

Press release

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FINMA opens consultation on new circular 'Limitation of intra-group positions – banks'

The Swiss Financial Market Supervisory Authority FINMA is opening a consultation on its new circular 'Limitation of intra-group positions – banks'. This circular serves to clarify the practices FINMA has employed with regard to entities that form part of a foreign financial group and have significant intra-group exposures. The circular aims to reduce the degree of financial and operational dependency within a group by means of measures ranging from introducing detailed reporting to strictly limiting certain positions. Its legal basis is the Capital Adequacy Ordinance (CAO). The consultation runs until 1 May 2013.

The thematic focus of the new circular 'Limitation of intra-group positions – banks' is on limiting intra-group debts and contingent liabilities in terms of both quantitative and qualitative criteria. In this context, the circular takes account of the complexity of the group's structure, the solvency of counterparties within the group, the jurisdiction in which the head office is located and the scope for supervising the group in an adequate and transparent manner.

The CAO provides the legal basis for the circular. The current regulations allow for the exemption of intra-group positions from risk diversification requirements subject to certain conditions. When the CAO was recently revised, the legislature asked FINMA to provide specific details regarding its ability to impose appropriate restrictions on this exemption. It must be noted here that in several jurisdictions prudential supervision is now even more focused on the risks of single entities and those of national groups under the local powers of the national supervisory authorities. These include U.S. Dodd-Frank Act 2010, recommendations of the UK Independent Commission on Banking 2011 and individual supervisory practices in these two countries as well as others, primarily EU member states.

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