Legal 500
Country Comparative Guides 2026

Switzerland

Insurance & Reinsurance

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This country-specific Q&A provides an overview of insurance & reinsurance laws and regulations applicable in Switzerland.

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Switzerland: Insurance & Reinsurance

1. How is the writing of insurance contracts regulated in your jurisdiction?

The primary source of law is the Swiss Insurance Contract Act's (ICA) specific rules and, insofar as ICA does not contain any provisions, the provisions of the Swiss Code of Obligations (CO) apply to insurance contracts.

With respect to non-professional policyholders or beneficiaries (including consumers), the ICA contains mandatory provisions that must not be amended (article 97 ICA) as well as listed mandatory provisions that must not be amended to the policyholder's or the beneficiary's disadvantage (article 98 ICA). The latter pertain inter alia to information duties on either side as well as to contract conclusion and termination.

With respect to professional policyholders (e.g. companies with a professional risk management or companies that exceed certain thresholds with regard to the balance sheet amount, net revenue and equity capital; see article 98a ICA), the listed mandatory provisions pursuant to article 97 and 98 do not apply.

2. Are types of insurers regulated differently (i.e. life companies, reinsurers?)

Yes. In Switzerland, insurance companies are supervised by the Swiss Financial Market Supervisory Authority (FINMA). The Swiss Insurance Supervisory Act (ISA) and the Insurance Supervisory Ordinance (ISO) set out the rules of the federal supervision of insurance companies and insurance intermediaries. The Swiss Financial Market Supervision Act (FINMASA) and the Insurance Supervisory Ordinance FINMA (ISO FINMA) are further sources. FINMA's circulars setting out its practice provide further guidance.

There are special provisions for certain sectors of insurance (e.g. legal protection, motor vehicle insurance; see e.g. articles 31 et seqq. ISA and 120 et seqq. ISO) and particular requirements or exemptions can apply to them. For instance, insurers who provide direct life insurance are allowed to provide only accident and health insurance in addition to it (article 12 ISA). Reinsurers can benefit from certain exemptions (see article 35 ISA).

Finally, insurers who provide insurance only for professional policyholders within the meaning of article 98a (b-g) ICA can be exempted from certain obligations, including some reporting obligations (articles 30a ISA and 111c ISO).

3. Are insurance brokers and other types of market intermediary subject to regulation?

Yes. Insurance intermediaries are subject to regulation. The ISA distinguishes between untied and tied intermediaries. Untied insurance intermediaries have a fiduciary duty to policyholders and act in their best interests. All other insurance intermediaries are considered to be tied insurance intermediaries. Also, any person giving the policyholder the impression that they are providing services as an untied insurance intermediary are to be treated as such.

While both types of intermediaries must fulfill certain personal requirements, untied intermediaries are required to register with FINMA to be allowed to practice (see articles 40 et seqq. ISA). But also tied insurance intermediaries must be recorded with a specific industry register to evidence the required training and education.

4. Is authorisation or a licence required and if so how long does it take on average to obtain such permission? What are the key criteria for authorisation?

Subject to FINMA supervision are insurance undertakings with their seat in Switzerland and insurance undertakings with seat outside of Switzerland in respect of their insurance activities in Switzerland or carried out from Switzerland, insurance intermediaries, insurance groups and conglomerates and special purpose insurance companies with seat in Switzerland. To the extent that insurance companies with their seat abroad only carry out reinsurance activities in Switzerland, they are not subject to FINMA supervision. The ISA and ISO stipulate further exemptions from supervision. Namely, insurance companies with their seat abroad and no branch office in Switzerland are exempt from FINMA supervision if they only provide coverage of insurance risks relating to maritime shipping, aviation and cross-border transport, coverage for risks located abroad or coverage of war

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risks.

Subject to specific international treaties with Liechtenstein and the UK (the Berne Financial Services Agreement), as a matter of principle, Swiss direct insurance and reinsurance companies need a FINMA license to carry out insurance business in Switzerland. There is an insurance activity in Switzerland (and thus FINMA supervision), regardless of the type and location of the contract conclusion, if: (a) a natural or legal person domiciled in Switzerland is among the policyholders or insured persons; or (b) property located in Switzerland is insured (article 1(1) ISO).

Any insurance company under article 2 (1)(a), (b) ISA that is subject to supervision (insurance company), requires authorization from FINMA to start insurance activities (article 3(1) ISA). It can take several months to obtain authorization and the duration can vary depending on the case.

The requirements for obtaining an authorization include the form of incorporation (company limited by shares or cooperative), minimum capital requirements, solvency and the establishment of an organization fund in Switzerland (see articles 4 et seqq. ISA) as well as meeting other regulatory requirements including the submission a business plan according to article 4 ISA. There are relieved requirements for establishing a branch office in Switzerland based on applicable international treaties mainly the Agreement of 10 October 1989 between the Swiss Confederation and the European Economic Community (now: EU) on Direct Insurance other than Life Insurance and the Agreement of 25 January 2019 between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on Direct Insurance other than Life Insurance. Foreign insurance companies must generally meet additional requirements, including being admitted to carry out insurance activities in their home state, establishing a branch in Switzerland, registering in the commercial register, and appointing a general representative as its manager and depositing a guarantee in Switzerland that corresponds to a certain fraction of its domestic business volume (see articles 15 ISA and 16 et seqq. ISO).

5. Are there restrictions or controls over who owns or controls insurers (including restrictions on foreign ownership)?

There are duties to inform FINMA when certain thresholds are met (article 21 ISA). In particular, the information duty applies in the event a control of 10% of capital or voting rights of an insurer who has its seat in Switzerland is planned (article 21(2) ISA). FINMA can prohibit the control or subject it to conditions if the insurance company or the interests of the insured persons could be at risk (article 21(4) ISA).

6. Is it possible to insure or reinsure risks in your jurisdiction without a licence or authorisation? (i.e. on a non-admitted basis)?

Article 2(2) ISA contains a list of exceptions from supervision, e.g. insurance companies based abroad that offer in Switzerland only reinsurance (article 2 (2)(a) ISA) and other exceptions.

Article 1(2) ISO enumerates scenarios in which insurance companies based abroad without a branch in Switzerland are exempt from FINMA supervision. These insurance companies are not subject to insurance supervision by FINMA if they exclusively engage in the following insurance business in Switzerland:

(a) Coverage of insurance risks related to maritime shipping, aviation, and cross-border transportation;

(b) Coverage for risks located abroad; and

(c) Coverage of war risks.

In addition, the Swiss Federal Council can, in particular, provide for full or partial exemption from supervision, in order to preserve the future viability of the Swiss financial center, and make this exemption contingent on fulfilling certain conditions, considering certain factors as stipulated in article 2 (5)(b) ISA. Insurance companies that develop and directly distribute insurance products are exempt from supervision under the ISO if inter alia their seat is in Switzerland, they are subject to ordinary audit pursuant to article 727 CO, they provide certain types of non-life insurance products and they distribute a maximum of 5000 insurance policies with a total premium volume of maximum CHF 5m (article 1f ISO).

7. Is a branch of an overseas insurer, insurance broker and/or other types of market intermediary in your jurisdiction subject to a similar regulatory framework as a locally incorporated entity?

Subject to any differing provisions in international treaties, insurance companies based abroad are subject to supervision under the ISA for their insurance activities in or from Switzerland (article 2(1)(b) ISA) and fall under the same regulatory framework as locally incorporated entities. The same applies to insurance intermediaries

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(article 1(3) ISO). Foreign insurers must fulfill additional requirements (see answer to question 4 above).

The below international treaties alleviating certain requirements are currently in place:

- Agreement of 10 October 1989 between Switzerland and the European Union on Direct Insurance other than Life Insurance;
- Agreement of 19 December 1996 between Switzerland and Liechtenstein on Direct Insurance and Insurance Intermediation;
- Agreement of 10 July 2015 between Switzerland and Liechtenstein on Insurance against Natural Disasters;
- Agreement of 25 January 2019 between Switzerland and the United Kingdom (UK) on Direct Insurance other than Life Insurance;
- Berne Financial Services Agreement on mutual recognition in financial services between Switzerland and the UK (BFSA; in force since 1 January 2026).

8. Are there any restrictions/substance limitations on branches established by overseas insurers?

Yes. Article 15 ISA sets out additional requirements for foreign insurance companies, one of which is to appoint a general representative as its manager (article 15(1)(b) ISA).

9. What penalty is available for those who operate in your jurisdiction without appropriate permission?

Insurance activity in Switzerland without respective license has serious legal consequences including criminal liability (i.e. custodial sentence of up to three years or a monetary penalty of up to CHF 540'000 according to article 44 FINMASA and article 34 of the Swiss Criminal Code).

In addition, article 87 ISA provides for a custodial sentence of up to three years or a monetary penalty for intentionally concluding insurance contracts or providing intermediation with respect to such contracts on behalf of an insurer who is not authorized pursuant to the ISA or for intentionally distributing insurance contracts through an intermediary who is not registered pursuant to the ISA.

10. How rigorous is the supervisory and enforcement environment? What are the key areas of its focus?

Insurers are subject to prudential supervision and the approach is risk based. FINMA assigns each supervised institution to one of five risk categories based on the potential risks for e.g. creditors, investors, insured persons and the reputation of the Swiss financial center and the intensity of supervision varies accordingly. The companies are assigned to a category based on their balance sheet total.

In line with the ISA's objective to protect the insured persons against insurers' insolvency risks and against abusive practices (article 1(2) ISA), important areas of focus are solvency, risk management, corporate governance and policyholder protection (see article 46 ISA).

11. How is the solvency of insurers (and reinsurers where relevant) supervised?

Articles 9 to 9c ISA in conjunction with articles 21 et seqq. ISO set out the solvency requirements for insurers. Insurers are subject to the Swiss Solvency Test (SST) that determines the capital that must be available to an insurer in order to be able to meet its obligations towards the insured persons. Insurers must submit an SST report to FINMA at least once a year (see article 48 ISO).

In the event there is a risk of insolvency, FINMA can take measures, including protective measures and restructuring and organizational measures or order insurance bankruptcy (articles 51a et seqq. ISA).

12. What are the minimum capital requirements?

The minimum capital requirement for insurers who have their seat in Switzerland is of CHF 3 to 20m, depending on the insurance sector they are active in (article 8(1) ISA). Further requirements apply by insurance sector (articles 6 et seqq. ISO).

13. Is there a policyholder protection scheme in your jurisdiction?

To some degree, yes. Insurance companies must have tied assets to secure claims based on insurance contracts (article 17 ISA). The required amount of tied assets corresponds to the reserves plus an additional amount determined by FINMA (articles 18 ISA and 58 et

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seqq. ISO FINMA).

14. How are groups supervised if at all?

Groups and conglomerates are subject to FINMA supervision (articles 2(1)(d), 2a and 51 et seqq. ISA). There are special provisions with respect to the supervision of insurance groups and conglomerates (articles 64 et seqq. ISA) and specific requirements groups and conglomerates must meet (articles 191 et seqq. ISO). If the insurer is part of a foreign insurance group or conglomerate, the authorization could be made dependent on an adequate consolidated supervision by a foreign financial market authority (article 6(2) ISA).

15. Do senior managers have to meet fit and proper requirements and/or be approved?

Yes. The persons entrusted with e.g. the management, supervision and control, the day-to-day management as well as foreign insurers' general representatives must have the necessary skills, qualifications and availability to fulfill their duties (see articles 14 ISA and 12 et seqq. ISO). They have to be approved by FINMA as part of the authorization procedure (article 4(2)(g) ISA). Subsequent changes in personnel have to be declared to FINMA, which can examine a person's appointment further and object to it (article 5(2) ISA).

16. To what extent might senior managers be held personally liable for regulatory breaches in your jurisdiction?

The members of the board of directors and all persons engaged in the business management or liquidation of the company are liable both to the company and to the individual shareholders and creditors for any losses or damage arising from any intentional or negligent breach of their duties (article 754(1) CO).

In addition, managers can become liable under article 86 ISA and be fined with up to CHF 100'000 for violating information and reporting duties. Article 87 ISA provides for a custodial sentence of up to three years or a monetary penalty for further regulatory breaches. Furthermore, criminal liability may stem from article 44 FINMASA.

17. Are there minimum presence requirements in order to undertake insurance activities in your jurisdiction (and obtain and maintain relevant licenses and authorisations)?

In general, foreign insurance companies are required to establish a branch in Switzerland, to register in the commercial register, and to appoint a general representative who is domiciled in Switzerland as its manager (articles 15(1)(b) ISA and 16(1) ISO).

Since 1 January 2026, UK untied insurance intermediaries are relieved from the localization requirement, i.e. under certain conditions, they are no longer required to establish a branch in Switzerland (BFSA, Annex 4 (VI)(A)(a) and (b)).

In a few exceptional cases, it is possible to carry out insurance activities in Switzerland without establishing a branch and without obtaining an authorization (see answer to question 6 above).

18. Are there restrictions on outsourcing services, third party risk management and/or operational resilience requirements relating to the business?

Yes. The contracts or other agreements by which the essential functions of the insurance company are to be outsourced have to be approved by FINMA as part of the authorization procedure (article 4(2)(j) ISA). Subsequent changes in such contracts or agreements have to be declared to FINMA, which can examine them further and object to them (article 5(2) ISA).

The FINMA Circular 2018/3 on Outsourcing sets out requirements for outsourcing companies, including documentation and risk monitoring duties in relation to them.

The FINMA Circular 2017/2 on Corporate governance – insurers sets out requirements with respect to corporate governance, risk management and internal control system at insurers which must also be followed when functions are outsourced.

19. Are there restrictions on the types of assets which insurers or reinsurers can invest in or capital requirements which may influence the type of investments held?

There are investment requirements that insurers must comply with. Insurers must follow the prudent person principle when making investments and as part of it, e.g. ensure that they only invest in assets and instruments

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whose risks they can adequately assess, monitor, manage and include in their reporting (see article 69a ISO).

Insurance companies must have tied assets to secure claims arising out of insurance contracts (article 17 ISA) and particular investment principles apply in this context (see articles 61 et seqq. ISO FINMA).

20. Are there requirements or regulatory expectations regarding the management of an insurer's reinsurance risk, including any restrictions on the level / type of reinsurance utilised?

There are no specific requirements with respect to the amount of insurance risk that an insurer can cede to a reinsurer.

21. How are sales of insurance supervised or controlled?

Subject to exceptions (see answer to question 6 above), insurance activity in Switzerland is subject to authorization and prudential supervision. As of FINMA's supervision tasks is to protect the insureds against abuses of insurance companies or intermediaries (see articles 46(1)(f)ISA and 117 et seqq. ISO), FINMA may intervene if it observes abusive practices in the sales of insurance.

22. To what extent is it possible to actively market the sale of insurance into your jurisdiction on a cross border basis and are there specific or additional rules pertaining to distance selling or online sales of insurance?

Subject to exceptions (see answer to question 6 above), insurance activity in Switzerland is subject to authorization and a common requirement for foreign insurers is to have a branch in Switzerland. The insurance activity is supervised by FINMA. Online sales of insurance are not permitted unless the relevant requirements are complied with.

23. Are insurers in your jurisdiction subject to additional requirements or duties in respect of consumers? Are consumer policies subject to restrictions, including any pricing restrictions? If so briefly describe the range of protections offered to consumer policyholders

To some degree, yes. The ICA distinguishes professional from non-professional policyholders and beneficiaries (including consumers) and contains mandatory provisions that must not be amended at all by contract (article 97 ICA) or that must not be amended to the policyholder's or the beneficiary's disadvantage (article 98 ICA). The latter include the insurer's duty to inform the policyholder in a comprehensible manner and in a form allowing proof by text of the insurance contract's material content (article 3 ICA) as well as certain restrictions of contractual freedom in the areas of the policyholder's duties and contract termination.

In addition, general terms and conditions (GTC) in consumer contracts are subject to a stricter standard of interpretation favoring the consumer.

While there are no cross-sector pricing restrictions applicable to consumer contracts, in certain areas of mandatory insurance such as basic health insurance certain particular requirements apply.

24. Is there a legal or regulatory resolution regime applicable to insurers in your jurisdiction?

Yes. In the event there is a risk of insolvency, FINMA can take measures, including protective measures and restructuring and organizational measures or order insurance bankruptcy (articles 51a et seqq. ISA). There is a specific regime for insurance bankruptcy (see articles 53 et seqq. ISA).

25. Are the courts adept at handling complex commercial claims?

Yes. Swiss courts frequently handle complex commercial claims. Some Cantons (e.g. Zurich and Bern) have specialized commercial courts with specific know how that frequently handle insurance disputes.

26. Is alternative dispute resolution well established in your jurisdictions?

Yes. In Switzerland, alternative dispute resolution is very well established.

Switzerland is a particularly arbitration friendly jurisdiction and the seat of the arbitration is frequently chosen to be in Switzerland by parties to international

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commercial disputes. Such arbitral awards can only be appealed before one instance, the Swiss Federal Supreme Court, and on limited grounds.

While arbitration clauses are more prevalent in reinsurance contracts, one can also encounter them in direct insurance contracts especially when concluded with professional policyholders.

Further alternative dispute resolution mechanisms, such as commercial mediation, are also available to settle a dispute. While these options may be less commonly used than arbitration, there are efforts to promote them.

27. Is there a statutory transfer mechanism available for sales or transfers of books of (re)insurance? If so briefly describe the process

Yes. The total or partial transfer by an insurance company of its Swiss insurance portfolio based on a contractual agreement to another insurance company requires FINMA's authorization. FINMA authorizes the transfer only if the overall interests of the insured persons are safeguarded (article 62(1) ISA).

The transferring company must notify its policyholders individually within 30 days after authorization about the insurance portfolio transfer as well as of the right the policyholder in principle has to terminate the insurance contract within three months following the notification (article 62(3) ISA).

Companies exclusively active in reinsurance are not subject to the above procedure.

28. What are the primary challenges to new market entrants? Are regulators supportive (or not) of new market entrants?

The insurance industry has played an important role for the Swiss economy for a long time and continues to do so nowadays.

While there are well-established players and the environment is highly competitive, Switzerland is a competition friendly jurisdiction in which effective competition is protected and promoted.

29. To what extent is the market being challenged by digital innovation?

Artificial Intelligence (AI) is increasingly used and brings benefits (e.g. related to risk modelling, risk profiles and customer interaction) while also bearing risks (e.g. related to hallucinations, a lack of explainability of results or bias). A challenge may be the balancing act to be done between using AI's potential for efficiency gains and preventing the risks of AI's possible shortcomings.

In this context, the Swiss Insurance Association (SIA) released recommendations on the use of AI in the insurance industry and FINMA set out its supervisory expectations in its 2023 Risk Monitor and issued FINMA Guidance 08/2024 on Governance and risk management when using artificial intelligence.

30. How is the digitization of insurance sales and/or claims handling treated in your jurisdiction, for example is the regulator in support (are there concessions to rules being made) or are there additional requirements that need to be met?

In Switzerland, it is permitted to sell insurances or handle claims digitally. All requirements (including data protection requirements) must be met in the context of digital insurance sales and claims handling and there are no particular exemptions.

In particular, persons who have a commercial interest in offering or concluding an insurance contract via a website or another electronic medium and provide information on the basis of individualised criteria about one or more insurance contracts that a policyholder can choose via that website or other electronic medium, or who create a ranking list of insurance products, including a price and product comparison, are deemed insurance intermediaries (see article 182a(2) ISO).

31. To what extent is insurers' use of customer data subject to rules or regulation?

In Switzerland, the Federal Act on Data Protection (FADP) applies inter alia to the processing of data of natural persons by private persons (article 2(1)(a) FADP) and sets out requirements on data processing. In particular, personal data must be processed lawfully, the processing must be carried out in good faith and personal data may only be collected for a specific purpose that the data subject can recognize (see article 6 FADP).

32. To what extent are there additional restrictions or requirements on sharing customer

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data overseas/on a cross-border basis?

There are additional restrictions on sharing customer data abroad. Personal data may be disclosed abroad if the Federal Council has decided that the legislation of the State concerned or the international body guarantees an adequate level of protection (article 16(1) FADP). The Swiss Data Protection Ordinance (DPO) contains a list in its Annex 1 with States, territories, specific sectors in a State and international bodies that guarantee an adequate level of data protection. Article 17 FADP provides for certain exceptions.

33. To what extent are insurers subject to ESG regulation or oversight? Are there regulations/requirements, including in connection with managing climate change and climate change related financial risks specific to insurers? If so, briefly describe the range of measures imposed.

Companies that are deemed public interest entities within the meaning of article 2(c) of the Auditor Oversight Act and exceed certain thresholds, i.e. together with the Swiss or foreign undertakings that they control, in two successive financial years, they have at least 500 full-time equivalent positions on annual average and their balance sheet totals exceed CHF 20m or their sales revenue exceeds CHF 40m, are subject to rules on transparency on non-financial matters (articles 964a et seqq. CO). They have to prepare a report on non-financial matters that covers environmental matters, in particular the CO2 goals, social issues, employee-related issues, respect for human rights and combating corruption. The report has to contain the information required to understand the business performance, the business result, the state of the undertaking and the effects of its activity on these non-financial matters (article 964b(1) CO).

Insurers are also addressees of the FINMA Circular 2026/1 on Nature-related financial risks regarding the management of climate and other nature-related financial risks. The circular entered into force on 1 January 2026 and initially applies exclusively to climate-related financial risks and from 1 January 2028 to all nature-related financial risks. Insurers of lower risk categories have one year longer (until 1 January 2027) to comply with the Circular. Insurers have to implement the Circular according to their size, complexity and structure as well as their risk profile and business model. They are required to periodically identify the nature-related financial risks that could affect them and assesses their financial materiality for their risk profile and take into account the strategic impact of nature risks as well as potential legal and reputational risks.

34. Is there a legal or regulatory framework in respect of diversity and inclusion to which (re)insurers in your jurisdiction are subject?

(re)insurers in your jurisdiction are subject?

While there is no insurance specific regulatory framework with respect to diversity and inclusion, rules on diversity and inclusion can be found in different sources of Swiss law, some of which may also be applicable to (re)insurers active in Switzerland.

For instance, companies that exceed certain thresholds (two of the following in two successive financial years: a balance sheet total of CHF 20m, sales revenue of CHF 40m, 250 full-time positions on annual average; article 727(1)(2) CO), have to include additional information in their remuneration report. Unless each gender makes up at least 30 % of the board of directors and 20 % of the executive board, the remuneration report must indicate 1.the reasons why genders are not represented as required; and 2.the measures being taken to increase representation of the less well represented gender (article 734(f) CO).

35. Over the next five years what type of business do you see taking a market lead?

While this very much depends on the sector of insurance and specific developments therein, an area to face increased demand may be the insurance of cyber risks as cyber threats challenge an increasing number of individuals and companies, including small and medium enterprises.

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