Minimum content of dealing with clients directives for financial institutions according to Art. 17 FinIA

1. General remarks

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

This particularly includes directives concerning dealing with the financial institutions' clients. The directives shall define the terms and instructively record how to comply with the respective code of conduct obligations and instructions and how to appropriately document and take care of each client.

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

2. Content of directives

	Subjects to be addressed	Remarks
1.	Objective / basis / target	The directives shall initially describe the subject area. The objective shall describe what is regulated by the directives: - Understanding on how to segment clients - General code of conduct rules / duties for dealing with clients need to be laid down - List of relevant code of conduct rules according to FinSA, namely with regard to the appropriateness and/or suitability review - Information concerning any duties of reporting or documentation arising from particular code of conduct obligations Furthermore, the directives must reference their underlying principles (namely Art. 4 et seq. and 10 et seq. FinSA as well Art. 4 and 16 et seq. FinSO) Finally, the directives shall clarify to whom they do apply (usually to all employees of the financial institution, including its highest governing body).

2.	Client segmentation	The directives shall clarify the legal criteria according to which clients may be segmented and how such segmentation is actually done by the financial institution (cf. Art. 4 et seq. FinSA and Art. 4 et seq. FinSO). - Retail clients: all clients which are not professional clients - Professional clients: financial intermediaries* as defined in the BankA, FinIA and CISA, insurance companies* as defined in the ISA, foreign clients* subject to prudential supervision, central banks*, public entities with professional treasury operations, pensions and institutions whose purpose is to provide for occupational pension with professional treasury operations, companies with professional treasury operations, large companies (turnover of CHF 40 million, balance sheet total of CHF 20 million, equity of CHF 2 million; at least two of these parameters must be exceeded), private investment structures with professional treasury operations created for high-net-worth retail clients - Institutional clients: professional clients with asterisks* as well as national and supranational public entities with professional treasury operations. Certain retail clients may declare to be treated as professional clients (so-called opting-out, cf. Art. 5 FinSA and Art. 5 FinSO): - if they possess the necessary knowledge to understand the risks associated with the investments on the basis of training, education and professional experience or on the basis of any other comparable experience in the financial sector and have at their disposal assets of at least CHF 500'000; or - if they have at their disposal assets of at least CHF 2 million. By such opting-out, clients forego certain protective measures (i.e. obligations to be met in any case for retail clients, cf. Art. 4 et. seq. FinSA as well as Art. 6 et. seq. FinSO, namely Art. 22 FinSO). Professional clients who do not qualify as institutional clients may declare to be treated as retail clients (so-called opting-in). The segmentation is to be carried out with each client as part of the onboarding process. This allows to assess which statutory code of conduct obligations are mandatory for each client and which ones merely optional. The goal is to enable employees to independently perceive the client segmentation or due diligence needed appropriate to the situation of the business activities and, thanks to the directives, to know, at least to some extent, how to behave.
3.	Duties on onboarding	On the occasion of onboarding, clients shall be transparently informed about the segmentation selected. Clients must confirm the segmentation selected in writing. As a consequence, it is advisable to clearly present the definitions of the different segments and to have the respective classification confirmed by

		the clients by means of a separate document (e.g. by means of an appendix). Any opting-outs or opting-ins must be carried out on top of the actual segmentation and confirmed by the clients. At the same time, a profile (with regard to client information as well as risks associated with and agreed upon the mandate) shall be created with the client and a strategy defined relevant for the appropriateness and suitability review (cf. below). In this context, the following aspects are to be considered in particular: - Experience in the financial industry, especially with regard to the financial instruments chosen - Financial capability - Knowledge about risks associated with financial instruments and assessment of the same - Personal investment goals (incl. any restrictions). As part of the onboarding process, clients are also to be informed about the financial institution and the risks associated with the financial instruments (cf. Leaflet minimum content of information, diligence and transparency).
4.	Appropriateness and suitability review	Based on the client profile, appropriateness and suitability shall be reviewed and documented on the occasion of each transaction: - As part of advisory mandates, the *appropriateness* of transactions must be checked and documented. For this, neither full client portfolio needs to be known nor taken into account. - As part of portfolio management mandates, a suitability review shall be carried out, taking into account the elements mentioned under item 3 above and suitability of the financial instruments chosen.
5.	Duty of documentation	Employees shall be instructed to appropriately document any action or code of conduct obligation carried out based on these directives. This shall ensure that the activities of the financial institution are documented and lived in accordance with the legal requirements. Documentation shall be checked by the superior and the person responsible for risk and compliance at regular intervals.