

Circular 2008/03 "Public deposits with non-banks" – partial revision

Key points

1 September 2017

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1. The revised provisions of the Banking Ordinance (BO; SR 952.02) of 30 April 2014 regarding settlement accounts (Art. 5 para. 3 let. c) and commercial operations (Art. 6 paras. 2-4) entered into force on 1 August 2017. They provide in particular for the settlement timeframe for client transactions under the exemption for settlement accounts (currently seven working days according to FINMA's practice) to be extended to 60 days and for the creation of a licence-exempt space (*sandbox*) for operating on a commercial basis in which public deposits totalling up to CHF 1 million may be accepted, provided that certain obligations to inform clients are met. Such deposits may be invested and bear interest only if they relate to a commercial or industrial main activity.
2. The exemption for settlement accounts under Article 5 para. 3 let. c BO and the provision on commercial operations (Art. 6 BO) are already set out in the existing Circular 2008/3. The changes resulting from the revised regulations that entered into force on 1 August 2017 must now be incorporated into the circular and clarified as necessary.
3. With regard to the exemption for settlement accounts, the partially revised Circular 2008/3 states that securities dealers are not constrained by the 60-day settlement deadline that is now explicitly specified in Article 5 para. 3 let. c BO. It also makes it clear that the exemption for settlement accounts covers business models that involve forwarding.
4. With regard to the licence-exempt space (Art. 6 paras. 2-4 BO), the partially revised Circular 2008/3 provides details of how the limit of CHF 1 million, the ban on interest and investment and the concept of commercial or industrial main activity are to be understood. It also explains how the obligation to inform clients is to be met and what happens when the limit of CHF 1 million is exceeded.