

Press release

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Revision of the FINMA Anti-Money Laundering Ordinance

The Swiss Financial Market Supervisory Authority FINMA has opened a consultation on the draft revised version of the FINMA Anti-Money Laundering Ordinance. The revised ordinance reflects both the revised Anti-Money Laundering Act of 12 December 2014 and the revised Financial Action Task Force recommendations. The revised ordinance also includes insights gained from supervisory practice and recent market developments. The deadline for submitting comments on the draft ordinance is 7 April 2015.

The FINMA Anti-Money Laundering Ordinance (AMLO-FINMA) has been in force in its current form since 1 January 2011. The Financial Action Task Force (FATF) recommendations were partially revised in 2012. They represent the internationally recognised standards on combating money laundering and the financing of terrorism. The Federal Department of Finance (FDF) then drafted a legislative proposal to implement the revised FATF recommendations. The revised Anti-Money Laundering Act (AMLA) was passed by Parliament on 12 December 2014. A subsequent revision of the AMLO-FINMA was therefore necessary.

The current revision of the FINMA Anti-Money Laundering Ordinance takes account of both the revised FATF recommendations and the revised Anti-Money Laundering Act, and sets out the regulations contained in both pieces of legislation. The revised ordinance also includes insights gained from supervisory practice and recent market developments; in particular, it also provides for relaxation of due diligence requirements.

Some examples of the material adjustments to the draft ordinance are:

- The concept of “controller”: this newly introduced concept is directed at all (directly supervised) financial intermediaries. It serves to consistently determine the natural persons behind operationally active legal entities and partnerships.
- Special regulations for CIS institutions: The new regulations are directed at fund management companies, CIS investment companies and CIS asset managers. CIS institutions must identify the subscriber of fund units and the beneficial owner. Where certain prerequisites are met, a relaxation of due diligence requirements is provided for.

- New payment methods: The revised AMLO-FINMA now governs the prerequisites under which relaxation of due diligence requirements is allowed for payment service providers offering cashless payment transactions.
- Reporting requirements: A new innovation under the revised AMLA is that despite reports to the Money Laundering Report Office (MROS), client instructions must be executed by financial intermediaries (assets are not frozen immediately). A new provision sets out that significant assets may only be withdrawn in a form which enables prosecuting authorities to follow the trail («paper-trail»).

The deadline for submitting comments on the draft ordinance is 7 April 2015.

Contact

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