Due process and judicial review

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MAS enforcement is administrative, so the safeguards are those of administrative law. For composition the licensee consents, so no appeal exists, but the licensee can refuse composition and take its chances in a prosecution, which few do. For prohibition orders and revocations MAS must give written notice of the proposed action and the grounds, allow representations within a stated period, and give a reasoned decision, with an appeal to the Minister whose decision is final. Judicial review of MAS decisions is available in principle on the grounds of illegality, irrationality and procedural impropriety, but the Singapore courts give financial regulators wide latitude and no digital-asset enforcement decision has been successfully reviewed.[1]

The comparison with FINMA is instructive. FINMA enforcement decisions are subject to appeal to the Federal Administrative Court and then to the Federal Supreme Court, which review law and fact. FINMA's "naming" practice under Art. 34 FINMASA is a separate sanction requiring a serious violation (see Part H, Chapter IV). MAS publishes its sanctions as a matter of routine, with no separate threshold. A Swiss firm accustomed to litigating against FINMA will find that the Singapore route offers fewer opportunities and that the realistic strategy is negotiation before the decision is made.

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Sanction	MAS	FINMA
Private warning	Supervisory warning	Supervisory letter, Rüge
Public censure	Reprimand (published)	Feststellungsverfügung; publication under Art. 34 FINMASA only for serious violation
Monetary	Composition (admin.), civil penalty (court)	No fining power; disgorgement Art. 35 FINMASA
Individual ban	Prohibition order under FSMA, up to life	Industry ban Art. 33 FINMASA, up to 5 years; activity ban Art. 33a
Licence	Revocation, suspension, conditions, directions	Licence withdrawal Art. 37, liquidation
Appeal	Representations, Minister; judicial review	Federal Administrative Court, Federal Supreme Court
Criminal referral	CAD / AGC; joint investigations	Federal Department of Finance (FINMASA offences); OAG for SCC offences
Publication	Routine	Only on legal basis and proportionality

Notes

1. Financial Services and Markets Act 2022, Part 3, procedure for prohibition orders and appeals to the Minister; Payment Services Act 2019, s 11(4)–(6) on notice and representations before revocation. ↩

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