

Principles of cooperation

between the Federal Ministry of Finance (BMF) and the Federal Financial Supervisory Authority (BaFin)

The BMF is responsible for financial market policy in Germany, and helps to shape the legal framework for all areas of financial services supervision at the national, European and international level. Alongside BaFin and the Deutsche Bundesbank, the BMF is a member of the Financial Stability Committee (*Ausschuss für Finanzstabilität*), which regularly deals with matters of decisive importance for financial stability.

BaFin supervises financial services companies in all sectors of the German financial market in accordance with the relevant statutory provisions, conducts orderly resolutions of companies where necessary, collects contributions to the bank levies and manages those funds that are not levied as contributions to the Single Resolution Fund (SRF). Within the scope of its responsibility, BaFin works to combat unlawful activities in the financial sector and sets standards of conduct for the financial markets. As part of its supervisory activities, BaFin also protects the collective interests of investors and consumers and takes preventive measures to combat money laundering and terrorist financing. BaFin forms part of the European System of Financial Supervision and participates in European and international supervisory and resolution bodies.

Under section 2 of the Act Establishing the Federal Financial Supervisory Authority (*Finanzdienstleistungsaufsichtsgesetz – FinDAG*), BaFin is subject to legal and technical supervision by the BMF. In view of the need for efficient, competent and objective financial market supervision, and BaFin's particular expertise and competence, BaFin is operationally independent in its supervisory measures and takes such measures in its own responsibility.

The BMF and BaFin thus agree on the following principles of cooperation:

1. Target dialogue: The core instrument of legal and technical supervision by the BMF is the target dialogue, which takes place between the BMF and BaFin on the basis of the agreed objectives.

2. Legal and technical supervision: In exercising legal and technical supervision, the BMF respects the operational independence of BaFin. For this reason, to the extent that the involvement of the BMF is not provided for by law, the supervisory measures taken by BaFin are not reviewed ex ante by the BMF. Supervisory measures are individual supervisory measures necessitated by a single supervised entity, alongside other measures that have a direct legal impact with regard to the conduct of financial market participants. This includes general administrative acts provided they are not of a standard-setting nature.
3. Reports: In standardised reports (for example reports by the Division for the Coordination of Focused Supervision & Task Force) BaFin informs the BMF about the methods and manner of its supervision in a risk-oriented way and with regard to the achievement of the agreed objectives.
The BMF can request ad hoc reports (including reports on individual companies) if there is concern about potential far-reaching impacts on the financial market as a whole or on individual sectors, if a critical infrastructure is affected, if there could be a risk of substantial losses for investors or consumers, in the case of actual or potential public interest, if responsibility for integration in EU matters is affected, or if this is otherwise necessary for the BMF to fulfil its duties.
The BMF answers parliamentary enquiries with the aid of reports submitted by BaFin as required. As a matter of principle, BaFin informs the BMF of any politically important supervisory decisions, or any such decisions requiring publication, upon their issuance.
Regular expert discussions are held between the BMF and BaFin in a suitable format. BaFin informs the BMF, promptly and to the extent allowed under the relevant confidentiality requirements, about topics discussed and the results of discussions in the relevant European and international bodies in which BaFin participates. The BMF informs BaFin about significant political developments that are of relevance to BaFin in performing its duties.
4. Cooperation in regulation: On the basis of its expertise acquired through supervision and through participation in European and international bodies, BaFin supports the BMF in meeting its objectives and performing its duties in matters of national, European and international regulation. This includes technical support in the analysis, assessment and preparation of regulatory and legislative proposals.
5. National regulation and standard-setting by BaFin: BaFin promptly commences coordination with the BMF regarding any statutory instruments, publications interpreting legal standards, and general administrative acts that are of a standard-setting nature. Such instruments, acts and publications are deemed to be of a standard-setting nature if, with regard to future supervisory measures by BaFin, basic requirements concerning the conduct of financial market participants are set out in the interests of providing specification on statutory requirements for one or more financial sectors.

6. Staff and organisation: As a general principle, issuances under the remit of the BMF that concern organisational matters, rules of conduct or other measures in the area of federal revenue administration apply to BaFin, taking particular account of its status as a legal entity governed by public law with the right to employ civil servants (*Dienstherrnfähigkeit*). As an employer of civil servants, BaFin assumes responsibility for issuing official instructions to its staff.
7. Public relations: BaFin assumes responsibility for public relations in connection with its supervisory mandate.