

Regulatory and Compliance Update

Newly enacted regulations and current draft regulations in
Banking and Asset Management

March 2022



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Contact:

Dr Fabian Schmid
Partner
Head of Regulatory & Compliance
BDO LTD

Thomas Hulmann
Head of Regulatory & Compliance, German-speaking Switzerland
BDO LTD

Patrick Cattin
Partner
Head of Audit, Western Switzerland
BDO LTD

Taulant Avdija
Head of Regulatory & Compliance, Western Switzerland
BDO LTD

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Important note:

The following report gives an overview of important recently entered into force regulations of national and (to the extent that they have a substantial impact on Switzerland) international financial market laws as well as upcoming draft regulations. The presented Regulations are mainly addressed to banks, securities firms, asset management institutions (fund management companies, managers of collective assets, SICAVs, SICAFs, KmGK (limited partnerships for collective investment), other collective investment schemes, custodian banks of collective investment schemes, representatives), portfolio managers and trustees, although not all the addressees are affected by the Regulations directly or to the same degree.

Insurers are not taken into account. This account involves a selection of enactments/drafts that we consider especially important. This account does not claim to be complete and we do not guarantee the accuracy of the data reproduced herein.

Simplifications may have been made. In any case, the original legal bases are applicable.

► Part 1

Recently entered into force



Recently entered into force

Topic	Main news	Need for action	Timeline
Automatic Exchange of Information (AEOI) Multilateral Competent Authority Agreement (MCAA), including Common Reporting Standard (CRS) as international legal basis (OECD) AEOI Act, AEOI Ordinance and SFTA Guidelines for national implementation	<ul style="list-style-type: none"> The automatic reporting obligations concern four categories of financial institutions ('reporting institutions'): depository institutions, custodial institutions, investment entities, and specified insurance companies. Obligation to register as a reporting institution with the Swiss Federal Tax Administration (SFTA) (was supposed to be performed in 2017). Since 1 January 2017, there has been an obligation to identify reportable persons (new clients and existing clients) and their current accounts/custody accounts according to detailed due diligence regulations, with the proviso that not all categories of customers are subject to the same implementation deadlines. Regular reporting of the persons concerned and their current accounts/custody accounts to the SFTA (including prior notification of relevant clients). The SFTA gives the relevant information to the tax authorities of the foreign Partner States concerned. The network of Switzerland's Partner States has been built up year by year. The transitional provision of Art. 1 of the AEOI Ordinance was repealed on 1 January 2019. This increases the AEOI documentation and reporting obligations with respect to clients from countries that generally participate in the AEOI but are not Partner States of Switzerland. In the summer of 2020, parliament passed an amendment to the AEOI Act and the AEOI Ordinance, which repeals certain exceptions (e.g., for co-owners' associations) 	<ul style="list-style-type: none"> By 30 June 2022: AEOI reportings for all Partner States (including first time reports for the ones added in 2021) 	Entry into force: 1 January 2017 <ul style="list-style-type: none"> Various implementation deadlines for certain AEOI obligations (see Need for action) Repeal of Art. 1 of AEOI Ordinance: 1 January 2019 Amendment to the AEOI Act/AEOI Ordinance: 1 January 2021
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Indirectly or partially concerned	Not concerned	

Topic	Main news	Need for action	Timeline
Qualified Intermediary (QI) QI Compliance Programm and QI Compliance Review IRS Revenue Procedure 2014-39 IRS Revenue Procedure 2017-17	<ul style="list-style-type: none"> Qualified Intermediaries are required to implement a complete QI Compliance Program (policies, processes, systems, training seminars) under the direction of a QI Responsible Officer. In general, all Qualified Intermediaries are required to have the implementation of the QI obligations audited once every three years by Internal Audit or by an external auditor (QI Periodic Review); a waiver may be possible, depending on the reportable amounts. It is obligatory to give the IRS a QI-certificate of compliance every three years based on the QI Periodic Review or independent reviews. According to the QI Agreement updated in early 2017, QIs are required to collect 'Limitation on Benefits (LOB) information' for all new account openings since 1 January 2017 for entities using the current form W-8BEN-E or one of the bank's own forms. It is a company's specific statement explaining why it is entitled to benefit from a double taxation agreement with the USA. For existing client relationships with entities, the Limitation on Benefits (LOB) information must be collected within the three year transition period expiring at the end of 2019. For most Qualified Intermediaries, the current certification period spans the years 2018 to 2020, which means that in 2021 or beginning 2022 there is an obligation to issue a QI-certification and, where appropriate, to carry out a QI Periodic Review. 	<ul style="list-style-type: none"> Implementing the documentation requirements concerning Limitation on Benefits (LOB) Issuing of QI-certification and conducting of QI Periodic Review/ Applying for Waiver 	Entry into force: 30 December 2016 (renewal of QI Agreement) <ul style="list-style-type: none"> 31 December 2019: Collection of the necessary 'Limitation on Benefits information' in the case of legal entities 1 December 2021 or 1 March 2022: Issuing of QI-certification (depends on waiver and review year)
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Not concerned	Not concerned	

Recently entered into force

Topic	Main news	Need for action	Timeline
Financial services Financial Services Act (FinSA) Financial Services Ordinance (FinSO)	<ul style="list-style-type: none"> • Creation of a comprehensive Financial Services Act (FinSA) which is generally applicable regardless of the type of financial institution, in order to approximate the European regulations (MiFID II/MiFIR, etc.) • Customer segmentation: Subdividing all clients into private, professional or institutional clients (with various possibilities to opt in or out of different customer categories) • New rules of conduct: Checking the appropriateness and suitability of financial products and financial services for each customer segment and type of service • Informing customers about financial service providers and the characteristics, risks and costs of a financial instrument • General obligation to provide a prospectus for public offerings of securities • Before offering a financial instrument to private customers, it is necessary to issue a Key Information Document ('KID') containing essential information for investment decisions and comparison of different financial instruments. • For relationship managers: Obligations of education and further training • The Financial Services Ordinance (FinSO) clarifies the provisions of the FinSA and contains, in particular, provisions on the rules of conduct, organisation, the relationship manager register, the obligation to provide a prospectus and the Key Information Document. 	<ul style="list-style-type: none"> • Implementing customer segmentation • Introducing opting-out and opting-in forms • Performing appropriateness and suitability checks on forms and systems • Fulfilling duties to inform through fact sheets and/or website • Fulfilling documentation and accountability obligations • Fulfilling organisational duties • Performing obligations regarding prospectus and KID • Obligation to provide liaison with an ombudsman's office (except for clients that are purely institutional or professional per se) 	Entry into force: 1 January 2020 <ul style="list-style-type: none"> • Obligation to provide liaison with an ombudsman's office by 24 December 2020 • Obligation to comply with the new prospectus requirements from 1 December 2020 • Transitional period for performance and application of customer segmentation, organisational duties, rules of conduct (information requirements, appropriateness and suitability checks, documentation and accountability obligations) by 31 December 2021 • Transition period for preparing key information documents expires on 31 December 2022
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Directly concerned	Directly concerned	

Topic	Main news	Need for action	Timeline
Financial institutions Financial Institutions Act (FinIA) Financial Institutions Ordinance (FinIO) Ordinance on Supervisory Organisations in Financial Market Supervision (SOO) Draft FINMA Financial Institutions Ordinance (FinIO-FINMA)	<ul style="list-style-type: none"> • Uniform rules on supervision of all financial service providers allowed to offer asset management services in the broad sense of the term, including securities dealers (new: 'securities firms'), however, without banks (Banking Act is still the basis) • New prudential supervision of asset managers of individual customer assets, trustees and asset managers of Swiss pension funds (licensing obligation), with increased requirements in the areas of internal organisation, separation of powers, fit and proper tests etc. • Cascading licensing system: higher-value licences automatically also include lower-level forms of licences (both rights and obligations) • Distinction between qualified asset managers (under FINMA's direct supervision) and asset managers of the assets of individual clients. FINMA-accredited supervisory organisations will supervise asset managers of individual assets with different risk-based rules. • The FinIO will clarify the licence requirements and obligations for financial institutions as well as their supervision. • The SOO governs the licensing requirements and the activities for the newly introduced supervisory organisations. • In particular, the FinIO-FINMA sets out the distinction between ordinary portfolio managers and managers of collective assets and the requirements for professional liability insurance as well as for risk management and risk control. In addition, in this framework, various FINMA circulars were amended and/or repealed and the threshold value requiring customer identity checks in foreign exchange transactions in cryptocurrencies was lowered from CHF 5,000 to CHF 1,000. 	<ul style="list-style-type: none"> • Institutions authorised by FINMA: Compliance with FinIA requirements within one year • Institutions requiring new authorisation: <ul style="list-style-type: none"> - Report to FINMA by 30 June 2020 - Application for authorisation to FINMA by 31 December 2022 	Entry into force: 1 January 2020 <ul style="list-style-type: none"> • Transition period for various obligations (see need for action) • Approval of the first FinIA supervisory organisations: 6 July 2020 • Entry into force FinIO-FINMA: 1 January 2021
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Indirectly or partially concerned	Directly concerned	Directly concerned	

Recently entered into force

Topic	Main news	Need for action	Timeline
Environmental, Social and Governance (ESG)	<ul style="list-style-type: none"> The ESG concerns, among other things, a large-scale European regulatory package that defines the framework for dealing with sustainable investment. <ul style="list-style-type: none"> Regulation on the establishment of a framework to facilitate sustainable investment (so-called 'taxonomy'): This should allow for a uniform classification of activities in order to decide which are and which are not environmentally sustainable. Ordinance on disclosures relating to sustainable investments and sustainability risks: This Regulation requires financial institutions in the EU to comply with various disclosure obligations. Regulation on low carbon benchmarks and positive carbon impact benchmarks: The purpose of this Regulation is to establish standards for low carbon and positive carbon impact benchmarks Adapting MiFID II and IDD (Insurance Distribution Directive) by including ESG factors: In future, clients will be queried about their ESG preferences in the suitability and appropriateness test. There were various publications on ESG in Switzerland in 2021, including: <ul style="list-style-type: none"> The Green Fintech Network's action plan for a green and innovative Swiss financial centre FINMA Guidance 05/2021 on preventing and combating greenwashing Report of the Federal Council on a climate-friendly financial market Recommendations on transparency and minimum requirements for sustainable investment approaches and products, issued by AMAS and SSF SwissBanking's overview of relevant positions and recommendations in the area of sustainable finance Key elements of the Swiss publications are the statements that according to the current Financial Services Act (FinSA), the ESG expectations of the customers must be taken into account and that financial institutions must already adequately record and manage climate-related financial risks. 	<ul style="list-style-type: none"> Analysis of the attractiveness of the business policy of expanding the range of sustainable investment products Providing relationship managers with proper training on ESG criteria and how to provide advice on that subject Integration of sustainability risks into internal risk management Integration of ESG criteria into the investment process as part of implementing the FinSA 	Entry into force of EU legislation: Between 2020 and 2022 <ul style="list-style-type: none"> ESG disclosure obligations for systemically important institutions: 1 July 2021
Banks and securities firms		Asset management institutions	Portfolio managers and trustees
Directly concerned		Directly concerned	Directly concerned

Recently entered into force

Topic	Main news	Need for action	Timeline
FINMA risk monitor	<ul style="list-style-type: none">• In the new edition of its risk monitor, FINMA currently points the following seven main risks:<ul style="list-style-type: none">- the persistently low interest rate environment- a correction in the real estate and mortgage markets, in particular in the case of investment properties- Cyber attacks- money laundering- more difficult crossborder market access, in particular in the EU- impending defaults or corrections in corporate loans and bonds abroad• FINMA determines its supervisory focus according to the risks described.• Climate risks and greenwashing are described as risks that could have a lasting impact on the Swiss financial centre in the longer term.	<ul style="list-style-type: none">• No need for action, but indirect influence through FINMA's supervisory activities	Publication: 11 November 2021
Banks and securities firms		Asset management institutions	
Indirectly or partially concerned		Indirectly or partially concerned	
Portfolio managers and trustees		Indirectly or partially concerned	

Topic	Main news	Need for action	Timeline
Second Shareholder Rights Directive (SRD II)	<ul style="list-style-type: none">• Swiss financial intermediaries holding securities from companies listed in the EU have the following duties:<ul style="list-style-type: none">- Listed EU companies are entitled to request information from intermediaries regarding the identity of their shareholders. The relevant information must be provided by the final intermediary disposing of it. Since the Directive does not require the final intermediary to conduct investigations or make inquiries, it is only required to report such data as are currently known to it.- Obligation to pass on information provided by the Company. The final intermediary must grant the shareholder access to the information through 'generally available tools and facilities', so supplying such information on a website or via e-banking, for example, should be permitted. In addition, it is obligatory to contact shareholders individually and draw their attention to information relevant to their shares. The extent to which shareholders can restrict or waive their rights to information is still unclear.- To facilitate the exercise of shareholder rights, the intermediary must 1) take the necessary precautions to enable the shareholders to exercise their rights themselves or 2) exercise the rights as instructed by the shareholder.	<ul style="list-style-type: none">• Defining a procedure to process requests from EU/ EEA companies for information about the identity of shareholders.• Ensuring that any such disclosure of information does not violate statutory or contractual confidentiality rules• Defining a procedure to communicate information about corporate events (e.g., general meeting, exercise of voting rights) to shareholders with holdings in EU/EEA companies or entering into waiver agreements in that respect	Entry into force: 3 September 2020
Banks and securities firms		Asset management institutions	Portfolio managers and trustees
Directly concerned		Not concerned	Not concerned

Recently entered into force

Topic	Main news	Need for action	Timeline
Outsourcing Adjustment of the scope of application of FINMA Circular 2018/3	<ul style="list-style-type: none">• The scope of application of the FINMA Circular 2018/3 on Outsourcing now also includes managers of collective assets, fund management companies and SICAVs. The Circular does not apply to asset managers and trustees because it would require disproportionate efforts in practice.• In addition to the requirements already applicable under collective investment law and FINIA/FINIO, managers of collective assets, fund management companies and SICAVs must now also comply with more extensive requirements in the following areas when outsourcing tasks:<ul style="list-style-type: none">- Inventory of outsourced functions- Selection, instruction and monitoring of the service provider- Security- Audit and supervision- Outsourcing abroad- In-house approval procedure	<ul style="list-style-type: none">• Preparation of outsourcing inventory• Review of need for adjustments in the ICS (outsourcing-specific risk analysis, outsourcing project approval process, etc.)• Review of need for adjustments of the existing outsourcing agreements• Consideration of additional requirements in new outsourcing agreements	Entry into force: 1 January 2021 <ul style="list-style-type: none">• Transition period until 31 December 2021 (not in the case of new approvals)
Banks and securities firms		Asset management institutions	Portfolio managers and trustees
Not concerned		Directly concerned	Not concerned

Topic	Main news	Need for action	Timeline
Spanish Financial Transaction Tax	<ul style="list-style-type: none">• Spain enacted a Financial Transaction Tax on 16 January 2021. For further information, see SBA Circulars nos. 8047, 8049 and 8051• The Spanish Financial Transaction Tax (S-FTT) will be levied on transactions in the secondary market:<ul style="list-style-type: none">- on shares of Spanish companies and on the related share certificates- in specified types of transactions and deals (not only buying/selling)- irrespective of the domicile or registered office of the parties involved in the transaction- in the absence of any circumstances on the list of exclusions (e.g., the type of transaction)• The tax only applies to securities of listed Spanish companies with a market capitalisation greater than EUR 1 billion at 1 December of the prior year or, in the first year of collection, at 16 December 2020. The Spanish tax authority will publish an appropriate list each time	<ul style="list-style-type: none">• Checking whether the relevant information is provided by securities data providers• Clarifying settlement issues with the internal and external offices involved	Entry into force: 16 January 2021
Banks and securities firms		Asset management institutions	Portfolio managers and trustees
Directly concerned		Not concerned	Not concerned

Recently entered into force

Topic	Main news	Need for action	Timeline
SBA Guidelines on handling data	<ul style="list-style-type: none"> In May 2021, the Swiss Bankers Association published guidelines on handling data in day-to-day business. The guidelines illustrate some general principles of regulation of data processing based on the following six use cases from the banking sector: <ul style="list-style-type: none"> - Use of Artificial Intelligence (AI) for Compliance purposes - Credit checks - Trend analyses and benchmarking - Biometric authentication - Personalised offers and advice - Loyalty programmes These guidelines are neither a legal nor ethical policy document and do not define any industry-wide minimum standards. Rather, they provide exemplary use cases that already play a major role in day-to-day banking or will do so in the future. Moreover, the guidelines do not claim to be exhaustive and will be periodically updated and extended as necessary. Each individual financial institution is free to interpret and apply these guidelines within the framework of its institution-specific risk assessment. 	<ul style="list-style-type: none"> Taking the guidelines into account when processing data in any of the activities mentioned under 'Main News' 	Publication: 5 May 2021
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Indirectly or partially concerned	Indirectly or partially concerned	

Topic	Main news	Need for action	Timeline
Video and online identification New FINMA Circular 2016/7	<ul style="list-style-type: none"> Purpose of further automation and scaling of the identification processes with at least the same level of security Another way to read out and verify the data on the biometric passport chip Further existing accompanying security requirements (e.g., bank transfer) Geolocalisation (determining the location of a mobile device) has recently become a method of address verification Clarification that an appointed third party's involvement of a video and online identification provider does not qualify as prohibited further delegation within the meaning of the FINMA Anti-Money Laundering Act (28)(3) 	<ul style="list-style-type: none"> Regarding video and online identification: Discussion/evaluation with providers concerning possible use of the new identification method 	Entry into force: 1 June 2021
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Directly concerned	Directly concerned	

Recently entered into force

Topic	Main news	Need for action	Timeline
SBA Discussion Paper – Digital Currencies	<ul style="list-style-type: none"> This discussion paper traces international development in the field of digital currency, describes the opportunities and challenges of various designs for Switzerland as a banking centre and raises critical questions about proper positioning of relevant control mechanisms. It also clarifies the roles of private Stablecoins and Central Bank Digital Currency (CBDC). 	<ul style="list-style-type: none"> No need for action but may form the basis of possible future developments 	Publication: 24 June 2021
Banks and securities firms		Asset management institutions	Portfolio managers and trustees
Indirectly or partially concerned		Indirectly or partially concerned	Indirectly or partially concerned

Topic	Main news	Need for action	Timeline
Consumer credit – New benchmark interest rate	<ul style="list-style-type: none"> The Saron 3-month compound interest rate (SAR3MC) will be used in the future as a benchmark interest rate for calculation of the maximum interest rate for consumer credit. The method of calculation will remain unchanged: the maximum interest rate will be determined by increasing a prescribed benchmark interest rate (now the SAR3MC) by a fixed increase of 10 percentage points in the case of overdraft facilities on current accounts or 12 percentage points in the case of credit cards and customer cards with a credit option. Up to now, the maximum interest rate has been set annually by a new ordinance. In the future, the rate will be verified annually just as before, but the ordinance will be revised only when necessary. The Federal Council enacted the amendments to the Consumer Credit Ordinance on 1 July 2021. The maximum interest rate will be determined on the new basis for the first time as of 1 January 2022. 	<ul style="list-style-type: none"> For the granting of consumer loans: applying the new benchmark interest rate (SAR3MC) 	Entry into force: 1 July 2021
Banks and securities firms		Asset management institutions	Portfolio managers and trustees
Indirectly or partially concerned		Indirectly or partially concerned	Indirectly or partially concerned

Recently entered into force

Topic	Main news	Need for action	Timeline
Blockchain/Initial Coin Offerings (ICOs) Federal Act on the Adaption of Federal Law to technological developments in distributed ledger technology	<ul style="list-style-type: none"> The 'Federal Act on the Adaptation of Federal Law to developments in Distributed Ledger Technology' aims to individually amend nine federal acts on civil and financial market law so as to improve the framework conditions for Distributed Ledger Technology (DLT) and improve legal certainty. The proposal shall include, inter alia, the following: <ul style="list-style-type: none"> - Amendment to the Code of Obligations in order to create a legally secure basis for the trading of rights by means of a tamper-proof digital ledger (creation of 'registered book-entry rights') - Amendment of the DEBA in order to regulate the legal separation of crypto-assets out of the bankruptcy estate - Creation of a new and flexible authorisation mechanism – 'DLT trading systems' – for trading, settlement, processing and custody services with DLT-based assets Furthermore, it should be possible in the future to obtain a licence as a securities firm for the operation of an organised trading system. 	<ul style="list-style-type: none"> For Blockchain offers: adjusting GTCs, Safe Custody Regulations, or similar documents to the future provisions of the Code of Obligations regarding registered uncertificated securities 	Entry into force: 1 August 2021 (Provisions on registered book-entry rights as early as 1 February 2021)
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Indirectly or partially concerned	Indirectly or partially concerned	Indirectly or partially concerned	

Topic	Main news	Need for action	Timeline
Net Stable Funding Ratio (NSFR) Adjustment of the revised LiqO and FINMA Circular 2015/2	<ul style="list-style-type: none"> With the introduction of the NSFR via the liquidity Ordinance and the FINMA Circular on liquidity risks, the Federal Council aims to provide longterm stable financing for banks. Swiss banks already calculate their NSFR and deliver it to the SNB. However, compliance with certain requirements is not mandatory at present. The EU will introduce the NSFR by mid-2021. There are signs that the US could also introduce such a ratio relatively quickly. Institutions participating in the small bank regime are not required to calculate the NSFR. 	<ul style="list-style-type: none"> Calculation and reporting of NSFR to SNB (periodicity and dates depending on FINMA supervisory category) 	Entry into force: 1 July 2021
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Not concerned	Not concerned	

Recently entered into force

Topic	Main news	Need for action	Timeline
Changes within governance bodies FINMA guidelines	<ul style="list-style-type: none"> • FINMA's guidelines on changes in the persons entrusted with the administration and management of banks provides an overview of the general principles observed by FINMA, the audit criteria applied in verifying the guarantee of irreproachable business conduct and the schedule, and lists the documents and information that generally have to be submitted to FINMA for processing a change of within a governance body. • The guidelines serve as an aid for the banks. It does not tighten previous practice. 	<ul style="list-style-type: none"> • Consideration of the guidelines in case of any changes within the governance bodies 	Publication: 22 September 2021
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Not concerned	Not concerned	

Topic	Main news	Need for action	Timeline
FATF risk countries Updated country list	<ul style="list-style-type: none"> • The FATF updated its list of risk countries in October 2021. The following countries are now under increased monitoring: <ul style="list-style-type: none"> - Jordan - Mali - Turkey • Botswana and Mauritius are no longer under increased monitoring. 	<ul style="list-style-type: none"> • Consideration if (AMLA) directives refer to the FATF list 	Publication: 26 October 2021
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Directly concerned	Directly concerned	

Recently entered into force

Topic	Main news	Need for action	Timeline
LIBOR replacement FINMA Guidance 03/2018 FINMA Guidance 08/2020 FINMA Guidance 10/2020 FINMA Guidance 02/2021 FINMA Guidance 03/2021	<ul style="list-style-type: none"> According to its guidance, FINMA considers the three main risks related to replacement of the LIBOR to be as follows: <ul style="list-style-type: none"> - Legal risks: e.g., if contracts using the LIBOR as a reference expire after 2021 - Valuation risks: e.g., in case of claims and liabilities on derivatives and loans using the LIBOR as a reference - Risks related to ensuring operability: e.g., shortage of products based on alternative benchmark interest rates On 4 December 2020, FINMA published a detailed roadmap tuned to international developments, with specific milestones in the course of 2021, for the LIBOR replacement. Its purpose is to clarify the FINMA recommendations for the supervised entities and market participants concerned, so that they can make good use of the time remaining until the end of 2021 to prepare for the disappearance of the LIBOR in CHF, EUR, GBP and JPY (in all maturities), and the disappearance in USD (in the 1W and 2M maturities) across all types of products. On 16 September 2021, FINMA published its Guidance 03/2021, in which it refers to a backlog in the adjustment of loan agreements for syndicated loans (joint lending by at least two credit institutions). The Guidance also contains a compilation of what FINMA considers to be best practices for dealing with LIBOR transition. FINMA then states that conclusion of new LIBOR transactions – except in strictly limited and documented exceptional cases – can be regarded as a violation of the supervisory requirements with regard to adequate risk management. On 7 December 2021, SwissBanking published circular no. 8066 concerning the impact of the discontinuation of LIBOR on the determination of the interest rate component of structured products. 	<ul style="list-style-type: none"> By 25 January 2021: Sign the ISDA fallbacks protocol By 31 January 2021: No new business based on CHF or EUR LIBOR By 31 January 2021: Readiness to lend in alternative reference rates (ARR) Until 31 March 2021: Plans to reduce the legacy ('Tough Legacy') Until 30 June 2021: Implementation of system and process changes Until 30 June 2021: Risk mitigation for remaining 'Tough Legacy' By 30 June 2021: New contracts under ARR By 31 December 2021: Full operational readiness By 31 December 2021: All new contracts under ARR 	LIBOR replacement in late 2021
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Indirectly or partially concerned	Indirectly or partially concerned	

Topic	Main news	Need for action	Timeline
SBA Portfolio Management Guidelines	<ul style="list-style-type: none"> A comprehensive revision of the guidelines was made necessary by the enactment of the Financial Services Act (FinSA) and the corresponding ordinance (FinSO). The main aim is to ensure substantive compatibility with the FinSA, and to better allow for modern investment strategies. Many of the former provisions of the guidelines are now covered by the FinSA and FinSO. To avoid redundancy with the FinSA, the guidelines have thus been significantly abbreviated. The focus is now on the core elements of asset management. The amended guidelines will enter into force on 1 January 2022. Institutions that complete the changeover to FinSA before the end of the transition period and inform their audit firm of that fact in accordance with FinSO Art. 106 (2) can apply the amended guidelines from that point in time. 	<ul style="list-style-type: none"> Formal introduction/consideration of the revised guidelines (no substantive changes) 	Entry into force: 1 January 2022
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Not concerned	Not concerned	

Recently entered into force

Topic	Main news	Need for action	Timeline
Revised AMAS Guidelines	<ul style="list-style-type: none">• As part of ongoing efforts to finalise the implementation of FinSA/FinIA, the following guidelines of the Asset Management Association Switzerland (AMAS; formerly SFAMA) have been revised:<ul style="list-style-type: none">- Code of Conduct- Guidelines for Real Estate Funds- Technical Guidelines (Guidelines for money market funds, Guidelines on the valuation of the assets and the handling of valuation errors, Guidelines on the calculation and publication of performance data, Guidelines on the calculation and disclosure of the Total Expense Ratio (TER))• The provisions of the Transparency Guidelines were also adapted and newly incorporated into the revised Code of Conduct. The Distribution Guidelines of 22 May 2014 and the KIID Guidelines of 20 January 2012 will cease to apply as of 31 December 2021.• The revised AMAS model documents – based on the revised guidelines – were published on 28 September 2021.• The revised guidelines enter into force on 1 January 2022. FINMA recognised them as a minimum standard on 28 September 2021.	<ul style="list-style-type: none">• Consideration of the revised guidelines in templates, directives, etc.	Entry into force: 1 January 2022
Banks and securities firms		Asset management institutions	
Indirectly or partially concerned		Directly concerned	
Portfolio managers and trustees		Not concerned	

Topic	Main news	Need for action	Timeline
VSV/ASG Expert Recommendation on Asset Management	<ul style="list-style-type: none">• When the FinSA transitional period expired on January 2022, the previously applicable rules of professional conduct lost their (immediate) validity and were essentially replaced by the rules of conduct set out in FinSA and the detailed provisions of FinSO.• However, the rules of conduct now contained in FinSA/FinSO do not fully cover all aspects that were previously laid down in codes of conduct. Against this background, the asset management industry association (VSV/ASG) has issued its expert recommendation on asset management mandates and discretionary asset management in the sense of 'best practices' as of 1 January 2022.• The expert recommendation deals with the following topics:<ul style="list-style-type: none">- Content of the contract- Supervisory duties- Discretionary use of financial instruments- Credit, forward and derivative transactions• It should be noted that most of the requirements of the expert recommendation are not 'hard law', but rather an interpretation aid for the industry on the rules of conduct in accordance with FinSA/FinIO.	<ul style="list-style-type: none">• Consideration of the expert recommendations regarding:<ul style="list-style-type: none">- Content of the contract- Supervisory duties- Selection and use of financial instruments- Loans, forward and derivative transactions	Entry into force: 1 January 2022
Banks and securities firms		Asset management institutions	Portfolio managers and trustees
Indirectly or partially concerned		Directly concerned	Directly concerned

Recently entered into force

Topic	Main news	Need for action	Timeline
Updated IRS forms	<ul style="list-style-type: none">• The IRS recently updated Forms W-8BEN, W-8BEN-E, W-8IMY, and W-8ECI, releasing new versions dated October 2021.• The IRS has not announced a revision of Form W-8EXP to date. Swiss financial institutions that are considered Qualified Intermediaries or Foreign Financial Institutions for FATCA purposes must use the new forms from 1 May 2022 at the latest. The IRS has also published updated versions of the instructions for the corresponding forms.• SwissBanking provides member banks with updated translations of forms W-8BEN for natural persons and W-8BEN-E for companies in German, French and Italian (see SwissBanking circular 8068).	<ul style="list-style-type: none">• Use of updated IRS forms from May 2022 at the latest	Publication: October 2021
Banks and securities firms		Asset management institutions	
Portfolio managers and trustees			
Directly concerned		Indirectly or partially concerned	
		Indirectly or partially concerned	

Topic	Main news	Need for action	Timeline
Covid-19 credits Interest/amortisation	<ul style="list-style-type: none">• The Federal Council has decided not to adjust the interest rates for Covid-19 credits as of the end of March 2022 for the following twelve months due to unchanged market developments. The interest rate for Covid-19 credits of up to CHF 500,000 will therefore remain at 0 percent and the interest rate for the portion of credits guaranteed by the guarantee organisations above CHF 500,000 (Covid-19 credits plus) will remain at 0.5 percent.• Covid-19 credits must be amortised within eight years from the grant date. It is possible to extend this period by up to two additional years. Amortisation is agreed between the companies and the lending banks.• The Federal Council supports the option that banks postpone the start of amortisation by a recommended 6 to 12 months for companies particularly affected by the pandemic.• If a company defaults on repayment of the Covid-19 credit, the bank can make a claim on the guarantee. This transfers the outstanding loan claim from the lending bank to the respective guarantee organisation for receivables management.	<ul style="list-style-type: none">• Attention with regard to Covid-19 credits granted	Publication: 2 February 2022
Banks and securities firms		Asset management institutions	Portfolio managers and trustees
Directly concerned		Not concerned	Not concerned

Recently entered into force

Topic	Main news	Need for action	Timeline
Measures relating to the situation in Ukraine	<ul style="list-style-type: none">On 28 February 2022, the Federal Council decided to adopt the EU sanctions against Russia. The Swiss ordinance was therefore subject to a total revision on 4 March 2022.In particular, Art. 20 and 21 should be highlighted:<ul style="list-style-type: none">Prohibition on accepting deposits in excess of CHF 100,000 from Russian citizens or natural/legal persons in Russia (Art. 20; per client; with exemptions provided for Swiss citizens, citizens of an EU member state and natural persons holding a temporary or permanent residence permit of Switzerland or an EU member state);Duty to notify SECO by 3 June 2022 of existing deposits in excess of CHF 100,000 of Russian citizens or natural/legal persons in Russia (Art. 21)	<ul style="list-style-type: none">Ensuring that no deposits exceeding CHF 100,000 are accepted from Russian citizens and persons/companies domiciled in Russia (per customer; taking into account exemption provisions)Review the customer base to identify Russian citizens and persons/companies domiciled in RussiaNotify SECO by 3 June 2022 of deposits of Russian citizens and persons/companies domiciled in Russia.	Entry into force: 4 March 2022
Banks and securities firms	Asset management institutions	Portfolio managers and trustees	
Directly concerned	Indirectly or partially concerned	Indirectly or partially concerned	

Notes

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

► Part 2

Current draft regulations



Current draft regulations

Topic	Main news	Timeline
Anti-Money Laundering Revision of AMLA	<ul style="list-style-type: none"> By implementing the recommendations from the 4th FATF Country Report of 7 December 2016, the Federal Council intends to extend the AMLA due diligence obligations as well as include certain activities of non-financial intermediaries. To this end, the following amendments to the AMLA are planned: <ul style="list-style-type: none"> Duty of the financial intermediaries to explicitly verify the statements made about the beneficial owner Duty of the financial intermediaries to update customer information periodically Retaining the right to report, explanation of the terms 'right to report' and 'duty to report' The 20-day processing period of the MROS will be replaced by the financial intermediary's right to break off business relationships involving a pending MROS report unless the report is forwarded to a criminal prosecution authority within 40 days. Introduction of due diligence obligations related to the founding, management and administration of certain services related to companies and trusts (advisor provisions) In addition to the above changes, amendments are planned in the following areas: <ul style="list-style-type: none"> Introduction of measures to increase transparency concerning associations (list of members, obligation to register with Commercial Registry) 	Expected entry into force: October 2022
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Directly concerned	Directly concerned

Topic	Main news	Timeline
Data Protection Totally revised Swiss Federal Act on Data Protection (FADP)	<ul style="list-style-type: none"> The EU still considers the FADP to be equivalent, although it must be revised so that it can keep up with the changed technological and social circumstances and to ensure that Switzerland continues to be regarded by the EU as a third country with appropriate data protection. Companies must inform data subjects whenever they intend to procure their personal data, as well as specifying which information will be processed (consent is not absolutely necessary). Fines up to CHF 250,000 may be imposed on data controllers and up to CHF 50,000 on companies. Whenever data processing is to be performed that exposes an individual to increased risk, it has now become obligatory to perform a data protection impact assessment. In future, stricter rules will become applicable to the controversial practice of 'profiling' (i.e., the assessment of certain characteristics of a person based on automated processing of personal data) if the linking of data enables assessing essential aspects of the data subject and/or data of different origins are constantly linked to each other and/or enable drawing conclusions about different areas of the data subject's life. On 23 June 2021, the Federal Council published the draft of the associated ordinance (consultation until 14 October 2021). Among other things, the minimum requirements for data security and the regulations on the disclosure of data abroad (including the publication of a list of countries with adequate data protection) are specified. It then explains under which conditions companies with fewer than 250 employees do not need a register of processing activities. 	Expected entry into force: September 2023
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Directly concerned	Directly concerned

Current draft regulations

Topic	Main news	Timeline
Depositor protection Strengthening of the depositor protection system by changing the existing regulations	<ul style="list-style-type: none"> The existing depositor protection system is to be strengthened through a series of measures. The duration of disbursement of the secured deposits in case a bank declares bankruptcy is to be reduced to 7 days, which will be in line with the international standard. For implementation, the parties concerned will be granted a time allowance of at least 5 years. The depositor protection will be based on posting securities of a value equal to 50% of the deposit or an equivalent guarantee in the form of a cash loan to the benefit of the depositor protection scheme. The requirement for banks to hold liquid reserves to cover any outflows to the depositor protection scheme will cease to apply. The remaining 50% of the banks' contribution liabilities will be maintained in the current form of ex-post financing. The upper limit of the system is to be set at 1.6% of the total secured deposits, but at least CHF 6 billion. 	Expected entry into force: 2023
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Not concerned	Not concerned

Topic	Main news	Timeline
Limited Qualified Investment Funds (L-QIF) Adjustment of the Federal Act on Collective Investment Schemes (CISA)	<ul style="list-style-type: none"> Switzerland is supposed to be made more attractive as a centre of investment funds and more competitive vis-à-vis the rival financial centres abroad. The market launch of innovative products is supposed to be facilitated. It is planned to add a category of investment funds to the CAO that does not require approval by FINMA. This new category of investment fund (Limited Qualified Investment Fund or 'L-QIF') would be reserved for qualified investors, such as pension funds and insurers. L-QIFs would not be subject to FINMA's authorisation or supervision, but an L-QIF must be managed by a supervised institution. The advantage of L-QIFs is that they can be brought onto the market faster and at lower cost than other investment funds. Parliament approved the bill in December 2021. The National Council, which had wanted to allow portfolio managers to manage L-QIF within the thresholds of the Financial Services Act, lost out to the Council of States. As a result, L-QIF may only be managed by managers of collective assets. 	Expected entry into force: 1 January 2023
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Indirectly or partially concerned	Directly concerned	Indirectly or partially concerned

Current draft regulations

Topic	Main news	Timeline
Bank restructuring Revision of the Banking Act and the Mortgage Bond Act	<ul style="list-style-type: none"> The amendment aims to incorporate into formal legal instruments currently regulated by the FINMA Banking insolvency Ordinance on restructuring proceedings for banks. In particular, in order to strengthen legal certainty, the instruments that interfere with the rights of the Bank's owners and creditors, such as capital-investment actions (e.g. bail-in), should be anchored at the legal level. An amendment to the Mortgage Bond Act also strengthens the functioning of the Swiss pledge Bond system in the event of the insolvency or bankruptcy of a member bank. 	Expected entry into force: 2023
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Not concerned	Not concerned

Topic	Main news	Timeline
Basel III Final Rule Adjustments to the CAO	<ul style="list-style-type: none"> In the Basel III Final Rule, numerous adjustments are to be made to incorporate the requirements of the Basel Committee. The standard rate for credit risk weighting will be adjusted by: <ul style="list-style-type: none"> - greater differentiation of risk weights instead of flat rates, in particular for mortgage-backed positions in residential and commercial property based on collateral; and - enhanced assessment requirements for the use of external ratings The existing approaches to determining the capital adequacy for operational risks (basic indicator, standard and institution-specific approach) will be replaced through a standard rate based on revenue components and historic losses. The method of calculating the leverage ratio will be adjusted and a leverage ratio buffer will be introduced for global systemically important banks (G-SIBs). The output floor of internal models will be determined according to standard rates for at least 72.5% of risk-weighted assets. Simplified implementation for banks in supervisory categories 3 to 5 	Consultation: Spring 2021 Expected entry into force: probably 2023
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Not concerned	Not concerned

Current draft regulations

Topic	Main news	Timeline
Review of Stock Corporation Law	<ul style="list-style-type: none"> • Introduction of a gender ratio of 30% (BoD) and 20% (EB) with 'Comply or Explain' approach for large listed companies <ul style="list-style-type: none"> - Companies are considered 'large' if they exceed two of the threshold values under CO Article 727(1) (2) (balance sheet total of CHF 20 million, revenue of CHF 40 million or 250 FTEs) in two consecutive financial years. - Transition periods of five years (BoD) or ten years (EB) • Improving corporate governance of non-listed companies, as well: <ul style="list-style-type: none"> - Increasing the shareholders' rights to information and inspection - Lowering the required minimum values for the exercise of information and inspection rights • Increased flexibility of capital regulations <ul style="list-style-type: none"> - Introduction of the permissible range of capital adjustments - Possibility of reporting share capital in foreign currencies • Introduction of written or virtual general meetings • Restriction of the powers of independent voting proxies • Alignment of company law with new financial reporting laws • Implementation of the 'Rip-Off Initiative' [Abzocker-Initiative] 	Entry into force: 2023 (Gender quotas as early as 1 January 2021; with transition periods)
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Indirectly or partially concerned	Indirectly or partially concerned	Indirectly or partially concerned

Topic	Main news	Timeline
Reactivation of countercyclical capital buffers	<ul style="list-style-type: none"> • In order to counteract the increasing risks on the mortgage and real estate market, banks are required to hold additional capital (equity) for residential mortgages from 30 September 2022. These additional funds now comprise 2.5 percent of risk-weighted positions that are directly or indirectly secured by a residential property in Switzerland. • FINMA will closely monitor implementation of the decision at the banks. • The countercyclical capital buffer strengthens the resilience of the banking sector when corrections are needed as a result of imbalances in the mortgage and real estate markets. At the same time, it counteracts further escalation of the situation on these markets. 	Entry into force: 30 September 2022
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Not concerned	Not concerned

Current draft regulations

Topic	Main news	Timeline
Introduction of Swiss trusts	<ul style="list-style-type: none"> To ensure that actors in Switzerland do not have to resort to foreign trusts, Parliament has instructed the Federal Council with a motion to create a Swiss trust. Besides providing for trusts in the Swiss Code of Obligations, various federal laws are to be amended accordingly. In particular, tax laws should in future explicitly regulate how trusts are treated for tax purposes. Currently, taxation is based on the general principles of tax law and two circulars. Specifically, the Federal Council proposes to maintain the existing principles. Irrevocable trusts without fixed claims of the beneficiaries are now in principle to be taxed in the same way as foundations. In line with international requirements, the Federal Council's preliminary draft also contains special information and documentation obligations for all trustees. In particular, trustees must identify the beneficial owners. The proposal thus takes into account Switzerland's current obligations with regard to combatting money laundering and the financing of terrorism as well as in the area of tax transparency. 	Consultation period until 30 April 2022
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Indirectly or partially concerned	Indirectly or partially concerned	Indirectly or partially concerned

Topic	Main news	Timeline
Revision of chattels law	<ul style="list-style-type: none"> Under Swiss chattels law, collateral on movable goods can only be created by transferring possession of the collateral from the debtor to the creditor (principle of pledging chattels). The consequence of this legal situation is that Swiss companies can hardly use mobile means of production such as machines, vehicles, raw materials, stocks or other movable goods as collateral for receivables or loans. Against this background, the Federal Council included in-depth regulatory impact assessment (RIA) in its 2020 annual goals. This analysis shows that Swiss SMEs face severe restrictions in accessing secured debt financing compared to virtually all foreign jurisdictions. The authors recommend a gradual revision of the collateral provisions in chattels law, which should be applicable only to companies. Important elements are the admission of a chattel mortgage with publication in the register, a modernisation of the retention of title and the right of assignment as well as a modernisation with regard to intangible property rights and intangible assets. The authors also recommend the establishment of a digital, central register as well as the rapid ratification of the Cape Town Convention, which creates a uniform security interest for high-value, cross-border means of production (especially aircraft, railway rolling stock and satellites). The results of the in-depth RIA are now being examined by the responsible departments. 	Entry into force: open
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Indirectly or partially concerned	Indirectly or partially concerned	Indirectly or partially concerned

Current draft regulations

Topic	Main news	Timeline
Adaption of fund documents	<ul style="list-style-type: none"> • According to Article 144 (3) of the Collective Investment Schemes Ordinance (CISO), fund management companies, SICAVs and limited partnerships for collective investment are required to submit to FINMA the adapted fund agreements, investment regulations and partnership agreements within two years after the entry into force of FinSA/FinIA. The deadline for submission of the adjusted fund documents would therefore expire on 31 December 2021. • To ensure enough time to implement the revised self-regulation, Asset Management Association Switzerland has asked FINMA for an extension of the deadline for submission of the fund documents adapted to FinSA/FinIA. The adapted fund documents must now be submitted to FINMA by 30 June 2022 	Deadline: 30 June 2022
Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Indirectly or partially concerned	Directly concerned	Not concerned

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Contact us

For further information on this topic or about our services, please contact us via our Regulatory & Compliance Financial Services Team:

Zurich

Dr. Fabian Schmid
fabian.schmid@bdo.ch

Thomas Hulmann
thomas.hulmann@bdo.ch

Geneva

Patrick Cattin
patrick.cattin@bdo.ch

Taulant Avdija
taulant.avdija@bdo.ch

BDO Ltd

Schiffbaustrasse 2
8031 Zurich
Tel. 044 444 35 55

www.bdo.ch

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