PANORAMIC

FINANCIAL SERVICES COMPLIANCE 2026

Contributing Editors

Pia Naib and **Arthur S Long**

Latham & Watkins LLP

LEXOLOGY

Financial Services Compliance 2026

Contributing Editors

Pia Naib and Arthur S Long

Latham & Watkins LLP

Quick reference guide enabling side-by-side comparison of local insights, including into the regulatory framework; registration and authorisation regimes; enforcement; compliance programmes; cross-border regulation and international standards; and other recent trends.

Generated on: May 1, 2026

The information contained in this report is indicative only. Law Business Research is not responsible for any actions (or lack thereof) taken as a result of relying on or in any way using information contained in this report and in no event shall be liable for any damages resulting from reliance on or use of this information. Copyright 2006 - 2026 Law Business Research

Explore on **Lexology**

Contents

Explore on **Lexology**

Global overview

Pia Naib and Arthur S Long

Latham & Watkins LLP

Trends in global financial services compliance in 2025 centred on deregulation and innovation. This was most pronounced in the United States, where newly appointed regulators in the Trump Administration sought to rollback regulation that they deemed excessive and foster new technologies in the financial sector, particularly with respect to digital assets. But this was also the case in the United Kingdom, where the Labour government sought to pursue a growth agenda by curtailing overly burdensome requirements. Likewise, legislation and regulatory action in Hong Kong sought to make the city an Asian centre for innovation.

Increased focus on deregulation and innovation

Over the course of 2025, the new heads of the US financial regulatory agencies made a sharp break from the prior administration. President Trump appointed new leaders at the Office of the Comptroller of the Currency (OCC), the Consumer Financial Protection Bureau (CFPB), the Federal Deposit Insurance Corporation (FDIC), the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission, as well as a new Vice Chair for Supervision on the Board of Governors of the Federal Reserve System (the Federal Reserve). All of these appointees began an ambitious deregulatory agenda and, at many of their agencies, sought to radically reduce the number of supervisory staff, from 25–30% at the OCC, FDIC and Federal Reserve, to over 80% at the CFPB. Bank regulators sought to focus supervision on material financial risks, withdrew guidance documents that had not been subject to notice-and-comment rulemaking and took actions to reduce the amount of capital that the largest banks in the US are required to hold. In addition, regulators became much more open to permitting digital assets to enter the banking system. The SEC became much more crypto-friendly, finally providing some clarity on whether particular types of digital assets are securities.

In the UK, in her second Mansion House speech in July 2025, Chancellor of the Exchequer Rachel Reeves called for increased deregulation to spur competitiveness in the financial services industry. Measures in this area included speeding up regulatory application processing, easing requirements on the raising of capital, tailoring capital requirements for smaller banking organisations, and supporting initiatives to spur retail investment.

In Hong Kong, the Legislative Council passed stablecoin legislation in May 2025, which came into effect on 1 August 2025. This legislation imposed licensing requirements for Hong Kong stablecoin issuers, as well as prudential requirements once such entities become licensed. In addition, the Hong Kong Treasury and Financial Services Bureau released a second Policy Statement on the development of digital assets, with the aim of increasing innovation in this area.

LATHAM & WATKINS LLP

Pia Naib pia.naib@lw.com
Arthur S Long arthur.long@lw.com

Latham & Watkins LLP

Read more from this firm on Lexology

Indonesia

Bagus Nur Buwono, **Debu Batara Lubis**, **Rana Cinta Rahmania**, **Myra William**
Bagus Enrico & Partners

Summary

REGULATORY FRAMEWORK

Regulatory authorities

1 | What national authorities regulate the provision of financial products and services?

There are two independent government bodies that regulate the provision of financial services in Indonesia:

- the Indonesian central bank, Bank Indonesia (BI), which oversees macroprudential policies and is the supervisory authority for payment systems. Its primary function is to maintain the stability of the rupiah, with its responsibilities divided into three main areas of management: monetary policy, payment systems and the stability of financial systems, including rupiah management; and
- the Financial Services Authority (OJK), an independent authority responsible for regulating and supervising all activities in the financial sector, whether banking or non-banking. The scope of its supervision is microprudential.

Law stated - 5 February 2026

2 | What activities does each national financial services authority regulate?

BI

Aside from monetary policy and macroprudential matters, such as supervision or monitoring of banking liquidity, financial stability, financial market infrastructure and sharia finance, BI also regulates:

- payment systems activities, including card-based and digital payments (such as payment gateways), electronic money and payment system providers (including financial technology (fintech)), with any business actor of the payment system requiring a licence from BI;
- foreign exchange activities, such as exchange rates and foreign reserves; and
- management of the rupiah.

OJK

The OJK regulates the organisation (including but not limited to licensing and institutional requirements, financial health and risk management) of financial institutions, including:

- banking and non-banking financial companies and providers;
- capital markets and their actors (ie, public companies), derivatives and carbon exchange; and
- fintech and digital financial assets, including crypto assets.

Additionally, both BI and the OJK regulate education regarding financial inclusion and consumer protection. Consumer protection is broader under the OJK, covering customers of banking and non-banking financial institutions, insurance, capital markets, fintech, etc. On the other hand, BI only covers consumer protection insofar as it relates to customers of bank or non-bank institutions that carry on activities regulated and supervised by BI (ie, payment systems).

Law stated - 5 February 2026

3 | What products does each national financial services authority regulate?

BI regulates products that facilitate payments and liquidity management, including:

- card-based transactions: regulating credit cards, debit cards and ATM transactions to ensure secure and efficient payment processing;
- electronic payment systems: overseeing digital wallets and e-money platforms to promote cashless transactions and financial inclusion;
- payment gateways: supervising intermediaries that process online transactions between consumers and merchants, ensuring compliance with anti-fraud and data security standards;
- foreign exchange platforms: monitoring currency trading systems to prevent market manipulation and ensure financial stability;
- structured financial products: regulating complex financial instruments that derive their value from underlying assets, such as derivatives and interest rate-linked investments; and
- money-market instruments: overseeing certificates of deposit traded in the money market to manage short-term liquidity and financial risks.

Through regulations, BI ensures that the country's financial infrastructure remains secure, efficient and adaptable to technological advancements.

As the primary supervisor for Indonesia's financial institutions, banking products and investment instruments, the OJK ensures that all financial services products comply with regulatory standards before they are introduced to the market. Its scope includes:

- banking products and services, encompassing deposit and loan products (regulating savings accounts, fixed deposits and credit facilities to protect consumers and maintain banking stability) and offshore financial products that are regulated via supervision (wherein domestic banks act as intermediaries for foreign financial products to mitigate risks associated with cross-border transactions); and
- capital market instruments, encompassing debt instruments (overseeing promissory notes, commercial papers and bonds issued by corporations and financial institutions), equity securities (regulating shares and other ownership-based financial products to ensure transparency in stock markets), investment funds (monitoring participation units in collective investment contracts, including mutual funds and alternative investment vehicles), and derivatives and

futures contracts (supervising financial agreements based on securities and other underlying assets to prevent excessive speculation and market volatility).

Law stated - 5 February 2026

Authorisation regime

4 What is the registration or authorisation regime applicable to financial services firms and authorised individuals associated with those firms? When is registration or authorisation necessary, and how is it effected?

Licensing requirements

In Indonesia, financial services firms are required to obtain their licence from either the OJK or BI. The specific licensing authority depends on the nature of the financial activities that the firm intends to undertake. Multi-finance companies, insurance companies, information technology-based collective funding service providers and banks must obtain a licence from the OJK, whereas fintech operators such as payment service providers must obtain a licence from BI.

Institutions that participate in the securities market must also secure a licence from the OJK. For example, companies that go public must obtain an effective registration statement from the OJK before proceeding with their initial public offering.

Foreign-ownership restrictions

Indonesia imposes limitations on foreign ownership in certain financial sectors, such as microfinance institutions (foreign ownership prohibited), multi-finance institutions (foreign ownership must not exceed 85% of the company's paid-up capital) and insurance companies (foreign ownership must not exceed 80% of the company's paid-up capital).

Key individuals

"Key individuals" are individuals who own, manage, oversee or significantly influence a financial services institution, such as controlling shareholders, the board of directors or commissioners. These individuals must pass a fit and proper test administered by the OJK.

Law stated - 5 February 2026

Legislation

5 What statute or other legal basis is the source of each regulatory authority's jurisdiction?

BI

BI was established as the central bank of Indonesia. In carrying out its duties and authorities, BI is essentially independent of interference from the government and/or other parties, as per Law No. 23 of 1999 concerning Bank Indonesia (including its amendments).

OJK

The OJK was established under Law No. 21 of 2011 on the OJK (the OJK Law), including its amendments, with the primary aim of regulating and supervising the financial services sector, including banking, capital markets and non-bank financial institutions. Under the same law, the OJK assumed certain supervisory responsibilities of the BI and the Capital Market and Financial Institutions Supervisory Agency, thereby centralising financial oversight under a single independent authority.

Law stated - 5 February 2026

6 What principal laws and financial service authority rules apply to the activities of financial services firms and their associated persons?

Financial services firms in Indonesia and their associated individuals must operate within the regulatory framework set by the OJK. Key areas of compliance include corporate governance, licensing procedures, financial reporting, anti-money laundering measures and maintaining adequate capital reserves.

Such firms and individuals must also follow industry-specific OJK regulations depending on their sector (eg banking, capital markets, insurance, microfinance and pensions). Recent reforms have strengthened regulatory oversight to enhance stability and resilience in the financial sector.

Law stated - 5 February 2026

Scope of regulation

7 What are the main areas of regulation for each type of regulated financial services provider and product?

The main areas of regulation for financial institutions under BI and the OJK are:

- scope of operations and product offerings:
- OJK Regulation 13 of 2021 on commercial banks or business units.
- capital requirements and ownership structure:
- OJK Regulation 56 of 2016 for commercial banks; and
- OJK Regulation 4 of 2024 on reporting shareholders of a public listed company.
- authorisation and registration:

- OJK Regulation 1 of 2017 for multi-finance institutions;
- OJK Regulation 34 of 2015 for venture capital institutions;
- OJK Regulation 47 of 2020 for sharia multi-finance institutions;
- OJK Regulation 10 of 2021 for microfinance institutions; and
- OJK Regulation 12 of 2021 for commercial banks.
- corporate governance standards:
- OJK Regulation 17 of 2023 for commercial banks; and
- OJK Regulation 73 of 2016 for insurance.
- financial health and stability:
- OJK Regulation 2 of 2024 on sharia commercial banks or sharia business units;
- OJK Regulation 4 of 2016 for commercial banks;
- OJK Regulation 28 of 2020 for non-bank financial services; and
- OJK Regulation 3 of 2022 for people's credit banks and sharia people's financing banks.
- competency assessments:
- OJK Regulation 27 of 2016 for financial services.
- risk control and management:
- OJK Regulation 18 of 2016 for commercial banks; and
- OJK Regulation 44 of 2020 for non-bank financial services.
- consumer rights and protection:
- OJK Regulation 22 of 2023 for the financial services sector; and
- Bank Indonesia Regulation 3 of 2023 for BI.
- anti-money laundering and terrorism financing:
- OJK Regulation 8 of 2023 for financial services; and
- Bank Indonesia Regulation 10 of 2024 for non-bank foreign exchange.
- regulatory oversight:
- OJK Regulation 1 of 2023 on social security; and
- OJK Regulation 5 of 2024 on commercial banks.

Law stated - 5 February 2026

Additional requirements

8

What additional requirements apply to financial services firms and authorised persons, such as those imposed by self-regulatory bodies, designated professional bodies or other financial services organisations?

The additional requirements for financial services firms and authorised persons generally focus on industry-specific regulations, ethical standards, consumer protection and operational guidelines. These requirements complement government regulations by addressing sector-specific risks and best practices. For instance, those operating within the capital markets sector must comply with the regulations of the Indonesian Stock Exchange regarding mechanisms of securities trading, securities lending, information disclosure and reporting requirements. Providers of peer-to-peer lending products, meanwhile, must comply with the code of conduct issued by the Indonesia Joint Funding FinTech Association.

Additionally, if financial services are operated using an electronic system, this system must comply with Regulation of the Minister of Communication and Informatics Number 5 of 2020 on Private Electronic System Operator, Law Number 27 of 2022 on Personal Data Protection and all other applicable laws and regulations.

Law stated - 5 February 2026

ENFORCEMENT

Investigatory powers

9 What powers do national financial services authorities have to examine and investigate compliance? What enforcement powers do they have for compliance breaches? How is compliance examined and enforced in practice?

As the governmental body responsible for regulating the financial services sector, including licensing, the Financial Services Authority (OJK) supervises the compliance of financial services providers, including through mandating periodic reviews. In the event of non-compliance, the OJK has the authority to issue financial services providers with written orders to comply.

If non-compliance persists, the OJK has the power to impose administrative sanctions through written warnings; limitation of products, services and/or business activities in part or in full; freezing of products, services and/or business activities in part or in full; removal of the management; administrative fines; revocation of products and/or service licences; revocation of business licences and other administrative sanctions set by the OJK. The OJK is also authorised to investigate criminal offences in the financial services sector, to the extent that the allegations of criminal offences are regulated in OJK regulations.

As the authority that regulates and supervises payment systems, Bank Indonesia (BI) has similar powers to examine, supervise and impose administrative sanctions on payment system participants within their purview.

Law stated - 5 February 2026

Disciplinary powers

10 What are the powers of national financial services authorities to discipline or punish infractions? Which other bodies are responsible for criminal enforcement relating to compliance violations?

The OJK is authorised to investigate criminal offences in the financial services sector. In doing so, it may cooperate with other law enforcement including the national police, prosecutors and the courts.

In terms of fines and penalties, the OJK has the authority to impose administrative sanctions on financial services institutions within their purview and can go as far as revoking their business licence.

Law stated - 5 February 2026

Tribunals

11 What tribunals adjudicate financial services criminal and civil infractions?

The jurisdiction of the courts or authorities depends on the nature of the case.

Under the Indonesian judiciary system, criminal infractions are adjudicated through the court. The procedure of the trial follows the provisions of the Indonesian Criminal Procedure Code.

In extreme cases, civil infractions may escalate to adjudication by the court. However, parties have the option of out-of-court settlements. Disputes between financial services providers and consumers can also be referred to the Out-of-Court Dispute Resolution Institution (which is licensed by the OJK) in the first instance.

Law stated - 5 February 2026

Penalties

12 What are typical sanctions imposed against firms and individuals for violations? Are settlements common?

Typical penalties that are often imposed on both firms and individuals include administrative sanctions such as written warnings, orders and/or licence revocation by the OJK.

Based on publicly available data, by November 2025, the OJK had issued 157 written warnings to 130 business actors, 37 written orders to 37 business actors and 43 fines to 40 business actors.

Law stated - 5 February 2026

COMPLIANCE PROGRAMMES

Programme requirements

13 What requirements exist concerning the nature and content of compliance and supervisory programmes for each type of regulated entity?

The nature and content of the compliance and supervisory programmes for each financial services institution are determined by the Financial Services Authority (OJK) regulations issued for their sector. In practice, however, the OJK's good corporate governance regulations for each sector all revolve around the same principles of transparency, accountability, responsibility, independence and fairness.

Best practices on good corporate governance may refer to the Indonesia Corporate Governance Manual (published by the International Finance Corporation (among others) in partnership with the OJK), which also reflects the guidelines provided by the Organization for Economic Co-operation and Development.

Law stated - 5 February 2026

Gatekeepers

14 How important are gatekeepers in the regulatory structure?

OJK regulation for financial services (ie, OJK Regulation No. 47 of 2020 on the Licensing and Institutional Aspect of Financing Companies and Sharia Financing Companies) and Bank Indonesia (BI) regulation for payment service providers both mandate the establishment of the same primary gatekeeping organs as Indonesian company law: the board of directors and commissioners.

Both organs act as gatekeepers of the financial services institution since they fulfil the crucial roles of overseeing the management and the internal supervision of the institution. The board of directors is responsible for the management of the institution, while the board of commissioners carries out supervision in accordance with the articles of association. Any individuals aspiring to become a member of the board of directors or commissioners for any financial services institution must undergo a fit and proper test.

Furthermore, the board of directors and commissioners are usually equipped with special committees that may, for certain financial institutions, form internal audit committees.

Law stated - 5 February 2026

Directors' duties and liability

15 What are the duties of directors, and what standard of care applies to the boards of directors of financial services firms?

The board of directors is fully responsible for the management and interests of the financial services institution. They also have the authority to represent the institution both inside and outside court, insofar as they act in accordance with the institution's articles of association (which usually outline the limitations of their actions as well). The board of directors must act in good faith in exercising their duties.

Law stated - 5 February 2026

16 When are directors typically held individually accountable for the activities of financial services firms?

Based on Indonesian company law, directors are personally liable for losses suffered by the company that are caused by their negligence, unless they can prove that:

- the losses were not caused by their mistakes or negligence;
- they managed the company in good faith and prudently, in the interests of the company and in accordance with its purposes and objectives;
- there were no conflicts of interest (either directly or indirectly) in their management acts that resulted in the losses; and
- they took action to prevent the losses from occurring and continuing.

Law stated - 5 February 2026

Private rights of action

17 Do private rights of action apply to violations of national financial services authority rules and regulations?

Yes, private rights of action apply to violations of national financial services authority rules and regulations. The OJK regulates consumer protection under OJK Regulation No. 22 of 2023 on Consumer and Community Protection (POJK 22/2023), which requires that financial services business actors (ie, the financial services institutions) have an internal complaint mechanism.

In the event of a dispute between an individual and a financial services institution, the consumer can submit a complaint via the institution's complaint mechanism in the first instance. If the consumer is unsatisfied by the institution's response, they have the right to further escalate the matter by submitting a complaint to the OJK, or by submitting a dispute to the Out-of-Court Dispute Resolution Institution or the courts.

As part of its efforts to settle disputes, the OJK may undertake actions including supervision, investigation and imposition of sanctions.

Law stated - 5 February 2026

Standard of care for customers

18 What is the standard of care that applies to each type of financial services firm and authorised person when dealing with retail customers?

In their capacity as business actors when dealing with retail customers (ie, consumers), financial services institutions must apply the standard of care outlined in article 3 of the POJK 22/2023, which encompasses the principles of adequate education; openness and transparency of product and/or service information; fair treatment and responsible business behaviour; protection of consumer assets, privacy and data; effective and efficient complaint handling and dispute resolution; compliance enforcement and fair competition.

The institution must also act in good faith when carrying on their business activities and when providing products and /or services. They must also be non-discriminatory in their treatment of consumers.

Law stated - 5 February 2026

19 Does the standard of care differ based on the sophistication of the customer or counterparty?

No, the standard of care is general for all financial services institutions in their capacity as business actors. There is no distinction in discrimination based on supposed sophistication.

Law stated - 5 February 2026

Rule-making

20 How are rules that affect the financial services industry adopted? Is there a consultation process?

The adoption process differs depending on the body issuing the regulation; namely, whether it is the OJK or BI, independent institutions, associations or even the Ministry of Finance.

The process of adopting OJK regulations involves identifying regulatory needs, forming a working team, preparing an initial draft and conducting internal consultations. A public consultation is also usually held to gather feedback from stakeholders and the public. After harmonising the draft with existing regulations, it can be finalised and later adopted.

Law stated - 5 February 2026

CROSS-BORDER ISSUES

Cross-border regulation

21 How do national financial services authorities approach cross-border issues?

The jurisdiction of the Financial Services Authority (OJK) and Bank Indonesia (BI) does not extend to foreign entities unless they have established a local presence.

However, article 47 of Law No. 21 of 2011 on the OJK (the OJK Law) provides that the OJK may cooperate with financial services authorities in other countries (as well as other foreign organisations) for exchange of information and in the context of examination, investigation and prevention of financial crimes. In practice, the OJK has also cooperated with the financial services authorities of different countries for the purposes of consumer protection.

Furthermore, while BI does not have cross-border jurisdiction, it does regulate foreign exchange traffic in the form of foreign debts. BI mandates that any foreign exchange traffic (including loan agreements, debt securities, trade credits, etc) by any resident domiciled or planning to be domiciled in Indonesia must be reported to it.

Law stated - 5 February 2026

International standards

22 | What role does international standard setting play in the rules and standards implemented in your jurisdiction?

Among others, Indonesia is a member of:

- as a country, the G20 forum;
- through the OJK, the Financial Action Task Force (FATF), a global supervisor for combating money laundering and terrorist financing; and
- through the OJK, the Basel Committee, which sets the global standard for prudential regulation of banks.

Indonesia remains committed to adopting the international standards set by these bodies, including those related to the financial sector, insofar as they do not violate national interest. For example, Indonesia's banking sector ensures compliance with the anti-money laundering and countering the financing of terrorism standards of the FATF, as well as adherence to the Basel III requirements of the Basel Committee.

Furthermore, the Indonesia Corporate Governance Manual reflects the guidelines provided by the intergovernmental Organization for Economic Co-operation and Development.

Law stated - 5 February 2026

UPDATE AND TRENDS

Key developments of the past year

23 | Are there any other current developments or emerging trends that should be noted?

New "single window" for financial reports

A new regulation (PP 43/2025) launched a national digital platform called the PBPK. In the past, companies sent financial reports to different agencies at different times. Now, almost all market participants – including banks, their borrowers and even medium-sized business partners – must eventually use this one central system. This system will make it much harder to hide financial risks and much easier for the government to track the health of the economy.

Stricter rules for big financial groups

The government also tightened rules for "financial conglomerates", companies that own a mix of banks, insurance firms and financial technology companies (fintechs). These large groups were required to set up a specific local holding company (called a PIKK) to oversee their operations by June 2025. This ensures that if one part of a big company (such as a risky fintech branch) has a problem, it will not easily bring down the rest of the business or the banking system.

New Bank Indonesia regulation on payment systems

Bank Indonesia (BI) officially issued Peraturan Bank Indonesia (PBI) Number 10 of 2025 on 24 December 2025 to modernise the national payment industry. This regulation replaces PBI Number 22 of 2020 and will take effect from 31 March 2026. The new framework focuses on a risk-based approach to ensure financial stability while supporting digital economy growth. One major change is the introduction of the "TIKMI" assessment, which evaluates providers based on transactions, interconnection, competence, risk management and IT infrastructure. Additionally, BI has shifted to a "bundling" licence structure, whereby services are grouped into specific activity packages. Providers are also subject to dynamic capital requirements, including a risk surcharge that can range from 1.5% to 5% depending on their specific transaction risk profile.

Financial Services Authority calls for the capital increase of banks

The Financial Services Authority (OJK) is pushing banks in the KBMI I category, which includes banks with core capital between 3 trillion rupiahs and 6 trillion rupiahs, to increase their capital. This move aims to strengthen the national banking structure, enhance resilience and support economic growth amid rapid technological changes, digitalisation, global uncertainty and cybersecurity risks. OJK is currently taking a persuasive approach, encouraging these banks to consolidate or upgrade to KBMI II (6 trillion rupiahs to 14 trillion rupiahs), with potential incentives to support the transition.

Law stated - 5 February 2026

Bagus Nur Buwono bagus.buwono@bagusenrico.com
Debu Batara Lubis debu.lubis@bagusenrico.com
Rana Cinta Rahmania rana.rahmania@bagusenrico.com
Myra William myra.william@bagusenrico.com

Bagus Enrico & Partners

Read more from this firm on Lexology

Japan

Kunihiko Morishita, **Takaharu Totsuka**, **Daisuke Tanimoto**, **Takahiko Yamada**
Anderson Mori & Tomotsune

Summary

REGULATORY FRAMEWORK

Regulatory authorities

1 | What national authorities regulate the provision of financial products and services?

Financial products and services related to securities and derivatives in Japan fall principally under the regulatory oversight of the Financial Services Agency of Japan (JFSA). The JFSA is authorised to propose and coordinate laws and regulations relating to the provision of financial products and services, and to inspect and supervise the business operators providing them.

The Securities and Exchange Surveillance Commission of Japan (SESC), a sub-division of the JFSA, has the authority to perform both on- and off-site inspections of business operators providing financial products and services. Local finance bureaux (LFBs) in Japan are likewise authorised to inspect and supervise business operators that are active within the ambit of their jurisdiction and to review disclosure documents (such as securities registration statements, annual and biannual securities reports and large shareholding reports) submitted to them under the Financial Instruments and Exchange Act of Japan (FIEA).

Products and services that are linked to commodities and commodities derivatives are mainly regulated by the Ministry of Economy, Trade and Industry of Japan or the Ministry of Agriculture, Forestry and Fisheries of Japan, depending on the type of commodities involved.

Law stated - 29 January 2026

2 | What activities does each national financial services authority regulate?

Activities regulated by the JFSA are generally those governed by the FIEA. The FIEA categorises these activities into four types of business, each a financial instruments business:

- Type I Financial Instruments Business (Type I Business);
- Type II Financial Instruments Business (Type II Business);
- Investment Advisory and Agency Business (IAA Business); and
- Discretionary Investment Management Business (DIM Business).

Type I Business includes the following activities:

1. provision of brokerage services for the clearing of Type I securities (as defined below);
2. secondary distribution of Type I securities;
3. dealing in public offerings, private placements or secondary distributions of Type I securities;
4. securities underwriting;

5. sale and purchase of, or dealing in, Type I securities or exchange-traded derivatives related to Type I securities;
6. provision of intermediary, brokerage and proxy services in respect of the activities described in (5), above;
7. provision of consignment services in respect of the activities covered under (6), above;
8. acting as principal or providing intermediation, brokerage or proxy services in over-the-counter (OTC) derivatives transactions; and
9. acceptance of fund, securities or certificate deposits from customers in connection with any securities-related business, and transfer of bonds and other instruments into customers' accounts.

Type II Business includes the following activities:

1. provision of brokerage services for the clearing of Type II securities (as defined below);
2. secondary distribution of Type II securities;
3. dealing in public offerings, private placements or secondary distributions of Type II securities;
4. issuing certain securities related to investment funds through public offerings or private placements, and repurchase of such issued securities for purposes other than their resale;
5. sale and purchase of, or dealing in, Type II securities or exchange-traded derivatives related to Type II securities;
6. provision of intermediary, brokerage and proxy services in respect of the activities described in (5), above;
7. provision of consignment services in respect of the activities described in (6), above;
8. dealing in exchange-traded derivatives that are not related to securities;
9. providing intermediary, brokerage and proxy services in respect of the activities described in (8), above;
10. providing consignment services in respect of the activities described in (9), above; and
11. providing brokerage services for the clearing of non-securities-related transactions.

IAA Business includes the following activities:

- provision of non-discretionary investment advice in relation to securities or derivative transactions, for which advisory fees are payable based on a non-discretionary investment advisory contract; and
- provision of intermediary or agency services for the execution of both non-discretionary investment advisory contracts and DIM contracts.

DIM Business includes the following activities relating to investment in securities or derivative transactions:

- managing the assets of an investment corporation established under the Investment Trusts and Investment Corporations Act of Japan (ITICA) based on an asset management contract with the investment corporation;
- managing the assets under a DIM contract;
- managing the assets of an investment trust established under the ITICA and acting as a settlor for the investment trust; and
- managing the assets of a collective investment scheme (such as a limited partnership established under the laws of Japan or any other jurisdiction) as a general partner.

Law stated - 29 January 2026

3 | What products does each national financial services authority regulate?

The JFSA regulates products related to securities and derivative transactions.

Securities are defined in the FIEA as comprising:

- liquid securities, including but not limited to bonds, stocks, beneficial interests in investment trusts established under the ITICA or the laws of any other jurisdiction, shares in investment corporations established under the ITICA or the laws of any other jurisdiction, and security tokens that constitute electronically recorded transferable rights (Type I Securities); and
- illiquid securities, including but not limited to interests in partnerships established under the laws of Japan or any other jurisdiction (Type II Securities).

Derivatives are defined in the FIEA as comprising:

- exchange-traded derivatives; and
- OTC derivatives transactions, which cover a broad range of derivative transactions (such as those involving foreign exchange (FX), currency, interest rates, credit and crypto assets) but exclude physically settled FX forward and FX swap transactions, as well as OTC derivative transactions that are not linked to financial instruments.

However, certain commodities derivatives are regulated under the Commodities Futures and Exchange Act.

Furthermore, high-frequency traders (including foreign traders) conducting regulated algorithmic trading (including both the sale and purchase of securities and exchange-traded derivatives) at local financial instruments exchanges or proprietary trading system markets based in Japan are subject to registration requirements. Registration does not require the establishment of an office in Japan, though a representative or agent in Japan is necessary. Local securities firms are prohibited from accepting orders placed by unregistered high-frequency traders.

Law stated - 29 January 2026

Authorisation regime

4 What is the registration or authorisation regime applicable to financial services firms and authorised individuals associated with those firms? When is registration or authorisation necessary, and how is it effected?

Registration requirements

Under the FIEA, a business operator wishing to engage in financial instruments business is, in principle, required to be registered as a financial instruments business operator (FIBO) beforehand. To successfully register as a FIBO, a business operator has to meet certain conditions, including but not limited to:

- having a business office and representative in Japan (inapplicable to an IAA Business);
- meeting minimum capital and net worth requirements (at least ¥50 million (or more, in certain cases) for Type I Business, at least ¥10 million for Type II Business, and ¥50 million (or less, where certain conditions apply) for DIM Business, though these requirements are inapplicable to IAA Business); and
- meeting certain internal system requirements, such as having an appropriate organisational structure in place.

Applications for FIBO registration must be filed with the relevant LFB. In practice, applicants are generally required to consult with the relevant LFB before submitting a formal application, to discuss the details of their proposed businesses, the appropriateness of their organisational structure and internal business rules, as well as other matters, and to obtain informal regulatory approval for filing. Assuming this informal consultation process (which may take a few months) is observed, it takes around two months from submission of the formal application for registration to be completed, unless amendments to the application forms or supporting documents are necessary, in which case more time would be needed.

Foreign entities engaging in a business similar to an IAA Business, a DIM Business, certain Type I Businesses or certain Type II Businesses in its home jurisdiction, and certain entities and persons associated therewith (such as parents and subsidiaries) may receive English-language support from the Financial Market Entry Office (FMEO) in their applications to register as an IAA Business, a DIM Business, or the relevant Type I or Type II Business. The FMEO was jointly established by the JFSA and LFBs in January 2021 to primarily handle the registration (including the aforementioned informal consultation process) and supervision of foreign asset management firms that are new to the Japanese market. The FMEO functions as a single point of contact with the capacity to conduct communications in English. Foreign entities (or their local affiliates in Japan, as applicable) may, with the support of the FMEO, prepare and file applications for registration in English.

Exemption from registration requirements

Under the FIEA, business operators who satisfy certain requirements are permitted to engage in certain financial instruments businesses without registration as a FIBO. The main registration exemptions are discussed below.

Article 63 business exemption

Registration exemptions under article 63 of the FIEA are available to general partners of partnerships with:

- at least one qualified institutional investor (such as a FIBO engaging in a Type I or DIM Business, a bank or an insurance company); and
- less than 50 eligible non-qualified institutional investors (which are limited to persons such as the general partner itself; a parent or subsidiary of the general partner; officers and employees of the general partner, its parent or subsidiary; and certain high-net-worth individuals).

Specifically, such general partners may:

- solicit investments in their partnership interests from Japan residents without registering as a Type II Business; and
- manage the assets of their partnerships for investors resident in Japan without registration as a DIM Business.

However, an article 63 notification must be filed with the relevant LFB before the commencement of any investment solicitation activities.

Foreign investor exemption

A general partner that satisfies certain requirements (including but not limited to having an appropriate organisational structure and an office in Japan) may:

- solicit investments in partnership interests from foreign investors and others – including certain Japan residents, such as qualified institutional investors – without registration as a Type II Business; and
- manage the assets of their partnership without registration as a DIM Business by filing the requisite notification with the relevant LFB before commencing investment solicitation activities.

To qualify for this exemption, a general partner must ensure that more than 50% of the money invested in the partnership is sourced from residents outside Japan.

De minimis exemption

A general partner of a partnership established under the laws of a foreign jurisdiction is permitted to manage the assets of the partnership without registration as a DIM Business or filing an article 63 notification, if all of the following conditions are met:

- all the Japan-resident investors who have directly and indirectly invested in the partnership are qualified institutional investors;

- the partnership has fewer than 10 Japan-resident investors; and
- the total partnership contributions from Japan-resident direct investors constitute less than one-third of the total contributions from all investors in the partnership.

Foreign securities firm exemption

A foreign entity operating a securities business in a foreign jurisdiction in accordance with its laws is permitted to engage in certain securities-related activities without registration as a Type I or Type II Business, provided such activities are undertaken in offices outside Japan and with limited categories of counterparties.

Foreign investment adviser and manager exemption

A foreign entity licensed to engage in a non-discretionary investment advisory business or a discretionary investment management business in its home jurisdiction is permitted to provide a FIBO engaging in the DIM Business with non-discretionary investment advisory services or discretionary investment management services, without having to register as an IAA Business or DIM Business.

However, such foreign investment advisers and managers are still prohibited from providing non-discretionary investment advisory services and DIM services to FIBOs registered to engage in the IAA Business only.

Temporary foreign investment manager exemption

A foreign entity licensed to engage in a discretionary investment management business in the prescribed jurisdictions (the United States, the United Kingdom, Australia, Singapore, Switzerland, Germany, France and Hong Kong), and that satisfies certain requirements (including but not limited to having operations in any of the aforementioned jurisdictions for over three years, having an appropriate organisational structure and having an office in Japan), is permitted to provide foreign investors and others (including FIBOs engaging in the DIM Business) with certain discretionary investment management services from its Japan office for up to five years without registration as a DIM Business if it files the requisite notification with the relevant LFB. To qualify for this exemption, no more than 50% of the assets under management may be invested in Japanese stocks with voting rights.

A foreign entity that has filed the aforementioned notification may also solicit the following from foreign investors and others:

- investments in foreign investment trust interests;
- investments in foreign investment corporations; and
- investments in foreign collective investment schemes (such as limited partnerships established under the laws of foreign jurisdictions) that will be managed by the relevant foreign entity, without registration as a Type I or Type II Business.

This exemption was introduced as a temporary measure and will be available until 21 November 2026. The aforementioned notification must be filed by that date.

Non-securities related OTC derivatives exemption

A person merely acting as a principal or providing intermediation, brokerage or proxy services in non-securities-related OTC derivative transactions (except in cases where such derivative transactions are subject to certain statutory requirements, or in crypto assets-related derivative transactions) is not deemed to be engaging in the financial instruments business where the counterparties are limited to:

- Type I Business FIBOs;
- financial institutions registered to conduct securities-related business under the FIEA;
- qualified institutional investors;
- stock corporations with paid-up capital of at least ¥1 billion; and
- an overseas equivalent of any of the above.

Registration as sales representatives

Under the FIEA, the officers and employees of a FIBO who engage in marketing activities such as the sale and purchase of Type I Securities – or dealing in the public offering, private placement or secondary distribution of Type I Securities – are required to be registered as sales representatives with the Japan Securities Dealers Association (JSDA), a self-regulatory body given the authority to handle registration affairs by the JFSA. Persons seeking to be registered as sales representatives are required to pass a qualification examination administered by the JSDA.

Law stated - 29 January 2026

Legislation

5 What statute or other legal basis is the source of each regulatory authority's jurisdiction?

The JFSA, the SESC and LFBs derive their regulatory authority over financial instruments businesses from the FIEA and from cabinet orders and ordinances issued thereunder (collectively, the FIEA Regulations).

Law stated - 29 January 2026

6 What principal laws and financial service authority rules apply to the activities of financial services firms and their associated persons?

The financial services industry in Japan is principally regulated by:

- the FIEA Regulations; and
-

the Comprehensive Guidelines for Supervision of FIBOs, etc. (the supervisory guidelines) issued by the JFSA.

The Guidelines set forth the supervisory and inspection principles adopted by the relevant regulator toward FIBOs and similar entities. Accordingly, FIBOs and persons associated therewith are compelled to comply with the supervisory guidelines as a matter of practice.

Additionally, FIBOs and persons associated therewith are required to comply with the Civil and Criminal Codes of Japan.

Law stated - 29 January 2026

Scope of regulation

7 What are the main areas of regulation for each type of regulated financial services provider and product?

The main areas of FIEA Regulations regarding FIBOs relate to:

- continuing registration requirements;
- codes of conduct; and
- requirements to maintain proper books and records.

To maintain the validity of their registrations:

- FIBOs registered as Type I Businesses are required to maintain both capital and net worth of at least ¥50 million (or more, in certain cases) and to keep their capital adequacy ratios at 120% or more;
- FIBOs registered as Type II Businesses are required to maintain capital of at least ¥10 million; and
- FIBOs registered as DIM Businesses are required to maintain both capital and net worth of ¥50 million (or less, where certain conditions apply).

These ongoing registration requirements have been put in place to ensure the continued financial soundness of the registered FIBOs.

In the provision of their services, all FIBOs are also required to adhere to certain codes of conduct that seek to protect the interests of investors, including but not limited to the duty of loyalty, the duty of care of a good manager and the prohibition against compensating customers for their losses.

Additionally, all FIBOs are required to prepare and maintain books and other records on their financial instruments business, based on which their annual business reports will be prepared for submission to the regulator.

These regulations do not apply to business operators relying on certain exemptions in the authorisation regime. However, a general partner who files an article 63 notification with the regulator is subject to certain codes of conduct in relation to the business, which falls under the scope of the article 63 exemption, including but not limited to refraining from:

- engaging in transactions between funds that are managed by the same general partner; and
- compensating customers for their losses.

This general partner is also required to prepare and maintain books and records on its business under the article 63 exemption, based on which its annual business reports will be prepared and submitted to the regulator.

Law stated - 29 January 2026

Additional requirements

8 What additional requirements apply to financial services firms and authorised persons, such as those imposed by self-regulatory bodies, designated professional bodies or other financial services organisations?

The self-regulatory bodies in Japan's financial services industry include:

- the JSDA;
- the Type II Financial Instruments Firms Association;
- the Japan Investment Advisers Association; and
- the Investment Trusts Association.

These organisations regulate the activities of their members and registration as a FIBO under the FIEA is generally a prerequisite of membership in these organisations. A FIBO is not legally obliged to be a member of any such organisation. In practice, however, FIBOs (other than those engaging in the IAA Business only) are required to establish internal business rules that align with the rules and regulations established by a self-regulatory body. Driven by their need to establish appropriate alternative dispute resolution measures, FIBOs also find it necessary to join self-regulatory bodies, membership of which gives them the right to utilise the facilities of the Financial Instruments Mediation Assistance Center of Japan.

The rules imposed by self-regulatory bodies mainly concern the conduct of FIBOs from the perspective of investor protection. The rules of a self-regulatory body only apply to its members. Such rules do not have the force of law and violations would not necessarily result in official sanctions by the JFSA.

Law stated - 29 January 2026

ENFORCEMENT

Investigatory powers

9 What powers do national financial services authorities have to examine and investigate compliance? What enforcement powers do they have for compliance breaches? How is compliance examined and enforced in practice?

When necessary and appropriate for the public interest or the protection of investors, the Financial Instruments and Exchange Act of Japan (FIEA) gives the Financial Services Agency of Japan (JFSA) the power to order a financial instruments business operator (FIBO) to submit reports or materials on its business and assets, and to inspect the FIBO's business operations, assets, books of accounts and other documents. The Securities and Exchange Surveillance Commission of Japan (SESC) is also empowered to perform on- and off-site inspections of a FIBO. Similarly, local finance bureaux (LFBs) have the right to conduct inspections of FIBOs and to provide them with regulatory supervision. Where a FIBO is deemed to have misconducted itself based on the findings of such inspections, the JFSA may impose administrative sanctions on the FIBO to remedy such misconduct.

Law stated - 29 January 2026

Disciplinary powers

10 What are the powers of national financial services authorities to discipline or punish infractions? Which other bodies are responsible for criminal enforcement relating to compliance violations?

The FIEA empowers the JFSA to impose administrative sanctions on FIBOs that violate applicable statutory requirements. However, the JFSA, the SESC and LFBs do not have the power to impose criminal sanctions on financial business operators. Criminal sanctions are instead imposed by the Public Prosecutor's Office through criminal procedures.

Law stated - 29 January 2026

Tribunals

11 What tribunals adjudicate financial services criminal and civil infractions?

Japanese law does not provide for a separate tribunal for the adjudication of crimes or civil infractions related to financial services. Such wrongdoings are adjudicated by ordinary courts of law.

Law stated - 29 January 2026

Penalties

12 What are typical sanctions imposed against firms and individuals for violations? Are settlements common?

FIBOs that violate applicable laws and regulations would typically be subject to administrative sanctions imposed by the JFSA to remedy the relevant violation. Where the violation is serious and malicious, the FIBO may have its registration revoked or be ordered

to suspend all or part of its business for a period not exceeding six months. Depending on the nature of its violation, a FIBO may also be subject to criminal sanctions.

A non-exempt financial service business operator that conducts business without registration as a FIBO is punishable with a fine not exceeding ¥500 million. Additionally, the responsible officers and employees of such business operators are punishable with imprisonment for a term not exceeding five years or a fine not exceeding ¥5 million, or both.

Japanese law does not provide for a system of settlement in respect of violations of the FIEA. In practice, when determining the appropriate administrative action to take, the JFSA will take into account any voluntary remedial efforts made by the FIBO (based on prior consultation with the JFSA) before imposing any administrative sanctions.

Law stated - 29 January 2026

COMPLIANCE PROGRAMMES

Programme requirements

13 What requirements exist concerning the nature and content of compliance and supervisory programmes for each type of regulated entity?

Every financial instruments business operator (FIBO) is required to establish internal compliance programmes that are in line with the Comprehensive Guidelines for Supervision of FIBOs, etc. (the supervisory guidelines) issued by the Financial Services Agency of Japan (JFSA). Such compliance programmes involve the following (among others):

- establishing a concrete plan for the implementation of a legal compliance system;
- developing and implementing a compliance manual on the applicable code of conduct;
- providing compliance training for staff;
- periodic review of the effectiveness of the compliance programme; and
- periodic assessment of the compliance programme by way of internal audit.

Furthermore, a FIBO is required to put a corporate governance framework in place that enables its chief and other compliance officers to perform their compliance functions independently from the influence of departments that handle business operations. Typically, legal and compliance risks will be subject to the review of the legal and compliance department.

Law stated - 29 January 2026

Gatekeepers

14 How important are gatekeepers in the regulatory structure?

Every FIBO is required to establish a system of proper checks and balances. As the effectiveness of such a system rests with the gatekeepers, their independence from the influence of departments that handle business operations is essential to their ability to perform their functions effectively.

An independent internal audit department will usually also be established to audit the business activities of the FIBO and to assess the effectiveness of the FIBO's internal control functions. An internal audit department would usually report directly to the FIBO's board of directors.

Law stated - 29 January 2026

Directors' duties and liability

15 What are the duties of directors, and what standard of care applies to the boards of directors of financial services firms?

Under the Companies Act of Japan, the board of directors of a stock corporation is given authority to make decisions on all matters related to the corporation's business, other than matters that are expressly subject to shareholders' approval. Every director on the board assumes duties of a fiduciary nature with regard to the corporation. The following are some of the main duties assumed by a director in a stock corporation:

- the duty of loyalty, which requires the director to comply with applicable laws, the corporation's constitutional documents, and board and shareholder resolutions, and to perform their duties faithfully for the benefit of the corporation;
- the duty of care of a good manager, which requires the director to abide by the terms of their mandate and to perform their duties with the care of a good manager;
- the duty of monitoring and supervision, applicable to the board of directors as a whole, which requires the board to monitor and supervise directors in the performance of their duties. As part of this duty, the board will make suggestions and take action to prevent any director from engaging in any illegal or other activities that may be detrimental to the corporation; and
- the duty of reporting, which requires a director to report to the board of directors upon discovery of any fact that may be detrimental to the corporation.

A director who breaches any of their duties is liable to the corporation for the resulting damages sustained by them. Directors who are deemed jointly in breach will be jointly and severally liable.

The Companies Act of Japan provides for criminal fines of up to ¥10 million or penal servitude for periods of up to 10 years in cases of serious and deliberate breaches of trust against the corporation and causing damages to the corporation. Furthermore, non-penal administrative fines in amounts not exceeding ¥1 million are, in principle, assessable for failure by directors to discharge certain obligations stipulated in the Companies Act.

Non-director senior managers do not assume the duties of directors as described above. The scope of the duties of each senior manager will be governed by the contract between

the corporation and the senior manager. If the relevant contract is an employment contract, the senior manager would assume the duties as an employee (subject to applicable labour laws).

In addition, directors and employees of FIBOs are required to provide financial services to their customers in good faith, in accordance with the principle of fairness, while taking into account their customers' best interests.

Law stated - 29 January 2026

16 When are directors typically held individually accountable for the activities of financial services firms?

A director is typically held individually accountable if any violation of applicable laws and regulations is attributable to them, such as where the director has authorised any falsification of accounts or entry into fraudulent transactions.

In judicial precedents to date, Japanese courts are generally understood to have demonstrated that directors are recognised as being vested with broad discretion in the performance of their duties and, accordingly, that judicial post-factum intervention should not be excessive. As a result, Japanese courts tend not to hold directors individually liable for business decisions made in accordance with the following principles:

- when, in making decisions, the board has made efforts to avoid mistakes through adequate preliminary investigations and consultation with professionals, as necessary;
- the relevant decision made by the director was not materially unreasonable in light of the standard of care of a good manager typically expected of managers in the same industry; and
- the board has sought to avoid violation of applicable laws, the corporation's constitutional documents and internal rules through consultation with legal counsel or others.

Non-director senior managers could also be held individually accountable under similar circumstances. However, it is usually more difficult to establish individual accountabilities of a senior manager than a director, owing to differences in the scope and nature of their duties.

Law stated - 29 January 2026

Private rights of action

17 Do private rights of action apply to violations of national financial services authority rules and regulations?

Whether a person is permitted to institute legal action against a FIBO for violation of applicable JFSA rules depends on the circumstances of each case. In this regard, the Supreme Court held in a decision dated 14 July 2005 that a breach of the principle of

suitability under the Financial Instruments and Exchange Act of Japan (FIEA) does not automatically lead to tort liability under private law, but added that tort liability may result where securities transactions that deviate significantly from this principle are solicited and entered into. Accordingly, a FIBO may be subject to private rights of action in limited circumstances.

Additionally, a FIBO that breaches its duty to explain the nature of the relevant financial product to its customers pursuant to the Act on Provision of Financial Services and Development of the Accessible Environment Thereto (APFS) may be subject to private causes of action. In such cases, the burden of disproving causality between the violation of the duty of explanation and the loss incurred by the customer will be sustained by the FIBO pursuant to the APFS.

Law stated - 29 January 2026

Standard of care for customers

18 What is the standard of care that applies to each type of financial services firm and authorised person when dealing with retail customers?

FIBOs and their officers and employees are required to provide financial services to their customers in good faith, in accordance with the principle of fairness, while taking into account their customer's best interests. Before selling a financial product to a customer, the APFS also requires a FIBO to explain the nature of the product, the risks involved in purchasing it and key aspects regarding the structure of the transaction.

Law stated - 29 January 2026

19 Does the standard of care differ based on the sophistication of the customer or counterparty?

Yes, FIBOs are exempt from compliance with some of the key provisions on conduct in the FIEA (such as the principle of suitability, the requirement to make statutory disclosure to customers and advertising regulations) where the counterparties are professional investors. Professional investors include qualified institutional investors, listed stock corporations, stock corporations with stated capital of at least ¥500 million, special purpose companies established pursuant to the Act on Securitization of Assets of Japan (known as TMKs) and foreign corporations. Any corporation that is not a professional investor, and any individual who has trading experience of at least one year and net and invested assets of at least ¥300 million, or who meets certain eligibility criteria such as those concerning trading frequency, annual income, work experience and credentials, may apply to change their status from general investor to professional investor.

On the other hand, FIBOs have to follow the general principle of suitability when marketing financial instruments to non-professional investors. The principle of suitability requires FIBOs to appropriately adjust their manner of solicitation in light of the customer's sophistication (as determined from the customer's knowledge, experience, assets and purpose for purchasing the product, among other factors).

Furthermore, the degree of a FIBO's duty to explain the nature of a financial product under the FIEA is generally understood to vary depending on the level of sophistication of the relevant customer or counterparty. For example, the FIEA prohibits a FIBO from selling financial products or providing other financial services to a customer without first providing sufficient explanation through statutory pre-contract disclosure, in a manner and to the extent necessary for the customer to understand the nature of the relevant product, in light of their sophistication (as determined from the factors mentioned above).

However, the duty of a FIBO under the APFS to explain the nature of a financial product, among other things, does not apply where the customer is a professional investor.

Law stated - 29 January 2026

Rule-making

20 How are rules that affect the financial services industry adopted? Is there a consultation process?

National law

Bills affecting the financial services industry are usually prepared by the Strategy Development and Management Bureau and the Policy and Markets Bureau of the JFSA. In preparing a major bill, the JFSA customarily seeks the advice of the Financial System Council, a statutory advisory body. The final bill is often consistent with the advice of, and supported by a report issued by, the Financial System Council. A bill that is approved by the Diet will become national law.

Subordinate regulation

Under certain laws, such as the FIEA, responsibility for preparing subsidiary legislation (such as cabinet orders and ordinances) that affects the financial services industry is delegated to the JFSA. When preparing subsidiary legislation, the JFSA will, in most cases, commence a public consultation process to garner feedback on its proposals. Upon finalising the relevant subsidiary legislation, the JFSA will usually also publish its response to the public feedback.

Guidelines

The JFSA is also tasked with establishing supervisory guidelines, and questions and answers (collectively, guidelines) that affect the financial services industry. These guidelines are not statutes and accordingly have no force of law. Instead, they seek to clarify the JFSA's interpretation of the relevant statutes, and the manner in which regulators will exercise their broad and discretionary supervisory and inspection powers under the law. Since the breach of the supervisory guidelines may constitute a breach of law (including general principles of law) and result in an administrative action by the JFSA, entities regulated by the JFSA are compelled to comply with these guidelines as a matter of

practice. When the JFSA proposes to amend any supervisory guidelines, it will usually commence a public consultation to obtain feedback on its proposals.

Self-regulatory rules

The Japan Securities Dealers Association and other self-regulatory organisations sometimes also initiate public consultations when proposing amendments to their rules.

Law stated - 29 January 2026

CROSS-BORDER ISSUES

Cross-border regulation

21 | How do national financial services authorities approach cross-border issues?

Under the Financial Instruments and Exchange Act of Japan (FIEA), foreign securities firms are generally prohibited from engaging in any securities-related business with a person located in Japan. "Foreign securities firm" is defined in the FIEA as an entity that:

- is based outside Japan;
- is not a financial instruments business operator (FIBO) or a financial institution regulated in Japan (that is to say, is not licensed or registered in Japan under the FIEA or any other relevant Japanese financial regulatory regime); and
- engages in a securities-related business outside Japan in accordance with the relevant laws of the relevant foreign jurisdiction.

The FIEA provides certain exemptions permitting foreign securities firms to conduct limited types of securities-related businesses from outside Japan with a person located in Japan, including situations where the counterparty located in Japan is a certain FIBO or financial institution. Additionally, a foreign securities firm is also permitted to engage in a securities-related transaction outside Japan with a person located in Japan if:

- the transaction involves no solicitation from the foreign securities firm; and
- the Japan resident places a transaction order with the foreign securities firm or the relevant transaction is conducted through the agency or intermediation of a Type I FIBO (ie, a local securities firm).

However, care should be taken when relying on this exemption. This is because the Financial Services Agency of Japan generally takes a broad interpretation of the concept of solicitation, such that solicitation is deemed to have occurred if a foreign securities firm advertises its securities-related activities on its website.

In addition, a foreign entity acting outside Japan may be permitted to provide a Japanese FIBO engaging in the Discretionary Investment Management Business (DIM Business) with non-discretionary investment advisory service or discretionary investment management service, without registering as an Investment Advisory and Agency Business or DIM Business.

Other than the foregoing, the FIEA provides no clear exemptions in most cross-border situations. Where no clear exemption applies, whether a person acting outside Japan is required to be registered as a FIBO under the FIEA when transacting with a Japanese resident will be determined on a case-by-case basis.

Law stated - 29 January 2026

International standards

22 What role does international standard setting play in the rules and standards implemented in your jurisdiction?

International standards on financial services and products are sometimes reflected in Japanese laws and regulations. Given the informal and non-binding nature of international standards, however, their implementation in Japan may be attenuated by the country's rule-making process.

Law stated - 29 January 2026

UPDATE AND TRENDS

Key developments of the past year

23 Are there any other current developments or emerging trends that should be noted?

As a result of the amendments to the Financial Instruments and Exchange Act (FIEA), which were enacted on 15 May 2024, a voluntary registration system has been established for businesses that provide entrusted services for middle- and back-office operations, including compliance and calculation operations. An entity registered as an investment management outsourcing provider must follow conduct rules and be monitored by the regulator. A foreign entity must have an office in Japan to register as an investment management outsourcing provider. If a person who wishes to register as a Discretionary Investment Management Business (DIM Business) entrusts middle- and back-office operations to a registered investment management outsourcing provider, the registration requirements (specifically, personnel structure requirements) for such DIM Businesses have been eased. These amendments came into force on 1 May 2025.

Law stated - 29 January 2026

Kunihiko Morishita kunihiko.morishita@amt-law.com
Takaharu Totsuka takaharu.totsuka@amt-law.com
Daisuke Tanimoto daisuke.tanimoto@amt-law.com
Takahiko Yamada takahiko.yamada@amt-law.com

Anderson Mori & Tomotsune

Read more from this firm on Lexology

Malta

Beppe Degiorgio, **Chiara Frendo**, **Paul Falzon**
Ganado Advocates

Summary

REGULATORY FRAMEWORK

Regulatory authorities

1 | What national authorities regulate the provision of financial products and services?

The Malta Financial Services Authority (MFSA) is the unified regulatory body overseeing the provision of financial products and services in Malta. Operating within the traditional areas of financial services (banking, insurance and securities) as well as other emerging areas (cryptoassets, fintech and sustainable finance), the MFSA regulates financial activities that operate in or from Malta.

The MFSA's functions encompass regulatory, supervisory and investigative roles. Key responsibilities include the regulation, monitoring and supervision of financial services within Malta, the promotion of financial market integrity and collaboration with the Central Bank of Malta to ensure overall financial system stability.

The MFSA actively monitors trading and business practices related to financial services, upholds consumer protection through the enforcement of relevant laws and investigates allegations of practices detrimental to financial consumers. The MFSA also advises the government of Malta on the formulation of policies relating to the financial services industry.

Furthermore, the MFSA is entrusted with promoting and safeguarding the integrity of local regulated markets, instilling investor confidence and holding all participants in these markets accountable for their decisions and actions. The MFSA is committed to applying measures in accordance with the principle of proportionality, ensuring that any imposed regulations are fair and commensurate with the circumstances.

To enhance the efficacy of its functions, the MFSA collaborates with local and foreign authorities, international organisations, and entities involved in regulatory, supervisory or licensing functions related to the financial services sector. This collaborative approach reinforces the MFSA's commitment to keeping abreast of global financial developments and fostering a robust regulatory framework.

Law stated - 6 February 2026

2 | What activities does each national financial services authority regulate?

Per Chapter 330 of the Laws of Malta (the Malta Financial Services Authority Act), one of the main functions of the MFSA is to regulate, monitor and supervise financial services in Malta, including:

- credit and financial institutions;
- insurance and the activities of insurance intermediaries;
- investment services and collective investment schemes;
- pensions and retirement funds;
- capital markets and market infrastructure;
- company service providers;

- digital finance (eg, fintech);
- financial stability;
- sustainable finance;
- trustees and fiduciaries;
- cryptoassets and virtual financial assets;
- certain elements of financial crime, information and communication technology and cybersecurity; and
- other activities or services that may be placed under the supervisory and regulatory competence of the MFSA by the relevant Minister or by any other law.

The MFSA also manages Malta's Depositor and Investor Compensation Schemes.

The MFSA's Board of Governors is the resolution authority for the purposes of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 (the Bank Recovery and Resolution Directive (BRRD)), as amended, establishing a framework for the recovery and resolution of credit institutions and investment firms, although the Board of Governors delegates its powers to a dedicated Resolution Committee in accordance with applicable law. The role of the MFSA's Resolution Function is further stipulated in the MFSA Act and is provided for by the Resolution Committee.

The Resolution Function is responsible for drafting resolution plans for banks and certain investment services firms, advising the Resolution Committee on whether an institution should go into liquidation or resolution and applying resolution tools when necessary. It also enforces the requirements stipulated by the BRRD, the Single Resolution Mechanism, the Recovery and Resolution Regulations and the Intergovernmental Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund. The Resolution Function interacts regularly with European institutions, particularly the Single Resolution Board due to its role as the central resolution authority within the Banking Union, and with Maltese authorities such as the Ministry for Finance.

Law stated - 6 February 2026

3 | What products does each national financial services authority regulate?

The MFSA regulates transferable securities; money market instruments; options, futures, swaps, forwards and any other derivative contracts; as well as a variety of other products.

Transferable securities

Transferable securities are classes of securities that are negotiable on the capital market, including:

- shares in companies and other securities equivalent to shares in companies, partnerships or other entities, as well as depository receipts in respect of shares;
- bonds or other forms of securitised debt, including depository receipts in respect of such securities; and

- any other securities giving the right to acquire or sell transferable securities, or securities giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures.

Money market instruments

Money market instruments are those classes of instruments that are normally dealt in on the money market, including treasury bills, certificates of deposit and commercial papers but excluding instruments of payment.

Options, futures, swaps, forward rate agreements and other derivative contracts

The MFSA regulates options, futures, swaps, forwards and any other derivative contracts relating to:

1. securities, currencies, interest rates or yields, emissions allowances or other derivative instruments, financial indices or financial measures that may be settled physically or in cash;
2. commodities that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event;
3. commodities that can be physically settled, provided that they are traded on a regulated market (within the meaning of Chapter 345 of the Laws of Malta (the Financial Markets Act)), a multilateral trading facility or an organised trading facility, except for wholesale energy products traded on an organised trading facility that must be physically settled;
4. commodities that can be physically settled, are not for commercial purposes, are not included in (3) above and that have the characteristics of other derivative instruments; and
5. climatic variables, freight rates, inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event, as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned above, which have the characteristics of other derivative financial instruments such as whether, among other factors, they are traded on a regulated market, multilateral trading facility or an organised trading facility.

Other products

In addition to the above, the MFSA also regulates:

- units in collective investment schemes;
- derivative instruments for the transfer of credit risk;
- rights under a contract for differences or any other contract, the purpose or intended purpose of which is to secure a profit or avoid a loss by reference to fluctuations

in the value or price for property of any description, or in an index or other factor designated for that purpose in the contract;

- certificates or other instruments that confer property rights in respect of any instrument mentioned above;
- foreign exchange acquired or held for investment purposes;
- emissions allowances consisting of any units recognised for compliance with the requirements of Directive 2003/87/EC, which contains the Emissions Trading Scheme;
- electronic money; and
- cryptoassets and virtual financial assets.

Law stated - 6 February 2026

Authorisation regime

4 What is the registration or authorisation regime applicable to financial services firms and authorised individuals associated with those firms? When is registration or authorisation necessary, and how is it effected?

The MFSA oversees the authorisation of individuals engaging in financial services activities. This pivotal function is integral to the overall supervisory framework.

Licensing is required for financial and credit institutions, insurance and reinsurance undertakings, investment firms, collective investment schemes, trustees, company service providers, crowdfunding service providers, pensions and cryptoasset service providers.

Authorisation process

The authorisation process for applicants and authorised persons falling within the MFSA's scope has been harmonised across all financial sectors to ensure consistency in the MFSA's approach. The authorisation process does vary, however, both in terms of the applicable law and by virtue of the variable nature, scale and complexity of the process for each applicant. The first point of contact for prospective applicants is the authorisation team for each supervisory function within the MFSA.

The authorisation process depends on the type of authorisation being sought by the applicant. It consists of four stages: intention, pre-authorisation, authorisation and post-authorisation.

During the intention stage, a detailed statement of intent must be submitted to the MFSA. Upon receipt of the statement, the MFSA may ask the prospective applicant to provide further information, documentation or both, and to attend a preliminary meeting. Although all the information requested will be captured in more detail within the relevant authorisation application forms and supporting documentation, the collection of such information at the intention stage allows the MFSA to guide the prospective applicant with respect to the authorisation requirements, and to identify any concerns that could affect the overall outcome or impede the efficiency of the authorisation process.

Applicants are then invited to submit a comprehensive application pack, meeting all document requirements aligned with the applicable law and satisfying the relevant criteria specified in the legislation. The MFSA also requests documentation corresponding to the specific licence category, which is outlined in the relevant application form and is accessible through the authorisations catalogue on the MFSA's website. Once the complete application pack is submitted, the application process begins.

The application process is twofold, with both parts carried out in parallel. The business model and strategy proposal are analysed in one part, while the other comprises a fit and proper assessment of the parties involved in accordance with applicable legislation and rules.

The application documentation (as applicable, depending on the authorisation applied for) submitted in support of the applicant's business model generally includes a business plan, governance arrangements, proposed IT arrangements, anti-money laundering policies, three-year financial projections, risk-management policies, investment policies and outsourcing arrangements (if any).

Fit and proper checks involve third-party verification of personal information, assessment of the applicant's regulatory history both in Malta and in foreign jurisdictions, information exchange through close collaboration with foreign regulators and analysis of intelligence reports from specialised sources. The applicant is assessed on the basis of competence, reputation, conflicts of interest, independence of mind and time commitment. Maintaining the fit and proper requirements established by the relevant regulations and guidance is an ongoing obligation incumbent on the applicant, including post-approval. In certain instances, the entity may be subject to a reassessment of its suitability.

In parallel, the due diligence process is also commenced for all involved parties who are in a position to affect the direction of the applicant, including key functionaries and direct and indirect shareholders, up to the ultimate beneficial owner. These checks of the applicant's competence and integrity ascertain that the applicant is capable of carrying out the proposed role to an expected high standard within the ambit of the proposed business model.

Entities entering the financial services industry are also required to undergo a comprehensive assessment as part of the MFSA's gatekeeper role. The objective is to ensure compliance with the criteria outlined in the applicable financial services legislation, both at the authorisation stage and continuously thereafter. A feedback letter regarding any clarifications or requests for further information may be submitted. Once the applicant's replies are received, these may be followed by further correspondence or meetings until the criteria for authorisation are satisfied.

Once these assessments have been completed, the MFSA proceeds to the pre-authorisation stage. At this stage, the applicant is notified of an in-principle decision granted by the MFSA and provided with a list of conditions to which the authorisation will be subject. The applicant addresses matters such as incorporation and capitalisation of the company, and provides confirmation that the company will be in a position to comply with the conditions of authorisation.

Once the pre-authorisation requirements have been fulfilled to their satisfaction, the MFSA grants authorisation through the issuance of an authorisation letter and a certificate of authorisation, in accordance with the applicable regulatory framework.

At the post-authorisation stage, the MFSA monitors whether the post-authorisation requirements are being satisfied and initiates the applicable supervisory processes. Any changes to the initial authorisation granted by the MFSA (which must be communicated to them as soon as possible) are also handled during this stage.

Adherence to post-authorisation requirements and ongoing internal monitoring in relation to such requirements remains the primary responsibility of the authorised person. These requirements must be provided for within the authorised person's relevant processes, policies, procedures and compliance monitoring programme, where applicable. It is the responsibility of the authorised person to immediately report any difficulties in implementing these requirements to the MFSA.

If, at any point during the authorisation process, the applicant fails to respond to the MFSA's communication within four months, the MFSA grants the applicant an additional month to respond. If they do not respond within the allotted time, the MFSA may treat the application as withdrawn. If an application is considered as withdrawn but the applicant wishes to pursue the process, the applicant must re-initiate the process by, among other things, submitting a new intention statement and application documentation, and paying the prescribed application fee.

The MFSA is dedicated to a clear, transparent authorisation process to ensure a robust assessment of regulatory standards.

Law stated - 6 February 2026

Legislation

5 What statute or other legal basis is the source of each regulatory authority's jurisdiction?

The Malta Financial Services Authority Act is the source of the MFSA's jurisdiction. However, other sector-specific laws also grant the MFSA certain powers. For example, Chapter 476 of the Laws of Malta (the Prevention of Financial Markets Abuse Act) grants the MFSA certain powers to investigate cases of market abuse.

Law stated - 6 February 2026

6 What principal laws and financial service authority rules apply to the activities of financial services firms and their associated persons?

Financial services firms and their associated persons are obliged to comply with relevant domestic Maltese law (both primary and secondary) and all applicable EU legislation. Below is a non-exhaustive list of certain key sector-specific financial services laws:

- Chapter 371 of the Laws of Malta (the Banking Act);

- Chapter 376 of the Laws of Malta (the Financial Institutions Act);
- Chapter 403 of the Laws of Malta (the Insurance Business Act);
- Chapter 487 of the Laws of Malta (the Insurance Distribution Act);
- Chapter 370 of the Laws of Malta (the Investment Services Act);
- the Financial Markets Act;
- Chapter 514 of the Laws of Malta (the Retirement Pensions Act);
- Chapter 331 of the Laws of Malta (the Trusts and Trustees Act);
- Chapter 529 of the Laws of Malta (the Company Services Providers Act);
- Chapter 590 of the Laws of Malta (the Virtual Financial Assets Act); and
- Chapter 647 of the Laws of Malta (the Markets in Crypto-Assets Act).

Moreover, the MFSA has issued a Conduct of Business Rulebook that essentially transposes the main EU directives that apply to business conduct; namely, Directive 2014/65/EU (the Markets in Financial Instruments Directive) and Directive 2016/97/EU (the Insurance Distribution Directive), together with the respective implementing measures issued thereunder. In 2025, the MFSA also issued a Conduct of Business Rulebook for credit institutions offering retail products and services, which contains the conduct of business obligations to which credit institutions will be required to adhere in their day-to-day operations. Certain provisions of the Rulebook for credit institutions also apply to credit intermediaries. The Rulebook will begin to apply from March 2026, though a revised version will apply from November 2026.

In addition, the MFSA publishes detailed sector-specific rules and standard licensing conditions that are binding on financial services firms and their associated persons.

Maltese financial services firms are required to adhere to all binding guidance issued by the MFSA and by EU bodies such as the European Securities and Markets Authority and the European Central Bank.

Law stated - 6 February 2026

Scope of regulation

7 What are the main areas of regulation for each type of regulated financial services provider and product?

Any person or body corporate wishing to provide financial services in or from Malta is required to adhere to regulatory criteria and must possess a valid licence. The criteria differ based on the type of service they wish to offer.

The central areas of regulation that regulated entities must comply with are found both within the main legislative acts as well as in the extensive rules issued by the MFSA. The main legislation for each financial service in Malta defines the parameters for a licensing regime. The body of rules published by the MFSA sets out the application procedure in detail and establishes requirements for licence holders regarding governance, own funds, liquidity and internal organisation.

The MFSA will only grant a licence to an applicant if it is satisfied that the person is fit and proper and is capable of both providing the services envisaged by the applicant entity and ensuring compliance with the various regulations made under the relevant acts and rules. Both the registered office and head office of the applicant entity must be situated in Malta, and there may be additional location requirements for personnel engaged by the entity to carry out its aims.

In terms of the management and control of the applicant entity, the MFSA must be satisfied that the members of the management body are of sufficiently good repute, that they possess sufficient knowledge, skills and experience and that they will commit sufficient time to perform their functions.

In most cases, certain regulatory capital requirements must be met to satisfy the conditions for a licence from the MFSA. Typically, regulated firms are obliged to hold a minimum level of capital as specified in the relevant EU and domestic legislation. Capital requirement conditions may also vary in accordance with the type and extent of the services that the applicant entity envisages it will engage in.

Furthermore, financial service providers must have clear and transparent corporate governance arrangements in place, including independent internal control systems to ensure the proper management of business. Such systems include an internal audit function, an effective and permanent compliance function responsible for day-to-day supervision of the applicant entity's business and a dedicated risk management function.

Law stated - 6 February 2026

Additional requirements

8 What additional requirements apply to financial services firms and authorised persons, such as those imposed by self-regulatory bodies, designated professional bodies or other financial services organisations?

Financial services firms and authorised persons may also be subject to the rules and regulations of other professional or self-regulatory bodies. Whether firms are subject to any such rules or regulations (and the nature of those rules or regulations) will depend on the specific firms and bodies in question.

Law stated - 6 February 2026

ENFORCEMENT

Investigatory powers

9 What powers do national financial services authorities have to examine and investigate compliance? What enforcement powers do they have for compliance breaches? How is compliance examined and enforced in practice?

The Malta Financial Services Authority (MFSA) carries out two primary functions: enforcement and due diligence.

Empowered by Chapter 330 of the Laws of Malta (the Malta Financial Services Authority Act) and various pieces of sector-specific financial services legislation, the Enforcement Function is tasked with investigating potential breaches of financial services laws and regulations by entities under the supervision of the MFSA.

Among its responsibilities, the Enforcement Function reviews and investigates compliance failures, misconduct, market abuse or any other violations of laws administered by the MFSA (including actions against licence holders and individuals engaging in financial services activities without the requisite licence) and investigates suspicious or dubious schemes to take what it deems to be appropriate action.

Where necessary, the Enforcement Function conducts investigations to detect breaches of anti-money laundering legislation, misappropriation or other misconduct. The Enforcement Function communicates the findings of its investigations to the decision-making body of the MFSA, providing recommendations for remedial action or enforcement measures. It typically grants the investigated party the opportunity to provide its representations, following which a final decision is communicated by the MFSA.

Post-decision, the Enforcement Function oversees the implementation and follow-up of enforcement decisions.

Law stated - 6 February 2026

Disciplinary powers

10 What are the powers of national financial services authorities to discipline or punish infractions? Which other bodies are responsible for criminal enforcement relating to compliance violations?

In fulfilling its investigative responsibilities, the Enforcement Function of the MFSA may uncover evidence or suspicion of financial crimes such as money laundering, fraud or misappropriation involving both authorised and unauthorised individuals. The MFSA promptly reports such findings to relevant law enforcement agencies, including the Financial Intelligence Analysis Unit, the Executive Police or both.

Following such investigations, the MFSA is authorised to impose administrative or disciplinary sanctions – referred to as "administrative measures" – on the subjects under scrutiny. Article 16(8) of the Malta Financial Services Authority Act provides that:

> any administrative or disciplinary sanction or measure, of whatever type, including reprimands or warnings, imposed or decided by the Authority under any law for whose administration it is responsible, shall be published in such medium and in such manner and for such duration as may be deemed warranted by the circumstances and the nature and seriousness of the breach or wrongdoing. The Board of Governors may from time to time establish policies and guidelines regarding the publication of administrative sanctions and disciplinary measures.

The nature and severity of the breach or wrongdoing determines the duration that the public notice of an imposed administrative measure is present on the MFSA website.

As a guiding principle, the MFSA believes that naming individuals (including licence holders) sanctioned for legal breaches enhances awareness of industry standards. There are exceptions, however, and the MFSA may opt for anonymous publication under specific circumstances, such as when the administrative measure relates to a non-material breach and the administrative penalty does not exceed €30,000, or in exceptional cases where publication could jeopardise market stability, ongoing investigations or cause disproportionate damage to the involved party (in such cases, if the administrative measure is for a non-material breach below €30,000, the MFSA automatically issues the public notice anonymously).

Law stated - 6 February 2026

Tribunals

11 | What tribunals adjudicate financial services criminal and civil infractions?

Set up by article 21 of the Malta Financial Services Authority Act, the Financial Services Tribunal (the Tribunal) tackles matters related to decisions of the competent authority in financial services.

The Tribunal deals with appeals made by an appellant following a decision by the MFSA. The Tribunal has jurisdiction to determine whether the competent authority has, in its decision, wrongly applied any of the provisions of the Malta Financial Services Authority Act or any regulations issued thereunder, and whether the MFSA's decision constitutes an abuse of discretion or is manifestly unfair. Provided that it has been exercised properly, the MFSA's discretion may not be queried by the Tribunal.

An appeal under sector-specific financial services legislation before the Tribunal must be made in writing and provide clear grounds for the appeal. This must be done within 30 days of the aggrieved being notified of the decision or action in question determined by the MFSA. The MFSA has 30 days from when the appeal was served by the Tribunal to file its reply. Decisions imposing a penalty of not more than €232.94 may not be appealed, nor may any reprimand, warning or other similar disciplinary sanction or measure.

The Tribunal is required to deal with any matter before it with the utmost urgency and to give its decision without delay.

Law stated - 6 February 2026

Penalties

12 | What are typical sanctions imposed against firms and individuals for violations? Are settlements common?

Sanctions for violations

Under the Malta Financial Services Authority Act and various pieces of sector-specific financial services legislation, the MFSA has the authority to impose administrative penalties on licence holders for breaches of regulatory rules and licence conditions. In determining the quantum of the penalty, the MFSA exercises discretion in respect of the effectiveness, proportionality and dissuasiveness of the fine. The penalties imposed must remain within the limits specified by the relevant legislation.

The MFSA has established a methodology for the setting of administrative penalties imposed on entities and individuals, under which the seriousness of a potential breach is assessed according to five risk categories: very low, low, medium, high and very high. This classification, influenced by various factors, ensures that administrative penalties are proportionate and serve as effective deterrents. Throughout the penalty determination process, the MFSA considers the appropriateness of the penalty to prevent disproportionate financial distress to the licence holder.

The MFSA may impose a range of regulatory actions under the sector-specific financial services legislation applicable to entities or individuals authorised by the MFSA, as well as those potentially providing financial services without the required MFSA authorisations. These actions include:

- issuing a public reprimand on the MFSA's website or other appropriate platforms;
- imposing directives, which may involve measures such as ceasing new client onboarding, asset transfers, client transfers to other licence holders or engaging a qualified or competent person;
- suspending a licence either partially or fully;
- removing or restricting authorised individuals;
- imposing administrative penalties; and
- cancelling a licence.

Settlements

The MFSA has recently introduced a settlement policy to facilitate the resolution of investigations through settlements. This policy guides the MFSA in negotiating settlement agreements and establishes principles that must be adhered to during settlement discussions.

Law stated - 6 February 2026

COMPLIANCE PROGRAMMES

Programme requirements

13 What requirements exist concerning the nature and content of compliance and supervisory programmes for each type of regulated entity?

Supervisory risk-based approach

The Malta Financial Services Authority (MFSA) follows a risk-based supervision model that is grounded in three key principles: supervisory judgment, forward-looking assessments and a focus on key risk factors, with an overarching commitment to proportionality in interventions. IT, anti-money laundering and counter-terrorist financing considerations are also integral to the MFSA's risk assessment framework.

Risk-based supervision is an ongoing procedure that encompasses planning, risk assessment, execution of a supervisory plan and systematic monitoring and evaluation. The approach aims to enhance supervisory effectiveness and efficiency.

While the MFSA does not discriminate between larger and smaller or lower-risk firms in terms of oversight and scrutiny, efforts are typically concentrated on firms and activities that are most likely to impact financial stability or to jeopardise consumers of financial services.

Institutions that are deemed to pose a greater risk, particularly in respect of the offences of money laundering and the financing of terrorism, are subject to enhanced ongoing supervision. This includes on-site inspections that analyse the different risks, internal control systems, business models or governance of financial institutions in depth, as well as off-site supervision to continuously monitor their activities using the information that they are required to submit pursuant to their legal obligations (such as periodic regulatory returns, financial statements and other documentation).

The MFSA supplements its risk-based approach and risk assessments by reference to both quantitative and qualitative data, while also taking other relevant factors and characteristics of firms into consideration, including capital, the nature of the business activities, internal controls and the quality of licence holders' management. The risk-based approach applied by the MFSA is consistent with international standards of supervision.

In cases where thematic reviews are carried out, the MFSA also establishes best practices through circulars and guidance publications addressed to the applicable institutions, which the latter must follow when carrying on business and interacting with clients.

Law stated - 6 February 2026

Gatekeepers

14 | How important are gatekeepers in the regulatory structure?

Gatekeepers, also referred to as "internal control mechanisms", must be established within an authorised entity's business to identify, disclose, manage and understand the risks that the entity may face when carrying on its business. In its published rules and guidelines, the MFSA encourages entities to base their internal mechanisms of corporate governance on the three lines model established by the Institute of Internal Auditors. This model provides for several methods to improve internal communications on risk management and control, enhance the effectiveness of internal risk management systems and provide further clarity in respect of risks and controls.

The board of directors of the authorised entity should therefore be able to establish the necessary measures and plans needed to deal with any foreseeable events that may arise.

Compliance

Authorised entities are required to maintain a permanent and effective compliance function, which operates independently from the entity's business and is ultimately responsible for ensuring that the entity complies with its legal and regulatory obligations. This function should also aim to establish measures to minimise financial crime compliance risks, taking into account the nature, scale and complexity of the entity's business.

The compliance function is typically headed by a compliance officer who possesses sufficient knowledge, skills and experience, who is responsible for both the compliance function as well as any compliance-related reporting.

Internal audit

In its published rules and guidelines, the MFSA recommends that entities consider establishing an internal audit function where this is appropriate and proportionate in view of the nature, scale and complexity of each entity's business. Having an internal audit function is seen to improve and add value to the operations of the authorised entity.

This function is afforded sufficient powers of supervision and oversight of the entity's financial reporting process, and provides independent and objective assurances to the board of directors.

The internal audit function evaluates and improves the effectiveness of the internal risk management and governance processes, a disciplined and systematic approach that supports the MFSA in achieving its objectives.

The internal audit function further assists the MFSA by identifying, responding to, gathering information on, analysing and monitoring strategic risks that impact or could potentially impact the MFSA's ability to effectively achieve its objectives.

Law stated - 6 February 2026

Directors' duties and liability

15 What are the duties of directors, and what standard of care applies to the boards of directors of financial services firms?

Chapter 386 of the Laws of Malta (the Companies Act) establishes the responsibilities and duties of directors of Maltese companies. In particular, directors are responsible for promoting the company's wellbeing and are required to act honestly, in good faith and in the best interests of the company.

The Companies Act requires directors to exercise the degree of care, diligence and skill that would be exercised by a reasonably diligent person having both (1) the knowledge, skills and experience that may reasonably be expected of a person carrying out the same functions as those carried out by or entrusted to that director in relation to the company; and (2) the knowledge, skills and experience that the director has. The Companies Act also imposes other general responsibilities on directors, namely:

- to not make secret or personal profits from their position without the consent of the company, nor make personal gain from confidential company information;
- to ensure that their personal interests do not conflict with the interests of the company;
- to not use any property, information or opportunity of the company for their own or anyone else's benefit, nor obtain benefit in any other way in connection with the exercise of their powers, except with the consent of the company in general meeting or except as permitted by the company's memorandum or articles of association; and
- to exercise the powers they have for the purposes for which the powers were conferred and to not misuse such powers.

The MFSA has issued various codes of corporate governance to applicable Maltese financial services firms, which may impose additional obligations on their directors. These include:

- the General Code of Conduct for Decision Makers in the Financial Services Industry, which applies to all decision- makers (including directors) of entities authorised, licensed or otherwise supervised by the MFSA, as well as other listed entities;
- the Code of Principles of Good Corporate Governance, which applies to all MFSA-licensed financial services firms which are listed on a Maltese regulated market;
- the Corporate Governance Guidelines for Public Interest Companies, which applies to, among other things, certain financial services companies;
- the Corporate Governance Manual for Directors of Collective Investment Schemes; and
- the MFSA Corporate Governance Code, which applies to all unlisted MFSA-licensed financial services firms.

Law stated - 6 February 2026

16 When are directors typically held individually accountable for the activities of financial services firms?

Liability under the Companies Act

The liability of directors under the Companies Act may arise in respect of breaches of both general duties (eg, the duty to act in the best interests of the company) and specific duties (eg, the failure to make certain statutory filings). The Companies Act prescribes penalties for certain specific breaches, which may be imposed on the company as well as on the directors personally. In turn, the company and third parties may sue the directors personally for any damages caused as a result of their breach of duty or negligence.

The personal liability of directors in damages for any breach of duty is joint and several. However, where a particular duty has been entrusted to one or more of the directors, only

they are liable. Furthermore, a director is not liable for the acts of their co-directors if they prove that they did not know of the breach of duty before or at the time of its occurrence and that, on becoming aware of it, they signified their dissent in writing, or if they prove that, knowing that the co-directors intended to commit a breach of duty, they took all reasonable steps to prevent it.

Liability under specific legislation other than the Companies Act

Various administrative duties are imposed on directors by a variety of laws other than the Companies Act. For instance, Chapter 371 of the Laws of Malta (the Banking Act) imposes personal liability on anybody (including directors) who is knowingly a party to, or procures or aids and abets the commission of, certain offences.

Criminal liability

Criminal liability of directors may be of two types: direct or vicarious. Direct criminal liability may arise where the director violates certain specific provisions of the law, a breach of which would constitute a criminal offence (eg, a breach of certain provisions of Chapter 318 of the Laws of Malta (the Social Security Act)). Vicarious criminal liability arises where a director is held criminally liable for an offence notionally committed by the company itself (eg, a breach of certain provisions of Chapter 452 of the Laws of Malta (the Employment and Industrial Relations Act)).

Liability in a company insolvency or a winding-up scenario

Directors may also incur liability in the context of a company insolvency or a winding-up scenario. For example, the Companies Act provides that directors will be held liable for wrongful trading if they allow an insolvent company to continue trading or incur debts when there was no reasonable prospect that the company would avoid being dissolved due to its insolvency, or if a director carries on the business of the company in a fraudulent manner, resulting in fraudulent trading.

Law stated - 6 February 2026

Private rights of action

17 Do private rights of action apply to violations of national financial services authority rules and regulations?

The MFSA does not deal with consumer complaints. However, if a customer feels aggrieved or is not satisfied with a product or service, regulated financial services providers must have a procedure in place for resolving disputes (ie, a complaints handling policy).

When lodging a complaint with the financial services provider all the facts and issues must be set out as clearly as possible, including any relevant documentation to support the complaint. The financial services provider must respond within 15 days of the complaint being registered in writing.

If the financial services provider does not reply or the consumer is not satisfied with the reply, a complaint can be referred to the Arbiter for Financial Services. The Office of the Arbiter for Financial Services in Malta is an alternative dispute resolution mechanism which is separate from that of the Courts of Malta, with which it has concurrent jurisdiction over financial services consumer complaints. The decision taken by the Arbiter for Financial Services is binding and final on all parties, although it is subject to appeal by either party. If a decision is appealed, the case is taken to court.

Maltese law does not distinguish direct causes of action arising from a breach of a rule or regulation issued by the MFSA and binding on the service provider. Therefore, a regulatory breach may give rise to a claim for damages. Consumers have the right to bring a complaint for contractual or tortious misconduct and can support their claim by alleging the breach of the applicable MFSA rules and regulations.

Law stated - 6 February 2026

Standard of care for customers

18 What is the standard of care that applies to each type of financial services firm and authorised person when dealing with retail customers?

The standard licence conditions and rules that the MFSA issues for each financial services activity stipulate that regulated persons have a duty to act in the best interests of their clients, and that they must act honestly, fairly and with the utmost good faith, integrity, due skill and care towards their clients. Moreover, the MFSA's Conduct of Business Rulebook generally requires retail clients (ie, non-professional clients) to be given a higher degree of care and protection when being offered or advised on investment services or matters.

Law stated - 6 February 2026

19 Does the standard of care differ based on the sophistication of the customer or counterparty?

Certain financial services firms, such as investment firms, are required to carry out a client classification and categorise them as "retail" or "professional". The MFSA's Conduct of Business Rulebook offers more protection to investors with less or no investment knowledge and experience, while investors with more investment knowledge and experience are afforded a lesser degree of protection.

Law stated - 6 February 2026

Rule-making

20 How are rules that affect the financial services industry adopted? Is there a consultation process?

Legislative acts

Prior to publication and coming into force, each legislative act in Malta must go through a number of parliamentary procedures comprising three readings.

The first reading begins with a motion presenting the bill's title at the office of the Clerk of the House (of Parliament), followed by a vote without debate three days later. Upon publication, the bill returns to the House's agenda for the second reading. During this stage, the motion is put to a vote after discussion.

The committee stage follows, where amendments can be proposed during the detailed examination of each clause. This is followed by a vote. Progress is reported, indicating whether the bill is passed with or without amendments.

The third reading is then scheduled by the Minister in charge. Within this stage, the Speaker of the House declares the bill either as approved unanimously or carried. Finally, the bill is presented to the President for assent and published in the government's gazette, officially becoming a parliamentary act.

Rules

The MFSA has the power to issue and publish rules regulating the procedures and duties of persons licensed or authorised by it, or falling under its regulatory or supervisory functions. We are not aware of any procedure that the MFSA adopts in the implementation or promulgation of such rules.

Consultation process

Although not strictly necessary, a formal consultation process – for example, through the publication of a White Paper in the case of laws, or a consultation document in the case of the MFSA's rules – is typically enacted in respect of laws or rules (or amendments) that will significantly affect the financial services industry.

Law stated - 6 February 2026

CROSS-BORDER ISSUES

Cross-border regulation

21 | How do national financial services authorities approach cross-border issues?

Financial services firms that are licensed in Malta by the Malta Financial Services Authority (MFSA) may avail themselves of their passporting rights under the relevant passport regulations and the applicable law. By doing so, the firm can offer its services to persons in other EU member states. This right is facilitated by the freedom of establishment or the freedom to provide services, which enables authorised entities to provide services on a cross-border basis without the need to establish a presence in other EU member states.

Regulated entities duly authorised by a regulator in another member state can benefit from this right and offer their services in Malta. In this case, the home state regulator will remain the competent authority. However, if services or activities are being performed in Malta from outside the European Union, the determination of which regulatory requirements apply will be assessed on a case-by-case basis.

Regulatory cooperation on an international level is based on a network of memorandums of understanding (bilateral or multilateral) between the MFSA and other EU competent authorities, allowing for enhanced cooperation between regulators through the exchange of information.

Law stated - 6 February 2026

International standards

22 What role does international standard setting play in the rules and standards implemented in your jurisdiction?

Generally, Malta seeks to implement international standards. International regulatory policies and standards and their implementation, supervision and enforcement in Malta are integral to the remit of the MFSA. The MFSA also engages with a wide range of European and international counterparts and stakeholders to enhance cooperation, share best practice and discuss issues of common interest.

Law stated - 6 February 2026

UPDATE AND TRENDS

Key developments of the past year

23 Are there any other current developments or emerging trends that should be noted?

Credit institutions

In 2025, the Malta Financial Services Authority (MFSA) issued a Conduct of Business Rulebook for credit institutions offering retail products and services, which contains the conduct of business obligations to which credit institutions must adhere in their day-to-day operations. Certain provisions of the rulebook for credit institutions also apply to credit intermediaries. The rulebook will apply from March 2026, though a revised version will apply from November 2026.

Sustainable finance

Sustainable finance remains a central priority for the MFSA in 2026, as both EU level regulatory simplification and global market shifts continue to reshape the framework within which Maltese financial market participants operate. Following significant legislative

activity in late 2025, 2026 marks a transition from rule making to (scaled-back) implementation, particularly as the EU's Omnibus I package reshapes the applicability of the Corporate Sustainability Reporting Directive (CSRD) and the Corporate Sustainability Due Diligence Directive. The revised CSRD framework has drastically reduced the number of in scope companies (by as much as 80% according to certain estimates) and has introduced delayed application dates, streamlined reporting requirements and revised European Sustainability Reporting Standards, which are expected to be published mid-2026.

Another area to keep tabs on is the European Commission's proposal to amend the Sustainable Finance Disclosures Regulation, with the European Parliament and European Council expected to negotiate and potentially amend the proposal in 2026 (and possibly through to 2027).

Money laundering, terrorist financing and sanctions

As part of its ongoing efforts to assist the Financial Intelligence Analysis Unit and the Sanctions Monitoring Board, the MFSA continues to assess the compliance of supervised entities with anti-money laundering, counter terrorist financing and sanctions obligations. The MFSA has also strengthened its controls when assessing whether a proposed money-laundering reporting officer is fit and proper to undertake the role. Furthermore, the MFSA is now requesting anti-financial crime risk assessments, policies and procedures as part of the licence application process, thereby enabling a better understanding of the framework and controls that the applicant intends to apply upon licensing.

Digital finance

Digital Operational Resilience Act

Regulation (EU) 2022/2554, the Digital Operational Resilience Act (DORA), became fully applicable across the EU financial sector on 17 January 2025, marking the beginning of a new, harmonised supervisory regime for IT risk, incident management, testing and third party oversight.

In 2025, the MFSA shifted focus from preparatory work to full supervisory implementation of the DORA regime, embedding digital operational resilience into its cross sectoral supervisory agenda. The MFSA's Supervisory Priorities 2025 publication formally incorporated DORA into the MFSA's risk based oversight model, highlighting the need for sufficient preparedness, strong IT risk management, robust incident management processes and proper oversight of IT third party service providers.

The year 2025 also marked the start of the MFSA's structured three year Outcomes Based Supervisory Cycle, in which 2025 served as the initial assessment year. During this phase, the MFSA engaged directly with financial entities to evaluate their compliance with DORA's requirements, using a defined set of controls to benchmark preparedness and identify gaps.

Within this supervisory cycle, 2026 is the dedicated "remediation year". The MFSA has indicated that entities will be expected to address shortcomings identified during the

2025 assessment by implementing corrective actions, strengthening IT risk management arrangements, enhancing incident response capabilities, formalising DORA aligned governance structures and closing any operational or documentation gaps identified in 2025.

NIS2

In 2025, Malta formally transposed Directive (EU) 2022/2555 (NIS2) through the publication of Legal Notice 71 of 2025, which will become applicable once the Minister responsible for Critical Infrastructure Protection so directs. Operational rollout of NIS2 in Malta is expected to begin in 2026, with the Critical Infrastructure Protection Department anticipated to begin supervisory activities under NIS2 in the same year.

Markets in cryptoassets

Virtual financial asset service providers, previously licensed under the domestic cryptocurrency regulatory framework, are now subject to a mandatory transition to the Regulation (EU) 2023/1114 Markets in Cryptoassets (MiCA) framework following the enactment of the Markets in Crypto Assets Act (Chapter 647), which formally replaces and phases out the Virtual Financial Assets (VFA) Act (Chapter 590). Malta's legislative updates were introduced specifically to ensure full alignment with MiCA, with transitional provisions allowing VFA licence holders to continue operating until 1 July 2026 or until they obtain (or are refused) their new Crypto Asset Service Provider licence under MiCA, whichever comes first. This transitional window reflects the harmonised MiCA grandfathering regime and is confirmed at EU level. Member states were permitted to apply shorter time frames, though Malta opted for the maximum transition period.

Insurance

Solvency II Amending Directive and the Insurance Recovery and Resolution Directive

In 2025, the European insurance industry witnessed two significant legislative developments: the publication of the Insurance Recovery and Resolution Directive (IRRD) and the Solvency II Amending Directive, both issued on 8 January 2025. Member states are required to transpose these directives into national law by 29 January 2027, with implementation commencing on 30 January 2027. Collectively, these measures aim to strengthen the framework for insurance recovery and resolution and to update key elements of the Solvency II regime.

In October 2025, the European Commission introduced amendments to the Solvency II Level 2 framework through an updated Delegated Regulation. The European Insurance and Occupational Pensions Authority subsequently issued several 2025 consultation papers refining technical standards (covering liability valuation, capital requirements, reporting, group supervision and governance), as well as additional papers on IRRD implementation that focused on pre emptive recovery and resolution planning.

Work is currently underway to transpose these EU-level changes into Malta's domestic regulatory framework. One notable amendment introduced through the Solvency II Review

is the enhancement of the principle of proportionality. Reflecting this enhancement, in 2025, the MFSA amended the Insurance Rules so that captive insurance undertakings are no longer required to audit the Solvency and Financial Condition Report, a change intended to facilitate the operational efficiency of captive insurers in Malta.

Group Insurance and Bancassurance

Another important regulatory development introduced in April 2025 relates to group insurance and bancassurance. This amendment followed a 2022 European Court of Justice ruling that broadened the definition of "insurance intermediary" to include entities offering membership of group insurance policies in exchange for remuneration, thereby granting consumers insurance benefits. In response, the MFSA updated its Bancassurance Policy, allowing licensed credit and financial institutions to extend their enrolment as tied insurance intermediaries to include Home Contents, Travel and Private Individual Health insurance. The MFSA also introduced amendments to the Insurance Distribution Rules to clarify that entities offering voluntary membership in group insurance arrangements where benefits are provided and the activity is remunerated are required to be duly enrolled.

Informed by the above developments, the MFSA regularly publishes updates regarding key changes on its website.

Law stated - 6 February 2026

ganado advocates

Beppe Degiorgio bdegiorgio@ganado.com
Chiara Frendo cfrendo@ganado.com
Paul Falzon pfalzon@ganado.com

Ganado Advocates

Read more from this firm on Lexology

Singapore

Grace Chong, **Theodore Tay**, **Leanne Chee**
Drew & Napier LLC

Summary

REGULATORY FRAMEWORK

Regulatory authorities

1 | What national authorities regulate the provision of financial products and services?

The Monetary Authority of Singapore (MAS) is Singapore's central bank and integrated financial regulator. As Singapore's integrated financial regulator, the MAS is responsible for the licensing and oversight of financial institutions across the banking, capital markets, insurance and payments sectors.

Law stated - 2 January 2026

2 | What activities does each national financial services authority regulate?

The MAS is responsible for the regulation and supervision of entities such as banks, finance companies, fund managers, corporate finance advisers, trustees, credit-rating agencies, financial advisers, insurance companies, payment firms and digital asset service providers.

As a regulator, the MAS establishes standards for prudential safety, market conduct and anti-money laundering and countering the financing of terrorism (AML/CFT) compliance to safeguard the financial sector from systemic risks and illicit activities. It also acts as a gatekeeper, only authorising financial institutions that meet stringent criteria for operational soundness and ethical practices. Through supervision, the MAS monitors financial institutions' adherence to regulatory requirements, conducting on-site inspections and off-site reviews to identify potential risks and ensure sound business practices. In parallel, the MAS' surveillance activities focus on detecting market misconduct, identifying systemic vulnerabilities and assessing money laundering and terrorism financing risks based on an institution's operations, products and services.

The MAS also serves as an enforcement authority, with the power to impose sanctions and take action against breaches of prudential, AML/CFT and market conduct regulations. In addition, the MAS exercises resolution powers to address threats to the viability of financial institutions, ensuring the orderly resolution of non-viable entities to safeguard depositors and investors.

Law stated - 2 January 2026

3 | What products does each national financial services authority regulate?

The MAS is responsible for regulating a wide range of financial products, including life and general insurance, securities, collective investment schemes, derivatives, electronic funds transfers, digital payment tokens and payments services.

Rather than focusing on financial products, however, the MAS adopts a sectoral approach, supervising institutions across the banking, capital markets, insurance and payments sectors to promote a sound and progressive financial sector in Singapore.

Law stated - 2 January 2026

Authorisation regime

4 What is the registration or authorisation regime applicable to financial services firms and authorised individuals associated with those firms? When is registration or authorisation necessary, and how is it effected?

Generally, to carry on the business of regulated activities in Singapore, a person must either be licensed or exempted under applicable legislation. Regulated activities that are subject to MAS supervision include capital markets services, payment services, financial advisory services, insurance and insurance broking services, and banking services.

The licensing of persons to carry on the business of these services is determined by the MAS but governed under different legislation. The licensing process involves different prescribed forms and criteria based on the regulated activity. Notwithstanding the foregoing, the MAS prescribes regulatory standards that are applicable to all MAS-regulated financial institutions, such as those relating to technology risk management, outsourcing arrangements and business continuity arrangements.

Generally, after a licence application is submitted to them, the MAS will proceed to review it. There may be several rounds of questions posed or interviews conducted by the MAS, to gain further information on the application and to ascertain the legal and regulatory compliance of the potential licensee. An in-principle approval by the MAS may be given to a potential licensee prior to the grant of a licence, whereby the licensee may be required to satisfy certain prescribed conditions or requirements before the MAS will grant a licence. Upon the satisfaction of these conditions or requirements by the potential licensee, the MAS will typically grant the licence unless it has further concerns.

Certain individuals of a licensed person (such as its directors, chief executive officer and its representatives) must also be approved by the MAS prior to the granting of a licence or the carrying out of duties. Applications for approval of such persons are usually made to the MAS via prescribed forms. These individuals may be required to disclose their employment history, current business shareholdings and directorships, and to satisfy the requirements stated in the Guidelines on Fit and Proper Criteria (FSG-G01).

Law stated - 2 January 2026

Legislation

5 What statute or other legal basis is the source of each regulatory authority's jurisdiction?

The Monetary Authority of Singapore Act 1970 (under which the MAS is established) and the Financial Services and Markets Act 2022 contain the general powers exercised by the MAS over financial institutions in Singapore.

Law stated - 2 January 2026

6 What principal laws and financial service authority rules apply to the activities of financial services firms and their associated persons?

The MAS adopts a sector-specific approach to the regulation of financial institutions and their associated persons. For example:

- the Securities and Futures Act 2001 regulates activities and institutions in the securities and derivatives industry, including leveraged foreign exchange trading, financial benchmarks, clearing facilities and other related matters;
- the Payment Services Act 2019 provides for the licensing and regulation of payment service providers, the oversight of payment systems and connected matters;
- the Financial Advisers Act 2001 regulates financial advisers and their representatives and supervisors; and
- the Banking Act 1970 provides for the licensing and regulation of the businesses of banks, merchant banks and related institutions, as well as the credit card and charge card business of banks, merchant banks and other institutions.

Law stated - 2 January 2026

Scope of regulation

7 What are the main areas of regulation for each type of regulated financial services provider and product?

The MAS regulates financial services providers and products comprehensively across six main oversight functions: regulation, authorisation, supervision, surveillance, enforcement and resolution. Each function is tailored to ensure the safety, integrity and resilience of Singapore's financial system.

Key regulatory focuses include prudential standards, market conduct rules and AML/CFT compliance. The MAS authorises institutions by ensuring that they meet stringent licensing requirements. It also supervises their activities through robust inspections and continuous monitoring, while surveillance efforts identify systemic vulnerabilities and enforcement actions address breaches of regulations. In resolution, the MAS employs tools to protect financial stability and consumer interests.

This comprehensive framework is supported by initiatives to promote corporate governance, enhance market discipline and educate consumers, ensuring a well-functioning and progressive financial sector.

Law stated - 2 January 2026

Additional requirements

8 What additional requirements apply to financial services firms and authorised persons, such as those imposed by self-regulatory bodies, designated professional bodies or other financial services organisations?

Financial institutions licensed by the MAS and serving retail customers may be required to subscribe to the Financial Industry Disputes Resolution Centre (FIDReC). The FIDReC is an independent and impartial institution that provides alternative dispute resolution between consumers and financial institutions. Its determinations are binding on financial service providers, ensuring that consumer complaints are addressed effectively.

Industry bodies have also issued guidance for their members. For example, the Investment Management Association of Singapore (IMAS) has established a Code of Ethics and Standards of Professional Conduct, which sets the baseline for professionalism and ethical conduct in the investment management industry. This code, which all IMAS members are required to fully comply with, provides a framework of ethical principles, obligations and standards that guide the business practices and professional conduct of investment management companies.

Law stated - 2 January 2026

ENFORCEMENT

Investigatory powers

9 What powers do national financial services authorities have to examine and investigate compliance? What enforcement powers do they have for compliance breaches? How is compliance examined and enforced in practice?

The Monetary Authority of Singapore (MAS) holds extensive supervisory and investigative powers over financial institutions in Singapore, including the authority to:

- inspect the books of a financial institution;
- require individuals to appear for questioning as part of investigations;
- mandate that specific information necessary for regulatory oversight is provided; and
- enter the premises of a financial services firm without a warrant in connection with an investigation.

The MAS assesses all potential breaches of the law carefully and only launches a formal investigation after considering several factors, such as the seriousness of the misconduct, including the harm or losses caused; whether pursuing the misconduct is in the public interest; and whether there is sufficient evidence to support the case.

Law stated - 2 January 2026

Disciplinary powers

10 What are the powers of national financial services authorities to discipline or punish infractions? Which other bodies are responsible for criminal enforcement relating to compliance violations?

In 2016, the MAS established a dedicated Enforcement Department to centralise its enforcement functions and strengthen its capabilities. The MAS collaborates closely with other agencies, including the Commercial Affairs Department (CAD), the Attorney-General's Chambers (AGC) and self-regulatory organisations (SROs), to swiftly detect, investigate and address breaches of MAS-administered laws and regulations.

The MAS may pursue a range of enforcement actions, namely: referring a case for criminal prosecution; taking civil penalty action; withdrawing or suspending a licence or regulatory status; removal from office and issuing prohibition orders, compositions, reprimands and/or warnings or letters of advice.

Law stated - 2 January 2026

Tribunals

11 | What tribunals adjudicate financial services criminal and civil infractions?

For enforcement cases that require court action, the MAS works with the AGC to review the matter before deciding on the appropriate course of action for each case, whether it be to proceed with a criminal prosecution or to grant consent for the MAS to pursue a civil penalty action.

Civil infractions initiated by consumers may be resolved through the Financial Industry Disputes Resolution Centre (FIDReC) if the financial institution falls within its jurisdiction, or through arbitration tribunals if arbitration is stipulated in the contract. The FIDReC can mediate all eligible disputes between consumers and financial institutions, but there is a limit of S$150,000 per claim for adjudication of disputes.

Criminal infractions are handled solely by the Singapore courts. The MAS works closely with law enforcement agencies such as the CAD to investigate and prosecute such offences, ensuring the integrity of Singapore's financial sector.

Law stated - 2 January 2026

Penalties

12 | What are typical sanctions imposed against firms and individuals for violations? Are settlements common?

The MAS tailors its enforcement actions based on the specific circumstances of each case, considering factors such as the severity of the misconduct, the harm caused and the offender's culpability, compliance history and level of cooperation. Sanctions imposed on firms and individuals may include financial penalties, reprimands, licence suspensions or revocations, regulatory restrictions and prohibition orders.

For cases involving lower or moderate levels of misconduct, the MAS may offer compositions in lieu of prosecution. Settlements are possible where appropriate and

typically involve cooperation by the party under investigation, remedial actions and financial penalties.

Law stated - 2 January 2026

COMPLIANCE PROGRAMMES

Programme requirements

13 What requirements exist concerning the nature and content of compliance and supervisory programmes for each type of regulated entity?

The Monetary Authority of Singapore (MAS) requires that all regulated entities establish robust compliance and supervisory frameworks, especially in areas related to MAS priorities such as cybersecurity, combating scams and anti-money laundering and countering the financing of terrorism (AML/CFT) measures. These requirements apply to sectors regulated by the MAS, including banking, insurance, payment services and capital markets, with varying standards depending on the nature of each sector and the specific risks.

As part of its efforts to bolster cybersecurity resilience within the financial sector the MAS has outlined requirements for regulated entities in technology risk management and cyber hygiene, including the need to identify systems critical to their operations and to implement multi-factor authentication for accounts associated with those systems. The MAS reinforces these requirements by emphasising its expectations, which include the need to implement sound and robust technology risk management frameworks and comprehensive cybersecurity policies to safeguard critical systems and customer information.

In the area of AML/CFT, the MAS requires regulated entities to conduct ongoing transaction and relationship monitoring, implement robust customer due diligence measures and promptly report suspicious activities and material fraud incidents that could affect the entity's safety, soundness or reputation to the relevant authorities.

To combat scams, the MAS has issued supervisory expectations to enforce the Shared Responsibility Framework (SRF) for phishing scams. This framework assigns specific financial duties to financial institutions and telecommunication companies, making institutions strictly liable to reimburse victims if they fail to implement codified anti-scam measures. These mandatory duties now include providing a "Kill Switch" for customers and maintaining real-time fraud surveillance to detect and block high-risk transactions such as the rapid draining of funds. Institutions must also enforce enhanced authentication processes such as biometric verification through Singpass for high-risk activities, ensuring that failures to send real-time notifications or adhere to cooling-off periods render the institution primarily responsible for any incurred losses.

Law stated - 2 January 2026

Gatekeepers

14 | How important are gatekeepers in the regulatory structure?

The MAS recognises boards, senior management, internal audit and compliance functions as critical gatekeepers in the regulatory structure.

Under the Companies Act 1967 and statutory instruments within the MAS' purview, entities are required to establish an internal audit function to periodically evaluate the adequacy and effectiveness of their procedures, controls and compliance arrangements. The MAS further reinforces these requirements by expecting these functions to be adequately staffed, independent and overseen by fit and proper senior personnel, and by holding the board and senior management accountable for implementation.

In line with this, the MAS also expects that senior managers responsible for core functions are clearly identified where there are appropriate governance frameworks in place that support the execution of the roles they oversee. Moreover, the MAS expects the board and senior managers to notify it of any material adverse developments that could significantly impact the institution's financial stability, customers or counterparties.

Between 2023 and 2024 the MAS intensified enforcement actions, with the total number of reviews and investigations increasing from 136 in 2022–2023 to 163 in 2023–2024. By directly linking senior management accountability to operational resilience and financial crime controls, the MAS now subjects senior management to individual punitive measures upon breaches of regulatory obligations, such as material lapses in anti-money laundering controls. These punitive measures include fines, mandatory remuneration adjustments and the revocation of fit and proper status.

Law stated - 2 January 2026

Directors' duties and liability

15 | What are the duties of directors, and what standard of care applies to the boards of directors of financial services firms?

In Singapore, the duties of directors are partially codified and found in both common law and statute. Duties are generally owed to the company and include the duty to act honestly and in good faith in the best interests of the company, the duty to avoid exercising powers for an improper purpose and the duty to avoid conflicts of interests.

The statutory duties of directors are set out under section 157 of the Companies Act 1967 and include, among other things, the duty to act honestly and to use reasonable diligence in discharge of their duties. Together with the common law principles, the duty to act honestly requires directors to act in good faith in the best interests of the company, while the duty to exercise reasonable diligence reflects the obligation to act with due care, skill and diligence.

The standard of care that applies to boards of directors bound by these duties is measured objectively, based on what may reasonably be expected of a diligent director with the same knowledge, skills and experience performing the same functions.

Law stated - 2 January 2026

16 When are directors typically held individually accountable for the activities of financial services firms?

Directors may be held personally liable to the company for any profit made by them or for any damage suffered by the company as a result of a breach of any provision under section 157 of the Companies Act 1967, such as by acting dishonestly in the discharge of their duties, misusing their position for personal gain or acting in a manner that is detrimental to the firm.

Under the Monetary Authority of Singapore Act 1970, the MAS is empowered to order the removal of directors who fail to discharge the duties of their office. This power is exercised when the MAS deems the removal necessary for the public interest or the protection of stakeholders. The duration of the removal is determined based on the severity of the misconduct and its impact on the financial institution.

Additionally, the MAS may issue prohibition orders barring individuals from acting as directors of licensed or exempt financial institutions in Singapore.

Law stated - 2 January 2026

Private rights of action

17 Do private rights of action apply to violations of national financial services authority rules and regulations?

While the MAS enforcement regime does not permit any private rights of action to be taken against regulated entities for breaches of MAS rules and regulations, individuals may pursue civil claims such as under contract law or tort law.

Claims of up to S$150,000 relating to financial products such as general insurances, credit cards or investment products can be brought against financial institutions by consumers, with the Financial Industry Disputes Resolution Centre providing mediation or adjudication.

Sections 234 and 236 of the Securities and Futures Act 2001 (SFA) also provide avenues for investors to seek compensation for losses arising from market misconduct, by way of a private action in court or an application to the court if the offender is convicted or a civil penalty order is made against them. The MAS is currently considering introducing measures to improve avenues of recourse for investors to address evidential hurdles, high costs and limitations of actions under section 236 of the SFA. Such measures may include facilitating self-organisation of claims, providing access to funding claims and reducing legal barriers to civil action.

Law stated - 2 January 2026

Standard of care for customers

18 What is the standard of care that applies to each type of financial services firm and authorised person when dealing with retail customers?

The standard of care that applies when dealing with retail customers comes from the MAS' expectations that entities dealing in financial products and services must engage in fair dealing with their retail customers. This means that entities are expected to consider customers' needs and interests throughout the pre-contractual and post-contractual stages, including ensuring that:

- customers are provided products tailored or suited to their needs;
- customers are presented with accurate information, with extra care given to vulnerable customers;
- customers clearly understand a product as well as its terms and conditions; and
- customers have clear channels for responsive feedback.

Entities are expected to act accordingly in every aspect of their business to achieve this. This includes aligning their strategies, policies and practices with these principles, incorporating thorough product due diligence, implementing fair remuneration structures and facilitating transparent communication. In their efforts to promote a responsible digital asset ecosystem for retail customers in Singapore, the MAS has recently outlined its expectations for digital payment token service providers (DPTSPs) including, among other things, the implementation of robust risk-management controls to safeguard customer assets and ensuring that retail customers possess sufficient knowledge of the risks associated with digital payment services.

Law stated - 2 January 2026

19 | Does the standard of care differ based on the sophistication of the customer or counterparty?

Yes. The MAS categorises the sophistication of customers into two broad groups: accredited investors and retail investors. Accredited investors are assumed to be more informed and better equipped to protect their financial interests, and thus require less regulatory oversight. In contrast, retail investors are generally considered to have limited access to professional advice and fewer resources to safeguard their interests, warranting stronger regulatory protection from the MAS. For example, the MAS has issued specific guidelines for DPTSPs including restrictions on facilitating the lending and staking of retail customer assets, and has implemented measures to enhance consumer access to advice and protection.

Under the MAS' opt-in regime, all customers are classified as retail investors by default, with the exception of institutional investors. Customers who meet the accredited investor criteria – such as having over S$2 million in net personal assets, an annual income exceeding S$300,000 or S$1 million in net financial assets – can opt for either of these statuses.

Law stated - 2 January 2026

Rule-making

20 |

How are rules that affect the financial services industry adopted? Is there a consultation process?

The rules governing the financial services industry are extensive, encompassing a wide range of legislative instruments including acts of parliament, subsidiary legislation, directives, notices, guidelines, codes and practice notes. In general, notwithstanding such rules being passed by parliament or published by the MAS, the MAS often engages in public consultations under these instruments, inviting feedback from industry stakeholders and the public.

Law stated - 2 January 2026

CROSS-BORDER ISSUES

Cross-border regulation

21 How do national financial services authorities approach cross-border issues?

The Monetary Authority of Singapore (MAS) typically regulates financial institutions that carry on activities in Singapore, whether they operate within or outside Singapore. For example, the Securities and Futures Act 2001 extends the jurisdiction of Singapore courts to breaches of the Act committed partly or wholly outside Singapore, provided these breaches are substantial and reasonably foreseeable to the extent that, among other things, they have a significant or adverse impact on the soundness, stability or safety of Singapore's financial system.

Law stated - 2 January 2026

International standards

22 What role does international standard setting play in the rules and standards implemented in your jurisdiction?

As a global financial centre with a strong stake in global financial stability, the MAS plays an active role in regional and international initiatives to improve its regulatory standards and supervisory capabilities. The MAS also ensures it adheres to rigorous standards of financial supervision, which includes benchmarking itself against international standards and best practices.

For example, Singapore is a founding member of the Asia/Pacific Group on Money Laundering and was one of the first jurisdictions in Asia to join the Financial Action Task Force (FATF), the global standard-setting body for combating money laundering and terrorism financing. The MAS ensures that its anti-money laundering and countering the financing of terrorism (AML/CFT) notices align with FATF standards, reviewing them regularly in consultation with the industry to keep them relevant and ensure that they are consistently applied across financial sectors. Moreover, the MAS also contributes to the

development of international standards in this area through its participation in the AML/CFT Expert Group of the Basel Committee on Banking Supervision.

Law stated - 2 January 2026

UPDATE AND TRENDS

Key developments of the past year

23 | Are there any other current developments or emerging trends that should be noted?

In Singapore, artificial intelligence (AI) remains a focal point of regulatory attention. Building on the Fairness, Ethics, Accountability and Transparency (FEAT) Principles and the Personal Data Protection Commission's Model AI Governance Framework, the Monetary Authority of Singapore (MAS) recently published a consultation paper seeking public engagement on their proposed Guidelines for Artificial Intelligence (AI) Risk Management. Said guidelines set out the MAS' supervisory expectations of financial institutions regarding AI usage. Namely, financial institutions are expected to implement basic AI use policies commensurate with their level of AI adoption. For example, a financial institution whose use of AI poses more material risks to customers is expected to have more robust controls and stronger technology infrastructure. The aim of these guidelines is to encourage a calibrated, risk-based approach to the adoption of AI and the risk management of AI in financial institutions.

Aside from AI, the regulatory regime pertaining to anti-money laundering and countering the financing of terrorism (AML/CFT) has also evolved in Singapore. On 1 July 2025, the MAS revised the AML/CFT notices and guidelines for all the sectors it regulates. Revisions included a requirement to establish sources of funds and wealth, explicit mention of proliferation financing and clarifications regarding timelines for suspicious transaction reporting and the scope of due diligence for customers who are natural persons.

Financial products and services entailing the tokenisation of real-world assets also continue to gain traction, with the MAS continuing to partner with industry players to launch publications. The release of further details regarding the upcoming stablecoin regime are also highly anticipated.

Finally, regulation surrounding digital advertising of financial products is increasing. The MAS recently published a Guide for Responsible Financial Content Creation and a Standards of Conduct for Digital Advertising Activities, which apply to all financial institutions and marketers who advertise financial products and services digitally, including on social media platforms.

Law stated - 2 January 2026

DREW & NAPIER

Grace Chong Grace.Chong@drewnapier.com
Theodore Tay theodore.tay@drewnapier.com
Leanne Chee leanne.chee@drewnapier.com

Drew & Napier LLC

Read more from this firm on Lexology

Switzerland

Jérémie Tenot, **Aylin Güney King**
Bonnard Lawson

Summary

REGULATORY FRAMEWORK

Regulatory authorities

1 | What national authorities regulate the provision of financial products and services?

In Switzerland, a range of public and private authorities are involved in regulating and supervising the provision of financial services and products.

The primary authority for supervising the provision of financial services, as well as certain products, is the Swiss Financial Market Supervisory Authority (FINMA). FINMA is a single, integrated supervisory authority across different sectors. Federal acts or ordinances delegate regulatory powers to FINMA with regard to technical implementing provisions, whether in the form of ordinances or circulars. FINMA also publishes guidance on regulatory matters in the form of soft law tools that aim to encourage and promote the application of financial market regulations in practice.

In addition to FINMA, the Swiss National Bank (SNB) is in charge of ensuring the stability of the Swiss financial market. It oversees systematically important financial market infrastructures and has certain supervisory powers in this regard, primarily in terms of macro-prudential supervision.

Other authorities also have supervisory powers, notably the Federal Audit Oversight Authority, which is in charge of supervising audit firms, and the Swiss Takeover Board, which supervises public takeover offers.

Portfolio managers and trustees are subject to day-to-day supervision by specific Supervisory Organisations (SOs), which are themselves authorised and supervised by FINMA. There are currently five SOs, and each portfolio manager and trustee in Switzerland must be affiliated to one of them (in addition to being authorised by FINMA).

Finally, different self-regulatory organisations (SROs) and industry- specific organisations (eg, the Swiss Banking Association (SBA) and the Asset Management Association Switzerland (AMAS)) are involved in the regulation and supervision of financial intermediaries, financial services and financial products.

Law stated - 16 January 2026

2 | What activities does each national financial services authority regulate?

As the primary regulator in Switzerland, FINMA oversees and regulates all types of activities in the financial and insurance sectors, including banking services, securities services, portfolio management and trustee services, asset management services, financial market infrastructures and financial technology.

The SNB's regulatory powers are much more limited, covering systematically important financial market infrastructures and related macro-prudential supervision of the Swiss financial system.

SOs are in charge of the ongoing supervision of portfolio managers and trustees authorised by FINMA, including monitoring compliance with anti-money laundering (AML) regulations, the Financial Services Act (FinSA) and its implementing Ordinance (FinSO).

To ensure compliance with AML regulations, SROs supervise financial intermediaries which are not already supervised by FINMA and a SO (eg, financial advisers, payment services and money transmitting services).

The SBA is active in banking services, securities trading and related risks, AML regulations, sustainable finance and environmental, social and governance (ESG) finance. It has issued various self-regulatory rules and standard agreements that are widely used by the financial services industry.

The AMAS is the self-regulatory organisation for the fund and asset management industries, issuing different technical guidelines and a code of conduct that is recognised by FINMA as a minimum standard for these industries.

Law stated - 16 January 2026

3 | What products does each national financial services authority regulate?

In terms of the regulation of financial products, a key distinction is made between the offering of (1) collective investment schemes within the meaning of the Collective Investment Schemes Act (CISA) and its implementing Ordinance (CISO) and (2) other financial instruments under the FinSA, a general category covering equity securities, debt instruments, units in collective investment schemes, structured products and derivatives, as well as certain deposits and bonds.

Regarding collective investment schemes, a further distinction is made between Swiss and foreign collective investment schemes. A new Swiss fund vehicle, the limited qualified investor fund (L-QIF), has also been available since March 2024. FINMA is responsible for monitoring Swiss collective investment schemes approved or authorised by it, to ensure that they comply with the specifications set out in their fund contract and prospectus. With the exception of L-QIFs, FINMA must approve the fund contracts of Swiss collective investment schemes. FINMA authorisation is not required for L-QIFs (which are inspired by the reserved alternative investment fund under Luxembourg law), but this vehicle is limited to qualified investors and is only suited for alternative investment. Furthermore, a financial institution supervised by FINMA must manage the L-QIF. Foreign collective investment schemes are supervised by the responsible authority in their country of origin. Representatives of foreign collective investment schemes who are located in Switzerland and authorised by FINMA are responsible for complying with the statutory provisions governing these schemes.

The FinSA introduced cross-sector regulation for the offering of other financial instruments. This Act regulates the provision of financial services relating to financial instruments (eg, portfolio management and investment advice services) and introduces a "harmonised prospectus" regime for the public offering of financial instruments qualifying as securities, or for their admission to trading on a trading venue. Several exemptions to the prospectus obligation are available, however, notably in the case of a public offer addressed solely at professional clients or at fewer than 500 investors (including retail clients). Prior

to publication, each prospectus must be reviewed and approved in principle by an independent reviewing body authorised by FINMA (subject to exception). There are currently two reviewing bodies in Switzerland.

Law stated - 16 January 2026

Authorisation regime

4 What is the registration or authorisation regime applicable to financial services firms and authorised individuals associated with those firms? When is registration or authorisation necessary, and how is it effected?

FINMA grants five distinct types of authorisation: licensing, recognition, authorisation, approval and registration. The level of supervisory oversight depends on the specific type of authorisation issued. Any individual or entity seeking to conduct financial market activities in Switzerland must submit an application to FINMA and obtain prior authorisation confirming that they meet the applicable regulatory requirements. Authorisation is only granted to applicants who fulfil the necessary financial, personnel and organisational criteria. In the case of legal entities, the licence is issued to the entity itself and not to its managers or shareholders. If, at any point, the conditions for authorisation are no longer met, FINMA may impose administrative measures that, in severe cases, can include the withdrawal of the authorisation and the ordering of liquidation.

With regard to financial services, the most common type of authorisation granted by FINMA is a licence under the Federal Institutions Act (FinIA) and its implementing ordinances (FinIO and FinIO-FINMA). The term "financial institutions" encompasses portfolio managers, trustees, managers of collective assets, fund management companies and securities firms. Each financial institution is subject to general and specific licensing criteria and requirements at the level of both the entity and its directors, to ensure that it meets the general Swiss financial market law requirements surrounding irreproachable business conduct.

The FinIA further provides for a system of "authorisation cascade", allowing banks within the meaning of the Banking Act to also operate as securities firms, managers of collective assets, portfolio managers and trustees. An authorisation as a securities firm allows an entity to operate as a manager of collective assets, a portfolio manager and a trustee. An authorisation to operate as a fund management company allows an entity to operate as a manager of collective assets and a portfolio manager, and an authorisation to operate as a manager of collective assets authorises an entity to operate as a portfolio manager.

There is no longer an authorisation for the distribution and marketing of collective investment schemes, while providing investment advice alone is not subject to FINMA licensing requirements. However, pursuant to the FinSA, individuals performing financial services on behalf of a Swiss or foreign financial services provider are characterised as client advisers. Client advisers of Swiss financial services providers (which are not subject to FINMA supervision) and client advisers of foreign financial services providers must register with a client adviser register. However, client advisers of a foreign financial services provider that is subject to prudential supervision in its home jurisdiction do not have to register, provided that they render their services exclusively to per se professional and

institutional clients. The term "client adviser" can be misleading, since it also encompasses financial services that are not strictly related to investment advisory (eg, offering financial instruments in Switzerland).

The FINMA licence or registration, if required, must be obtained prior the beginning of any regulated activity. The application process is conducted online, via the dedicated platform created by FINMA (the EHP).

Law stated - 16 January 2026

Legislation

5 What statute or other legal basis is the source of each regulatory authority's jurisdiction?

The Financial Market Supervision Act (FINMASA) is the legal statute establishing the organisation and supervisory instruments of FINMA.

The FINMASA also lists the different financial market acts over which FINMA has supervisory powers:

- the Mortgage Bond Act;
- the Insurance Contract Act;
- the CISA;
- the Banking Act;
- the FinIA;
- the FinSA;
- the Anti-Money Laundering Act;
- the Insurance Supervision Act; and
- the Financial Market Infrastructure Act.

Along with the FINMASA and the National Bank Act (which regulates the SNB and its mandate), these financial market acts have comprised the Swiss financial market legal framework since 1 January 2020 (the date of the entry into force of the FinIA and the FinSA).

Statutory provisions for almost every financial market regulation are also detailed in ordinances issued by the Federal Council and FINMA. FINMA also issues circulars on the application of the financial market acts, though only to the extent required for the purposes of supervision and limiting itself as far as possible to a principles-based approach. Like the European Union, Switzerland has "three levels regulation" comprising parliamentary acts, Federal Council ordinances and FINMA circulars and guidance. Switzerland has less detailed regulations, however, which are limited as much as possible to the definition of principles and which leave room for interpretation and self-regulation.

Law stated - 16 January 2026

6 What principal laws and financial service authority rules apply to the activities of financial services firms and their associated persons?

In Switzerland, financial services providers and their associated persons are primarily regulated under the FinSA and the FinIA, which both came into effect on 1 January 2020.

The FinSA governs the provision of financial services, the rules of conduct for financial services providers and the issuance of financial instruments. It is a harmonised and cross-industries regulation, applying to any person providing financial services on a professional basis in Switzerland or for clients in Switzerland. The FinIA is another harmonised legislation at the institutional level, governing licensing requirements, the organisational conditions for financial institutions and the supervisory regime of financial institutions, among other things. It is important to note that financial institutions (under the FinIA) and financial services providers (under the FinSA) are two different legal concepts. A case-by-case analysis is therefore required to determine if a financial services provider also falls within the scope of the FinIA and requires a licence from FINMA as a financial institution.

Licensing requirements for fund management companies and asset managers of collective investment schemes have been incorporated into the FinIA, while the point of sale/rules of conduct for the marketing of collective investments schemes are reflected in the FinSA. The CISA continues to apply, however, but its scope of application has been substantially reduced as a result of the entry into force of the FinSA and the FinIA. The CISA contains product-level requirements for Swiss and foreign collective investment schemes offered to investors in Switzerland.

The Anti-Money Laundering Act applies to financial intermediaries, comprising not only regulated entities (typically financial institutions under the FinIA) but any person who, in a professional capacity, accepts or holds deposited assets belonging to others or who assists in the investment or transfer of such assets.

Finally, the Financial Market Infrastructure Act (FMIA) is also a harmonised legislation, governing derivatives trading, market conduct rules and licensing requirements for financial market infrastructures, among other things.

The above-mentioned acts are completed by various ordinances, circulars and self-regulations, which play an important role in financial services compliance. In practice, different levels of regulations must be navigated in order to have a comprehensive understanding of the regulation applicable to a considered activity. In terms of financial services, examples of relevant binding self-regulations include the FINMA circular on the rules of conduct under the FinSA (Circular 2025/2), the circular governing outsourcing under the FinIA (Circular 2018/2) and the circular on market conduct rules (Circular 2013/8). FINMA also publishes non-binding guidance, some of which is relevant for the financial services industry. Notably, FINMA recently issued guidance relating to governance and risk management when using artificial intelligence (Guidance 08/2024), which encourages financial institutions using AI to consider the impact of its use on their risk profile and to align their governance, risk management and control systems accordingly.

In terms of the exercise of AML due diligence at the level of industry organisations, the SBA Code of Conduct and its official commentary, and the AMAS Code of the Conduct for the funds and asset management industries are recognised as minimum standards by FINMA.

Law stated - 16 January 2026

Scope of regulation

7 What are the main areas of regulation for each type of regulated financial services provider and product?

Financial services providers may or may not qualify as financial institutions under the FinIA. For instance, a financial services provider offering only investment advisory services would be regulated under the FinSA rather than the FinIA. The client advisers working for this financial services provider must be entered in a register of advisers and must comply with the rules of conduct under the FinSA.

Financial services providers qualifying as financial institutions under the FinIA must obtain authorisation from FINMA prior to undertaking a supervised financial activity. Financial institutions comprise portfolio managers, trustees, managers of collective assets, fund management companies and securities firms.

The main areas of regulation for financial institutions under the FinIA relate to their organisation and their minimum capital requirement. They must establish appropriate corporate management rules and be organised in such a way that they can fulfil their statutory duties. They must also identify, measure, control and monitor their risks, including legal and reputational risks, and organise an effective internal control system. Moreover, the regulatory framework requires that the financial institutions are effectively managed from Switzerland, which implies that the persons entrusted with management must be resident in a place from which they may effectively exercise such management. The persons responsible for the administration and management of financial institutions and their qualified participants (ie, any individual or legal entity that directly or indirectly owns at least 10% of the capital or voting rights of a licensed institution, or that can otherwise influence its business activities in a significant manner) must provide a guarantee of irreproachable business conduct.

On a products and services level, the FinSA governs the provision of financial services, the rules of conduct for financial services providers and the issuance of financial instruments. A financial services provider under the FinSA is defined as any person that provides financial services in Switzerland or to clients in Switzerland on a professional basis. The following activities are defined as financial services under the FinSA:

- acquisition or sale of financial instruments for the account of a client;
- acceptance and transmission of orders regarding financial instruments;
- management of assets for the account of a client (portfolio management);
- provision of personal recommendation regarding the acquisition or sale of financial instruments (investment advice); and
- provision of loans for the execution of transactions regarding financial instruments (Lombard lending).

Corporate finance advisory, underwriting of financial instruments, acquisition finance and lending not qualifying as Lombard lending do not qualify as financial services within the FinSA's definition.

The FinSA provides for a client classification regime, comprehensive rules of conduct and rules on prospectus (applying to issuers of securities) and key information documentation (applying to producers of financial instruments and typically structured products).

Law stated - 16 January 2026

Additional requirements

8 What additional requirements apply to financial services firms and authorised persons, such as those imposed by self-regulatory bodies, designated professional bodies or other financial services organisations?

In Switzerland, financial services providers are subject to a comprehensive regulatory framework that extends beyond the primary financial market acts. In addition to the requirements set out by Swiss federal law, additional obligations may arise from SROs and industry organisations, particularly the SBA regarding the banking industry and the AMAS regarding the funds and asset management industries.

The SBA is a major industry organisation in Switzerland, playing an important role in shaping best practices and setting standards for financial institutions, particularly banks. The SBA issues binding codes of conduct, guidelines and standard agreements, notably the Swiss master agreement for over-the-counter derivatives and related annexes, which can be used as an alternative to the International Swaps and Derivatives Association Master Agreement. The SBA also plays a key role in defining and detailing the various risks involved in trading financial instruments. It publishes and updates a risks information brochure that is widely used by banks and portfolio managers in Switzerland as an information tool for financial services clients. Furthermore, the SBA Code of Conduct is a binding self-regulation tool for banks and securities firms with regard to the exercise of AML due diligence, focusing on the identification of the contracting party and the beneficial owner of assets, as well as the prohibition of active assistance in the flight of capital and tax evasion. The Code of Conduct is completed by an official commentary (also issued by the SBA) and is widely used by Swiss financial institutions.

More recently, the SBA published guidelines for financial services providers on the integration of ESG preferences and ESG risks into investment advice and portfolio management services. These guidelines define minimum standards within the financial services industry and are mandatory for SBA members wishing to propose ESG investments to clients or to take the ESG preferences of clients into account. These guidelines follow the same legal structure and approach as the FinSA rules of conduct, thus facilitating their implementation by financial institutions.

The AMAS has taken a similar approach to the SBA and has issued, among other guidance, a Code of Conduct recognised by FINMA as a minimum standard. It aims to maintain and promote the quality and standing of Swiss funds and asset management in Switzerland and abroad, and to ensure the transparency, functionality and high standard of the market for collective investment schemes.

Law stated - 16 January 2026

ENFORCEMENT

Investigatory powers

9 What powers do national financial services authorities have to examine and investigate compliance? What enforcement powers do they have for compliance breaches? How is compliance examined and enforced in practice?

Enforcement differs fundamentally from ongoing supervision. The supervisory activities of the Swiss Financial Market Supervisory Authority (FINMA) entail continual interaction with supervised institutions in all key areas and at all hierarchical levels, often by way of informal discussions. Enforcement, on the other hand, deals with specific topics and only happens when financial market laws have potentially been violated or discrepancies arise. FINMA begins by informally investigating a suspected violation. Where necessary, they will then initiate formal proceedings to restore compliance with the law. Supervision continues as normal alongside this process.

In Switzerland there is a dual compliance system, whereby regulatory auditors (typically private audit firms appointed by each supervised institution or directly by FINMA) conduct regular compliance reviews. FINMA performs many supervisory activities itself, but private firms also play an important role in auditing and supervision. These auditors assess the supervised institutions and compile regulatory audit reports, which are submitted to FINMA and, in the case of portfolio managers and trustees, to the relevant supervisory organisation. Based on these reports, FINMA may issue recommendations, mandate follow-up audits or initiate other enforcement actions.

Additionally, FINMA investigates any information it receives regarding potentially unauthorised activities. Such reports can come from market participants, investors or other third parties. If there are sufficient grounds for suspicion, FINMA may launch formal investigative proceedings to determine whether enforcement measures are necessary.

Law stated - 16 January 2026

Disciplinary powers

10 What are the powers of national financial services authorities to discipline or punish infractions? Which other bodies are responsible for criminal enforcement relating to compliance violations?

FINMA has a broad range of enforcement instruments to uphold supervisory law: precautionary measures, ordering a supervised institution to restore compliance with the law, declaratory rulings, prohibiting individuals from exercising a professional activity, cease-and-desist orders and bans on trading, publication of rulings (name and shame), disgorgement of profits, withdrawal of licences and ordering the liquidation of financial institutions. When applying these instruments, FINMA is bound to observe constitutional

principles and the rules governing administrative activity. FINMA's goal in enforcement proceedings is to impose the measures it deems most proportionate. However, as an administrative authority FINMA does not have the power to impose criminal sanctions or civil liability.

Criminal prosecution authorities, supervisory organisations and self-regulatory organisations are also involved in enforcing financial market laws. Where irregularities fall under criminal law, FINMA may file a complaint with the Federal Department of Finance (FDF), the Office of the Attorney General and cantonal prosecutors.

Criminal enforcement of compliance violations lies primarily with the cantonal prosecutors and the Office of the Attorney General. These authorities are empowered to investigate and prosecute criminal offences under the Swiss Penal Code and under specific provisions of financial market legislation, such as laws regarding insider trading, market manipulation and money laundering. FINMA may refer cases to these bodies if it uncovers evidence of criminal conduct during its supervisory or enforcement activities.

Law stated - 16 January 2026

Tribunals

11 | What tribunals adjudicate financial services criminal and civil infractions?

When criminal offences are identified and the facts are sufficiently established, FINMA submits a criminal complaint under administrative criminal law directly to the FDF. The FDF acts as the competent authority for prosecuting administrative offences such as breaches of disclosure obligations or unauthorised activity in the financial markets. If the FDF issues a sanction, the decision can be appealed before the Federal Criminal Court, while a further appeal may be brought before the Federal Supreme Court.

In terms of civil violations, legal proceedings typically occur within the canton where the parties are domiciled. These proceedings usually relate to disputes between private parties, such as contractual breaches, or liability issues involving financial service providers. A final appeal may be submitted to the Federal Supreme Court, which serves as the highest judicial authority in Switzerland.

Law stated - 16 January 2026

Penalties

12 | What are typical sanctions imposed against firms and individuals for violations? Are settlements common?

FINMA has different enforcement instruments at its disposal, though it has no right to impose monetary fines. However, on 6 June 2025, the Federal Council issued a package of proposed measures to reinforce the Swiss banking regulations, including the power to impose monetary fines, though this proposal is still subject to consultation and parliamentary procedures.

As of the date of this contribution, the typical sanctions and measures imposed by FINMA are those detailed below.

- Precautionary measures: FINMA takes appropriate precautionary measures where there is a risk to investors, policyholders, creditors or the financial market as a whole. A typical example is appointing an investigating agent.
- Restoring compliance with the law: FINMA can restore compliance with the law through investigations or enforcement proceedings. Depending on the nature of the violation or irregularity, FINMA can impose conditions on the organisation or internal processes of the company concerned, temporarily or permanently restrict its business activities or order it to change the composition of its ultimate management within a specific deadline.
- Declaratory rulings: FINMA can use declaratory rulings to sanction licence holders and individuals found to have committed market abuse. Declaratory rulings have no direct legal effect and do not give rise to any liability under civil or criminal law. They represent the mildest form of official sanction and are intended to encourage compliance with supervisory law and prevent repeated violations.
- Industry bans: FINMA can ban individuals responsible for serious violations of supervisory law from acting in a senior function at a supervised institution for up to five years.
- Cease and desist orders and activity bans: where FINMA identifies financial market participants operating without the requisite authorisation, it can issue a ruling expressly banning those responsible from continuing to operate. It also has the power to impose an activity ban on persons trading in financial instruments on behalf of a supervised institution who have seriously violated the applicable standards. An activity ban can also be imposed on client advisers employed by a supervised institution if they seriously violate the applicable standards.
- Publication of final rulings: once a ruling becomes legally binding, FINMA can publish its final rulings and name those involved (name and shame).
- Profit disgorgement orders: FINMA can confiscate profits generated or losses avoided through serious violations of supervisory law by supervised institutions or individuals in senior functions. Any confiscated assets that do not have to be paid out to injured parties are passed to the federal government.
- Withdrawal of authorisation, liquidation and bankruptcy: FINMA can withdraw its authorisation of individuals and legal entities that no longer meet authorisation requirements or that have committed serious violations of supervisory law. The law requires certain licence holders to be liquidated when this happens. FINMA also applies these rules to financial market participants operating without the requisite authorisation. For instance, FINMA recently withdrew the authorisation of Flowbank, a bank active in crypto-assets and securities trading, and ordered its liquidation.

The Swiss regulatory framework does not establish a formal settlement procedure. Nevertheless, during enforcement proceedings the supervised entity under investigation by FINMA typically takes all reasonable steps to re-establish compliance with the law. This proactive approach is often employed to mitigate the consequences of the supervisory breach and reduce the likelihood of severe measures being imposed by FINMA.

Law stated - 16 January 2026

COMPLIANCE PROGRAMMES

Programme requirements

13 What requirements exist concerning the nature and content of compliance and supervisory programmes for each type of regulated entity?

The Federal Institutions Act (FinIA) defines the general organisational requirements for financial institutions, which are completed and detailed by the Swiss Financial Market Supervisory Authority (FINMA) in its Circular 2017/1 (relating to corporate governance, risk management and internal controls for banks) and in the recent Circular 2023/1 (relating to operational risks and resilience, primarily relevant for the risk management function). The requirements of these two circulars primarily apply to banks and securities firms, but they set out market standards that are also relevant to and followed by other financial institutions. In the case of outsourcing of a significant function, the requirements of FINMA Circular 2018/3 apply.

Under the FinIA, all financial institutions are required to establish appropriate corporate management rules and be organised in such a way that they can fulfil their statutory duties. They must identify, measure, control and monitor their risks (including legal and reputational risks) and organise effective internal controls systems. Financial institutions have some flexibility when determining their organisational principles, which may be adapted to their business models and size.

This principle of proportionality is expressly stated in Circular 2017/1 and Circular 2023/1, pursuant to which the requirements of the Circulars must be implemented on a case-by-case basis by taking into account the size, complexity, structure and risk profile of each institution. FINMA can ease or strengthen the requirements in individual cases. Small banks and securities are also exempted from certain requirements of Circulars 2017/1 and 2023/1. Furthermore, Circular 2018/3 (relating to outsourcing) provides that small financial institutions do not have to maintain separate compliance and risk management functions, and may assign the responsibilities of these functions to one member of the executive committee. The operational tasks related to these functions can also be outsourced.

Circular 2017/1 contains specific requirements applicable to the compliance function, which is part of the independent internal control systems described in the circular. The compliance function must be independent from the revenue-generating units, with a compensation system that must not create incentives that could lead to conflicts of interest. Circular 2017/1 lists the following duties and responsibilities of the compliance function as minimum activities:

- conducting an annual assessment of the compliance risk of the institution's business activities, and developing a risk-orientated activity plan for approval by the executive committee (which must also be made available to internal auditors);
- reporting promptly to the executive committee on any major changes in the compliance risk assessment;

- reporting annually to the board of directors on the assessment of compliance risk and the activities of the compliance function, and providing a copy of the relevant reports to internal auditors and the regulatory audit firm; and
- reporting serious compliance breaches and matters with far-reaching implications to the executive committee and the board of directors in a timely manner, as well as supporting the executive board in its choice of appropriate instructions and measures. Internal auditors must also be informed accordingly.

In the case of outsourcing, one of the key requirements of Circular 2018/3 is to ensure that the appointed third-party service provider complies with the Swiss supervisory regulations applicable to the outsourcing company. The outsourcing company, its regulatory audit firm and FINMA must therefore be able to verify compliance by the service provider, and the outsourcing agreement must specifically reflect this auditing right.

Law stated - 16 January 2026

Gatekeepers

14 | How important are gatekeepers in the regulatory structure?

Financial institutions must implement appropriate internal control systems. These are defined as the control structures and processes that, at all levels of an institution, form the basis for achieving its business objectives and ensuring orderly business operations. An effective internal control system consists of control activities that are integrated into business processes, appropriate risk management and compliance processes, and monitoring bodies – particularly an independent risk control and compliance function – that adequately reflect the size, complexity and risk profile of the institution in accordance with the principle of proportionality.

The person acting as chief compliance officer is in principle a member of the executive committee. They may also be in charge of the risk management function, depending on the size of the financial institution. The responsibilities of the chief compliance officer have increased over the years, and this person must provide a guarantee of irreproachable business conduct. This is a general regulatory requirement of the FinIA and the Banking Act and is applicable to persons responsible for the administration and management of financial institutions. Such persons must also have a good reputation and have all the qualifications required for their functions. FINMA exercises enhanced administrative supervision over the persons subject to this guarantee, including (but not limited to) the chief compliance officer.

In addition to the internal control systems, banks and securities firms must establish an internal audit function under Circular 2017/1. If it seems inappropriate to appoint an internal auditor by application of the principle of proportionality, the relevant duties and responsibilities can be delegated to an internal auditor of another company of the same group, a second audit firm that is independent of the regulatory audit firm or an independent third party.

The internal audit function reports directly to the board of directors or its audit committee and fulfils the auditing and monitoring responsibilities assigned to it in an independent

manner. In particular, this means that it has an unlimited right of inspection, information and audit within the regulated entity.

The main roles of the internal auditor are to deliver independent audits and assessments of the appropriateness and effectiveness of the regulated entity's organisation and business processes (particularly with regard to the internal control systems), and to ensure that the executive board, the board of directors or its audit committee and the regulatory audit firm are informed about the risk assessment and audit objectives.

Special rules apply to portfolio managers and trustees under the FinIA. Under the FinIA, a risk-based approach is used regarding separate internal audit and risk management functions. Small portfolio managers and trustees are thus not required to have an independent internal audit and risk management function if they have five full-time employees or less or annual gross earnings of less than 2 million Swiss francs, and if they have a non-high-risk business model.

Law stated - 16 January 2026

Directors' duties and liability

15 What are the duties of directors, and what standard of care applies to the boards of directors of financial services firms?

Under Swiss corporate law, the board of directors is responsible for the ultimate management and oversight of the company. Each director has a duty of loyalty towards the company and must act in the company's best interests (still generally considered to be the common interests of all shareholders and of all other stakeholders of the company). In safeguarding such interests, directors have a general duty of care which involves specific duties, notably the obligation to carry out their duties personally, to attend the meetings of the board and to actively participate in the decision-making process. Directors must also have the required expertise and the prerequisite specialist knowledge and experience of the banking and financial services sector. Each director must provide a guarantee of irreproachable business conduct. FINMA approves the appointment of each director as part of the licensing process, but also each time there is a change of director.

FINMA Circular 2017/1 lists the different duties and responsibilities of the board of directors, which is in charge of the guidance, supervision and control of the institution. As such, the board of directors must define the business strategy and the guiding principles for the institutions' corporate culture and is responsible for ensuring adequate organisation and appropriate and effective internal control systems. The board of directors approves and periodically assesses the requirements profile for the other members of the executive committee, as well as for the chief risk officer and the head of internal audit. The board of directors must validate the risk policy and the basic features of institution-wide risk management, and is responsible for issuing regulations, establishing and monitoring an effective risk management function and managing overall risks.

At the member level, Circular 2017/1 provides that at least one third of the board of directors must consist of independent members. FINMA may approve exceptions (eg, for domestic financial groups) where there is good reason for doing so.

The day-to-day management of the financial institution is performed by the executive managers.

Law stated - 16 January 2026

16 When are directors typically held individually accountable for the activities of financial services firms?

FINMA's enforcement proceedings are traditionally focused on institutions rather than managers; however, FINMA may target an individual person as part of an enforcement proceeding, typically when the guarantee of irreproachable business conduct is threatened. From a regulatory perspective, directors and senior managers of financial institutions can be held responsible for significant breaches of their duties. As part of its enforcement instruments, FINMA may impose a professional activity ban on a member of the management.

In the aftermath of the 2023 Credit Suisse crisis, on 6 June 2025 the Federal Council issued a package of proposed measures to reinforce Swiss banking regulations. One of the key proposed measures is the faculty to impose monetary fines, as well as the introduction of a senior managers regime applicable to banks under Swiss law. This regime would be limited to the board of directors, the executive committee and the heads of control and key functions. Each senior manager within the scope of this regime would have clear and documented responsibilities. In accordance with the general principle of proportionality, the scope of the senior managers regime would be adapted to the structure, size and business model of each bank. The proposed regulatory package also includes additional enforcement instruments for FINMA, notably stricter regulation of bonuses for systematically important banks. Consultation proceedings on the proposed package will be followed by the legislative process, which will result in amendments to the proposed regime.

Law stated - 16 January 2026

Private rights of action

17 Do private rights of action apply to violations of national financial services authority rules and regulations?

In Switzerland, financial services regulations generally do not confer private rights of action. Enforcement is primarily the responsibility of FINMA and criminal prosecutors. A violation of regulatory provisions alone does not entitle a private party to bring a claim. However, clients of financial services providers may initiate civil proceedings for breaches of contract; namely, violations of the contractual obligations between the financial services provider and the client. In such cases, although regulatory non-compliance does not directly give rise to liability, Swiss regulatory law can "radiate" into the private law sphere by influencing the interpretation of contractual duties by the civil court. Thus, a financial services provider's failure to comply with a rule of conduct may be considered by the civil court when analysing

the contractual breach. The civil court is not bound by the regulatory provisions, however, and tends to have a broad interpretation of the regulatory requirements.

Where Swiss regulations explicitly allow civil actions based on financial regulatory breaches (eg, liability for the prospectus and the key information document under the Financial Services Act (FinSA)), plaintiffs must still demonstrate concrete individual damage – as well as a causal link between the regulatory breach and the damage – for their claim to succeed.

Law stated - 16 January 2026

Standard of care for customers

18 What is the standard of care that applies to each type of financial services firm and authorised person when dealing with retail customers?

Financial services providers and authorised individuals are required to adhere to specific rules of conduct at the point of sale when providing financial services. These rules of conduct not only apply to retail clients, but also to professional clients under the FinSA. However, under certain circumstances, professional clients may waive some of the rules of conduct. The below table provides an overview of the rules of conduct under the FinSA.

Obligation	Retail client	Professional client	Institutional client
Information obligations towards clients	Yes	Yes, but waiver possible	No
Obligation to provide a key information document for execution - only services, to the extent that such a document is available	Yes	No	No
Obligation to conduct a suitability or appropriateness test (relevant for investment advice and portfolio management services)	Yes	Yes, but assumptions available for facilitation purposes	No

Documentation obligation	Yes	Yes, but waiver possible	No
Accountability obligation	Yes	Yes, but waiver possible	No
Transparency obligation	Yes	Yes	No
Best execution obligation	Yes	Yes	No

Furthermore, the guarantee of irreproachable conduct requires that all financial services providers and their directors act with loyalty and diligence and ensure that clients receive all necessary and relevant information.

On 31 October 2024, FINMA issued the new Circular 2025/2 Rules of Conduct under the FinSA and the Financial Services Act implementing Ordinance (FinSO). The Circular, which entered into force on 1 January 2025, provides guidance on implementing selected aspects of the Rules of Conduct and the organisational requirements applicable to financial services providers under the FinSA. The Circular covers a selection of topics and questions that have arisen in FINMA's practice regarding the FinSA. For instance, Circular 2025/2 provides clarification on the information duty (especially regarding better identification of transaction- versus portfolio-based investment advice) and on enhanced risk disclosures in relation to contracts for differences and risk concentrations. The Circular also provides guidance regarding the process of creating a client risk profile to assess appropriateness and suitability, as well as further guidance relating to the disclosure of third-party benefits in light of the practice developed by the civil courts.

Regarding collective investment schemes, the Asset Management Association Switzerland's Code of Conduct also provides clarifications regarding the duties with which persons administering, holding or representing collective investments schemes (as well as their agents) must comply when dealing with clients.

Law stated - 16 January 2026

19 Does the standard of care differ based on the sophistication of the customer or counterparty?

Yes, financial services providers must classify their clients as retail, professional or institutional. Alternatively, a financial services provider can decide to treat all of its clients as if they were retail clients. Client classification impacts the scope of applicable conduct rules. Institutional and professional clients may lower their client status by declaring that they are opting in to retail client protections. On the other hand, retail clients who meet the eligibility criteria may opt out in writing (or in another form of text) to be considered professional clients. Financial services providers must inform their institutional and professional clients that they may opt in, and they must inform retail clients about the

possibility and consequences of opting out, as well as their obligation to inform the financial services provider about changes to their financial situation that may lead to a reassessment of their right to opt out.

Law stated - 16 January 2026

Rule-making

20 | How are rules that affect the financial services industry adopted? Is there a consultation process?

In Switzerland, new legislation (including that affecting the financial services sector) is typically preceded by a formal consultation process. These consultations occur at various stages of the legislative procedure, with longer consultation periods generally applying to parliamentary acts rather than to implementing ordinances or regulatory provisions issued by supervisory authorities such as FINMA. The consultation process is generally open to all interested stakeholders, allowing for broad input. Notably, key industry bodies such as the Swiss Banking Association, the Asset Management Association Switzerland and relevant self-regulatory organisations actively participate to ensure that industry perspectives are considered at an early stage of the legislative development.

Law stated - 16 January 2026

CROSS-BORDER ISSUES

Cross-border regulation

21 | How do national financial services authorities approach cross-border issues?

As a general rule, banking services or securities firms services (eg, brokerage services) may be provided to clients in Switzerland on a cross-border basis without triggering Swiss licensing or registration requirements. However, if a foreign bank or foreign financial institution (as defined under Swiss law) establishes a physical presence in Switzerland (such as by employing staff on a permanent basis to act on its behalf), licensing obligations under Swiss law are triggered, either as a branch office or as a representative office (depending on the nature of the activity conducted in Switzerland). The Swiss Financial Market Supervisory Authority (FINMA) interprets the existence of a branch office broadly. In addition to formally registered branch offices of foreign entities, defactobranches in the form of a factual Swiss presence may trigger a licence requirement.

Under the Financial Services Act (FinSA), client advisers of foreign financial services providers must register with a client adviser registered in Switzerland. However, this obligation does not apply where the foreign financial services provider is subject to prudential supervision abroad and the client adviser provides the services only to per se professional or institutional clients. Additionally, foreign financial services providers must be affiliated with a Swiss ombudsman service, unless they provide financial services solely to per se professional and institutional clients, in which case an exemption may apply.

The FinSA also has a cross-border scope of application. Financial services providers based outside Switzerland that offer financial services or products on a cross-border basis to clients in Switzerland thus fall within the scope of the FinSA. Swiss financial services providers must apply the FinSA regardless of whether they provide financial services for clients in Switzerland or abroad.

Law stated - 16 January 2026

International standards

22 | What role does international standard setting play in the rules and standards implemented in your jurisdiction?

International standard-setting plays an important role in shaping the Swiss legislative process, and such standards are often considered during the drafting and implementation of new laws. This is especially true with regard to legislative developments within the European Union (EU) and the European Economic Area (EEA). Although Switzerland is not a member of either the EU or the EEA, it generally seeks to align its financial services legislation with EU and EEA frameworks, particularly in areas where European regulations establish third-country regimes that require the adoption of equivalent and comparable rules as a condition for market access. The FinSA, for instance, was partially inspired by the Markets in Financial Instruments Directive (MiFID II) and the EU Prospectus Regulation, while the Financial Market Infrastructure Act is partially inspired by the European Market Infrastructure Regulation.

Law stated - 16 January 2026

UPDATE AND TRENDS

Key developments of the past year

23 | Are there any other current developments or emerging trends that should be noted?

The Swiss financial regulatory landscape continues to evolve in response to both technological innovation and increasing demands for transparency and accountability.

The recent Swiss Financial Market Supervisory Authority (FINMA) Circular 2025/2, which provides guidance on implementing selected aspects of the Rules of Conduct and the organisational requirements applicable to financial services providers under the Financial Services Act (FinSA), has been fully applicable since 30 June 2025. The Circular covers a selection of topics and questions that have arisen in FINMA's practice regarding the FinSA. For instance, Circular 2025/2 provides clarification on the information duty (especially regarding better identification of transaction- versus portfolio-based investment advice) and on enhanced risk disclosures in relation to contracts for differences and risk concentrations. The Circular also provides guidance regarding the process of creating a client risk profile to assess appropriateness and suitability, as well as further guidance relating to the disclosure of third-party benefits in light of the practice developed by the civil courts.

On 22 October 2025, the Swiss Federal Council initiated a consultation on proposed amendments to Swiss financial markets laws aimed at improving the Swiss regulatory framework applicable to stablecoins and cryptoassets. At the institutional level, the revised Financial Institutions Act introduces two new regulatory licences, "Payment Instrument Institution" and "Crypto-Institution". At the products and services level, the revised Financial Services Act introduces the new concepts of "Stable Payment Crypto-Assets" and "Trading Crypto-Assets", as well as a new set of rules applicable to cryptoassets services providers. The consultation period runs until 6 February 2026. After the consultation ends, the Federal Council will review stakeholder feedback, issue a report and send a draft bill to Parliament.

The use of artificial intelligence (AI) in the financial services industry is also increasing, which is associated with both opportunities and risks. Contrary to the EU, Switzerland has not yet regulated the development of AI systems and innovation. Switzerland continues to rely on a technology-neutral and principle-based regulatory approach, although FINMA has recently published Guidance 08/2024 relating to governance and risk management when using AI. In a nutshell, while acknowledging the opportunities that AI has to offer, FINMA highlights a series of supervisory findings relating to AI and suggests measures to address specific risks. FINMA expects supervised institutions to have AI governance in place, with clear definition of responsibilities and accountability for the development, implementation, monitoring and use of AI. More generally, FINMA expects supervised institutions to determine and understand the risks associated with their use of AI applications.

Another major trend shaping the Swiss financial landscape is the accelerating tokenisation of financial and real-world assets. Switzerland has a favourable and attractive legal framework regarding cryptoassets and Distributed Ledger Technology (DLT) systems. In 2021, the Swiss legislator improved the regulatory frameworks for tokens representing rights (such as asset tokens and utility tokens) by adopting the Federal Act on the Adaptation of Federal Law to Developments in Distributed Ledger Technology, which amended various Swiss laws to take into account the specificity and opportunities of DLT. More recently, FINMA approved the first blockchain-based infrastructure for the trading and settlement of tokenised securities.

Finally, environmental, social and governance (ESG) investing remains a prominent but increasingly scrutinised area. As investor appetite for sustainable financial products grows, FINMA has intensified its efforts to prevent and combat greenwashing by closely monitoring the consistency and credibility of ESG-related claims (see FINMA Guidance 05/2021). Since 1 January 2025, misleading greenwashing claims may trigger penalties under the Federal Unfair Competition Act. Financial institutions are expected to demonstrate substantive integration of sustainability factors into their investment processes, ensure transparency in disclosures and establish robust internal governance around ESG labelling and marketing. In response, many institutions tend to be cautious in the design and promotion of ESG offerings, emphasising verifiable impact, risk-adjusted returns and alignment with regulatory expectations.

Law stated - 16 January 2026

Jérémie Tenot jeremie.tenot@bonnard-lawson.com
Aylin Güney King agk@bonnard-lawson.com

Bonnard Lawson

Read more from this firm on Lexology

United Kingdom

Wendy Saunders
Lewis Silkin LLP

Summary

REGULATORY FRAMEWORK

Regulatory authorities

1 | What national authorities regulate the provision of financial products and services?

The two main financial services regulators in the United Kingdom are the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA). The other elements of the UK financial services regulatory architecture include the Bank of England, the Financial Policy Committee and the Payment Systems Regulator (PSR).

The FCA is responsible for the conduct regulation of all regulated financial services firms – around 42,000 – and prudentially supervises around 41,000. Approximately 17,000 firms are subject to the prudential standards in the FCA Handbook. The FCA is an independent public body funded entirely by the fees it charges to regulated firms, and it is accountable to His Majesty's(HM) Treasury and Parliament.

The PSR is a subsidiary of the FCA and is responsible for regulating the eight payment systems designated by HM Treasury. However, the government recently announced that the PSR would be abolished and consolidated into the FCA.

The PRA is a subsidiary of the Bank of England and is responsible for the prudential regulation and supervision of around 1,300 banks, building societies, credit unions, insurers and major investment firms, carrying out what is known as microprudential regulation.

In addition, within the Bank of England there is an independent Financial Policy Committee that is responsible for macroprudential regulation and that leads the Bank's work on financial stability.

The Bank of England is also responsible for supervising financial market infrastructure providers, including payment systems recognised by HM Treasury, central securities depositories and central counterparties.

Law stated - 20 March 2026

2 | What activities does each national financial services authority regulate?

Regulated activities are primarily set out in the Financial Services and Markets Act 2000 (FSMA) (Regulated Activities) Order 2001 (RAO). These include:

- accepting deposits;
- issuing electronic money;
- effecting and carrying out contracts of insurance;
- insurance risk transformation;
- activities in relation to Lloyd's;
- insurance distribution activities;
-

investment business (including dealing in investments as principal, dealing in investments as agent, arranging deals in investments, managing investments, safeguarding and administering investments, and advising on investments);

- bidding in emissions auctions;
- consumer credit, including:
    - credit broking;
    - operating an electronic system in relation to lending;
    - activities in relation to debt (debt adjusting, debt counselling, debt collecting and debt administration);
    - entering into a regulated credit agreement as lender;
    - exercising, or having the right to exercise, lender's rights and duties under a regulated credit agreement;
    - entering into a regulated consumer hire agreement as owner;
    - exercising, or having the right to exercise, owner's rights and duties under a regulated consumer hire agreement;
    - advising on regulated credit agreements for the acquisition of land; and
    - providing credit information services and credit references;
- operating a pensions dashboard service;
- entering into a regulated mortgage contract as lender;
- entering into and administering regulated home reversion plans;
- entering into and administering regulated home purchase plans;
- entering into and administering regulated sale and rent back agreements;
- sending dematerialised instructions;
- collective investment scheme activities;
- establishing a pension scheme;
- providing basic advice on stakeholder products;
- entering into a funeral plan contract as provider;
- activities of reclaim funds;
- administering a benchmark;
- specified kinds of claims management activities; and
- agreeing to carry on regulated activities.

In addition to specific regulated activities, a restriction on financial promotion is also set out in section 21 of the FSMA, which provides that a person must not, in the course of business, communicate an invitation or inducement to engage in investment or claims management activity unless they are an authorised person, or the content of the promotion is approved for the purposes of section 21 by an authorised person. Various exemptions may be available depending on whether the detailed criteria contained in the FSMA (Financial

Promotion) Order 2005 (FPO) are satisfied. Guidance on the financial promotion regime is contained in the FCA's Perimeter Guidance Manual at PERG 8.

Electronic money and payment services are regulated under the Electronic Money Regulations 2011 and Payment Services Regulations 2017, respectively.

Crypto-asset exchange providers and custodian wallet providers need to be registered with the FCA under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

Law stated - 20 March 2026

3 | What products does each national financial services authority regulate?

Regulation is primarily focussed on the nature of the activity being carried out. However, some activities are only regulated when they relate to a specified investment set out in the RAO, including:

- deposits;
- electronic money;
- contracts of insurance;
- shares, etc;
- instruments creating or acknowledging indebtedness;
- alternative finance investment bonds;
- government and public securities;
- instruments giving entitlement to investments;
- certificates representing certain securities;
- units in a collective investment scheme;
- rights under a pension scheme;
- pensions in respect of which information is requested or provided using a pensions dashboard service;
- greenhouse gas emissions allowances;
- emission allowances;
- options;
- futures;
- contracts for differences, etc;
- Lloyd's syndicate capacity and membership;
- funeral plan contracts;
- regulated mortgage contracts;
- regulated home reversion plans;
- regulated home purchase plans;

- regulated sale and rent back agreements;
- credit agreements;
- consumer hire agreements; and
- rights to or interests in investments.

The list of controlled investments set out in the FPO for the purposes of the financial promotion regime is similar, but with some important differences.

Law stated - 20 March 2026

Authorisation regime

4 What is the registration or authorisation regime applicable to financial services firms and authorised individuals associated with those firms? When is registration or authorisation necessary, and how is it effected?

Under Part 4A of the FSMA, firms seeking to carry on activities that are regulated under the FSMA must apply to the relevant regulator (either the FCA or PRA) for authorisation. Firms wishing to carry on e-money or payment services must apply to the FCA under the Electronic Money Regulations 2011 (EMRs) or Payment Services Regulations 2017 (PSRs) for registration or authorisation. Under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs), firms seeking to carry on business as a crypto-asset exchange provider or custodian wallet provider must register with the FCA. The PRA has set out guidance on new firm authorisations, while the FCA has set out guidance on obtaining authorisation under the FSMA, EMRs and PSRs, as well as guidance for the registration of crypto-asset businesses.

As an alternative to direct FCA authorisation, some firms (depending on the nature of the regulated activities they seek to carry out) may be able to enter into an appointed representative arrangement with an FCA-authorised firm. The FCA has set out an overview of the appointed representative regime.

Firms authorised under the FSMA are subject to the Senior Managers and Certification Regime (SMCR), although the scope of the regime's application varies depending on the type of financial services firm in question and the extent of its activities. Under this regime, certain key individuals who will be performing designated senior management functions must obtain pre-approval from the relevant regulator, with the requirements set out in Part V of FSMA. The FCA has provided guidance on the application of the SMCR regime for solo-regulated firms. Guidance on applying to perform a senior management function is set out by the FCA and PRA.

Appointed representatives are not subject to the SMCR. However, they must have at least one FCA-approved individual responsible for the business.

Law stated - 20 March 2026

Legislation

.

5 What statute or other legal basis is the source of each regulatory authority's jurisdiction?

The primary statute that is the source of the FCA's and PRA's jurisdiction is the FSMA. This has been amended and supplemented by primary legislation over time, including:

- the Financial Services Act 2010 which, among a wide range of matters, covers recovery and resolution plans and executive remuneration;
- the Financial Services Act 2012 which, among other matters, abolished the previous regulator (the Financial Services Authority) and transferred its functions to the PRA, FCA and Bank of England;
- the Financial Services (Banking Reform) Act 2013 which, among other matters, introduced the SMCR and the PSR;
- the Bank of England and Financial Services Act 2016 which, among other matters, established the independence of the PRA and extended the SMCR to all FSMA-authorised firms;
- the Financial Services Act 2021, which made extensive amendments to address the United Kingdom's departure from the EU; and
- the Financial Services and Markets Act 2023 which, among a wide range of changes, gave the FCA and PRA their new secondary economic growth and international competitiveness objectives, reformed the financial promotion framework, and contained provisions enabling certain stablecoins used as a means of payment to be brought within the UK regulatory perimeter.

The FCA also has jurisdiction under the EMRs, PSRs and MLRs.

The Bank of England has monetary policy responsibilities under the Bank of England Act 1998. However, that Act transferred the Bank of England's banking supervision function to the FSA. The Banking Act 2009 enhanced the ability of the relevant authorities to deal with crises in the banking system and established a new permanent special resolution regime.

Law stated - 20 March 2026

6 What principal laws and financial service authority rules apply to the activities of financial services firms and their associated persons?

For firms authorised under the FSMA, FSMA and relevant subsidiary legislation apply. If a firm is authorised by the PRA, it is subject to the provisions in the relevant PRA rulebook, depending on the type of firm. If a firm is not authorised by the PRA, it is only subject to the provisions contained in the FCA Handbook.

E-money firms and payment services firms are subject to the EMRs and PSRs, respectively. The FCA sets out guidance for these firms in its approach document.

Crypto-asset businesses (crypto-asset exchange providers and custodian wallet providers) are subject to the MLRs. These firms must follow relevant guidance on the FCA website, as well as guidance of the Joint Money Laundering Steering Group (JMLSG). JMLSG guidance is more broadly relevant to all financial services firms.

Law stated - 20 March 2026

Scope of regulation

7 What are the main areas of regulation for each type of regulated financial services provider and product?

The main areas of regulation include:

- authorisation and registration;
- conduct of business requirements;
- capital resources requirements;
- client asset or safeguarding requirements;
- complaints handling;
- reporting and notifications;
- operational and security risks;
- financial crime;
- fitness, propriety and conduct requirements; and
- compliance with the FCA's Consumer Duty.

Law stated - 20 March 2026

Additional requirements

8 What additional requirements apply to financial services firms and authorised persons, such as those imposed by self-regulatory bodies, designated professional bodies or other financial services organisations?

Part XX of the FSMA contains a designated professional body regime. This does not impose additional requirements on financial services firms; rather it provides an alternative regulatory regime for professional firms that are carrying out financial services activities in a manner incidental to the provision of professional services. The FCA sets out guidance on this in the Professional Firms section of the FCA Handbook, and provides a list of professional bodies that have been designated by HM Treasury.

Law stated - 20 March 2026

ENFORCEMENT

Investigatory powers

9

> What powers do national financial services authorities have to examine and investigate compliance? What enforcement powers do they have for compliance breaches? How is compliance examined and enforced in practice?

The Financial Conduct Authority (FCA) sets out its approach to enforcement in its Enforcement Guide. In June 2025, the FCA published a policy statement (PS25/5) setting out revisions to its Enforcement Guide, including its revised designation from "EG" to "ENFG". Some matters were removed from the Enforcement Guide and relocated to the FCA's webpage on enforcement. In August 2025, the FCA published its Enforcement Information Guide, which provides a general overview of the FCA's enforcement powers and process for regulatory cases. The FCA may decide against taking formal disciplinary action if a firm agrees to take agreed remedial action promptly. The FCA has wide powers under the Financial Services and Markets Act 2000 (FSMA) to gather information and appoint investigators, and to require the production of a report by a skilled person. Guidance on this is set out in ENFG 2. If the FCA proposes to exercise its regulatory enforcement powers, it must issue statutory notices (see DEPP 2). A firm or individual may receive a warning notice, in response to which they may make representations. Having considered those representations, if the FCA proposes to continue with the enforcement action, then either FCA staff operating under executive procedures (see DEPP 4) or the Regulatory Decisions Committee (RDC, and see DEPP3) will issue a decision notice. Following a decision notice, the firm or individual has the right to refer the matter to the Upper Tribunal, which will determine what action – if any – is appropriate for the FCA to take.

The approach of the Bank of England and Prudential Regulation Authority (PRA) to enforcement is set out in their statements of policy and procedure. The Bank of England also provides information on its Enforcement Decision Making Committee. There may be circumstances where misconduct adversely affects the statutory objectives of both regulators, in which case they will determine whether a joint investigation is required or whether one is better placed to carry out the investigation (while keeping the other informed).

Law stated - 20 March 2026

Disciplinary powers

10 What are the powers of national financial services authorities to discipline or punish infractions? Which other bodies are responsible for criminal enforcement relating to compliance violations?

Criminal proceedings may be pursued in addition or as an alternative to regulatory enforcement proceedings and the use of other statutory powers. The Bank of England may prosecute various offences, including failure to notify the PRA of a change in control of a PRA-authorised firm or providing false or misleading information to the PRA or the Bank of England.

The FCA has a range of powers to take civil action. It may apply to the civil court for:

-

an order to suspend a shareholder's voting rights, if the shareholder has breached certain transparency provisions regarding shares in a company admitted to trading on a regulated market and the FCA considers the breach to be serious;

- an injunction in a wide range of circumstances (see ENFG App 1) ranging from significant consumer loss to serious market abuse, including injunctions to restrain a course of conduct, to take steps to remedy a course of conduct and to secure assets. The civil court may also make an order freezing assets under its inherent jurisdiction;
- restitution orders, where this is the most effective means to obtain redress (see ENFG App 1); and
- involvement in insolvency proceedings (see ENFG App 1).

The FCA also has powers to prosecute a range of criminal offences in England, Wales and Northern Ireland (see ENFG 6). The FCA could decide to issue a formal caution rather than prosecute an offender. Market misconduct may involve a breach of criminal law as well as civil market abuse, in which case the FCA will consider whether criminal prosecution, civil action or regulatory action is more appropriate.

Law stated - 20 March 2026

Tribunals

11 | What tribunals adjudicate financial services criminal and civil infractions?

The Upper Tribunal adjudicates on certain regulatory decisions of the FCA and PRA. The FCA and PRA may also pursue certain matters through the civil and criminal courts.

Law stated - 20 March 2026

Penalties

12 | What are typical sanctions imposed against firms and individuals for violations? Are settlements common?

The FCA and PRA have a wide range of sanctions that they may impose. The FCA sets out guidance on possible sanctions in its Enforcement Information Guide, including publishing statements, imposing financial penalties (see DEPP 6), and imposing suspensions, limitations or other restrictions. (The FCA confirmed in PS25/5 that it would no longer use private warnings as an enforcement tool). The FCA may also take protective or remedial action, including withdrawing a firm's authorisation or an individual's status as an approved person, and it may require a firm to establish and operate a consumer redress scheme in certain circumstances (see CONRED 1). In addition to its powers in relation to authorised firms and approved individuals, the FCA has a wide range of powers to ensure the smooth operation of the securities market and to enforce requirements under market abuse and prospectus regulations. The PRA sanctions are set out in its statement of policy and procedure.

Settlements are common, particularly because the FCA offers discounts for early settlement of cases. Further detail on FCA settlements is set out on the FCA's webpage, in its Enforcement Information Guide, and in the Decision Procedure and Penalties Manual at DEPP 6.7. The PRA offers an Early Account Scheme and Enhanced Settlement Discount, which are set out in its statement of policy and procedure.

Law stated - 20 March 2026

COMPLIANCE PROGRAMMES

Programme requirements

13 | What requirements exist concerning the nature and content of compliance and supervisory programmes for each type of regulated entity?

The Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) are outcomes-focussed regulators; there are extensive compliance requirements that must be satisfied, but the regulators do not mandate how compliance should be achieved.

Although the UK has now left the EU, pre-exit EU non-legislative materials may remain relevant. In relation to Directive 2014/65/EU of the European Parliament and the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (investment business), the European Securities and Markets Authority has published guidelines on compliance function requirements. For wholesale investment banks, the Association for Financial Markets in Europe has published a report on the scope and evolution of compliance.

Generally, firms operate a three lines of defence model. The FCA occasionally makes observations on how this model works in practice, such as in a speech noting that the three lines of defence should be separate but cohesive. In a recent letter to asset management firms, the FCA said it would assess how such firms use the three lines of defence model to oversee the application of their conflict-of-interest frameworks.

Law stated - 20 March 2026

Gatekeepers

14 | How important are gatekeepers in the regulatory structure?

Gatekeepers are very important in the regulatory structure. Heads of compliance and money laundering reporting officers are important roles at financial services firms. Under the Senior Managers Regime (SMR), an individual accountability regime, those performing these roles usually need to be pre-approved by the FCA. After approval, they have specific regulatory responsibilities to satisfy: among other matters, they must take reasonable steps to ensure that the business of the firm for which they are responsible complies with the relevant requirements and standards of the regulatory system, and they must appropriately disclose any information of which the FCA or PRA would reasonably expect

notice. They may also have specific prescribed responsibilities, including responsibility for the firm's policies and procedures for countering the risk that it might be used to further financial crime. The FCA has provided guidance on the necessary capabilities of individuals performing these roles.

Law stated - 20 March 2026

Directors' duties and liability

15 What are the duties of directors, and what standard of care applies to the boards of directors of financial services firms?

The SMR has applied to the banking sector (including banks, building societies, credit unions, UK branches of foreign banks and designated investment firms) since March 2016, and to insurers (including insurers and reinsurers, insurance special purpose vehicles, the Society of Lloyd's, managing agents and UK branches of foreign insurers) since December 2018. The SMR was extended to include solo-regulated firms (firms regulated only by the FCA) in December 2019, and to benchmark administrators in December 2020. Firms that are not authorised under the Financial Services and Markets Act 2000 (FSMA), such as payment services firms, are not subject to the SMR. Appointed Representatives are also not subject to the SMR, but remain subject to the Approved Persons Regime.

Senior managers are individuals approved by the FCA or PRA under section 59 of the FSMA to perform a designated senior management function (SMF). Typically, executive directors and non-executive directors that perform chair roles are senior managers.

The SMR has introduced what is known as the duty of responsibility for senior managers, which is contained in sections 66A and 66B of the FSMA. The duty of responsibility is enforced by the relevant regulator, either the PRA or the FCA. The duty of responsibility requires the regulator to prove that a firm contravened a regulatory requirement, and that the senior manager was responsible for the management of any activities in relation to which the contravention occurred. The burden of proof lies with the regulators to show that the senior manager did not take the steps that a person in their position could reasonably be expected to have taken to avoid the contravention. Further guidance on this is set out in FCA DEPP 6.2 and PRA SS28/15. FCA DEPP 6.2 also applies to payment services and e-money firms, as explained by the FCA in its payment services and e-money approach document.

Senior managers are also subject to the FCA's individual conduct rules and senior manager conduct rules.

Law stated - 20 March 2026

16 When are directors typically held individually accountable for the activities of financial services firms?

The regulators have generally relied on the SMR's deterrence effect to achieve compliance by senior managers, which has generally been considered effective according to a survey by the PRA and the FCA review.

In response to a freedom of information request in November 2024, the FCA confirmed that it had 23 active enforcement investigations in relation to senior managers. Across the investigations, the primary issues included:

- breaches of the Client Assets Sourcebook rules;
- fraud against consumers;
- honesty, integrity and reputation failings;
- non-disclosure;
- non-financial misconduct;
- senior manager failings;
- misleading statements;
- systems and controls failings; and
- failings of the suitability threshold condition.

The FCA and PRA have taken action against senior managers for conduct rule breaches, including those outlined in the below table.

Date	Role	Breach and sanction
May 2018 (FCA)	SMF1, Bank CEO	Breach: Individual Conduct Rule 2 – actions in response to an anonymous letter raising concerns about the bank's hiring process Sanction: Fine
April 2023 (PRA)	SMF18, Bank CIO	Breach: Senior Manager Conduct Rule 2 – failure to take reasonable steps to ensure compliance with the PRA's Outsourcing Rules by adequately managing and appropriately supervising the bank's outsourcing arrangement Sanction: Fine
June 2023		Breach: Individual Conduct Rules 1 and 3 –

	SMF3 and SMF16 (part of the relevant period), financial advisory firms	separation of the firm's assets from liabilities, procuring significant personal financial benefit, and failure to be open and co - operative with the FCA Sanction: Fine, plus prohibition on performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm
January 2024 (PRA)	Bank SMF1, CEO SMF4, CRO (part of the relevant period) SMF2, CFO (reporting responsibilities, part of the relevant period)	Breach: Individual Conduct Rule 1 and Senior Manager Conduct Rules 1 and 2 – multiple breaches Sanction: Fine, plus undertaking not to apply for or perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm
October 2024 (FCA)	SMF1 and SMF3, FCA - authorised firm and director of an authorised electronic money institution	Breach: Senior Manager Conduct Rule 4 – failure to disclose personal fine imposed by His Majesty's Revenue and Customs Sanction: Fine
November 2024	MF3 (part of the relevant period) – sole director, specialist insurance broker	Breach: Individual Conduct Rules 1 and 3 – failure to pay insurance premia to insurers over several years and not being truthful in regulatory reports submitted to the FCA Sanction: Fine, withdrawal of approval, and prohibition on performing any function

		in relation to any regulated activities carried on or by any authorised person, exempt person or exempt professional firm
November 2024	SMF27, SMF16 and responsible for Mortgage Credit Directive intermediation	Breach: Individual Conduct Rule 1 – transfer of funds in breach of asset requirements, failure to engage with the FCA in relation to first supervisory notice and unauthorised personal transfers. Sanction: Fine, plus prohibition on performing any function in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm
November 2024	SMF27, SMF16 and responsible for insurance distribution	Breach: Individual Conduct Rule 1 – receipt of funds transferred in breach of asset requirements, failure to engage with the FCA in relation to first supervisory notice and unauthorised personal transfers Sanction: Fine, plus prohibition on performing any function in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm
April 2025 (PRA)	Notified non - executive director, Bank	Breach: Individual Conduct Rule 2 – multiple breaches Sanction: Fine
July 2025 (FCA)	SMF1, Bank CEO	Breach: Individual Conduct Rules 1 and 3, and Senior

		Manager Conduct Rule 4 – recklessly approving a letter sent by the bank to the FCA, which contained two misleading statements Sanction: Fine, plus prohibition on performing any senior management or significant influence function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm
July 2025 (FCA)	SMF27, Partner (part of the relevant period – assumed COO title then Deputy CEO), asset management firm	Breach: Individual Conduct Rules 1 and 3 – retrospective creation and provision of false and misleading documents to the FCA, and making multiple misleading statements to the FCA Sanction: Fine, plus prohibition on performing any function in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm

Law stated - 20 March 2026

Private rights of action

17 Do private rights of action apply to violations of national financial services authority rules and regulations?

The private right of action for damages relating to breaches of PRA and FCA rules is provided in section 138D of the FSMA. For PRA rules, a rule may provide that contravention is actionable at the suit of a private person who suffers loss as a result. For FCA rules, rules are actionable at the suit of a private person who suffers loss due to contravention, unless the rule in question provides otherwise. However, there is a specific list of rules that are excluded from the private right of action. For both PRA and FCA rules, the rules in question are those made under the FSMA, and actions are subject to the defences and

other incidents that apply to such claims for breaches of statutory duty. In certain prescribed cases, a non-private person may bring an action under section 138D of the FSMA. This right of action does not remove any common law cause of action that a person may otherwise have.

Law stated - 20 March 2026

Standard of care for customers

18 What is the standard of care that applies to each type of financial services firm and authorised person when dealing with retail customers?

The FCA Consumer Duty applies to the regulated and ancillary activities of all firms authorised under the FSMA, the Payment Services Regulations 2017 and the E-money Regulations 2011. It applies in relation to products and services for prospective and actual retail customers. The definition of a retail customer under the Consumer Duty depends on the specific regulated activity in question. Furthermore, the Consumer Duty applies to all firms that "have a material influence over, or determine, retail customer outcomes" across the whole distribution chain, from product and service origination through to distribution and post-sale activities.

The Consumer Duty is set out in the FCA Handbook at PRIN 2A, with further details in PS22/9 and FG22/5. It comprises Principle 12 of the FCA's Principles for Businesses, three cross-cutting rules and four outcomes:

- Principle 12: a firm must act to deliver good outcomes for retail customers;
- cross-cutting rules:
    - firms must act in good faith towards retail customers;
    - firms must avoid foreseeable harm to retail customers; and
    - firms must enable and support retail customers to pursue their financial objectives; and
- outcomes:
    - governance of products and services;
    - price and value;
    - consumer understanding; and
    - consumer support.

Where the Consumer Duty does not apply, the relevant standard of care is that set out in Principle 6 (treating customers fairly) and Principle 7 (clear, fair and not misleading communications) of the Principles for Businesses.

The Principles for Businesses (including Principle 12) do not give rise to a private right of action under section 138D of the FSMA. However, in future, the FCA may review attaching a private right of action to the Consumer Duty. The usual route for consumer redress is through the Financial Ombudsman Service.

Law stated - 20 March 2026

19 Does the standard of care differ based on the sophistication of the customer or counterparty?

A sophisticated customer could elect to not be treated as a retail customer. For example, in relation to designated investment business and for the purposes of the Conduct of Business Sourcebook within the FCA Handbook, a retail customer could elect to be treated as a professional client. However, if a firm were to encourage a customer to pursue a classification as a professional client to avoid providing protection to them under the Consumer Duty, this would be a breach of the duty of care.

On the other hand, the FCA places particular emphasis on making sure that firms treat vulnerable customers fairly, and has published specific guidance for firms to follow.

Law stated - 20 March 2026

Rule-making

20 How are rules that affect the financial services industry adopted? Is there a consultation process?

The powers of the FCA and PRA to make rules – and the process that they must follow in doing so – are set out in Part 9A of the FSMA. The FCA must consult the PRA (except in relation to rules relating to recognised investment exchanges) before making rules, and vice versa.

Following this, the relevant regulator is required to publish a consultation paper that is accompanied by:

- a cost benefit analysis (this is necessary for most types of rules, if the relevant regulator considers that there would be more than a minimal increase in costs);
- an explanation of the purpose of the proposed rules;
- a discussion of whether or not the proposed rules would have a particular impact on mutual societies;
- an explanation of the regulator's reasons for believing that the proposed rules are compatible with or advance its strategic and operational objectives, and that it has had regard to its regulatory principles; and
- a notice that representations about the proposals may be made to the relevant regulator within a specified time.

The relevant regulator must have regard to any representations made to it.

If the regulator makes the proposed rules, it must publish – in general terms – the representations that it received and its response. If the rules differ significantly from the version consulted on, then the regulator must publish details of the differences, together with a cost-benefit analysis and a statement on whether the rules will have a particular

effect on mutual societies. The full consultation process does not need to be followed if it would be prejudicial to the interests of consumers (FCA), the safety and soundness of PRA-authorised persons (PRA), or securing the appropriate degree of protection for policyholders (insurance objective, PRA).

Law stated - 20 March 2026

CROSS-BORDER ISSUES

Cross-border regulation

21 | How do national financial services authorities approach cross-border issues?

The general prohibition on carrying on regulated activities without being authorised or exempt (set out in section 19 of the Financial Services and Markets Act 2000 (FSMA)) applies to activities carried on in the UK. However, where a regulated activity is considered to be carried on depends on the specific regulated activity in question. This may not be straightforward to identify if a client or firm is based outside the UK, or elements of the regulated activity take place outside the UK. The Financial Conduct Authority (FCA) provides guidance on this in its Perimeter Guidance Manual at PERG 2.4.

The restriction on carrying on regulated claims management activities is limited to Great Britain. Guidance on this is set out at PERG 2.4A.

If a person outside the UK may be considered to be carrying on regulated activities in the UK, they may be able to rely on the overseas person exclusion (OPE) set out in article 72 of the FSMA (Regulated Activities) Order 2001. This is only available in relation to certain regulated activities, and is subject to satisfaction of specific requirements. Guidance on the OPE is set out in PERG 2.9 at PERG 2.9.15G to PERG 2.9.17BG.

In addition to the general prohibition, section 21 of the FSMA also sets out a restriction on financial promotion, which provides that a person must not, in the course of business, communicate an invitation or inducement to engage in investment activity or claims management activity unless they are an authorised person, or the content of the promotion is approved for the purposes of section 21 by an authorised person. This restriction applies to communications originating outside the UK if they are capable of having an effect in the UK. Various exemptions may be available, depending on whether detailed criteria contained in the FSMA (Financial Promotion) Order 2005 are satisfied. Guidance on the financial promotion regime is contained in PERG 8, with guidance on communications having an effect in the UK found at PERG 8.8.

Law stated - 20 March 2026

International standards

22 | What role does international standard setting play in the rules and standards implemented in your jurisdiction?

In chapter four of its latest approach document, the Prudential Regulation Authority (PRA) sets out how it engages internationally and implements international standards. The PRA engages with the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors (IAIS), the Financial Stability Board (FSB), the Bank for International Settlements and the International Monetary Fund (IMF), among others. It also engages bilaterally with supervisors in other jurisdictions, including national and supranational agencies such as the European Supervisory Authorities. The PRA also engages with specialist fora, such as the Sustainable Insurance Forum and the Network for Greening the Financial System concerning climate-related matters.

The PRA considers that international standards support financial stability by establishing strong baselines and creating a level playing field across jurisdictions. The PRA is committed to alignment with international standards, and targets a minimum "largely compliant" or "largely observed" rating under assessments of the UK regulatory framework carried out by international bodies.

Similarly, the FCA contributes to and implements international standards. The FCA is a member of the FSB, the International Organisation of Securities Commissions and the IAIS, and contributes to the UK membership of the Financial Action Task Force, the Organisation for Economic Co-Operation and Development, and the IMF. The FCA also engages with national competent authorities, EU institutions and the European Supervisory Authorities. The FCA aims to enhance cooperation, share best practice, discuss issues of common interest, and shape and influence cross-border regulatory issues.

Law stated - 20 March 2026

UPDATE AND TRENDS

Key developments of the past year

23 | Are there any other current developments or emerging trends that should be noted?

Together with other regulators, the Financial Conduct Authority (FCA), the Prudential Regulation Authority (PRA) and the Bank of England publish the Regulatory Initiatives Grid to help manage the operational impact of regulatory initiatives on firms. It was designed to show initiatives over a 24-month horizon, and was expected to be published twice a year. However, it was not updated in 2024 following the July general election, although an interim update was published in October 2024. The Grid has since returned to its normal format, with the most recent version being published in December 2025.

Since 2023, the FCA and PRA have had a secondary objective to support the international growth and competitiveness of the UK economy in the medium to long term. The current UK government is taking steps to drive economic growth, which includes cutting unnecessary regulation and putting pressure on regulators to support this initiative. The CEO of the FCA set out the FCA's approach to growth in a letter to the Prime Minister and in a recent speech. The FCA is aiming for fewer large-scale changes in its next five-year strategy.

A selection of the latest developments includes:

- abolition of the Payment Systems Regulator, which will be consolidated into the FCA so that firms have one less regulator to deal with. The government's consultation on the proposals has now closed;
- regulation of buy now, pay later (a form of consumer credit). The FCA confirmed that stronger protections will be in place for borrowers from July 2026, and published a policy statement setting out final rules;
- the development of a full regulatory regime for cryptoassets by the FCA, as outlined in its roadmap. Engagement so far has included FCA DP24/4, FCA DP25/1-, FCA CP25/14, FCA CP25/15, FCA CP25/25, FCA CP25/40, FCA CP25/41-, FCA CP25/42 and CP26/4. The FCA has published a webpage detailing how the gateway will operate for firms wishing to undertake the regulated activities, as well as a webpage on the transitional provision for firms already providing cryptoasset services that will be covered by the new regime. The Bank of England's consultation on its proposals for systemic stablecoins closed in February 2026. The regulations creating the new regulatory regime were made in February 2026 and will come in to force on 25 October 2027;
- arrangements for motor finance discretionary commission. The FCA's consultation on the motor finance compensation scheme closed in December 2025. Final rules are expected by the end of March 2026, with a three-month implementation period (or up to five months for older agreements).
- FCA consultation on the regulatory framework for the Private Intermittent Securities and Capital Exchange System (PISCES). PISCES is a new type of trading platform that will enable intermittent trading of private company shares using market infrastructure. The legislative framework was finalised in May 2025. The FCA published its Policy Statement on PISCES sandbox arrangements in June 2025, and approved the first PISCES operator in August 2025, with a second PISCES operator approved in November 2025;
- publication of feedback on the FCA's discussion paper, the Advice Guidance Boundary Review. The final rules are now available;
- publication of a feedback statement by the FCA on immediate areas for action and further plans for reviewing FCA requirements following introduction of the Consumer Duty. The FCA has since published an updated action plan on streamlining requirements in light of the Duty;
- publication of a consultation by His Majesty's (HM) Treasury, and of a call for input on the future regulation of alternative investment fund managers by the FCA;
- finalisation of the FCA's changes to its Enforcement Guide, as set out in PS25/5 in June 2025. In January 2026 the FCA published its first Enforcement Watch;
- publication of the FCA's finalised guidance on the non-financial misconduct regime in December 2025;
- conclusion of the HM Treasury, PRA and FCA consultations on streamlining the Senior Managers and Certification Regime in October 2025. The final requirements are expected in mid-2026;
-

consultation by the FCA on a new product information framework for consumer composite investments in CP24/30 and CP25/9. Final rules were published in December 2025 in PS25/20;

- the FCA and Payment Systems Regulator setting out the next steps for open banking, and the publication of feedback on the Design of the Future Entity for UK Open Banking by the FCA in FS25/4. In October 2025, the FCA published a research note on open banking and open finance in the UK, and in December 2025 it published a progress update. In November 2025, the Payments Vision Delivery Committee published its strategy for the future development of the UK retail payments infrastructure;
- reform of the Financial Ombudsman Service (FOS). The joint FCA and FOS consultation CP25/22 and the HM Treasury consultation closed in October 2025. The government has confirmed that it will legislate to reform the FOS. The FCA has published finalised guidance on identifying and rectifying harm, and the FCA and FOS have published a further joint consultation on modernising the redress regime;
- significant revision of the remuneration codes for banks, building societies and PRA-designated investment firms in October 2025, with an update on changes to the other remuneration codes (for Alternative Investment Fund Managers, Undertakings for Collective Investment in Transferable Securities and investment firms authorised under the Markets in Financial Instruments Directive) expected in early 2026;
- government consultation on changes to the appointed representatives regime. Proposed changes include introducing a requirement for specific permission to act as a principal firm, extending the FOS regime to appointed representatives, and bringing appointed representatives within scope of the Senior Managers and Certification Regime; and
- the FCA's launch of a review into how AI will impact retail financial services in January 2026.

Law stated - 20 March 2026

LEWIS SILKIN LEWIS SILKIN

Wendy Saunders wendy.saunders@lewissilkin.com

Lewis Silkin LLP

Read more from this firm on Lexology

USA

Pia Naib, **Arthur S Long**
Latham & Watkins LLP

Summary

REGULATORY FRAMEWORK

Regulatory authorities

1 | What national authorities regulate the provision of financial products and services?

In the United States, numerous national authorities regulate the provision of financial products and services. The Board of Governors of the Federal Reserve System (the Federal Reserve), the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) (the bank regulators) regulate the general business of banking in the United States.

The Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) regulate non-banking financial products (securities and security-based derivatives in the case of the SEC and commodity futures and commodity-based derivatives in the case of the CFTC, as well as the securities, commodity futures and derivatives markets and certain participants in those markets).

For most entities not regulated by the SEC or CFTC, the Consumer Financial Protection Bureau (CFPB) is the national regulator responsible for ensuring compliance with federal consumer protection law.

In addition to these federal regulators, state authorities may also have jurisdiction to regulate the provision of financial products and services.

Law stated - 26 January 2026

2 | What activities does each national financial services authority regulate?

The bank regulators supervise banking institutions and their activities to ensure that those activities are conducted safely and soundly. Each banking institution has a primary federal banking regulator, which is generally determined by charter type (state or federal) and whether the banking institution is a member of the Federal Reserve System.

The OCC regulates banks and thrifts (banking institutions focused on housing finance and other consumer lending) chartered at the federal level. The Federal Reserve regulates state-chartered banks that are members of the Federal Reserve System, as well as uninsured state-licensed branches of non-US banks. The FDIC regulates insured state-chartered banks that are not Federal Reserve System members, insured state-chartered thrifts and insured branches of non-US banks. In addition, the FDIC provides insurance to protect depositors if an FDIC-insured bank or thrift fails. The activities of institutions that control or are affiliated with banks or thrifts are supervised by the Federal Reserve as the overarching regulator, while certain bank affiliates may be regulated by the SEC or CFTC.

The SEC regulates the US securities and security-based derivatives markets, including the activities of broker-dealers, investment advisers, investment funds, security-based swap dealers and major participants in the security-based swap markets, securities exchanges and clearing agencies. The CFTC regulates the US commodity futures and

commodity-based derivatives markets, including the activities of futures commission merchants (FCMs), swap dealers and major swap participants, commodity pool operators, commodity trading advisers, designated contract markets, swap execution facilities, derivatives clearing organisations and swap data repositories.

The CFPB regulates the provision of consumer financial products and services by banks with US$10 billion or more in total assets (the provision of such products and services by smaller banks is regulated by the applicable bank regulator), payday lenders, private mortgage lenders and servicers, debt collection companies, credit reporting agencies and private student loan companies.

Law stated - 26 January 2026

3 | What products does each national financial services authority regulate?

The bank regulators are the primary supervisors of the banking institutions over which they have jurisdiction. They regulate non-consumer banking products (eg, commercial loans) and may also serve as a backup regulator to a primary federal regulator of certain products or services. For example, although the CFTC is the primary regulator of commodity derivatives transactions, the Federal Reserve may also impose supervisory restrictions if the entity engaging in the activity is an affiliate of a bank.

The SEC regulates securities and security-based derivatives (including options and swaps). It imposes securities registration and disclosure requirements, and has the authority to protect investors against fraud and market manipulation in the securities markets. The CFTC regulates commodity-based derivatives (including options and swaps) and commodity futures contracts, and has the authority to protect against fraud and manipulation in those markets.

The CFPB regulates consumer financial products and services, including credit cards, mortgages and other types of consumer loans.

Law stated - 26 January 2026

Authorisation regime

4 | What is the registration or authorisation regime applicable to financial services firms and authorised individuals associated with those firms? When is registration or authorisation necessary, and how is it effected?

The bank regulators' regime is applicable to entities that seek to accept deposits. Such entities must receive a charter and be authorised to conduct banking business. A charter may be granted by a state or federal legal authority. Which bank regulator will supervise the entity depends on the type of charter, whether the entity becomes a member of the Federal Reserve System and whether it – as almost all entities do – decides to obtain federal deposit insurance. The type of charter also determines which bank regulator's rules will be applicable to persons associated with the banking institution.

A proposed depository institution must apply to the appropriate federal or state regulatory authority for a charter and, in most cases, must also apply to the FDIC for deposit insurance. In addition, any parent company that controls a proposed insured bank or thrift must apply to the Federal Reserve to become a bank or thrift holding company. The charter, FDIC insurance and Federal Reserve applications will require information on the institution's and parent's financial and managerial resources, a business plan, pro forma financial statements and information about proposed management, directors and shareholders, among other requirements.

The relevant regime and registration requirements set by the SEC and CFTC derive from an entity's proposed activities. Absent exemptions, the SEC requires entities to register as broker-dealers if they are engaged in the business of buying and selling securities for their own account as a regular business or on behalf of others, while entities that are paid to provide advice about securities to others are required to register as investment advisers. Entities that make markets in security-based swaps or enter security-based swaps above certain de minimis thresholds must register as security-based swap dealers. Similarly, the CFTC requires entities that make markets in swaps or that enter swaps contracts with counterparties above certain de minimis thresholds to register as swap dealers, while entities that solicit or accept customer orders to buy or sell futures or options on futures are required to register as FCMs.

SEC- and CFTC-regulated entities are also generally required to join a private, non-governmental self-regulatory organisation (SRO) such as the Financial Industry Regulatory Authority or the National Futures Association, which are themselves subject to oversight by the SEC and CFTC respectively.

Registration applications with the SEC, CFTC or applicable SRO include information regarding an entity's chain of ownership, disciplinary history and source of capital, as well as its proposed business activities and supervisory policies, procedures and controls. Certain professionals are also required to register and pass qualifying examinations.

Law stated - 26 January 2026

Legislation

5 What statute or other legal basis is the source of each regulatory authority's jurisdiction?

The National Currency Act of 1863 (now known as the National Bank Act) and the Home Owners' Loan Act of 1933 are the sources of the OCC's jurisdiction over national banks and federal thrifts respectively.

The sources of the Federal Reserve's jurisdiction are the Federal Reserve Act of 1913, the Bank Holding Company Act of 1956 and the holding company provisions of the Home Owners' Loan Act of 1933.

The current source of the FDIC's jurisdiction is the Federal Deposit Insurance Act of 1950.

The principal sources of the SEC's jurisdiction are the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940 and the Investment Advisers Act of 1940.

The principal source of the CFTC's jurisdiction is the Commodity Exchange Act, as amended by the Commodity Futures Trading Commission Act of 1974 and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Dodd-Frank Act). The latter statute gives the CFTC authority over commodity-based derivatives and the SEC authority over security-based derivatives.

The Dodd-Frank Act establishes the CFPB in its Title X and is the principal source of the CFPB's jurisdiction.

Law stated - 26 January 2026

6 What principal laws and financial service authority rules apply to the activities of financial services firms and their associated persons?

For the activities of national banks and their associated persons, the principal law is the National Bank Act. The principal rules are the OCC's regulations under that statute.

For the activities of federal thrifts and their associated persons, the Home Owners' Loan Act of 1933 is the principal law, and the principal rules are the OCC's regulations thereunder.

Sections 23A and 23B of the Federal Reserve Act of 1913 and the Federal Reserve's Regulation W impose restrictions on transactions between an FDIC-insured bank or thrift and its affiliates, including bank holding companies and thrift holding companies as well as their subsidiaries.

The Bank Holding Company Act of 1956 and the Federal Reserve's Regulations K and Y, are the primary instruments governing the activities of bank holding companies and their non-bank subsidiaries. The Home Owners' Loan Act of 1933 and the Federal Reserve's Regulation Y are the primary instruments governing the activities of thrift holding companies.

As a general matter, state law and regulation primarily govern the activities of state banks and thrifts, but limitations under the Federal Reserve Act of 1913, the Federal Deposit Insurance Act of 1950 and certain regulations of the Federal Reserve and FDIC also apply.

The primary statutes that apply to firms regulated by the SEC are:

- the Securities Act of 1933, which requires the registration of securities that are publicly sold and that investors receive material information regarding such securities;
- the Securities Exchange Act of 1934, which authorises the SEC to regulate securities brokers, dealers and national securities exchanges, and prohibits fraud and manipulation in connection with the offer and sale of securities;
- the Investment Company Act of 1940, which regulates companies primarily engaged in the business of investing, reinvesting and trading in securities, such as mutual funds; and
- the Investment Advisers Act of 1940, which regulates investment advisers.

The primary statute that applies to commodity futures and commodity-based derivatives is the Commodity Exchange Act, which was designed to promote the competitiveness and efficiency of commodity futures markets, prevent market manipulation and protect market participants from abusive and fraudulent trade practices.

The SEC and CFTC have promulgated regulations under the foregoing statutes. Securities and commodity SROs have promulgated rules governing the activities of member firms and the activities of their associated persons.

Law stated - 26 January 2026

Scope of regulation

7 What are the main areas of regulation for each type of regulated financial services provider and product?

The main areas of regulation for banks and thrifts, and their holding companies, restrict them to banking and financial – as opposed to commercial – activities. Regulations also include:

- regulatory approval for certain acquisition transactions;
- capital, liquidity and risk management requirements;
- lending limits and deposit reserve requirements;
- restrictions on affiliate transactions and insider loans;
- safety and soundness requirements; and
- consumer protection requirements.

Pursuant to the Dodd-Frank Act, large and complex banks and thrifts, and their holding companies, must also create resolutions plans providing for their orderly liquidation in the case of insolvency.

The main areas of regulation for participants in the securities, commodity futures and derivatives markets are requirements for registration; capital and margin; reporting; recordkeeping; clearing; and adopting policies, procedures and business conduct standards.

Law stated - 26 January 2026

Additional requirements

8 What additional requirements apply to financial services firms and authorised persons, such as those imposed by self-regulatory bodies, designated professional bodies or other financial services organisations?

CFTC- and SEC-registered firms may be required to join an SRO, and certain associated professionals must also register with the SRO and pass qualifying examinations. Entities

that have direct access to securities and derivatives exchanges and clearing organisations generally must become members of those organisations and become subject to their rules. Many SROs have significant requirements that go beyond the requirements of the SEC or CFTC.

Law stated - 26 January 2026

ENFORCEMENT

Investigatory powers

9 What powers do national financial services authorities have to examine and investigate compliance? What enforcement powers do they have for compliance breaches? How is compliance examined and enforced in practice?

All US financial services regulators and self-regulatory organisations (SROs) have broad supervisory and enforcement powers with respect to compliance with law and regulation.

The Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation (the bank regulators) conduct regular examinations of the banking institutions that they supervise, to determine the financial soundness of those institutions as well as their compliance with law and regulation. Where there is a compliance breach, the bank regulators may pursue either supervisory or enforcement action depending on the severity of the breach. Supervisory actions include compiling examination findings under “Matters Requiring Attention” or “Matters Requiring Immediate Attention” and requiring the institution to enter into commitment letters or memoranda of understanding with respect to the breaches. Enforcement actions include written agreements, cease-and-desist orders and civil money penalties.

The Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC) may directly examine institutions for compliance, but they also rely on SRO examinations. If the SEC or CFTC discovers a compliance breach, they have the authority to investigate the potential misconduct and bring an enforcement action.

The Consumer Financial Protection Bureau (CFPB) has the authority to examine banking institutions that have US$10 billion or more in total assets, as well as their non-SEC or non-CFTC registered affiliates, to assess compliance with federal consumer financial protection law. Its enforcement powers are similar to those of the bank regulators, though historically the CFPB has sought to regulate through formal enforcement rather than by taking supervisory action. In addition, the CFPB has broad authority to bring enforcement actions for unfair, deceptive or abusive acts or practices and for violations of federal consumer financial law against many non-bank entities that offer financial services or products to consumers.

Law stated - 26 January 2026

Disciplinary powers

10

> What are the powers of national financial services authorities to discipline or punish infractions? Which other bodies are responsible for criminal enforcement relating to compliance violations?

The bank regulators, SEC and CFTC have the authority to act against individuals who violate law and regulation. The bank regulators can pursue civil money penalties and prohibit individuals from further association with regulated banks and thrifts through orders of prohibition.

The SEC and CFTC may pursue civil remedies against individuals that violate law and regulation, including by:

- issuing injunctions or cease-and-desist orders;
- revoking or suspending an individual's or entity's registration and exchange trading privileges;
- ordering restitution;
- ordering the disgorgement of ill-gotten profits;
- ordering the payment of civil money penalties; and
- barring individuals or entities from the industry, or from engaging in certain conduct.

SROs such as the Financial Industry Regulatory Authority and the National Futures Association may also discipline their members for violations of applicable laws, regulations and the SROs' own rules. SROs have the authority to impose fines and to suspend or bar individuals and firms from the industry.

If an individual's failure to comply results in the violation of criminal laws, the Department of Justice, a US attorney's office or a local law enforcement agency may decide to institute a criminal proceeding, either on its own or through a referral from a bank regulator, the SEC or the CFTC.

Law stated - 26 January 2026

Tribunals

11 | What tribunals adjudicate financial services criminal and civil infractions?

Violations of federal criminal law and state criminal law are adjudicated by federal district courts and state trial courts respectively, with appeals heard in the relevant system in the first instance. Federal civil claims are adjudicated in federal courts, while state civil claims are generally adjudicated in state courts unless they involve parties from different US states, in which case they may be heard in federal court.

The bank regulators, SEC, CFTC and CFPB may also pursue certain remedies through administrative proceedings. In such proceedings, an administrative law judge from the relevant agency will preside. However, the US federal courts have become increasingly sympathetic to defendants' claims that their cases should not be heard in administrative proceedings because this interferes with their right to a jury trial under the Seventh Amendment to the US Constitution.

SROs may also institute disciplinary proceedings against their members, which are heard before their own internal bodies but may be heard by the SEC or CFTC (as applicable) on appeal.

Law stated - 26 January 2026

Penalties

12 What are typical sanctions imposed against firms and individuals for violations? Are settlements common?

The typical sanctions imposed against firms and individuals for violations are: requirements to undertake remedial actions (which may be extensive), injunctions against future illegal conduct, civil money penalties, disgorgement and restitution. The severity of the sanctions depends on the extent of the illegal conduct, whether it was engaged in knowingly or wilfully and the extent of the resulting harm.

Settlements of enforcement actions are very common. In such settlements, the financial institution will seek to include language indicating that it has not admitted to the conduct alleged by the relevant regulator, to reduce its liability to third parties who may seek to bring civil lawsuits.

Law stated - 26 January 2026

COMPLIANCE PROGRAMMES

Programme requirements

13 What requirements exist concerning the nature and content of compliance and supervisory programmes for each type of regulated entity?

Industry regulators have recently developed more granular requirements with respect to compliance and supervisory programmes, especially for larger banking institutions. There is a clear expectation of effective programmes for compliance and risk management that are appropriately matched to a given banking institution's size and complexity. Aspects of an effective programme include a clear organisational structure for monitoring risk and whether established policies are being followed, controls that effectively facilitate the assessment of risks, detailed policies and procedures, and effective internal audits.

The Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) have similar expectations with respect to the financial institutions that they supervise. They require, either directly or through self-regulatory organisations (SROs), that their regulated entities have written policies and procedures in place that are reasonably designed to manage risk and prevent violations of applicable law, and that are reviewed periodically for adequacy and effectiveness. Regulated entities must also designate a chief compliance officer to administer such policies and procedures.

Law stated - 26 January 2026

Gatekeepers

14 | How important are gatekeepers in the regulatory structure?

Along with the development of more granular risk management programmes, the importance of internal gatekeepers has increased in recent years, especially at larger and more complex financial institutions. There is an emphasis on the "three lines of defence" system for managing risk, with the first line being the business line itself, the second being an independent risk management function and the third being internal audit. Regulators have emphasised the significance of the second and third lines being free from business line influence and their heads having direct access to a financial institution's board of directors or appropriate committee (eg, the Risk or Audit Committee). There are more granular requirements for the largest bank and thrift holding companies with respect to the responsibilities of their chief risk officer and Risk Committee.

Internal gatekeepers also play an important role at SEC- and CFTC-regulated financial institutions. In particular, chief compliance officers have been assigned increasing responsibilities for monitoring compliance with law and regulation. To the extent that the SEC- or CFTC-regulated financial institution is a market itself (eg, a securities exchange), the institution will monitor its participating entities for their compliance with applicable law and regulation.

Law stated - 26 January 2026

Directors' duties and liability

15 | What are the duties of directors, and what standard of care applies to the boards of directors of financial services firms?

Under applicable state law, directors of financial services firms generally have the same duties as directors of other business corporations. They must oversee the financial services firm's direction and strategy, approve major corporate decisions and exercise effective challenge over the firm's management team.

Directors owe a fiduciary duty of care to the corporation and its stockholders. They must exercise the degree of care that a reasonably prudent person would use under similar circumstances. They also owe a duty of loyalty; that is, they must act in good faith and in the best interests of the corporation and its stockholders, as opposed to their own interest. Courts generally protect a director from charges of a breach of fiduciary duty if the director acted in good faith, on an informed basis and with the reasonable belief that they were acting in the best interests of the corporation.

Directors of banks and thrifts may be treated somewhat differently, however, because they are viewed not only as representatives of the bank's stockholders but also as parties responsible for overseeing the safe and sound management of the bank. This is particularly relevant if the bank or thrift enters insolvency proceedings.

Law stated - 26 January 2026

16 When are directors typically held individually accountable for the activities of financial services firms?

Directors of financial services firms may be held personally liable for breaching their fiduciary duties. As a general matter, this can occur if they have a conflict of interest, they failed to inform themselves appropriately about the subject of their board action or they put the interests of other entities ahead of the interests of the firm and its stockholders.

The federal banking laws also authorise the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation (the bank regulators) to bring civil enforcement actions against directors of depository institutions and their holding companies for violations of law and regulation, breaches of fiduciary duty, or engaging in unsafe or unsound practices. The bank regulators tend to bring such actions when there has been a knowing or wilful violation that has resulted in substantial harm to the depository institution or its holding company, such as in the case of a bank failure. In addition, certain banking statutes – such as those regarding limits on the amount of a loan to a particular borrower – may impose liability on directors if those statutes are violated.

Under the securities and commodities laws, a director of a firm regulated by the SEC or CFTC can be held personally liable as a "control person" for certain violations of law or regulation if they had a sufficient level of culpability with respect to the violation.

Law stated - 26 January 2026

Private rights of action

17 Do private rights of action apply to violations of national financial services authority rules and regulations?

As a general matter under current law, private rights of action are disfavoured unless the applicable law or regulation provides for them. Although US courts have historically found implied private rights of action in some areas, such rights were rare with respect to the rules and regulations of financial services authorities.

Law stated - 26 January 2026

Standard of care for customers

18 What is the standard of care that applies to each type of financial services firm and authorised person when dealing with retail customers?

With respect to consumer financial products and services offered by banking institutions – that is, products and services used primarily for personal, family or household purposes – the critical standard of care is that the offering of those products or services must not be the subject of an unfair, deceptive or abusive act or practice (UDAAP).

For banking institutions with US$10 billion or more in total assets, the Consumer Financial Protection Bureau (CFPB) determines whether an act or practice is unfair, deceptive or abusive, while for smaller banking institutions this is decided by the institution's primary bank regulator. Depending on the product or service, there may also be specific state or federal laws that govern the manner in which it must be offered.

When a banking institution is acting in a fiduciary capacity, such as providing discretionary investment advice, the standard of care is subject to applicable state or federal fiduciary rules depending on the charter type of the banking institution.

SEC-registered broker-dealers are generally not considered fiduciaries. However, they are subject to a number of requirements affecting their interactions with customers, including:

- the duty of fair dealing, which generally requires broker-dealers to execute orders promptly, disclose material information, charge reasonable prices and fully disclose any conflicts of interest;
- suitability and best interest requirements, which generally require broker-dealers to act in the retail customer's best interests when a recommendation of any securities transaction or investment strategy involving securities is made, without placing the financial or other interest of the broker-dealer ahead of the interests of the retail customer; and
- the duty of best execution, which generally requires broker-dealers to execute customers' trades on the most favourable terms reasonably available under the circumstances.

Under the Investment Advisers Act of 1940, investment advisers registered with the SEC are fiduciaries subject to the duties of care and loyalty in their customer interactions, as well as to certain specific requirements. The fiduciary duties require registered investment advisers to act with good faith and in the best interests of their clients, employ reasonable care to avoid misleading clients, and provide full and fair disclosure of all material facts.

Law stated - 26 January 2026

19 Does the standard of care differ based on the sophistication of the customer or counterparty?

With respect to consumer financial products and services, a lack of customer sophistication can make a UDAAP easier to prove. With respect to securities and similar products, the level of sophistication generally does not change the nature of the duty at issue, but it may be easier for a broker-dealer or investment adviser to show that there was not a violation of the applicable duty in the case of an institutional customer, as opposed to a retail customer.

Law stated - 26 January 2026

Rule-making

20 How are rules that affect the financial services industry adopted? Is there a consultation process?

As federal agencies, the bank regulators, SEC, CFTC and CFPB promulgate regulations in accordance with the requirements of the Administrative Procedure Act. In most cases there will be a proposed rule or, in some cases, an advanced notice of proposed rule-making followed by a proposed rule, which will be subject to public comment. The comment period usually runs for 60 to 90 days but may be longer in the case of a complex rulemaking. The agencies then consider the public comments and issue a final rule. In the case of an SRO, the SEC or CFTC (as applicable) will generally subject the proposed SRO rules to a notice-and-comment process.

However, notice-and-comment rulemaking does not apply to guidance interpretations issued by federal regulators. In recent years, certain federal regulators have been criticised for allegedly issuing regulations in the form of guidance to avoid public comment. An aggrieved party that has standing to sue may challenge regulators in court for doing so, and may also ask a court to set aside a final rule adopted via notice-and-comment rulemaking on the grounds that it is arbitrary and capricious or not authorised by applicable law.

Law stated - 26 January 2026

CROSS-BORDER ISSUES

Cross-border regulation

21 | How do national financial services authorities approach cross-border issues?

Many US legal requirements apply to non-US financial services firms only if such firms have a connection with the United States. Non-US entities are generally required to obtain regulatory approval to obtain US bank charters or establish US branches or other banking offices and to register as broker-dealers if they solicit persons located in the United States with respect to purchases and sales of securities. With respect to activities conducted wholly outside the United States, however, banking and securities legal requirements generally do not apply. For example, although the Bank Holding Company Act of 1956 is considered to have extraterritorial application for US bank holding companies, it contains an exemption for activities conducted by "qualifying foreign banking organisations" – a term that includes all non-US banks with US operations – wholly outside the United States.

In addition, the extraterritorial extent of US rules is limited under existing law and regulation. Non-US securities firms, for example, may engage in certain limited activities in the United States without becoming subject to broker-dealer registration under Rule 15a-6 of the Securities and Exchange Commission (SEC). Similarly, the Commodity Futures Trading Commission (CFTC) has not applied some of its rules to non-US swap dealers if those dealers comply with analogous requirements of their home country that are sufficiently comparable to US law.

Law stated - 26 January 2026

International standards

22 |

What role does international standard setting play in the rules and standards implemented in your jurisdiction?

With respect to the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation (the bank regulators), international standard setting is most relevant with respect to bank capital regulations, where the bank regulators seek to reflect the principles of the international Basel Capital Accord in the US rules. Although the SEC and CFTC are members of international regulatory bodies like the International Organization of Securities Commissions, their rules and standards are generally domestic in nature, as are those of the Consumer Financial Protection Bureau.

Law stated - 26 January 2026

UPDATE AND TRENDS

Key developments of the past year

23 | Are there any other current developments or emerging trends that should be noted?

In the past year, there have been four principal developments in US bank regulation. First, President Trump's appointees to the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Board of the Federal Deposit Insurance Corporation have begun to undertake substantial deregulatory efforts. Second, there has been more focus on regulatory transparency and accountability, with the bank regulators de-emphasising guidance documents and instead more frequently undertaking rulemakings that are subject to public notice and comment. Third, there has been more openness to industry consolidation, particularly among small- and mid-sized banking organisations. Finally, there has been a new emphasis on innovation, seen in a much more friendly regulatory approach to digital asset and fintech companies that are seeking access to the banking system.

Law stated - 26 January 2026

LATHAM & WATKINS LLP

Pia Naib pia.naib@lw.com
Arthur S Long arthur.long@lw.com

Latham & Watkins LLP

Read more from this firm on Lexology