



Regulatory Update Swiss Financial Services

Spring Edition

May 2021

foreign banks . in switzerland .



EY

Building a better
working world

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Dear Madam, dear Sir,

The financial sector and its regulations are changing constantly and rapidly. Financial institutions therefore need to adapt quickly to ensure compliance with the newly enacted regulations, while preparing for upcoming reforms, which are still under discussion, in order to best navigate this difficult market.

Through the digital Switzerland initiative and the launch of the Green FinTech Network, Switzerland sets a clear focus on that sectors' development – legislative, regulatory, and practice changes are to be expected. The use of innovation and technology (e.g. DLT/Blockchain and FinTech) is increasing significantly. Furthermore, banks are preparing for the IBOR transition, which will take place in 2022, and sustainable finance remains a hot topic. In parallel, an Anti-Money Laundering law upgrade is running – additionally to the AMLO-FINMA and the CDB updates in 2020, the AMLA revision was approved in March 2021 and will lead to important changes in the banking sector.

This newsletter is the result of many years of close collaboration between EY and the Association of Foreign Banks in Switzerland (AFBS). Our aim is to publish a concise summary of the latest developments affecting both the Swiss and European markets every six months (spring/autumn), so that financial institutions can implement the regulatory changes in good time.

The publication provides an overview, per sector, of the Swiss regulations that have recently – October 2020 to April 2021 – come into force and gives an outlook on the most important Swiss, European and international developments to take place in May 2021 onwards.

In addition, our specialists are at your disposal to help you adapt your activities to this constantly changing environment and to follow its growth.

A special thanks goes to the EY Law team Tatiana Kovalenko, Miriam Paulo Caputo, Murat Alkan, Aylin Demir and Linus Martinis for their excellent cooperation and valuable contributions.

We wish you a pleasant reading.

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COVID-19

In Force

Until the 30.06.2021

FINMA Guidance 07/2020: Partial extension of facilitations due to COVID19 pandemic

Deadline for exemptions in individual cases for customers abroad.

02.10.2020: FINMA published a guidance concerning the partial extension of exemptions for supervised entities in the context of the COVID19 crisis.

Important points:

- The facilitations for opening new client relationships are no longer necessary for clients domiciled in Switzerland.
- For clients domiciled abroad, the situation varies greatly depending on their domicile or individual situation, which means that the exemptions for individual cases will be extended until 30 June 2021.
- Art. 45 VSB 20 already stipulates that, by way of exception, if this is necessary in order not to interrupt the normal course of business, an account may already be used if only individual details and/or documents are missing or individual documents are not in proper form and the application of this exception appears appropriate on the basis of a risk-based assessment.
- A sufficient identification of the contracting party and the beneficial owner or control holder must be ensured.
- This provision may be applied to new business relationships in such a way that they may be opened with a simple copy of the identity card.
- For business relationships with increased risks, however, it has to be assessed and documented in each individual case whether the application of the exemption provision in this regard is acceptable in view of the associated money laundering risks.

In Force

Until the 31.12.2021

Amendment to the Regulation on Compulsory Unemployment Insurance and Insolvency Compensation

Published on 01.07. 2020: The FC extends the deadline for short-time work compensation. Thus, the period is extended from 12 to 18 months. The waiting period is set to one day and is at the employer's expense.

Links

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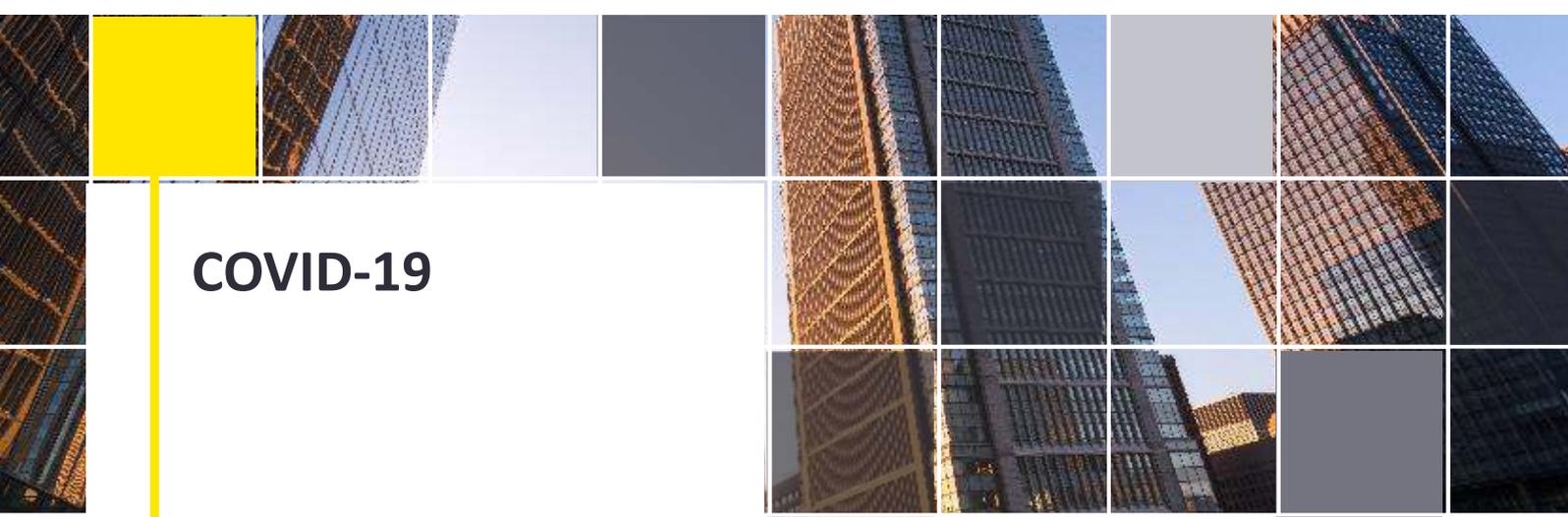
FINMA

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COVID-19

Links

In Force

COVID19 pandemic: Press Release Council of the EU

Press release from 24.06.2020: Parliament adopts exceptional rules to facilitate bank lending in the EU.

The EU is temporarily adapting banking regulations to maximize banks' ability to lend and to help households and businesses recover from the COVID-19 crisis.

Targeted amendments:

- Changes to the minimum amount of capital that banks are required to hold for non-performing loans under the prudential backstop.
- Delay in the introduction of the leverage ratio buffer by one year to January 2023.
- Earlier introduction of some capital relief measures for banks under CRR 2.
- Additional flexibility to mitigate negative effects of the extreme market volatility.

In Force

From the 03.11.2020

SBA Circular: Recommendations for banks on how to deal with insolvency risks of companies

Circular (final) concerning Recommendations for banks on how to deal with insolvency risks of companies, published by the SBA on 3 November 2020.

Important points:

- The recommendations are intended to reduce insolvency risks through appropriate coordination and to prevent a creditor race.
- Early standstill is intended to gain time to create favorable conditions for a written standstill agreement and – if necessary – restructuring and reorganization measures.
- Sample texts for the relevant agreements are provided (standstill agreement, security agreement, agreement on the fiduciary management of collateral).

In Force

From the 18.12.2020

New OECD guidance on the transfer pricing implications of the COVID-19 pandemic

On 18 December 2020 the OECD published a guidance regarding the impact of the COVID-19 pandemic on transfer prices. It includes clarifying guidance on how tax payers and tax administrations should deal with the impact when determining the appropriateness of transfer prices. The following four aspects are addressed in the guidance:

- comparability analysis
- allocation of revenue losses and COVID-19 specific special costs
- government assistance programs
- advance pricing agreements

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EU Council

SBA

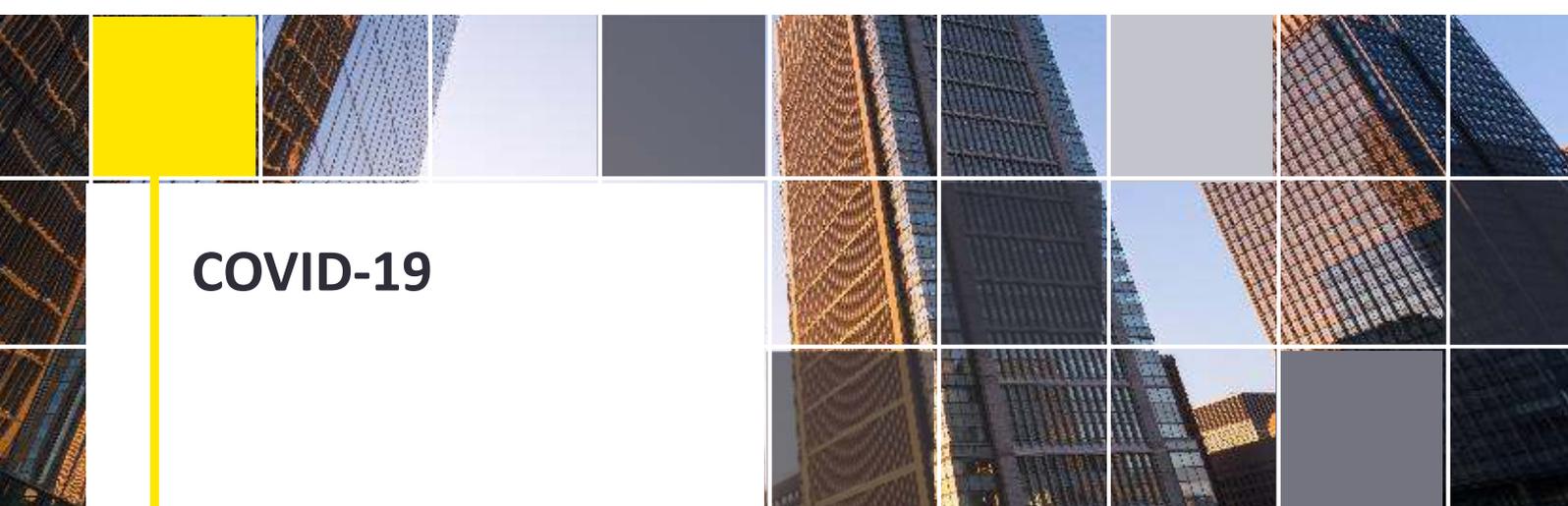
Circ. 8042

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OECD



COVID-19

Links

In Force

From the 19.12.2020

COVID-19 Solidarity Guarantee Act (SGA)

With the entry into force of the COVID-19 Solidarity Guarantee Act (SGA) on 19 December 2020, the COVID-19 Solidarity Guarantee Ordinance issued as an emergency ordinance was simultaneously repealed. The SGA regulates the rights and obligations of the parties involved in the loan program, as well as the most important aspects during the term of the loans. In particular, the maximum duration of COVID-19 loans was extended from five to eight years. Further, amortization payments for COVID-19 loans up to CHF 500,000 are to be introduced as of 31 March 2022 and not already in the current year. In addition, the SGA contains instruments for combating abuse and handling cases of hardship.

In Force

From the 12.02.2021

SBA: Guidelines regarding the handling of COVID-19 loans by banks

09.09.2020: The SBA published guidelines regarding the handling of COVID-19 loans by banks.

Important points:

- Clarification of further questions regarding the internal implementation of the liquidity support for SMEs. The guidelines were developed with the assistance of members of the SBA and are continuously updated.
- Common understanding between the banks, modalities, procedures and processes, the treatment and valuation of loans by the banks and the SNB-COVID19 refinancing facility (CRF).
- The document cannot address all issues relating to liquidity support for SMEs, and therefore, if there is still room for manoeuvre, it is recommended that decisions are made in accordance with the intended objectives of the Federal Government's programme.

In Force

From the 09.03.2021

New COVID-19 Solidarity Guarantee Act SBA Recommendations and Sample Template.

Recommendation (final) of the SBA regarding repayment arrangements of COVID-19 loans, issued by the SBA.

Main content:

- Recommendation 1: Extend the repayment term for credit under CHF 500,000 to eight years;
- Recommendation 2: Amortization of the COVID-19 credit from 2020 onwards.

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SBA

Circ. 8053

Banking and Capital Market Law

Links

In Force

Until the 31.12.2021

LIBOR Transition: Reference Interest Rates

Expiry of the deadline extension for providers of "critical reference values" (i.e. interest rates such as Euribor or EONIA) to meet the new requirements of the Reference Value Regulation.

In view of the importance of third country reference rates for EU companies, a two-year extension was also granted for reference values established outside the EU. Procedures are to be developed to recognize these reference values as equivalent or otherwise authorize their use in the EU.

In Force

From the 16.10.2020

FINMA Guidance 08/2020: LIBOR redemption in the derivatives area

16.10.2020: The FINMA Guidance sets the end date from which LIBOR derivative contracts should contain a sound fallback clause.

Important points:

- The ISDA announced its IBOR fallback documents for OTC derivatives on 9 October 2020.
- FINMA recommends that the affected supervisors sign the fallback protocol and the expected equivalent amendments to the Swiss framework agreements for OTC derivatives as early as possible.
- No new LIBOR OTC derivative contracts without robust fallback clauses should be entered into after the ISDA fallback documents come into force in January 2021.

In Force

From the 04.12.2020

FINMA Guidance 10/2020: LIBOR transition roadmap

04.12.2020: FINMA published a transition roadmap for LIBOR. FINMA recommends that the affected supervised institutions follow this in order to be as prepared as they can possibly be for a discontinuation of LIBOR in various currencies.

The FSB published on 16.10.2020 a roadmap setting out a timetable of actions to be taken in order to ensure a smooth transition away from LIBOR at a global level. FINMA has adapted the recommendations provided in the FSB roadmap for the Swiss financial center.

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Banking and Capital Market Law

Links

In Force

Introduction of banking statistic "Breakdown of selected balance sheet items, by interest rate (BIZI_U)"

30.07.2020: Introduction of the survey "Breakdown of selected balance sheet items by interest rate (BISI_U)".

Important points:

- The SNB informed about the introduction of this survey at the meeting of the Banking Statistics Commission (BSC) on 25 June 2020.
- The survey is conducted at the enterprise level and must be submitted quarterly; the submission deadline is 1 month.
- Institutions whose CHF-denominated liabilities from customer deposits exceed CHF 4 billion or whose CHF-denominated liabilities to banks exceeding CHF 1.3 billion are obliged to provide information on the provenance.

The survey will be introduced in two steps:

- 31.12.2020: Release 1.0 introduces survey on obligations to customers in Switzerland and obligations to banks in Switzerland
- 31.09.2021: Release 1.1 expands the survey to include the corresponding positions vis-à-vis foreign countries. In addition, in Release 1.1 the interest rate breakdown in the negative area is supplemented by further interest rate bands up to an interest rate of -5%.

In Force

From the 01.10.2020

SFAMA and Asset Management Platform Switzerland join forces

Switzerland is an important center for asset management, both within Europe and worldwide. With a view to strengthening its position further, the Asset Management Platform (AMP) Switzerland and the Swiss Funds and Asset Management Association SFAMA are merging to form the Asset Management Association Switzerland. The Swiss Bankers Association (SBA) will be a member of the new Association with a seat on its Board of Directors.

Banking and Capital Market Law

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FINMA

FINMA: 2020 Risk Monitor

11.11.2020:

FINMA has published its 2020 Risk Monitor. This report provides an overview of what FINMA believes are the most important risks currently facing supervised institutions and describes the resulting focus of its supervisory activity.

FINMA identified seven principal risks in the year of corona:

- Low interest rate environment
- Correction on real estate and mortgage market
- Defaults or adjustments to corporate loans or bonds abroad (new)
- Discontinuation of LIBOR
- Cyber risks
- Money laundering
- Market access

In Force

From the 23.12.2020

SBA

Information from banks in inheritance cases

The SBA updated its Circular on information of heirs of deceased bank clients and aligns the content to the actual court practice.

Main content:

- Explanation of the obligations to provide information regarding the state of assets at the time of death as well as regarding lifetime transactions vis-à-vis heirs.
- Legitimation of the executor in the case of granted authorization to settle the estate.
- Duty to provide information in the context of a public inventory as well as a collateral inventory vis-à-vis any Swiss authority.

Banking and Capital Market Law

Links

In Force

From the 25.12.2020

The obligation to connect on Ombudsman

25.12.2020: Client advisors who provide financial services exclusively to institutional or professional clients are exempt from the affiliation requirement (art. 77 Financial Services Act, DLT draft).

SIF

The SBA is working on a regulatory proposal so that non-members or foreign group companies of Swiss banks can join the Ombudsman.

In Force

From the 01.01.2021

Transparency in gold trading

Implementation of the precise origin classification of raw gold in international trade.

24.09.2020: Switzerland proposes to precisely classify raw gold in international trade according to its origin and condition, thereby increasing transparency. The proposal is based on international practice in the gold industry at the London Bullion Market and the OECD.

FC

In Force

From the 03.02.2021

Trading in Swiss shares: recognition of various UK trading venues

Various trading venues in the United Kingdom have been recognized by FINMA.

Since 1 January 2019, foreign trading venues where Swiss equity securities are traded or that facilitate trading in such equity securities must first be recognized for supervisory purposes by FINMA.

FC

Banking and Capital Market Law

Links

In Force

From the 30.04.2021

SBA

Dormant assets: new provider

Circ. 8045

The management of the database and the publication platform for dormant assets is being transferred from SIX to ECONIS AG. The SBA informed banks by Circular 8045, 11.12.2020, and Circular 8052, 15.01.2021.

In Force

Until 2021

SBA

Dormant assets: Publication Date 2020; Liquidation Date 2021

Circ. 8040

18.09.2020: The SBA published a notification regarding the publication and delivery date of dormant assets. The delivery date for dormant assets due for delivery to the Confederation, as usual the 1st semester of the year, applies uniformly to accounts, securities custody accounts and liquidation proceeds of safe-deposit boxes.

In Force

Until the 01.09.2021

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BIS

Margin requirements for non-centrally cleared derivatives

Final deadline for the implementation of the margin requirements.
23.07.2019: The BIS and IOSCO revise the framework for margin requirements for non-centrally cleared derivatives.
Important points:

- Extension of the implementation deadline for margin requirements by one year.
- 01.09.2021: Additional implementation phase.

In Force

Until the 31.12.2021

SBA

SBA Guidelines: Structured Products

Circ. 8042

Planned abolition of the SBA Directive.
The SBA concluded that the Guidelines will no longer be needed beyond this date and has therefore decided not to adapt it to the FinSA.

Banking and Capital Market Law

Links

In Force

Until the 01.01.2022

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BIS

BIS: New consolidated Basel framework

Latest date for the implementation of the final requirements. The BIS encourages members to implement them as soon as possible.

In Force

Until the 31.12.2022

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FINMA

FINMA authorizations of supervisory organizations for asset managers and trustees

Deadline for asset managers and trustees to apply for a FINMA license and to join a supervisory organization. FINMA authorized a total of four supervisory organizations responsible for the supervision of asset managers and trustees.

Important points:

- Asset managers and trustees must apply to FINMA for a license by the end of 2022 and prove that they are affiliated with an AO.
- The FDF has recognized the first ombudsman offices under FinSA as of 24 June 2020.

In Force

From the 01.01.2021

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FINMA

FINMA Financial Institutions Ordinance

Entry into force

12.11.2020:

FINMA adopted its regulation implementing FinSA and FinIA. This encompasses a new implementing ordinance to FinIA as well as changes to FINMA ordinances and circulars that need to be adjusted as a result of FinSA and FinIA. Three circulars will be repealed.

Important points:

- The new FINMA ordinance regulates professional liability for asset managers, trustees and managers of collective assets, calculation of the minimum thresholds, risk management and internal control system.
- Reduction of the thresholds for customer identification for exchange transactions in crypto-currencies from CHF 5,000 to CHF 1,000.

Banking and Capital Market Law

Links

In Force

From the 01.01.2021

FINMA: Amendment of various Circulars

01.01.2021: Entry into force.

12.11.2020:

FINMA has adopted its regulation implementing FinSA and FinIA. This encompasses a new implementing ordinance to FinIA as well as changes to FINMA ordinances and circulars that need to be adjusted as a result of FinSA and FinIA. Three circulars will be repealed.

The following FINMA Circulars were amended:

- 2013/3 Audit
- 2013/8 Market conduct rules
- 2015/2 Liquidity Risk - Banks
- 2017/7 Credit Risk - Banks
- 2018/3 Outsourcing
- 2020/1 Accounting – Banks

The following FINMA Circulars were repealed:

- 2008/5 Securities Dealers
- 2010/2 Repo/SLB
- 2013/9 Distribution of Collective Investment Schemes

In Force

From the 01.04.2021

Handover of CEO role on 1 May 2021

Jan Blöchliger will replace Mark Branson as FINMA CEO ad interim on 1 May 2021. Michael Waldburger will head the Banks division ad interim from 1 April 2021.

Upcoming

In force from the 01.07.2021

Net Stable Funding Ratio NSFR

Entry into force.

11.09.2020: FC has passed an amendment to the Liquidity Regulation (LiqO).

20.11.2019: FC plans to adopt the regulations for the introduction of the NSFR. It was waiting with the introduction in Switzerland for the EU and the USA, which aim to introduce it in 2021.

The Liquidity Ordinance is intended to regulate not only the provisions on the LCR but also those on the NSFR.

Banking and Capital Market Law

Links

Upcoming

In force from the 01.07.2021

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SIX Regulatory Board

Entry into force of adapted rules of the SIX Regulatory Board regarding ad-hoc publicity and corporate governance on 1 July 2021.

SIX

The following changes have been adapted:

- Detailed description of the term "price sensitivity".
- Flagging duty for ad-hoc announcements.
- Confirmation that there are no per-se facts, except publication of annual and interim reports.
- When referring to market participants the term "average" is replaced by "reasonable".
- In case of postponement of disclosure, measures to assure confidentiality need to be taken.

Upcoming

In force from the 01.07.2021

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Revision FINMA Circular "Liquidity risks – banks"

The FC adopts the revised Circular Liquidity Risks on 11.09.2020.

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The amended FINMA Circular enters into force at the same time as the adjustments to the Liquidity Ordinance on 1.7.2021.

Important points:

- The introduction of the Net Stable Funding Ratio (NSFR) for banks by the FC makes minor adjustments to the FINMA Circular "Liquidity Risks - Banks" necessary. The hearing ended on 13.7.2020.
- The consultation concerned mainly technical specifications and substantiations regarding the NSFR requirements as well as clarifications and supplements in the scope of qualitative and LCR requirements.
- FINMA published the amended Circular on 12.11.2020.

Banking and Capital Market Law

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In the Pipeline

FINMA: Strategic goals for 2021 to 2024

18.11.2020: FINMA has published its strategic goals for the period from 2021 to 2024. The FC granted its approval on 18 November 2020.

FINMA

The ten goals show how FINMA intends to fulfil its mandate and where its focus will lie:

- Goal 1: Capital and liquidity
- Goal 2: Conduct
- Goal 3: Risk management and corporate governance
- Goal 4: Too big to fail
- Goal 5: Structural change
- Goal 6: Innovation
- Goal 7: Sustainability
- Goal 8: International cooperation and regulation
- Goal 9: Resources
- Goal 10: Staff

In the Pipeline

Reassessment in 2022

FC dispatch on partial revision of Banking Act

Parliament is debating the revision of the Banking Act, which includes revision of the depositor protection scheme.

FC

19.06.2020: The FC adopts its dispatch to Parliament on the revision of the Banking Act.

Important points:

- Duty to secure half of the banks' contribution obligations to the Depositor Protection Fund by depositing securities or Swiss francs in cash with a depository.
- Shorten duration for payout from 20 to 7 days.
- Legal regulation of instruments which, like capital measures (e.g. a bail-in), encroach on the rights of the bank's owners and creditors.
- Adaptation of the Mortgage Bond Act to strengthen the functionality of the Swiss mortgage bond system in the event of the insolvency or bankruptcy of a member bank.
- Adaptation of the Intermediated Securities Act to oblige custodians to keep their own and client portfolios separately.

Banking and Capital Market Law

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In the Pipeline

Reassessed in 2022

D

PostFinance as mortgage and credit provider

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20.01.2021: Based upon criticism of the proposal, the FC decided to require (partial) privatization of PostFinance prior to authorizing extension of its business activities.

FC

05.06.2020: The FC publishes the revision of the Postal Organization Act.

PostFinance is to be authorized to issue mortgages and loans in future. The SBA and AFBS reject the proposal.

In the Pipeline

Entry into force in 2022

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Revision: Collective Investment Schemes Act: Introduction of the Limited Qualified Investor Fund L-QIF

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19.08.2020: The FC adopts the dispatch on the amendment of the Collective Investment Schemes Act.

FC

Important points:

- Certain collective investment schemes are exempted from the licensing and approval requirements of the supervisory authority.
- The condition is that they are open only to qualified investors and not to the general public.
- They must be managed by institutions that are supervised by FINMA.
- Such collective investment schemes are known as "Limited Qualified Investor Funds" (L-QIF).
- In principle, the provisions of the Collective Investment Schemes Act also apply to the L-QIF.
- L-QIF must also be audited, although specific investment rules apply.

19.08.2020: Consultation response of the SFAMA to the message regarding the amendment of the Collective Investment Schemes Act: L-QIF - An innovation for the Swiss fund market.

In the Pipeline

Open

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Ordinance on Capital Adequacy and Risk Diversification and FINMA Circular 2008/20 Market Risk Banks

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Due to the postponement of the effective date by the BCBC, postponement until 2022 is to be expected.

FC

The implementation of the results of the Fundamental Review of the Trading Book (FRTB) on the BIS market risk rules requires a further adjustment of the ERV and RS Market Risk Banks.

Banking and Capital Market Law

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In the Pipeline

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Swiss Trust Law

19.06.2020: Deadline extension in the NC until spring 2022.

31.01.2020: Publication of the report of the NC.

The commission will await the work of the FC and is therefore requesting a two-year extension of the deadline for implementing the parliamentary initiative.

In the Pipeline

Open

Fund ManCo: transparency on ESG

In a letter to the Fund Management Companies the FINMA outlines new transparency requirements for collective investment schemes which label themselves as sustainable. These include:

- Inclusion of ESG aspects in the investment policy.
- Methodology of ratings.
- Relevant sustainability criteria.
- List of exclusion criteria if applicable.

In the Pipeline

Open

Change of Organs

The FINMA requires supervised financial intermediaries to apply for authorization when changing organs. This change of practice is new. Upon request for clarification by banks FINMA and the SBA work on drafting a Guideline on Change of Organ.

In the Pipeline

Open

Supervision of External Wealth Managers and Trust Companies

The SBA and FINMA work on clarification of the supervisory duties of external wealth managers and trust company under the new FinSA/FinIA regime. The aim is to establish an exhaustive list of points where the (custodian) bank can rely on the external wealth manager's / trust company's own audit by the Supervisory Organization.



Sustainable Finance

Links

In Force

SIF launches Green Fintech Network

The SIF, together with industry representatives, launches the Green Fintech Network to ensure a strong collaboration among stakeholders.

08.04.2021: SIF publishes the Green Fintech Network action plan.

In Force

Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector

10.03.2021:

The Sustainable Finance Disclosure Regulation (SFDR) came into force. It “lays down 12 harmonized rules for financial market participants and financial advisers on transparency with regard to the integration of sustainability risks and the consideration of adverse sustainability impacts in their processes and the provision of sustainability-related information with respect to financial products” (Article 1 SFDR).

30.06.2021:

Asset managers with more than 500 employees as a parent of a group will be required to publish a Principal Adverse Impacts (PAI) statement on an entity level from 30 June 2021. Asset managers below this threshold may choose not to comply. However, they must make their decision and explanation transparent on the website.

01.01.2022:

First periodic report is due.

30.12.2022:

Principal Adverse Impacts (PAI) statement must be made on product level.



Sustainable Finance

Links

In Force

From the 23.12.2020

Delegated Regulations set out the minimum technical requirements for EU Climate Transition and Paris-aligned Benchmarks and ESG disclosure requirements for benchmark administrators came into force

EU

The delegated Regulations set out the minimum technical requirements for EU Climate Transition and Paris-aligned Benchmarks. The following ESG disclosure requirements for benchmark administrators came into force:

- Delegated Regulation (EU) 2020/1816 as regards the explanation in the benchmark statement of how ESG factors are reflected in each benchmark provided and published.
- Delegated Regulation (EU) 2020/1817 as regards the minimum content of the explanation on how ESG factors are reflected in the benchmark methodology.
- Delegated Regulation (EU) 2020/1818 as regards minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks.

Upcoming

Switzerland promotes transparency on climate-related financial risks

FC

11.12.2020: The FC has adopted measures to further consolidate Switzerland's position as a leading location for sustainable financial services.

Transparency should be improved, risk analysis strengthened, and Switzerland's international commitment expanded. Therefore, the following measures were adopted:

- On 12 January 2021 Switzerland became an official supporter of the Task Force of Climate-related Financial Disclosures (TCFD).
- The state Secretariat for International Finance (SIF) should propose to the Federal Council any necessary amendments to financial market legislation to prevent so-called greenwashing by autumn 2021.
- Financial market players should publish methods and strategies for taking account of climate and environmental risks when managing their clients' assets. SIF will observe and inform the Federal Council by the end of 2022 whether and how this recommendation is followed.
- Switzerland will consider the organization of a future UN climate conference and other international involvements.



Sustainable Finance

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Upcoming

Transparency obligations for climate risks – FINMA opens consultation

FINMA wants to increase transparency on climate risks in the financial system. It published draft versions of the Circ. Disclosure Banks and Disclosure Insurance for consultation.

Important points:

- Concrete requirements for the disclosure of climate-related financial risks of large / systemically important institutions (categories 1 and 2).
- The requirements are based on the recommendations of the Task Force on Climate-related Financial Disclosure TCFD.
- On the basis of the preliminary hearing, FINMA makes proposals to publish not only qualitative but also quantitative information.
- The transparency obligations apply to large banks for the moment; category 3-5 banks are exempt, even though market pressure may change the situation.

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FINMA

Upcoming

ESMA proposes rules for Taxonomy-alignment of non-financial undertakings and asset managers

ESMA proposes rules for Taxonomy-alignment of non-financial undertaking and asset managers.

The publication sets out some guidelines on the KPIs that will be disclosed by non-financial undertakings with a focus on the activities covered by the EU Taxonomy.

Important points:

- The definitions of turnover KPI, the Capital Expenses (CapEx) KPI and the Operational Expenses (OpEx) KPI used for the calculation of the three metrics are provided.
- The content of the information that should accompany the disclosures and the level of granularity that should be provided to comply with the reporting obligations.
- A proposition of a KPI that asset managers should disclose along with methodological considerations relating to the calculation of this metric.

ESMA advises to use the standard tables for the Article 8 disclosures by non-financial undertakings and asset managers recommending a transitional application of Level 2 provisions.

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ESMA



Sustainable Finance

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Upcoming

EU: Political agreement on an EU-wide classification system for sustainable investments

01.06.2021: The European Commission will adopt a delegated act specifying how the corporate disclosure obligations should be applied in practice.

31.12.2021: Deadline for establishing the taxonomy for climate protection and adaptation to climate change reports (first EU Taxonomy disclosures).

01.01.2023: EU Taxonomy disclosure will have to also cover the four remaining environmental objectives.

In the Pipeline

Open

FINMA is addressing the subject of climate-related financial risks as part of its supervisory remit

FINMA is addressing the subject of climate-related financial risks as part of its supervisory remit in its Risk Monitor 2020. Furthermore, it is analyzing regulatory measurements aiming to increase the transparency of such risks and is also concerned with the risk of green-washing.

In the Pipeline

Open

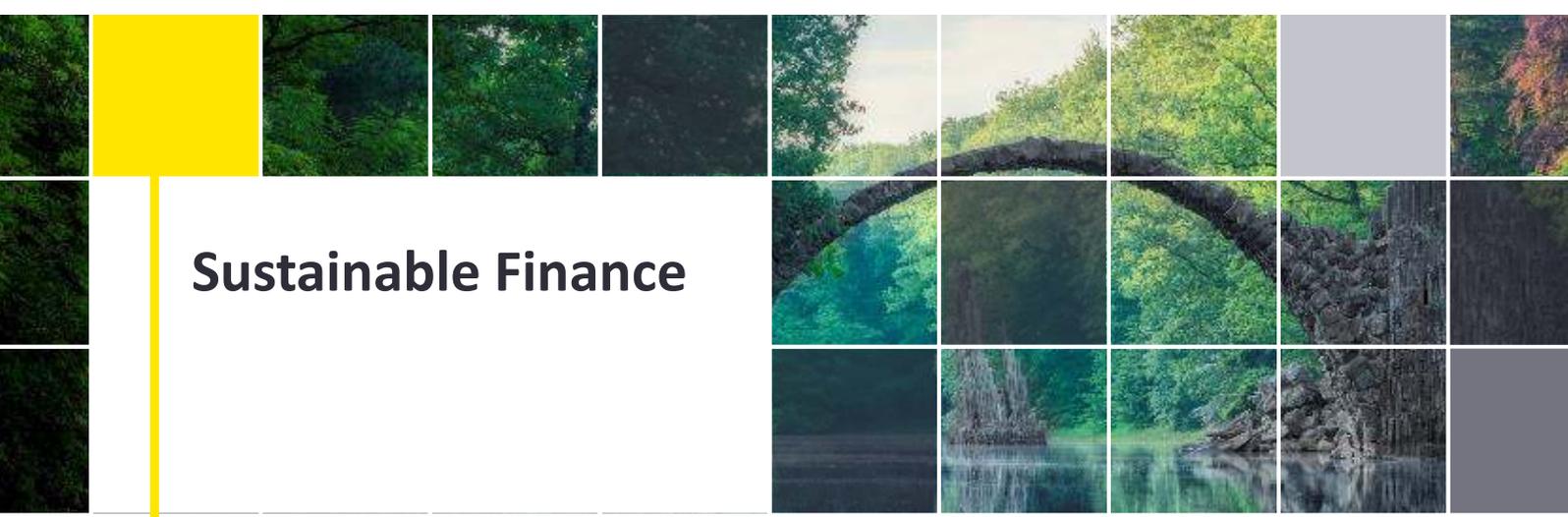
Responsible Business Initiative

Switzerland voted against the Responsible Business Initiative which sought to allow victims of alleged human rights violations or environmental damage to sue Swiss companies at Swiss courts.

14.04.2021 The FC publishes for comments the draft Ordinance implementing the counter proposal to the initiative:

Specific due diligence to be conducted if threshold volumes are exceeded in the use and trade of conflict minerals (according to EU law) and child labor, with the exception for low-risk businesses and/or SMEs.

14.07.2021: End of consultation.



Sustainable Finance

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In the Pipeline

Open

CO2 Act and Ordinance

09.2020: Parliament adopts the revised CO2 Act.

Important point:

- Art 66 provides for FINMA and SNB to assess micro- and macro-prudential risks arising from climate change.

The FC publishes for comments the draft Ordinance on the CO2 Act. Important points:

- Reduction of greenhouse gas emissions by 2030 (by 65% for buildings).
- Possible increase of CO2 compensation.

CO2 thresholds for buildings and prohibition of CO2 emission from fossil fuels for new buildings from 2023.

FC

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Anti-Money Laundering

Links

In Force

From the 26.02.2021

FATF list of high-risk countries and countries under surveillance

Updated FATF statement on high-risk and non-cooperative countries.

Important points:

- Public document "Public Statement of the FATF" on
 - a) Countries or jurisdictions with such serious strategic shortcomings that the FATF requires its members and non-member countries to take countermeasures;
 - b) countries or jurisdictions where the FATF requires its members to apply enhanced due diligence measures in accordance with the risks arising from the shortcomings identified in the countries concerned.
- FATF Statement "Improving Global Compliance with AML/CFT Rules": Ongoing Process for countries or jurisdictions with strategic deficiencies in their AML/CFT measures that nevertheless demonstrate a high level of commitment to an action plan developed jointly with the FATF.

In Force

From the 01.04.2021

FINMA Circular "Direct transmission"

The revision enters into force.

22.03.2021: FINMA is publishing its partially revised Circular on "Direct transmission". The points raised in the ex-post evaluation were already comprehensively assessed in the ex-post evaluation and explanatory report. No new arguments or requests for amendments were put forward during the consultation, so that there was no further need for material changes.

Important points:

- Extension of the list of foreign authorities capable of providing official assistance (authorities with which FINMA has already entered into cooperation agreements will also be included).
- Clarification of individual marginal figures, particularly with regard to the reporting process for planned transmissions.
- Clarification of the distinction between transaction and relationship-relevant information.

Anti-Money Laundering

Links

In Force

From the 29.04.2021

E

FATF

FATF: Consolidated table of assessment ratings

The consolidated table provides an up-to-date overview of Member States' assessments of effectiveness and technical requirements in the AML/CFT area. It should be read in conjunction with the detailed mutual evaluation reports available on the FATF website.

The FATF and FSRB conduct ongoing peer reviews to assess how effectively Member States' AML CFT measures (fight against money laundering and terrorist financing) are working and how well they have implemented the technical requirements of the FATF Recommendations.

In Force

E

US GOV

US AMLA

The US Congress amended the US AMLA with the introduction of the possibility for US investigators to issue subpoenas on banks holding USD correspondent accounts. The authorities are entitled to request information on any account of that bank, held within and without the USA, with or without direct link to the correspondent account. This means that a bank with USD correspondent account can be exposed to requests for information on accounts of any of its clients.

Banks in Switzerland should expect that requests for information be filed in accordance with the Mutual Legal Assistance Treaty MLAT. The SBA is coordinating clarification with the SIF.

Upcoming

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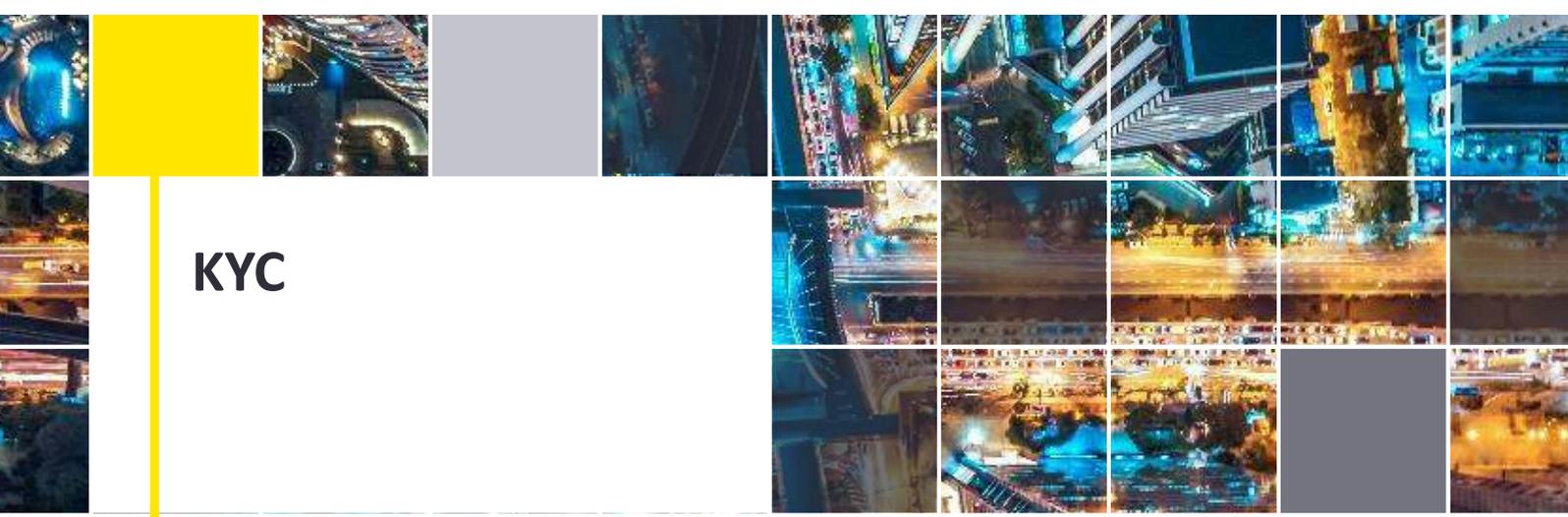
Money Laundering Act (AMLA)

19.03.2021: Parliament adopts the revision. The FC will determine the date of entry into force.

Parliament

Important points:

- The right to report is maintained, contrary to the consultation proposal.
- Obligation to check information on the beneficial owner and regularly check that client data is up to date.
- Associations that run the risk of being misused for terrorist financing or money laundering must be re-registered in the commercial register.
- Authorization for the financial intermediary to terminate a relationship if a report to MROS remains unanswered for 40 days.



KYC

Links

Upcoming

01.07.2021

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FINMA

FINMA revises Circular on “Video and online identification”

1 July 2021: The revised Circular enters into force.

Important points:

- Introduction of new additional way of online identification by reading of the chip of a biometrical ID instead of transfer of assets from an existing account.
- Transfer of assets from an existing bank account remains in place as accompanying measure.
- Referral to third parties for the processing of identification is not assimilated to unauthorized sub delegation.

In the Pipeline

Open

Swiss Anti Money Laundering Alliance (SAMLA)

MROS initiates the creation of a public-private partnership to combat money laundering. The alliance is to include representatives of the financial sector, the economy and the authorities concerned. Initial talks were to take place in March 2020 and were postponed because of COVID-19.



Tax

Links

In Force

From the 01.01.2021

Revision of the Federal Act and the Ordinance on Automatic Exchange of Information

The revision took effect on January 1, 2021. Important points:

- Co-ownerships are always to be treated as NFE.
- Accounts may qualify as exempt based on legislation in the account holder's country of residence.
- Validity requirements for a self-disclosure.
- Opening of a new account without self-disclosure only in exceptional cases.
- Rules regarding Trustee Documented Trusts.

In Force

From the 11.01.2021

Publication of the revised AEIO guidance

Circular (final) as information on the publication of the revised version of the AEIO guidance by the Federal Tax Administration, published by the SBA on 11 January 2021.

In Force

From the 01.01.2021

Mandatory e-filing of VAT returns

There are 2 options for the mandatory e-filing of VAT returns starting 1.01.2021:

- SuisseTax platform ("ESTV SuisseTax")—This tool has already been available since 2015. It allows taxpayers to track all processes, to correct prior VAT returns, to apply for a deadline extension, and to use the embedded automated tax calculation function. The tool also sends automatic reminders to the registered user on the upcoming VAT return filing deadline.
- "VAT return easy"—This is a new tool that will be available as of 1 January 2021, however, the introduction of this system may be delayed due to COVID-19.

Tax



Links

In Force

From the 16.01.2021

SBA

Spanish Financial Transaction Tax

Circ. 8047,
8049, 8051

As of January 2021 Spain has enacted a financial transaction tax. This tax will be levied on transactions in the secondary market:

- On shares of Spanish companies and on the elated 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. type of transaction)

The Spanish FFT only applies to listed Spanish companies that have a market capitalization of more than EUR 1 billion as of 1 December of the previous year. The Spanish tax authority will publish a list of the relevant listed Spanish companies each time.

In Force

Until the 01.01.2023

SBA

871(m): Extension of deadlines

Circ. 8012

The IRS informs about the extension by two years of implementation deadlines:

- In-Scope test for non-Delta-One products
- Simplified standards for combined transactions
- Withholding tax exemption for dividend payments to QDDs
- Deadline for QDD to calculate the QDD Tax Liability according to the Net-Delta approach
- Application of the Good-Faith approach to injury prosecution

Upcoming

In force from the 01.01.2022

E D

F I

Tax deductibility of financial sanctions

Entry into force of the Act.

FC

Important points:

- Domestic punitive financial sanctions (fines, penalties, administrative sanctions) are not deductible.
- Foreign punitive financial sanctions are deductible is they violate Swiss Ordre Public or if the company demonstrates to have taken all reasonable steps to comply with the law.



Tax

Links

Upcoming

From the 01.01.2022

D

Refund of anticipatory tax to heirs

Entry into force of the amendment of the Ordinance on Anticipatory Tax. Heirs shall claim refund of anticipatory tax on inheritance income at their place of residence instead of the place of residence of the defunct person.

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FC

Upcoming

Withholding tax exemption on banks' too-big-to-fail (TBTF) instruments to be extended for another five years

The FC decided to exempt the interest on TBTF instruments from withholding tax until the end of 2026 – the law is to go before the Parliament.

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FC

Upcoming

OECD: Taxation of the international digital economy

Deliver agreement on remaining key issues for global consensus-based solution by July G20 Finance Ministers' meeting.

January 2021 – Public consultations on the Pillar One and Pillar Two Blueprints.

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Tax

Links

In the Pipeline

Open

Revision: VAT law (digitalized and globalized economy)

On standby: waiting for the consultation report.
19.06.2020-12.10.2020: Consultation.

Important points

- Adaptation of VAT to the increasing cross-border trade in goods and services through new forms of tax collection.
- Simplifications for taxable persons.
- VAT treatment of subsidies.
- VAT collection through Internet platforms.

In the Pipeline

Open

Revision: Federal law on anticipatory tax

15.04.2021: The FC adopts its dispatch to parliament on the reform of anticipatory tax. Based upon the criticism of the first draft revision, the FC suggests maintaining anticipatory tax only on interest payments to Swiss resident natural persons.

Important points:

- Exemption of withholding tax for foreign legal entities and investors to improve the attractiveness of the Swiss bond market.
- This covers interest income on domestic and foreign securities, including collective capital investments.
- Strengthening the security purpose for domestic natural persons.

In the Pipeline

Open

Digitalization

15.09.2020: The NC passes a motion to clarify the legal framework for new business models resulting from documentation. The parties must be able to choose the contract applicable to their legal relationship, i.e. an employment contract, mandate or other form. This will increase legal certainty.

21.09.2020: The NC adopts a project to promote digitization for tax purposes. Swiss citizens should be able to dispense with signing an electronic tax return and companies should be able to submit more tax documents electronically. The Council of States has not yet passed a resolution.



Tax

Links

In the Pipeline

Open

Electronic Tax Return

20.05.2020: The FC adopts the dispatch.

01.01.2020: Test phase for the implementation as of January 2020 is closed.

Interested banks that would like to implement the eTax Statement are asked to coordinate the implementation and testing. The SFTA and the cantonal tax authorities are developing a standard for the creation of an electronic tax statement using QR codes, which can be read in and processed without media discontinuity. The taxpayer receives the file from the bank and can read it in his tax return or pass it on to the tax administration. There is no automatic flow of information between the financial intermediary and tax administration.

In the Pipeline

Open

Federal law on the implementation of international agreements in the tax field

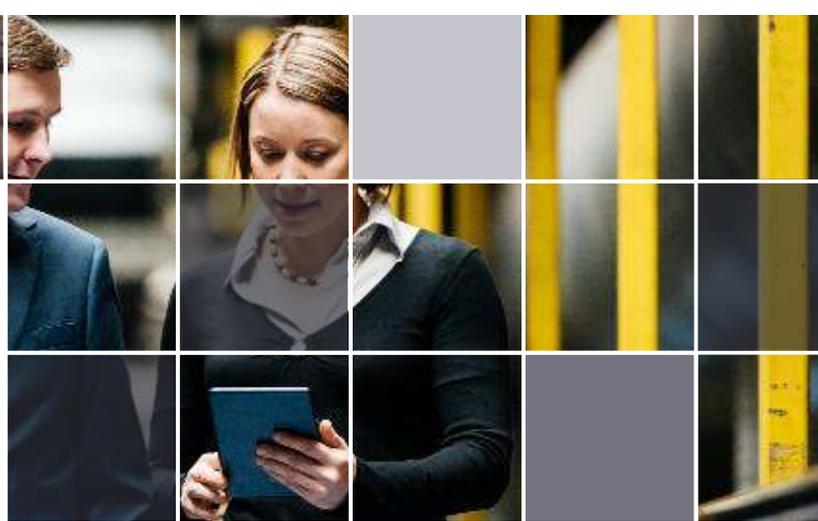
27.03.2020: End of the consultation process.

Important points:

- Domestic procedure for mutual agreement procedures (largely in accordance with current practice and only to be used if the agreement does not contain any deviation).
- Certain simplifications.
- The main points concerning the relief from withholding tax based on international agreements.
- Penalty provisions regarding relief from withholding tax on investment income.

FC

Digital



Links

In Force

From the 11.09.2020

Priorities for Digital Switzerland

Starting 1 January 2021 the FC takes the lead on the digital Switzerland strategy. It has set the following priorities for the upcoming 2 years:

- Digital data to improve environmental protection: by the end of 2021 the Federal Office for the Environment will indicate how the basis for calculation of ecological cycle assessments, energy consumption and footprints can be improved in the area of ICT technologies and services.
- Increase the efficient use of data in digital rooms: by the end of 2021 the Federal Office of Communications (OFCOM) and the Directorate of International Law in the FDFA, together with other participants, will draw up a basic report, which will indicate where there is a need for state action.
- Promoting the digital economy: sharing economy, digital finance by the end of 2022 the State Secretariat for Economic Affairs will update the "Framework Conditions for the Digital Economy" report.
- Digitization of the Service Public a report on data-driven developments in the regulated network sectors by mid-2022 will be produced.
- Lessons for digitization from the COVID-19 pandemic: by the end of 2021 OFCOM and the FC will indicate the potential for improvements in a report and will propose measures for the Confederation's digital policy.

In Force

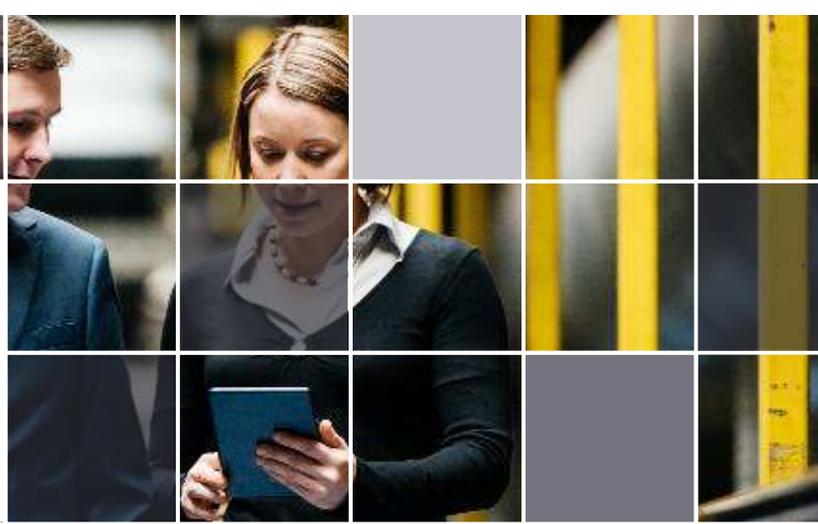
Open

Digital Europe Programme

The EU's new Digital Europe Programme will boost the digital transformation by providing funding for rolling out cutting-edge technology in crucial areas such as artificial intelligence, supercomputing and cybersecurity. With a sizeable budget of EUR 7,588 million, the programme will run for the period 2021-2027, starting retroactively from 1 January.

Awaiting adoption by the European Parliament to enter into force.

Digital



Links

In Force

From the 18.12.2020

SBA

SBA guidance on auditing cloud services and the means used

Guidance of the SBA on the audit of cloud services and the means used, issued by the SBA on 18 December 2020.

Circ. 8046

In Force

01.02.2021: 1st Step
01.08.2021: 2nd Step

Federal Law on Distributed Ledger Technology

Entry into force in two steps:

Parts of the DLT act that enable ledger-based securities to be introduced. The legislation further exempts from obligation of ombudsman affiliation those financial intermediaries that service professional and institutional clients only.

01.08.2021: Planned entry into force of the remainder of the legislation

In Force

From the 04.11.2020

Promotion of International Geneva and digital self-determination – the FC sets out Digital Foreign Policy Strategy 2021–2024

The FC approves Switzerland's Digital Foreign Policy Strategy 2021-2024.

Fields of action:

- Digital governance: strengthen international law.
- Prosperity and sustainable developments: preserve Swiss leading position in business, education, research, and innovation.
- Cybersecurity: Contribute to a free, open, and secure digital space.
- Digital self-determination: users to have as much control over their data as possible.

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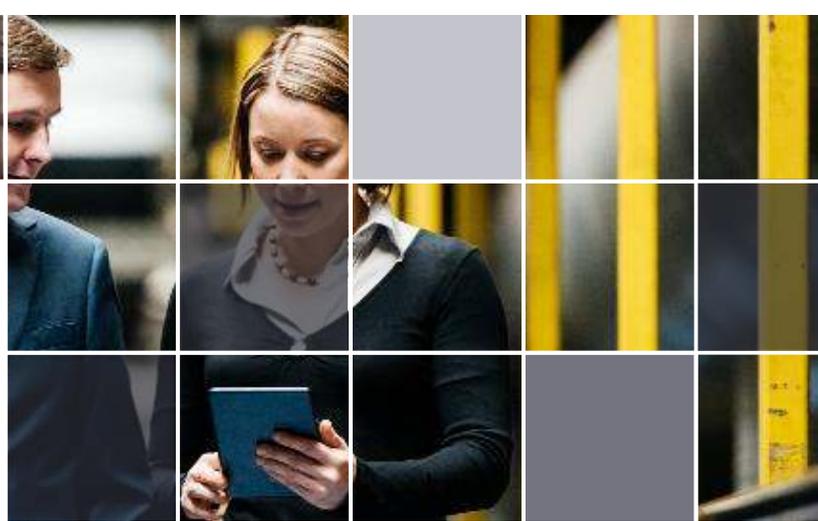
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FDFA

Digital



Links

Upcoming

Open

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Federal Law on the Creation of Electronic Public Documents and Electronic Authentication

01.12.2019: Entry into force of the amendment to the Regulation on electronic transmission in civil and criminal proceedings and in debt collection and bankruptcy proceedings.

Important points:

- Division of access to land register data: Inspection without proof of interest in individual cases and inspection of those land register data which are accessible on the basis of a legitimate interest.
- Adjustment possible in the modalities of the retrieval procedure for the cantons.
- The principle that the cantons decide whether to offer the retrieval procedure at all remains unaffected by the adjustments.
- The original of a document should in future be in electronic form; a paper version should continue to be possible.
- Land registries will be obliged to accept electronic applications.

FDJP

Upcoming

Open

National Cyber Security Centre NCSC

The FC is in the process of setting up the NCSC with a Financial Services Information Sharing and Analysis Center FS-ISAC. The platform aims at enhancing cyber resilience for the Swiss financial sector in a first instance and for the entire Swiss economy in a second step.

NCSC

Upcoming

Open

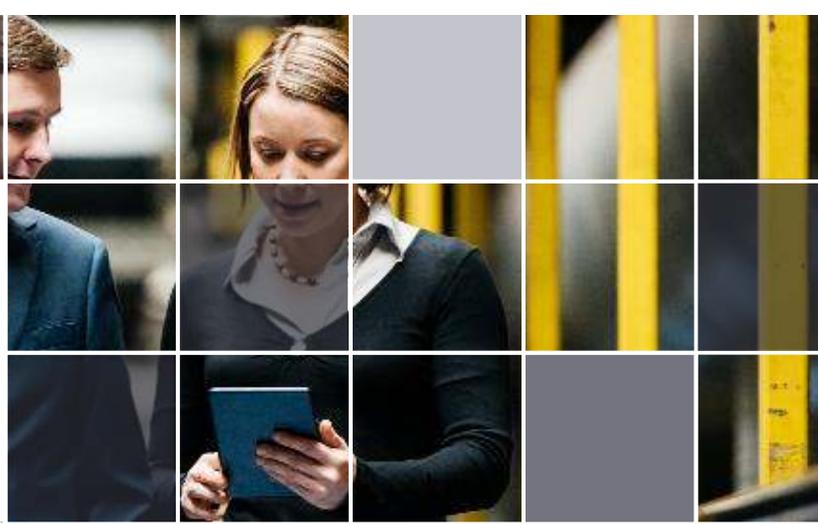
EU: Council adopts conclusions on the EU's cybersecurity strategy

In March 2021, EU ministers adopted conclusions on the EU's cybersecurity strategy which was presented by the European Commission and the EU High Representative for Foreign Affairs and Security Policy in December 2020. It outlines the framework for EU action to:

- protect EU citizens and businesses from cyber threats
- promote secure information systems
- protect a global, open, free and secure cyberspace

EU Council

Digital



Links

In the Pipeline

Open

EU: ePrivacy Regulation

10.02.2021: Adoption of a proposal for a regulation by the Permanent Representative Committee.
04.11.2020: The Presidency of the Council makes amendments mainly to several recitals and to the articles 6, 8, and 18.
13.07.2020: First discussions on the ePrivacy proposal in the working group under the German presidency.

In the Pipeline

Open

EU: Proposal for a Regulation of the EU Parliament and of the Council on Markets in Crypto-assets

From February 2021: ongoing recollection of committees' opinions – Amendments to the regulation.
02.10.2020 – 11.01.2021: Commission adoption – Feedback period

Important points:

- Handling cryptographic equipment such as Bitcoin and the impact of the new technology on the issue, exchange, transfer of financial assets.
- Reducing the risks posed by cryptographic equipment (fraud, cyber-attacks, market manipulation).

The initiative examine:

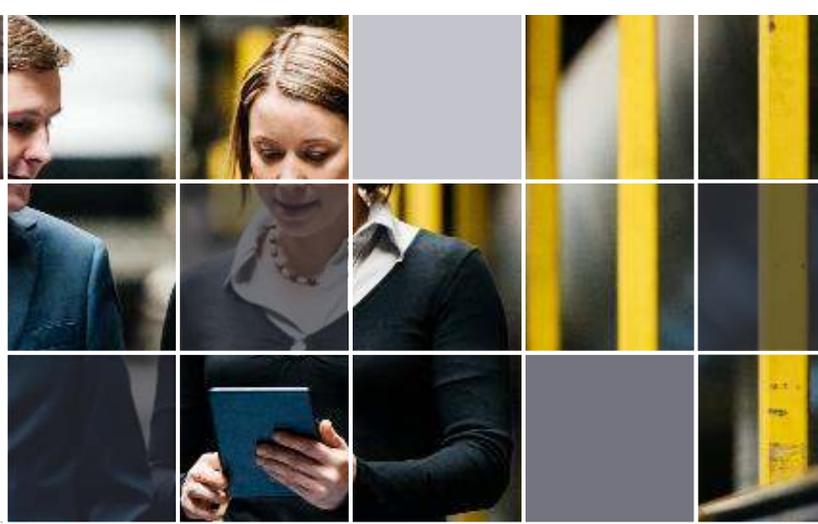
- The extent to which cryptosystems are covered by existing EU legislation; and
- whether new legislation is needed or whether guidelines are sufficient.

In particular, are considered:

- the use and potential use of cryptographic equipment;
- the need for and design of a classification of cryptosystems (both those covered and not covered by existing legislation);
- the need for specific regulation and the implications of any changes to existing regulation (MiFID II or E-Money under EMD2, Prospectus Regulation);
- other regulatory barriers to the use of DLT in financial services.

The overall objective of the initiative is to provide clarity as concerns the applicability of the EU financial services legislation to crypto-assets (and related activities) and to ensure that the regulatory framework adequately addresses the risks inherent to these assets and related services. The aim is to find a proportionate approach to these objectives without creating undue regulatory obstacles. This will facilitate competition and support further innovation.

Digital



Links

In the Pipeline

Open

E

FINMA

Central bank digital currency (CBDC)

A 2021 BIS survey of central banks found that 86% are actively researching the potential for CBDCs, 60% were experimenting with the technology and 14% were deploying pilot projects.

There are ongoing CBDC's projects.

In the Pipeline

Open

E

EU
Commission

EU: Digital Services Act package

The Digital Services Act package was presented by the Commission in December 2020. It includes:

- the Digital Services Act; and
- the Digital Markets Act.

With this package, the Commission proposes new ambitious rules to better govern the digital space and digital services, including social media platforms. Its key goals are to:

- ensure digital users have access to safe products and protect users' fundamental rights; and
- allow free and fair competition in the digital sectors to boost innovation and growth.

In the Pipeline

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EU Council

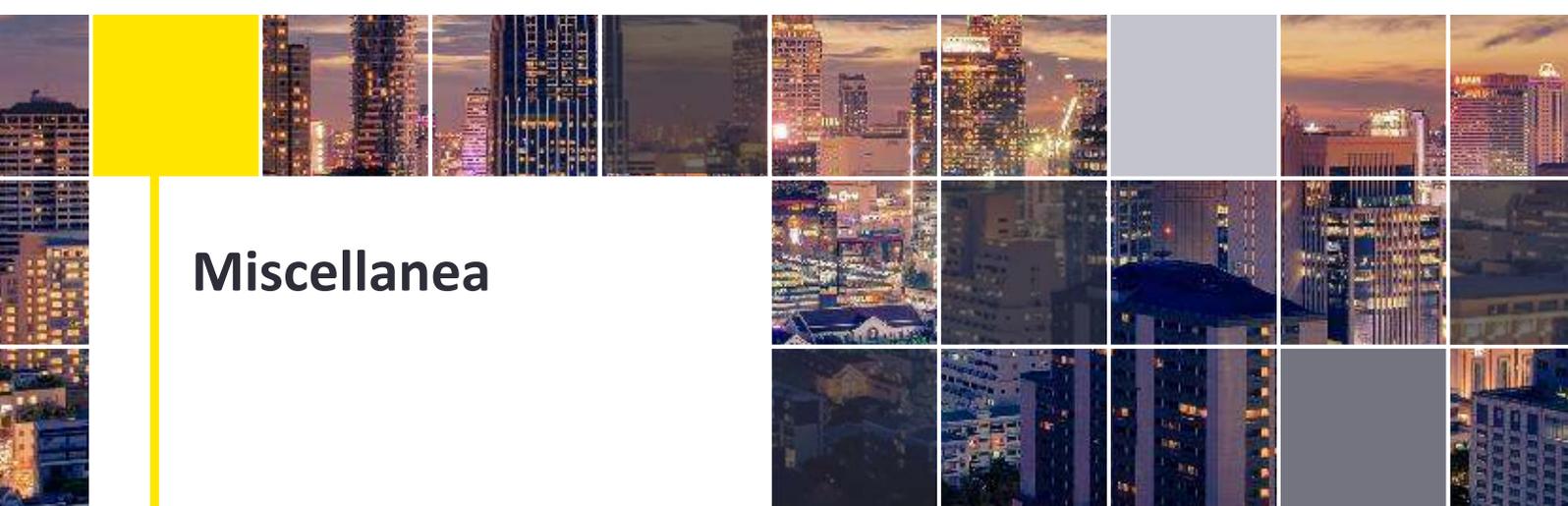
EU: Digital Taxation

On 27 November 2020, finance ministers adopted comprehensive conclusions on the main tax policy issues to be tackled during the next years. These work streams include:

- addressing the challenges of the digitalization of the economy;
- strengthening cooperation between tax authorities in the member states; and
- promoting tax good governance in the EU and globally.

25.03.2021: Suggested timeline:

- Consensus to be achieved by mid-2021 within the OECD framework.
- Introduction of a proposal by 1 January 2023 at the latest.



Miscellanea

Links

In Force

From the 21.10.2020

FC adopts dispatch on partial revision of Insurance Oversight Act

The FC adopts the act regulating the supervision of insurance undertakings and insurance intermediaries. The aim is, in particular, to protect insured parties from the risks of insurer insolvency and from abuses.

Important points:

- Right to restructure instead of automatic bankruptcy order from FINMA.
- Consumer protection-based regulatory and supervisory concept: introduction of client categorization would ease the controls if business made solely with professional clients.
- Insurance intermediation: modernization of intermediation and consumer protection strengthened.

In Force

From the 04.12.2020

The FC decides on further development of financial market policy: leading worldwide, rooted in Switzerland

The FC is creating the best possible framework to keep a strong financial business in Switzerland. The aim is to keep it:

- Innovative: new technologies, encouraging the opening of new interfaces.
- Interconnected: promotion of open markets.
- Sustainable: alignment with the sustainable development goals under the 2030 Agenda.

In Force

From the 17.02.2021

Switzerland - UK: The FC launches consultation on Services Mobility Agreement

The FC opened the consultation on the agreement between Switzerland and the UK on the mobility of service providers on 17 February 2021. The agreement aims to ensure reciprocal facilitated access for service providers between Switzerland and the UK. The consultation ended on the 30 April 2021.

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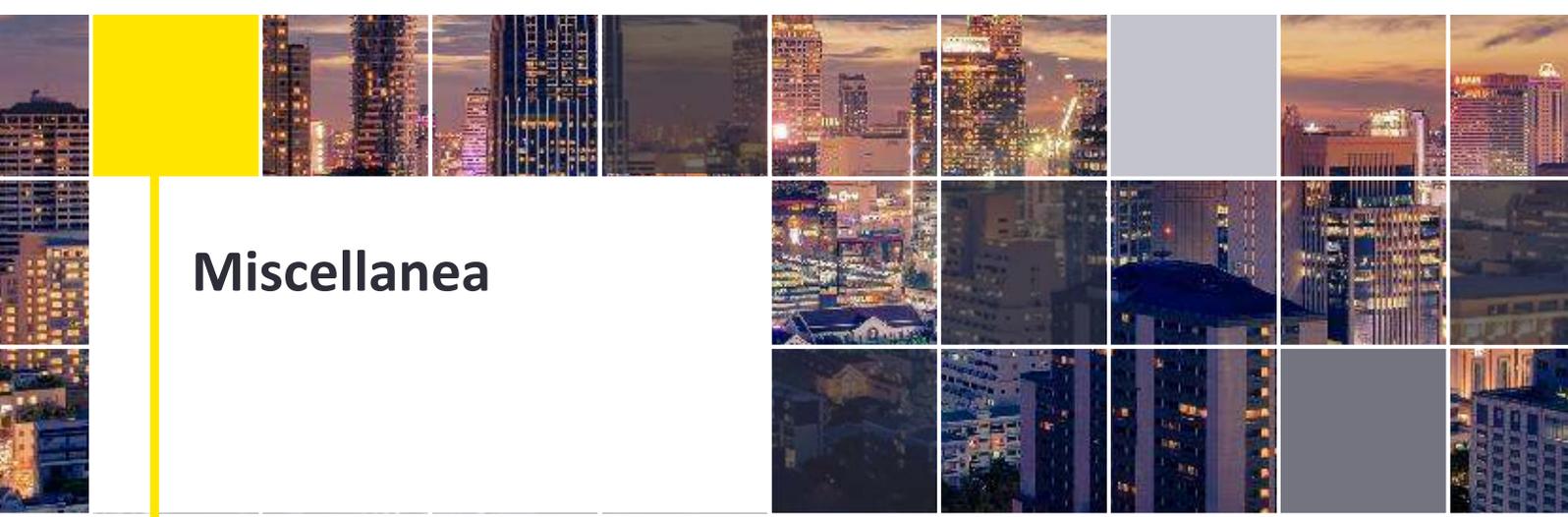
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Miscellanea

Links

In Force

From the 25.03.2021

E D
F I

FINMA Annual Report 2020

FINMA publishes its Annual Report 2020.

FINMA

In Force

From the 31.03.2021

D
F I

Export Risk Insurance: Annual Report 2020

The FC approves the annual report of the Swiss Export Risk Insurance.

FC

In Force

From the 16.04.2021

E

Basel Committee work programme and strategic priorities for 2021/22

The key focus of the 2021-22 Basel Committee work programme lies on Covid-19 resilience and recovery, analysis of structural trends and risk mitigation and the strengthening of supervisory coordination and practices.

BIS

In Force

From the 27.04.2021

E D
F I

Duty to Report Vacancies

Functionalities of EasyGov.swiss have been extended to include the possibility of reporting vacancies. If the vacancy is in a profession with publication duty, it is transferred to the regional employment centers. The employer can follow-up on-line.

FC

In Force

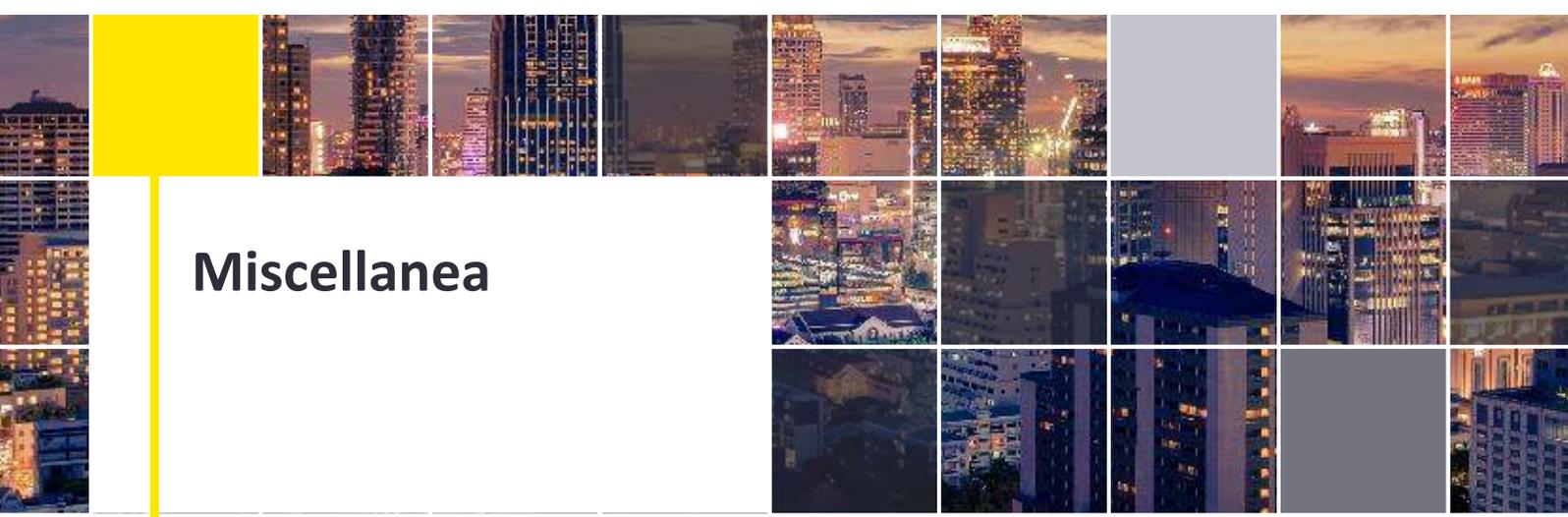
From the 03.05.2021

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F I

SBPV Salary Survey 2021

The Bank Employees' Association invites staff to participate in its bi-annual salary survey. It also makes available results of precedent surveys.

SBPV



Miscellanea

Links

In Force

Until the 30.06.2021

Equal Pay Assessment

Deadline for the performance of the Equal Pay Assessment by employers with more than 100 staff.
30.6.2022: Deadline for the performance of the external assessment.

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EBG

In Force

Until the 01.09.2021

Margin requirements for non-centrally cleared derivatives

Final deadline for the implementation of the margin requirements.

E

BIS

In Force

From the 22.04.2021

Credit Suisse: FINMA opens proceedings

The Swiss Financial Market Supervisory Authority FINMA has opened enforcement proceedings against Credit Suisse after the bank suffered significant losses in connection with a US hedge fund (“Archegos”). Furthermore, FINMA announces that it opened proceedings against the bank in the context of the “Greensill” case in March 2021. Supplementing measures taken by the bank, FINMA has in addition required various risk-reducing measures.

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FINMA

In Force

From the 10.03.2021

FC Activity Report 2020

The FC adopts its Activity Report 2020. Important points:

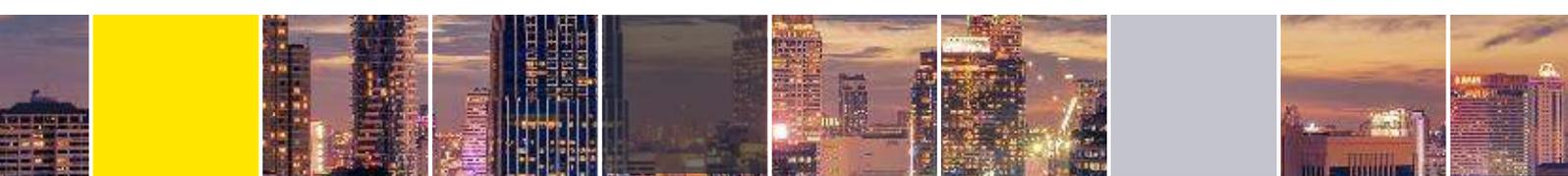
- Assure well-being by promoting digitalization and sustainable development.
- Promote national cohesion and international cooperation.

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FC



Miscellanea

Links

Upcoming

In force from the 01.01.2022

SBA

Revision of the Guidelines for Asset Management Contracts

Final communication concerning the revision of the Guidelines for Asset Management Contracts, published by the SBA.

Circ. 8043

Important points:

- Ensuring compatibility with the Financial Services Act (FinSA) and consideration of modern investment strategies.
- Many of the previous provisions are now covered by the FinSA and the associated ordinance FinSO, which has significantly shortened the directive.
- The focus is now on the core elements of asset management.

Upcoming

In force from the 01.06.2021

D

Act on International Legal Assistance

Entry into force of the revision on 1 June 2021. The revision allows the Confederation to provide assistance also to international organization, not merely to states as in the past.

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FC

Upcoming

In force from the 01.07.2021

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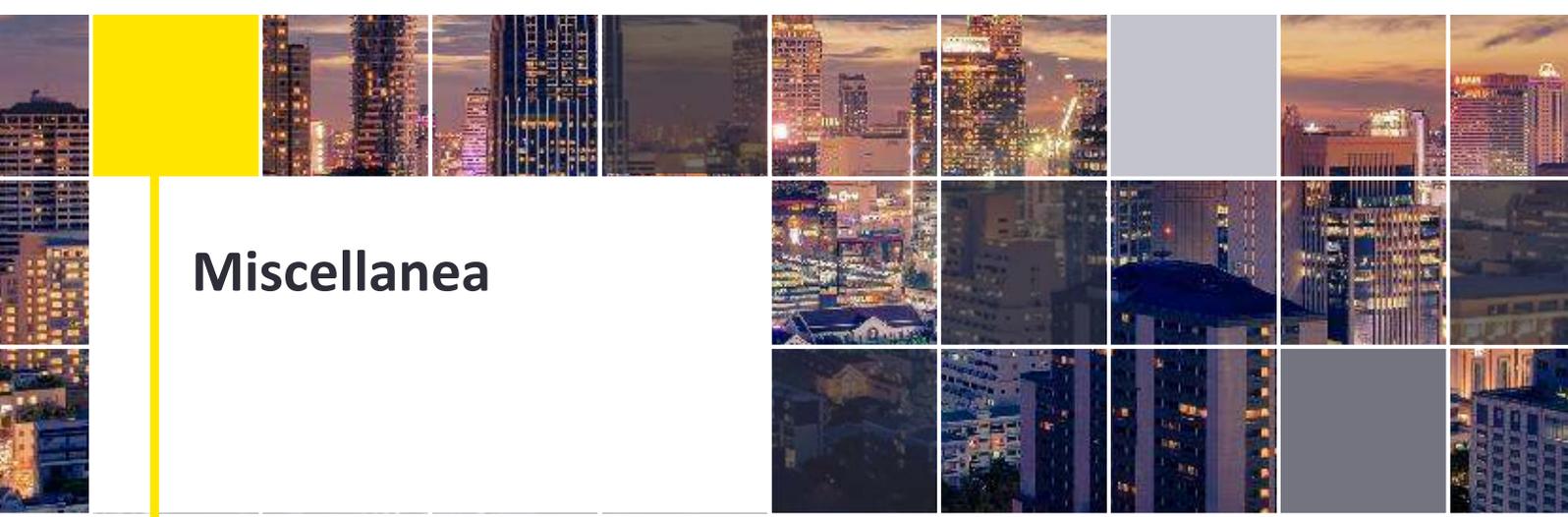
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Reporting of net stable funding ratio (NSFR)

Survey-revision due to the introduction of a binding minimum Net Stable Funding Ratio and the pertaining revision of the liquidity ordinance as of 1 July 2021.

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SNB



Miscellanea

Links

In the Pipeline

Planned entry into force 2022

Revision Corporate Law

Planned entry into force of the other adaptations.

19.06.2020: Parliament approves the revision.

Important points:

- Transfer of the Ordinance against Excessive Remuneration of Listed Companies into federal law.
- Improvement of corporate governance, also for non-listed companies.
- Harmonization of stock corporation law with the new accounting law.
- More flexible structuring of the formation rules and capital provisions, see in particular the following changes:
 - Share capital in foreign currency is now possible and the nominal value of the share must only be greater than zero;
 - More flexibility, acceleration and simplification in the case of capital reduction as well as simplification in the case of conditional capital (third parties can now also make use of options and conversion rights);
 - Liberalization and clarification in case of subscription payment (no more qualified formation in case of intended acquisition of assets);
 - Interim dividends are now permitted;
 - Clarification in case of repayment of legal capital reserves;
 - Tightening of the obligation to repay;
 - Adjustment of various thresholds for the assertion of shareholders' participation and control rights;
 - Annual General Meeting: Stricter requirements, but also facilitations (in particular digital AGM possible);
 - Board of Directors: Circulation resolutions by electronic means without signatures now permissible and express duty of care and loyalty in the event of conflicts of interest;
 - Dismissal of the auditors only for good cause
 - Liability suit: No longer including subordination claims in the calculation of damages and shortening the statute of limitations for liability claims;
 - Financial emergencies: The BoD now has explicit obligations in the event of impending insolvency (Art. 725 nOR), no longer has to convene a general meeting in the event of half of the capital loss, and only non-refundable legal reserves count towards the threshold for half of the capital loss.

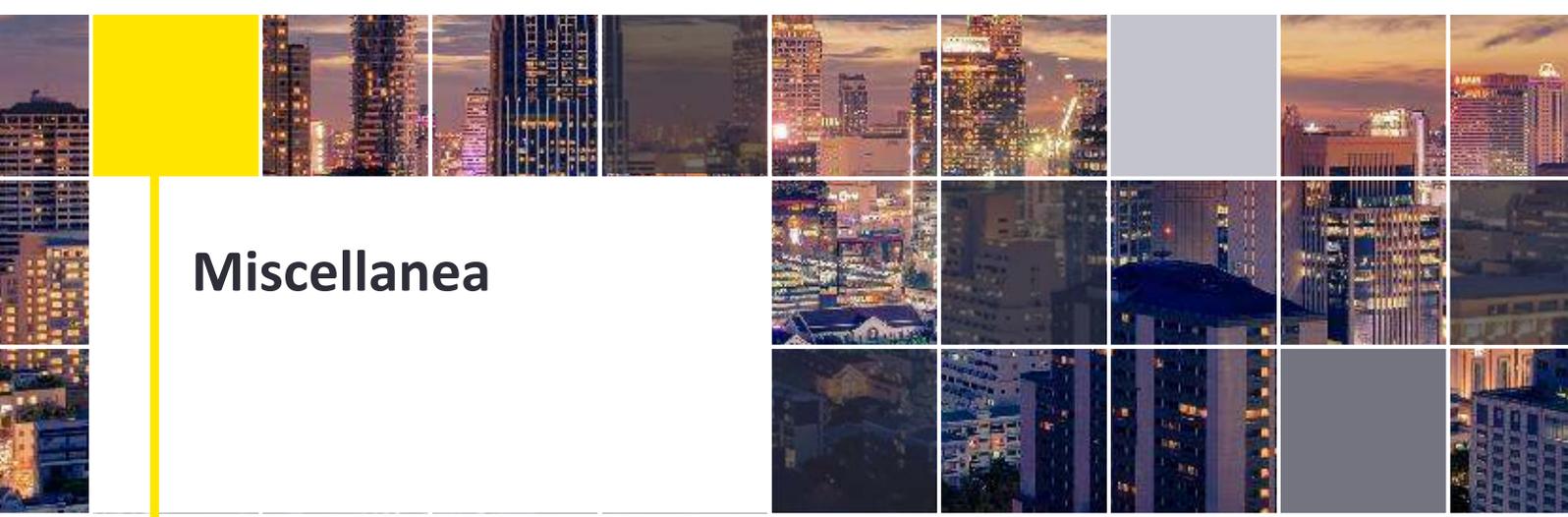
In the Pipeline

Open

Data Protection Act DPA

Parliament adopted the revision. The referendum period is underway.

The new DPA is not a copy of the EY GDPR – some specific alignment to Swiss standards were made.



Miscellanea

Links

In the Pipeline

Open

D

Revision Foundation Law

Parliament discusses a revision of the law on foundations to consolidate Switzerland as a location for foundations and adapt it to current needs.

- Regular publication of data on organizations that are tax-exempt because they are non-profit organizations
- Tax deductions
- Extension of the founder's rights
- Introduction of a limitation of liability

The Commission for Legal Affairs decided to revise the draft to retain only the two elements that were not disputed in the consultation: The optimization of the founder's rights by extending his right to make changes that affect the organization and the simplification of amendments to the foundation charter.

In the Pipeline

Open

D

Tonnage Tax

The FC publishes for comments the draft legislation on tonnage tax. Important points:

- Align Swiss regulation to international standards.
- Offer tax regime to shipping companies which register at least 60% of tonnage in EU/CH.
- Determine tonnage along international standards.
- Preferential treatment for vessels with reduced CO2 impact.

In the Pipeline

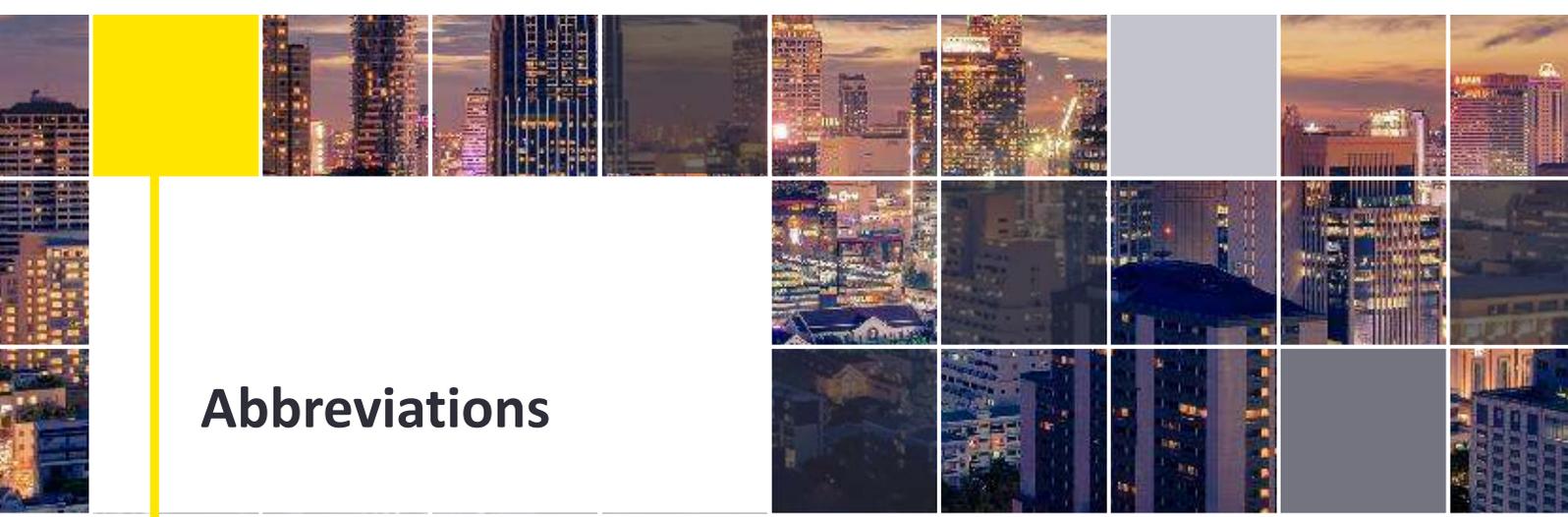
Open

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Land Register Regulation

14.10.2020: The FC opens the consultation process on the Land Register Ordinance.

- Introduction of a national property search service that forwards enquiries from authorities to the cantonal land registries.
- The AHV/AVS number serves as a nationwide personal identifier in the land register.
- Nationwide property search.



Abbreviations

BCBS: Basel Committee on Banking Supervision / **BIS:** Bank for International Settlements / **FC:** Federal Council / **EFD:** Federal Finance Department / **ESTV:** Federal Tax Administration / **EU:** European Union / **FATF:** Financial Action Task Force / **FINMA:** Swiss Financial Market Supervisory Authority / **FOEN:** Federal Office for the Environment / **FOGE:** Federal Office for Gender Equality / **FSB:** Financial Stability Board / **IOSCO:** International Organization of Securities Commissions / **NC:** National Council / **SBA:** Swiss Bankers Association / **SC:** States' Council / **SIF:** State Secretariat for International Financial Matters / **SNB:** Swiss National Bank / **AFBS:** Association of Foreign Banks in Switzerland

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