

Guidelines concerning proof of the required knowledge according to Art. 6 FinSA

Guidelines of the **Registration Office** of BX Swiss AG dated 20 July 2020

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I. Introduction

1. Purpose and scope

- 1.1. Client advisors who wish to be entered in the Client Advisor Register of the Registration Office of BX Swiss must prove that they have the necessary professional knowledge and knowledge of the rules of conduct pursuant to Art. 6 of the Financial Services Act (FinSA). These guidelines explain how this proof can be provided. A distinction is made between knowledge of the rules of conduct and professional knowledge.

II. Proof of knowledge according to Art. 6 FinSA

2. General provisions

- 2.1. The professional knowledge necessary for the activity of the client advisor as well as the knowledge of the FinSA Code of Conduct must be proven separately.
- 2.2. The application for entry in the client advisor register should provide a coherent overall picture of the existing, necessary knowledge of a client advisor. The following evidence will be taken into account in this assessment:
- a) evidence by means of external diplomas, training certificates and third-party certificates, which have already been examined and accepted by the Registration Office for the purpose of proving the relevant knowledge¹;
 - b) evidence by means of internal diplomas, certificates and certificates of education of the employing financial service provider, which have already been examined and accepted beforehand by the Registration Office for the purpose of proving the relevant knowledge²;
 - c) evidence by means of external and/or internal diplomas, training confirmations and certificates which have not yet been examined and accepted by the Registration Office. **Unless the required knowledge can be proven by other means, these diplomas, training confirmations and certificates must be adequately documented in the application for entry in the Client Advisor Register in accordance with Section II point 4 and 5 respectively³;**
 - d) relevant professional experience in connection with Art. 6 FinSA according to a current and signed curriculum vitae;
 - e) written confirmation by the employer (voluntary) that the client advisor has the specific knowledge in the area of the fields of activity according to Art. 3 lit. c FinSA.

¹ These diplomas are published on www.regservices.ch and can be selected in the respective dropdown-menu of the online-platform of BX Swiss.

² In the case of internal training courses of the employing financial service provider, the name of the relevant course must be stated in the application. This name will be listed in the public register.

³ An examination prior to starting the registration process is recommended.

- 2.3. Client advisors who do not provide full proof by completing initial and further training courses can demonstrate the required professional knowledge on the basis of their professional experience by means of a current and signed curriculum vitae (para. 2.2. lit. d) and, in addition, by written confirmation from the employer (para. 2.2 lit. e).
- 2.4. The necessary knowledge of the rules of conduct must in all cases be proven by appropriate education or training. Proof of this through professional experience is not sufficient.

3. Submission of evidence

- 3.1. As part of the registration process, the Registration Office provides client advisors with a pre-selection of possible trainings/diplomas via its online platform at www.regservices.ch. These trainings/diplomas have already been examined and accepted as proof of the required knowledge pursuant to Art. 6 FinSA.
- 3.2. Unless the required knowledge can be proven by other means, client advisors whose training is not yet available as a selection option must, in principle, submit their proof of the required knowledge together with the required information pursuant to Section II point 4 and/or 5 of these guidelines. The necessary information must be compiled by the client advisor himself, the employer or by the training institute. It must be submitted to the Registration Office as part of the application process for entry in the Client Advisor Register⁴. If certain information pursuant to Section II point 4 or 5 cannot be provided, this must be explained accordingly.

4. Code of conduct

4.1. Prerequisites

The knowledge of the rules of conduct according to FinSA must be demonstrated by means of proof of participation in a training course. The training must cumulatively meet the following requirements:

a) The extent of the training shall be appropriate.

The training or further training must be so extensive that the relevant learning content for the rules of conduct according to FinSA can be meaningfully conveyed. Initial on-site training courses should generally last at least half a day, recurring on-site training courses (continuous or regular further training in accordance with Section 4.3 below) should last at least two hours.

b) It must be possible to provide appropriate evidence of participation in education and training

The participants in the training must be able to provide evidence of their participation. This may be in the form of a confirmation from the training institute or by means of a certificate or diploma. The evidence must include the date of participation, the name of the participant and the name of the training and training institute.

Knowledge of the rules of conduct can also be demonstrated by taking and passing an appropriate test (e.g. as part of self-study) or taking part in E-learning.

⁴ An examination prior to starting the registration process is recommended.

4.2. Minimum content of education or training or content to be covered by an appropriate test

- a) Rules of conduct in accordance with the provisions of Art. 7 to Art. 19 FinSA as well as the provisions concerning conflicts of interest in accordance with Art. 25 to Art. 27 FinSA, together with the corresponding provisions of the Ordinance and the interpretations developed by doctrine and case law in this regard.
- b) Regulations of the FinSA concerning the obligation to register in the Client Advisor Register and the related obligations of the client advisor and his employer.

Depending on the nature of the financial services provided, the content of the training or education or an appropriate test in relation to the rules of conduct may also include:

- c) in the case of activities relating to the acquisition or sale of financial instruments: the FinSA rules on the obligation to publish a prospectus and the basic information sheet;
- d) when accepting and transmitting orders relating to financial instruments: the provisions of the FinSA on the obligation to publish a prospectus and the basic information sheet;
- e) when giving personal recommendations relating to transactions with financial instruments (investment advice): the provisions of the Swiss Code of Obligations regarding the order; and
- f) adequate knowledge of the legal requirements relating to the financial instruments to which the effective activity of the client advisor relates.

4.3. Minimum content of continuous and regular training on the code of conduct

In connection with the renewal of the entry according to Art. 41 para. 2 FinSO, the following contents must also be covered:

- a) Amendments to the statutory provisions;
- b) Deepening the knowledge of rules of conduct;
- c) Practice and jurisprudence on the topics of basic education;
- d) Other Swiss financial market laws (CISA, AMLA, stock exchange act, FMIA, etc.) and their effects on the activities of the client advisor.

4.4. Information required for the recognition of training and appropriate tests regarding the rules of conduct

The following information must be submitted in writing (written summary and documentation) to the Registration Office:

- a) Information on the training institution, namely the company, name, address, field of activity;
- b) Description and type of training (e.g. e-learning, internal classroom course, external training, etc.);
- c) Regular duration of the training (number of hours/days, etc.), if applicable;
- d) Form of evidence of training on the rules of conduct;

- e) if applicable, information on the planned further training according to Section II point 4.3;
 - f) in the case of training courses that are not conducted on-site (e.g. in e-learning):
number of questions to demonstrate understanding of the training content during the test
Indication of how often the test can be repeated (in case of failure) and information on the entire pool of questions.
 - g) other data and information relevant for recognition.
- 4.5. In the case of training courses which are not conducted on site (e.g. e-learning), a description shall be given of how it is ensured that the participant in the training course or the test taker is actually the person who has registered for the training course or test and how any possible misuse can be excluded.

5. Professional Knowledge

The required professional knowledge within the meaning of Art. 6 FinSA must be demonstrated by means of proof of participation in training and/or by taking and passing an appropriate test and/or by other means as outlined in Section II point 2 (general provisions).

Training courses or tests must meet the following requirements:

5.1. Prerequisites for the training (professional knowledge)

- a) *The extent of the training or education or test content must be appropriate.*
The duration of the training or further training must be extensive enough to ensure that the relevant learning content for the professional knowledge can be meaningfully conveyed.
- b) *The education or further training must include an examination or test with diploma/certificate.*
It must be possible to prove the completion and passing of the education or further training by means of a diploma, certificate or other proof of achievement.
- c) *Examination regulations or rules exist for the examination or test.*
The examination regulations must provide clear criteria for passing or failing of an examination or test. It must be explained by which measures the quality of the examination or test as well as the further development of the training or the test is ensured.
- d) *The education and further training cover the specific fields of activity of the client advisor within the meaning of Art. 3 lit. c FinSA.*

5.2. Information required for the recognition of education or training or proof by means of a test

The following information must be submitted to the Registration Office in writing (written summary and documentation):

- a) Details of the education and training institution, namely the company, name, address, field of activity;

- b) The type of education or further training; in the case of proof of professional knowledge, in particular the categories of financial services (pursuant to Art. 3 lit. c FinSA) covered by the training;
- c) Regular duration of training (number of training hours/days, months, semesters, etc.), if applicable;
- d) Prerequisites for the participation in education, training or the test;
- e) Description of the content of the education or further training (overview of learning objectives and learning content) or the test;
- f) number of years of professional experience (if applicable) required to obtain the certificate;
- g) description of the level of education and training or the test in relation to the relevant target group in the financial services sector (e.g. beginners, advanced, professionals);
- h) country/countries where the training(s) or the test is/are offered;
- i) certification of the education or training or proof of successful completion of the test (specimen or copy of diploma, certificate, etc.) details of existing recognitions of the evidence by other authorities or institutions; and
- j) Number of questions in the pool in connection to the content of the education and the quota required to pass the test;
- k) details of existing acknowledgements of the proof by other authorities or bodies; and
- l) any other information relevant for recognition.

6. Transitional period under Art. 104 FinSO

- 6.1. During the transitional period pursuant to Art. 104 of the Financial Services Ordinance (FinSO), an entry in the Client Advisor Register may be made without proof of knowledge of the rules of conduct and/or professional knowledge. Client advisors who make use of the transitional period must provide the required proof by the end of 2021 at the latest, otherwise the client advisor will be deleted from the Client Advisor Register.
- 6.2. Entries in the Client Advisor Register that are made without proof of the required knowledge pursuant to Art. 6 FinSA will, during the transitional period, state that the client advisor has made use of the transitional provision in accordance with Art. 104 FinSO.

III. Coordination among the Swiss Registration Offices

- 7.1. Pursuant to Art. 35 para. 4 FinSO, all registration offices approved by FINMA must coordinate their activities appropriately. This also includes the exchange of information regarding training and tests that a registration office considers appropriate for demonstration of the required knowledge.

IV. Reservations

- 8.1. These Guidelines can be adapted at any time. No legal claims may be made against BX Swiss AG on the basis of these guidelines, in particular not in connection with the assessment by the Registration Office as to whether proof pursuant to Art. 6 FinSA is deemed adequate.
- 8.2. In the event of discrepancies between the different language versions, the German version shall take precedence.