Decision guides

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The eight guides in this chapter share a format. Each opens with the question as a client asks it, states in two or three paragraphs why the question is harder than it looks, and then sets out a numbered sequence of sub-questions. A table summarises the sequence with the consequence of each answer and the cross-reference to the part of the book that explains it. Where Swiss and Singapore law diverge, the guide shows both tracks side by side. The guides are designed to be read in ten minutes and to be handed, where appropriate, to a client who wants to understand what the lawyer is doing.

The sequences are deliberately conservative. A guide that says "you probably need a licence" will sometimes send a reader to a lawyer who then concludes that no licence is needed. The reverse error, a guide that reassures a founder who in fact runs an unlicensed financial intermediary, is the one that leads to FINMA liquidation proceedings or a charge under section 6 of the Payment Services Act 2019.[1] Where the two risks cannot both be avoided, the guides err on the side of asking.

Notes

1. Unlicensed activity is an offence under Art. 44 of the Financial Market Supervision Act (FINMASA; FINMAG, SR 956.1) in Switzerland and under s. 6 of the Payment Services Act 2019 in Singapore; see Part H, Chapter I and Part N, Chapter I.

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