

Circular 2008/41

Audit matters

Limited continued application of the Circulars of the Swiss Federal Banking Commission, the Federal Office of Private Insurance and the Anti-Money Laundering Control Authority with regard to audit matters

Reference: FINMA Circ. 08/41 "Audit Matters"
 Date: 20 November 2008
 Entry into force: 1 January 2009
 Last amendment: 20 November 2008
 Concordance: See margin no. 4 ss.
 Legal framework: FINMASA art. 7 sect. 1 lett. b, 24 ss.
 FINMA-AO

Addressees																						
BA			ISA			SESTA		CISA							AMLA			Other				
Banks	Financial groups and -congl.	Other intermediaries	Insurers	Insurance groups and -congl.	Insurance intermediaries	Stock exch. and participants	Securities dealers	Fund management companies	SICAVs	Limited partnerships for CISs	SICAFs	Custodian banks	Asset managers CISs	Distributors	Representatives of foreign CISs	Other intermediaries	SROs	DSFIs	SRO-supervised institutions	Audit firms	Rating agencies	
X	X		X	X		X		X	X	X	X	X	X		X			X			X	

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I. Applicable provisions

In accordance with the financial market acts, FINMA carries out the audit either itself, through third parties that it has appointed or through audit companies appointed by the supervised persons and entities. The appointment of an audit company requires the approval of FINMA. The Financial Market Supervision Act (FINMASA; SR 956.1) sets out the licensing requirements for audit companies and lead auditors. The audit company provides the supreme management body of the audited supervised person or entity and FINMA with a report on its audits. FINMA examines the fulfilment of the licensing requirements in terms of the Act and the audit activities of the audit companies at the supervised persons and entities in accordance with the financial market acts (art. 24–28 FINMASA). The financial market acts also contain specific legal provisions. 1

The Financial Market Audit Ordinance (FINMA-AO; SR 956.161) concretises, inter alia, the specific licensing requirements that audit companies and lead auditors must satisfy, as well as the audit of supervised persons and entities pursuant to the Mortgage Bond Act (MBA; SR 211.423.4), the Collective Investment Schemes Act (CISA; SR 951.31), the Banking Act (BA; SR 952.0), the Stock Exchange Act (SESTA; SR 954.1), and the Insurance Supervision Act (ISA; SR 961.01). FINMA establishes the details pertaining to form, content, periodicity, deadlines and addressees of the reporting as well as the carrying out of the audit (art. 20 FINMA-AO). Further requirements are set out in the implementation rules to the financial market acts. 2

FINMA will issue, where this is possible and required, Circulars on these regulations in the course of 2009. 3

II. Limited continued application of Circulars to date

Until new Circulars are issued (cf. margin no. 3), the Circulars on audit matters issued by the Swiss Federal Banking Commission (SFBC), the Federal Office of Private Insurance (FOPI) and the Anti-Money Laundering Control Authority (AMLCA) will continue to apply with regard to their current scope and in accordance with their current status insofar as they do not conflict with applicable provisions (cf. margin nos. 1 and 2). 4

The following Circulars are affected: 5

- for banks, financial groups and conglomerates as well as securities dealers:
 - SFBC Circ. 05/1 “Audit” of 29 June 2005
 - SFBC Circ. 05/2 “Audit report” of 29 June 2005
 - SFBC Circ. 05/3 “Audit companies” of 29 June 2005
- for insurance companies, insurance groups and conglomerates:
 - FOPI Directive 2/2007 “Authorization of audit companies” of 1 January 2007
 - FOPI Directive 6/2007 “Activities of independent auditors” of 21 November 2007
- for licensees pursuant to CISA:

- SFBC Circ. 05/3 “Audit companies” of 29 June 2005
- SFBC Circ. 07/1 “Audit pursuant to CISA” of 27 June 2007
- SFBC Circ. 07/2 “Audit report pursuant to CISA” of 27 June 2007
- for directly subordinated financial intermediaries (DSFIs):
 - AMLCA Circ. 2004/1 “Audit / Accrediting” of 6 December 2004
 - AMLCA Circ. 2004/2 “Audit concept / Working papers” of 10 December 2004
 - AMLCA Circ. 2005/1 “Auditing cycle” of 7 January 2005
 - AMLCA Circ. 2007/1 “Deadline / Extension” of 26 February 2007

These Circulars are available in unamended form on FINMA’s website in the archive.

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