

Press release

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FINMA Circular ‘Limitation of intra-group positions – banks’ comes into force

Following the closure of the consultation for interested parties, the Swiss Financial Market Supervisory Authority FINMA is putting a new circular into effect aimed at reducing the degree of financial and operational dependency within a banking group. The new circular describes in particular the measures that FINMA can take ranging from introducing detailed reporting to strictly limiting certain positions. FINMA thus puts in clear terms the practices it has employed for a number of years with regard to entities that form part of a foreign financial group and have significant intra-group exposures.

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 and before determining any measures, FINMA 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.

Reducing risks stemming from the complexity of international financial groups

The new circular therefore responds to certain risks stemming from the globalisation of banking activities, for instance, business lines that are covered differently depending on an entity’s jurisdiction and at local level in terms of operation. The circular aims at harmonising legitimate interests in increasing the efficiency of banking activities with prudential interests in clarifying group interdependence. FINMA has largely taken account of the adjustments proposed by various interested parties following the consultation.

Relevance of risk protection

The Ordinance on Capital Adequacy (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. During the recent revision of the CAO, the legislature asked FINMA to provide specific details regarding its power to impose appropriate restrictions on this exemption. It must be noted here that in several foreign jurisdictions prudential supervision is now even more focused on the risks of single entities and those of national groups under the competence of the national supervisory authorities.

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