BDO LTD – FINANCIAL SERVICES

REGULATORY AND COMPLIANCE UPDATE

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

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Audit | Business Solutions | Tax | Advisory

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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	• 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)	• By 30 June 2021: Performance of the reporting obligations concerning all Partner States (including, for the first time, States with which Switzerland has applied the AEOI since 1 January 2020)	**Entry into force: 1 January 2017** • 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	• 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 there is an obligation to issue a QI-certification and, where appropriate, to carry out a QI Periodic Review.	• 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)** • 31 December 2019: Collection of the necessary 'Limitation on Benefits information' in the case of legal entities • 1 July or 31 December 2021: Issuing of QI-certification (depends on waiver and review year)

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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)	• 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.	• 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** • 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

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 Financial Institutions Act (FinIA) Financial Institutions Ordinance (FinIO) Ordinance on Supervisory Organisations in Financial Market Supervision (SOO) Draft FINMA Financial institutions Ordinance (FinIO-FINMA)	• 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.	• Institutions authorised by FINMA: Compliance with FinIA requirements within one year • Institutions requiring new authorisation: - Report to FINMA by 30 June 2020 - Application for authorisation to FINMA by 31 December 2022	**Entry into force: 1 January 2020** • 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

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Indirectly or partially concerned	Directly concerned	Directly concerned

RECENTLY ENTERED INTO FORCE

Topic	Main news	Need for action	Timeline
FINMA risk monitor	• In the new edition of its risk monitor, FINMA currently points the following seven main risks: - 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 - A disorderly abolition of LIBOR reference rates - money laundering - more difficult cross-border 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. • Financial risks associated with climate change are highlighted as risks that could have a persistent long-term impact on Switzerland as a financial centre. In addition, it mentions the ageing of the population, the insurance policyholders who have no more data privacy due to far-reaching data collection, as well as risks for asset managers in a market with falling valuations of financial instruments.	• No need for action, but indirect influence through FINMA's supervisory activities	**Publication:** **10 November 2020**

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RECENTLY ENTERED INTO FORCE

Topic	Main news	Need for action	Timeline
COVID-19-mesures	• To mitigate the economic consequences of the spread of Coronavirus, on 20 March 2020 the Federal Council adopted a comprehensive package of measures making substantial funding available. FINMA has issued several supervisory notices on that topic.	• Provision of sufficient human and professional resources • Implementation, where necessary, of additional controls for appropriate lending and monitoring • Raising employees' awareness of any abusive credit requests • For COVID-19-CREDIT-PLUS: lessening the tension between a reasonable interest rate on the portion of the loan not secured by the joint-and-several guarantee and the bank's economic responsibility to society. • Review of internal process descriptions and directives • Ensuring compliance with the bank's information and documentation obligations vis-à-vis the guarantee organisations and the SNB • Taking into account the impact of the Corona crisis on the bank's risk management, particularly regarding liquidity management, capital adequacy requirements and credit risk with respect to existing extensions of credit • Analysis and possible implementation of SBA recommendations to extend the term and defer the repayment of COVID 19 loans	**Entry into force: March 2020** (Referendum on COVID-19-Act on 13 June 2021)
Loans and joint and several guarantees	• **Granting of loans and joint-and-several guarantees as a result of Coronavirus** - Loans of up to CHF 500,000 ('COVID-19 LOAN'; with a current interest rate of 0.0 percent) - Loans up to CHF 20 million ('COVID-19-CREDIT-PLUS'; with interest on the guaranteed portion of the loan currently at 0.5%; for the remaining portion under the loan agreement) - Based on the COVID-19-Joint-and-Several Guarantee Act, the Swiss Bankers Association recommends that banks automatically extend the term of COVID-19 loans of up to CHF 500,000 to eight years and to defer repayments of principal until the end of March 2022. • **Introduction of SNB COVID-19 Refinancing Facility (CRF)** - The amount of the CRF is unlimited and withdrawals can be made at any time. The interest rate corresponds to the SNB key interest rate. The assignment of the claim to the SNB and the reassignment to the Bank are possible without formalities. No outflow need be recognised for credit facilities granted under the LCR with respect to the portion covered by the CRF. The CRF can be considered as a collateral position with level-1 HQLA to that purpose. For the Net Stable Funding Ratio (NSFR), the maturity of the loan under the SNB-COVID-19 refinancing facility (CRF) can be considered identical to the maturity of the receivable assigned as collateral, without taking the SNB's call option into account. • **Dealing with corporate insolvency risks** - On 3 November 2020, the Swiss Bankers Association published a Circular (No. 8042) advising banks how to deal with corporate insolvency risks: insolvency risks were to be mitigated through appropriate coordination of all participants and a 'rat race' (creditors' competition).		
Accounting/Financial Metrics	• The countercyclical capital buffer target in the mortgage market has been reduced to 0% • FINMA allows banks to calculate the **leverage ratio** without taking central bank balances into account. That measure was temporarily in force until 1 January 2021. The capital thus released will not be distributed. If distributions have already been or will be declared for the 2019 financial year, the own funds released through the facilitation measure will be reduced to the level of the distribution planned or subsequently actually made. • The requirements of **IFRS 9** shall continue to be met. For the estimation according to the Expected Credit Loss (ECL) approach, it is especially important to take current developments into account. Moreover, measures such as deferral of payments will not automatically lead to a transfer to another level if other factors remain the same. Banks should exercise their discretion to distinguish between borrowers with longer-term sustainable business models and borrowers that seem unlikely to become creditworthy again.		
Anti-Money Laundering Act	• Until 30 June 2021, in the case of new accounts with foreign-domiciled clients, an ordinary copy of the identification document may be acceptable without confirmation of authenticity. Confirmation of authenticity must be obtained within 120 days. • If no such confirmation can be obtained within the adjusted deadlines due to specific restrictions related to COVID-19 measures, that fact must be documented in each case. In such cases, the confirmation of authentication must be obtained as soon as possible.		

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Environmental, Social and Governance (ESG)	• The ESG concerns, among other things, a large-scale European regulatory package that defines the framework for dealing with sustainable investment. - 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. • Several publications on the ESG have been issued in Switzerland: - FINMA press release on climate risks in the financial sector - SBA Guideline for the integration of ESG considerations into the advisory process for private clients - SFAMA key messages and recommendations on sustainable asset management - Report on sustainability in the financial sector and Federal Council Sustainable Finance Guidelines • 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.	• 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** • Publication of FINMA press release: 26 June 2020 • Publication of Swiss Bankers Association ('SBA') guideline: 4 June 2020 • SFAMA publications: 16 June 2020 • Federal Council publications: 26 June 2020 • Consultation on ESG disclosure obligations for systemically important institutions: 10 November 2020 to 19 January 2021

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Topic	Main news	Need for action	Timeline
Gender equality Adjustments to the GEA	The key points of the Amendment to the Act are as follows: • Companies with 100 or more employees must conduct an internal equal pay analysis by the end of June 2021. • The analysis must be verified by an independent body. • The period of validity of the obligation to analyse equal pay is limited to twelve years (so-called 'Sunset clause'). • During the period of validity, equal pay analyses must be repeated on a regular basis every four years, unless an analysis shows that there is no inexplicable systematic difference in pay between women and men, in which case no further analysis is required. • Employees must be provided with the results. • In the case of listed companies, the shareholders must be informed of the results. • There are no sanctions in the event of a breach of the duty of equal treatment, but employees can file suit in court based on the salary analysis.	• If the upper limit is reached, equal pay analysis must be conducted by the end of June 2021	**Entry into force: 1 July 2020**

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Indirectly or partially concerned	Indirectly or partially concerned	Indirectly or partially concerned

RECENTLY ENTERED INTO FORCE

Topic	Main news	Need for action	Timeline
Cyber attacks FINMA Guidance 05/2020 on the reporting requirement for cyber attacks	In its Guidance 05/2020, FINMA clarifies the following reporting requirements for cyber attacks under FINMASA Art. 29 (2): • Cyber attacks that jeopardise the availability, integrity and/or confidentiality of products or services and the related business processes must be promptly reported to FINMA. Specifically, the supervised institution must 1) give FINMA preliminary notice within 24 hours after detecting a cyber attack and 2) submit the actual report to FINMA within 72 hours on the web-based survey and application platform (EHP) using the 'Cyber Attack Report' template (available from 1 June 2020). • The Annex to the Guidance sets out criteria that can be used in the initial assessment to determine the degree of severity of a cyber attack. • If new developments or assessments of the same attack occur after the reporting obligation has been fulfilled, the supervised institution must submit a report again without delay. • After the institution has finished processing the case, it must provide FINMA with a final Root Cause analysis report. • FINMA will examine the possibility of incorporating that report into a circular at a later date.	• Ensuring that the required reports are submitted to FINMA at all times • Implementation of the specifications set out in the Guidance by 1 September 2020 at the latest • Analysing the need for internal cyber attack policies and procedures	**Publication:** **7 May 2020**

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Topic	Main news	Need for action	Timeline
Second Shareholder Rights Directive (SRD II)	Swiss financial intermediaries holding securities from companies listed in the EU have the following duties: • 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.	• 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	• 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: - Inventory of outsourced functions - Selection, instruction and monitoring of the service provider - Security - Audit and supervision - Outsourcing abroad - In-house approval procedure	• 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** • Transition period until 31 Dec. 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
Information in inheritance cases SBA Circular No. 8048	• In Circular-No. 8048 of 23 December 2020, SwissBanking summarises the currently applicable principles of the Bank's obligation to give information to heirs and executors, and in cases of public inventory and/or protective inventory. • Obligation to give information to heirs: - obligation to give information to all legitimate heirs and/or their representatives, but not to legatees - Prior to partition [of the estate], the heirs can only exercise their powers of disposal jointly or through a jointly appointed representative. - The right to information extends to transactions preceding the testator's death if the requesting party has a legitimate interest in such information That right may exceptionally be restricted with respect to very private interests of the deceased or in case of abuse • Further specific recommendations on the obligation to give information to executors in case of public inventory or protective inventory	• Dealing with requests for information in inheritance cases	**Publication: 23 December 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
FATCA-group requests Amendment of the Swiss-US DTA	• Ever since the Protocol of Amendment to the Double Taxation Agreement (DTA) between Switzerland and the USA entered into force in September 2019, the Internal Revenue Service (IRS) has been able to use FATCA-group requests to ask Swiss financial institutions for information about all the bank accounts that had previously been reported to the IRS only in aggregated and anonymized form. That is true of the accounts of US Persons without a declaration of consent to supplying of information as well as the accounts of Non-Participating [Foreign] Financial Institutions (NPFFIs). The Swiss Federal Tax Administration ('SFTA') expected such group requests to start coming in from September 2020. • Problems may occur in responding technically to such group requests in financial institutions that have previously submitted one or more of their aggregated FATCA reports only on paper (using IRS Form 8966) rather than using the IRS online filing platform. To be prepared to deal with any FATCA group requests, such financial institutions must resubmit their earlier physical FATCA reports electronically via the IRS International Data Exchange Service (IDES). • On 1 December 2020, the SFTA first published a list of the FATCA-group requests received.	• Subsequent electronic filing of any earlier physical FATCA reports (aggregated reports on US bank accounts without a declaration of consent and bank accounts of NPFFIs) in preparation for possible FATCA-group requests from the IRS	**Entry into force: 1 September 2020 (DTA Amendment)**

Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Not concerned	Not concerned

Topic	Main news	Need for action	Timeline
Spanish Financial Transaction Tax	• 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: - 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 capitalization 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	• 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
Change of Dormant Assets Service Provider	• In Circulars nos. 8045 and 8052, the SBA provides information about an upcoming change in the database and publishing platform for contactless and dormant assets. In particular, it features a service agreement with the new provider Econis AG, whose new system will go into operation on 1 April 2021. • In that context, the relevant institutions received a termination letter from the former provider SIX SIS AG, accompanied by a migration authorization form for data migration to Econis AG. Econis AG sent the relevant institutions a new service agreement for signature in January 2021. • All the institutions were required to sign the migration authorization form and new service agreement and return them to SIX SIS AG and Econis AG, respectively, by 15 February 2021. The institutions concerned also had to send the following message to the SBA (at narilo@sba.ch) by that same deadline: "We hereby confirm having signed the migration authorization form for SIX SIS AG and the service agreement with Econis AG."	• Signing the migration authorization form and new service agreement and sending the confirmation message to the SBA by 15 February 2021	**Entry into force: 01 April 2021** • Signing the documents by 15 February 2021

Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Not concerned	Not concerned

NOTES

▶ PART 2
CURRENT DRAFT REGULATIONS

CURRENT DRAFT REGULATIONS

Topic	Main news	Timeline
Anti-Money Laundering Revision of AMLA	• 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: - 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:: - Introduction of measures to increase transparency concerning associations (list of members, obligation to register with Commercial Registry)	**Entry into force: to be determined** • On 2 March 2020, the National Council refused to entertain the proposal. Following deletion of the advisor provisions, the proposal was ratified by the Council of States in the autumn of 2020 and by the Committee for Legal Affairs of the National Council in February 2021. On 1 March 2021, the National Council largely followed the proposal of the Council of States. A difference was deliberately created on the issue of the duty to report so that the commissions can once again deal with the issue in greater depth. The proposal will now be submitted to the Council of States for a further revision of the differences.

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Topic	Main news	Timeline
Data Protection Totally revised Swiss Federal Act on Data Protection (FADP)	• 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.	**Expected entry into force: Early 2022**

Banks and securities firms	Asset management institutions	Portfolio managers and trustees
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CURRENT DRAFT REGULATIONS

Topic	Main news	Timeline
Blockchain/Initial Coin Offerings (ICOs) Federal Act on the Adaptation of Federal Law to technological developments in distributed ledger technology	• 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: - 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.	**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	Timeline
Depositor protection Strengthening of the depositor protection system by changing the existing regulations	• 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 on the system is supposed to be around 1.6% of the total amount of the secured deposits, of a minimum of CHF 6 billion in any case.	**Entry into force: 2022** (Federal Council Dispatch published on 19 June 2020)

Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Not concerned	Not concerned

CURRENT DRAFT REGULATIONS

Topic	Main news	Timeline
Limited Qualified Investment Funds (L-QIF) Adjustment of the Federal Act on Collective Investment Schemes (CISA)	• 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.	**Entry into force: 2022**

Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Indirectly or partially concerned	Directly concerned	Indirectly or partially concerned

Topic	Main news	Timeline
LIBOR replacement FINMA Guidance 03/2018	• Starting from 2021, banks that participate in determining the LIBOR will no longer be required to take part in LIBOR fixing, so that there might not be any more price listings available for the LIBOR. As an alternative, worldwide benchmark interest rates are being elaborated on the national level. In Switzerland, thanks to the introduction of the Swiss Average Rate Overnight (SARON), the national working group for benchmark interest rates in CHF (NAG) has already created an important basis for replacement of the LIBOR in CHF. • According to its guidance, FINMA considers the three main risks related to replacement of the LIBOR to be as follows: - 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. • FINMA considers the disappearance of the LIBOR to be one of the biggest operational risks for its supervised entities.	**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

CURRENT DRAFT REGULATIONS

Topic	Main news	Timeline
Net Stable Funding Ratio (NSFR) Adjustment of the revised LiqO and FINMA Circular 2015/2	• With the introduction of the NSFR via the liquidity Ordinance and the FINMA Circular on liquidity risks, the Federal Council aims to provide long-term 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.	**Entry into force:** **1 July 2021**

Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Not concerned	Not concerned

Topic	Main news	Timeline
Bank restructuring Revision of the Banking Act and the Mortgage Bond Act	• 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.	**Entry into force:** **2022** (Federal Council Dispatch published on 19 June 2020)

Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Not concerned	Not concerned

CURRENT DRAFT REGULATIONS

Topic	Main news	Timeline
Basel III Final Rule Adjustments to the CAO	• 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: - 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

Topic	Main news	Timeline
Review of Stock Corporation Law	• Introduction of a gender ratio of 30% (BoD) and 20% (EB) with 'Comply or Explain' approach for large listed companies - 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: - 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 - 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:** **2022** (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

CURRENT DRAFT REGULATIONS

Topic	Main news	Timeline
SBA Portfolio Management Guidelines	• 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.	**Entry into force: 2022**

Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Not concerned	Not concerned

Topic	Main news	Timeline
Video and online identification New FINMA Circular 2016/7	• On 16 November 2020, FINMA began a consultation (until 1 February 2021) to revise its Circular 2016/7 on Video and Online Identification. • More specifically, the goal is to allow financial intermediaries to continue automating their identification processes with at least the same level of security and to improve their scaling. A new option for online identification has been made available to financial intermediaries for that purpose, namely by scanning and checking the data on the biometric passport chip. • To maintain the same level of security during the digital onboarding, accompanying security requirements are generally still considered necessary, such as a bank transfer or now a scan of the chip of biometric identity documents. They especially take into consideration that the inhibition threshold for attempted abuse may be lower in the digital environment than in a personal appointment, due to the absence of face-to-face contact.	**Consultation: Until 1 February 2021**

Banks and securities firms	Asset management institutions	Portfolio managers and trustees
Directly concerned	Directly concerned	Directly concerned

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