

Transitional Periods FinSA/FinIA

Attachment to article "FinSA and FinIA enter into force on 1 January 2020 – But a lot of provisions do not apply immediately" of 9 December 2019 by Dr Matthias Kuert, LL.M., available under <https://www.cms-lawnow.com/regzone>.

FinSA	1 Jan. 2020	1 July 2020	1 Oct. 2020	1 Jan. 2021	1 Jan. 2022	1 Jan. 2023
Client segmentation (art. 4 FinSA), cf. art. 103 FinSO					X →	
Knowledge/expertise of client advisors (art. 6 FinSA), cf. art. 104 FinSO					X →	
Rules of conduct and transparency and care in client orders (art. 7-18 FinSA), cf. art. 105 FinSO ¹					X →	
Use of clients' financial instruments (art. 19 FinSA)	X →					
Organisational duties (art. 21-27 FinSA), cf. art. 106 FinSO ²					X →	
Registration of client advisors (art. 28 et seqq. FinSA), cf. art. 95(2) FinSA and art. 107 FinSO ³		X (possibly later) →				
Prospectus duty (art. 35 et seqq. FinSA), cf. art. 95 (4) FinSA and art. 109 FinSO ⁴			X (possibly later) →			
KID regarding real estate funds, securities' funds and further funds concerning traditional investments (cf. art. 58 et seqq. FinSA), cf. art. 95(4) FinSA and art. 110 FinSO ⁵					X →	

KID regarding structured products and further financial instruments (cf. art. 58 et seqq. FinSA), cf. art. 95(4) FinSA and art. 111 FinSO ⁶					X	→
Rules on advertising, prospectus liability, offering of structured products and creation of in-house funds (art. 68 et seqq. FinSA) ⁷ , provision of documents (art. 72 et seq. FinSA)	X	→				
Affiliation with ombudsman's office (cf. art. 77 et seqq. FinSA), cf. art. 95(3) FinSA, art. 108 FinSO and art. 93(2) FinIO ⁸		X	→			
		(possibly later)				
FinIA	1 Jan. 2020	1 July 2020	1 Oct. 2020	1 Jan. 2021	1 Jan. 2022	1 Jan. 2023
Compliance with new duties according to FinIA by financial institutions already possessing a license (incl. branches and representations), cf. art. 74(1) FinIA and art. 93(3) FinIO				X	→	
Financial institutions (with existing operations) not yet subject to licensing requirements (incl. branches and representations), cf. art. 74(2) FinIA and art. 93(4) FinIO ⁹		X	-----			X →
		Notice to FINMA				Application for license

¹ Until the financial services providers have implemented the new rules during the two years transitional period, some existing rules contained in the Swiss Stock Exchange Act (**SESTA**) and the CISA will remain in force (cf. art. 105(3) FinSO).

² Until the financial services providers have implemented the new rules during the two years transitional period, some existing rules contained in SESTA and CISA will remain in force (cf. art. 106(3) FinSO).

³ In case a registration body has been approved by FINMA by the time FinSA enters into force. Otherwise, there will be a six-month transitional period starting on the date of approval. The transitional period is deemed respected if the application for registration is submitted before the period ends.

⁴ In case a reviewing body has been approved by FINMA within three months after FinSA enters into force. Otherwise, there will be a six-month transitional period starting on the date of approval. Regarding offerings made before the entry into force of FinSA; cf. furthermore art. 95(4) FinSA.

⁵ During the two years transitional period a simplified prospectus in line with the Swiss Collective Scheme Ordinance (**CISO**) may be used; cf. furthermore the new art. 144 CISO.

⁶ As regards structured products offered to retail clients during the two years transitional period, a simplified prospectus in line with the CISO may be used; cf. furthermore the new art. 144 CISO.

⁷ Regarding offerings made before the entry into force of FinSA; cf., however, art. 95(4) FinSA.

⁸ In case an ombudsman office has been approved by FINMA by the time FinSA enters into force. Otherwise, there will be a six-month transitional period starting on the date of approval. The transitional period is deemed respected if the application for affiliation is submitted before the period ends (cf. art. 95(3) FinSA and art. 108 FinSO).

⁹ Regarding portfolio managers and trustees becoming operative after FinIA entered into force, different transitional periods apply (cf. art. 74(3) FinIA). Furthermore, there are special rules regarding portfolio managers and trustees with the status of directly subordinated financial intermediaries (cf. art. 92 FinIO).