and adherence to these obligations by the relevant employees - Rules on possible reporting or documentation obligations which may arise from particular code of conduct obligations <p>Furthermore, the directives must reference their relevant underlying principles (namely Art. 8 f., 15 ff. FinSA as well as Art. 6 ff. und 18 ff. FinSO).</p> <p>Finally, the directives shall clarify to whom they do apply (usually to all employees of the financial institution, including its highest governing body).</p>
2.	Definition of terms	The directives shall clarify the objective of the individual terms and what kind of obligations derive therefrom.

		<ul style="list-style-type: none"> - Information (cf. Art. 8 ff. FinSA): Disclosure of information about the financial institution – name, address, activity, supervisory status, details of associated ombudsman as well as risks associated with the financial instruments used, etc. It also needs to be regulated at which point in time such information must be passed on to the clients. - Due Diligence (cf. Art. 17 ff. FinSA): client orders must be handled in good faith and clients treated equally during the execution of any financial services. Best possible outcome shall be achieved in terms of costs, timing and quality (best execution). - Transparency (cf. 17 ff. FinSA): financial institutions may borrow financial instruments of clients as a counterparty or act as an agent for such transactions only if transparently agreed upon with the clients in advance. The agreement shall be in writing and separately recorded; it shall particularly contain adequate risk information, entitlement for payout as well as claim for compensation with regard to the financial instruments used. - <i>Reference to duty of loyalty (cf. Art. 25 ff. FinSA): as far as this is concerned, we refer to the separate leaflet on “conflicts of interest”. As an alternative, the aspects regulated in the latter directives may be regulated together with the code of conduct obligations mentioned herein.</i> <p>The goal is to enable employees to independently perceive the due diligence needed appropriate to the situation of the business activities and, thanks to the directives, to know, at least to some extent, how to behave.</p>
3.	Duty of documentation	<p>Employees shall be instructed to appropriately document any action or code of conduct obligation carried out based on these directives. This shall ensure that the activities of the financial institution are documented and lived in accordance with the legal requirements.</p> <p>Documentation shall be checked by the superior and the person responsible for risk and compliance at regular intervals.</p>