FINANCIAL MARKET REGULATION:
PENDING PROJECTS

(Status and outlook as of 17 August 2017)

Project	Regulatory level	Status and next steps		
		Hearing / consultation	Adopted / to be adopted	Planned entry into force
Cross-sector				
Financial services and financial institutions* In December 2016, the Council of States adopted the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA). The draft laws are currently being debated in the National Council. FinSA will govern the requirements for providing financial services and offering financial instruments (rules of business conduct at point of sale and prospectus requirements). The supervisory regulations for asset managers, managers of group assets, fund managers and investment firms are brought together in the new FinIA. A new authorisation category will also be created for financial innovators.	law	Q3/14	Q1/18	Q1/19
Financial market infrastructures The Financial Market Infrastructure Act (FMIA) entered into force on 1 January 2016, as did the related Federal Council Ordinance (FMIO) and FINMA Ordinance (FMIO-FINMA) and the revised National Bank Ordinance (NBO). The FMIA package necessitated adjustments to FINMA's existing regulations (in particular, the circulars on 'Duty to report securities transactions' and 'Securities journals' were revised, and a new circular on 'Organised trading facilities (OTFs)' was published).	circular	Q3/16	Q1/17	Q1/18
Accepting deposits from the public* On 5 July 2017, the Federal Council enacted the revised Banking Ordinance (BO) in connection with the FinTech regulations. The Ordinance came into effect on 1 August 2017. These rules set out in particular that under the exemption for settlement accounts (Art. 5 BO) the settlement period for client transactions is extended from seven working days allowed according to FINMA practice to 60 days. In addition, a authorisation-exempt space (sandbox) has been created for funds of a commercial nature, where the funds accepted do not exceed CHF 1 million. FINMA-Circ. "Public deposits at non-banks" must therefore be adjusted.	circular	Q3/17	Q4/17	Q1/18
Money laundering* The Financial Action Task Force (FATF) published its fourth country report on Switzerland in December 2016. While it acknowledges the generally good quality of Switzerland's mechanisms for combating money laundering and terrorist financing, the FATF found deficiencies in certain areas with regard to legislation and the effectiveness of the rules, and it made corresponding recommendations. The FDF analysed these recommendations and was mandated by the Federal Council to produce a draft for consultation by the end of 2017. According to the Federal Council, rectifying the key deficiencies that were found will also require adjustments to the FINMA Anti-Money Laundering Ordinance (AMLO-FINMA), the Agreement on the Swiss banks' code of conduct with regard to the exercise of due diligence (CDB) and the regulations of self-regulatory organisations.	law ordinance	To be confirmed (TBC)	TBC	TBC
Outsourcing In view of the growing importance of outsourcing in the banking and insurance sectors, FINMA revised the provisions of its existing circular on 'Outsourcing – banks'. The circular, which regulates the way banks handle outsourced services, now covers insurance companies as well. In addition, systemically important banks must meet more stringent requirements when outsourcing critical services. FINMA's principles-based, technology-neutral approach to supervision has been maintained and the text of the circular streamlined. Where appropriate, the requirements for banks, securities dealers and insurance companies have been harmonised, providing some relaxation of the rules for insurance companies.	circular	Q4/16	Q4/17	Q1/18

* See FDF web page (www.efd.admin.ch > Topics > Economic, Monetary and Financial Affairs > Financial Centre Strategy) for the content and status of key financial sector regulatory projects in which FINMA does not take a leading role.

Project	Regulatory level	Status and next steps		
		Hearing / consultation	Adopted / to be adopted	Planned entry into force
Banks				
Deposit protection* The Federal Council decided in February 2017 that the deposit protection scheme would be strengthened through a series of measures. The Federal Department of Finance (FDF) was tasked with producing a draft for consultation on changes to the appropriate legislation by the end of November 2017. The Federal Council also intends to close a loophole in the regulations on investor protection. The obligation to segregate own-account assets from assets booked to client accounts in custody is to be extended to cover the entire custody value chain within Switzerland.	law	TBC	TBC	TBC
Too big to fail* The structure of the gone-concern emergency plans of systemically important banks which do not operate outside Switzerland has still not been defined. The specific need for gone-concern requirements for these banks forms the subject of the Federal Council evaluation report under Article 52 of the Banking Act (BA) of 28 June 2017. The FDF was mandated to produce a draft for consultation by 28 February 2018. Further regulations are also needed in the law on bank insolvency, an issue that has not yet been addressed at the level of the legislature.	law	TBC	TBC	TBC
Basel III – capital adequacy standards* The Basel Committee on Banking Supervision (BCBS) has issued new standards in relation to the leverage ratio, interest rate risks in the banking book and disclosure. Starting in 2018, a leverage ratio of at least 3% will be a mandatory key regulatory figure. The Capital Adequacy Ordinance (CAO) will be amended accordingly.	ordinance	Q2/17	Q4/17	Q1/18
The amendments of the Capital Adequacy Ordinance (CAO) necessitate adjusting the Circular "Leverage Ratio" accordingly.	circular	TBC	TBC	TBC
The Basel Committee has also issued detailed standards for the first time on risk distribution, which are to be implemented by 1 January 2019. This will require additional changes to the CAO and FINMA Circular ‘Risk distribution – banks’.	ordinance circular	Q2/17	Q4/17	Q1/19
Implementation of the updated interest rate risk standards will require a revision of the circulars on ‘Interest rate risks – banks’, ‘Capital buffer and capital planning – banks’, ‘Eligible equity capital – banks’, ‘Disclosure – banks’ and ‘Credit risks – banks’. The amendments are in principle expected to enter into force on 1 July 2018, with the new disclosure requirements for banks with annual disclosure applying for the first time to disclosures as at 31 December 2018. The rules will thus take effect in Switzerland up to one year later than specified in the international timetable.	circular	Q4/17	Q2/18	Q3/18
The revised Basel standards also include new rules on determining capital adequacy requirements for market risks. According to the international timetable, these are to enter into force on 31 December 2019. The work done to date with regard to implementation has shown that more time is needed to do the job properly. As in other jurisdictions (including the European Union and Australia), the new market risk rules will enter into force in Switzerland with a delay of at least one year, i.e. on 31 December 2020 at the earliest.	ordinance circular	Q1/19	Q4/19	Q4/20
Basel III – liquidity standards* In the context of the Basel III liquidity regulations, it is planned to introduce the Net Stable Funding Ratio (NSFR) as a second minimum liquidity requirement for banks following the introduction of the Liquidity Coverage Ratio (LCR) in 2015. This will result in a revision of the Liquidity Ordinance (LiqO). As part of the same process, the implementing provisions for the NSFR must be added to the circular on ‘Liquidity risks – banks’. FINMA also conducted an ex-post evaluation of the LCR in 2016, resulting in amendments that mainly concern simplifying the existing rules on LCR reporting.	ordinance circular	Q1/17	Q4/17	Q1/18 or Q1/19

* See FDF web page (www.efd.admin.ch > Topics > Economic, Monetary and Financial Affairs > Financial Centre Strategy) for the content and status of key financial sector regulatory projects in which FINMA does not take a leading role.

Project	Regulatory level	Status and next steps		
		Hearing / consultation	Adopted / to be adopted	Planned entry into force
Accounting – banks Value adjustments for default risks in banking are to be calculated in future on the basis of expected losses. In implementing this change, the utmost care is to be taken to ensure proportionality. The rules will be set out in a new FINMA ordinance on accounting, which will also incorporate parts of the circular 'Accounting – banks'.	ordinance circular	Q2/18	TBC	TBC
Auditing As FINMA explained in its 2016 Annual Report, it regularly reviews the quality of regulatory audits carried out by audit firms in view of the fact that they make up a significant share of the overall costs of the supervisory system. In this regard, it has concluded that the cost/benefit ratio can be improved. It has drafted measures to ensure that the Swiss system of financial market supervision can function even more effectively. However, implementing these at the regulatory level requires adjustments to the circular on 'Auditing'.	circular	Q4/17	Q3/18	Q1/19
Financial groups and conglomerates under the BA The current FAQ on financial groups and conglomerates according to the Banking Act, will not be revoked. Instead, as per the request of the industry, they will be transfered to a newly created circular.	circular	TBC	TBC	TBC
Insurance companies				
Insurance contracts* The Insurance Contract Act (ICA) is more than 100 years old. It regulates the contractual relationship between insurance companies and their clients. Urgent consumer protection concerns were addressed in an initial partial revision which came into effect on 1 January 2006. A total revision was planned with the primary aim of strengthening the rights of insured persons. However, both the National Council and the Council of States have come out against a comprehensive reform of the ICA. Parliament considered the Federal Council's proposals too radical. Consequently, the Federal Council was tasked with drafting a partial revision in March 2013. The corresponding dispatch was adopted by the Federal Council on 28 June 2017.	law	Q3/16	TBC	TBC
Insurance supervision law* On 7 September 2016, the Federal Council assigned the FDF to develop a consultation draft on the revision of the Insurance Supervision Act (ISA). The draft contains a reorientation of regulatory and supervisory intensity to reflect the need for insured persons to be protected, the introduction of a restructuring law for insurance companies and the regulations originally envisaged in FinSA relating to due diligence requirements when insurance companies provide financial services.	law	Q1/18	TBC	TBC

* See FDF web page (www.efd.admin.ch > Topics > Economic, Monetary and Financial Affairs > Financial Centre Strategy) for the content and status of key financial sector regulatory projects in which FINMA does not take a leading role.

* See FDF web page (www.efd.admin.ch > Topics > Economic, Monetary and Financial Affairs > Financial Centre Strategy) for the content and status of key financial sector regulatory projects in which FINMA does not take a leading role.

https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-59185.html

* See FDF web page (www.efd.admin.ch > Topics > Economic, Monetary and Financial Affairs > Financial Centre Strategy) for the content and status of key financial sector regulatory projects in which FINMA does not take a leading role.

* See FDF web page (www.efd.admin.ch > Topics > Economic, Monetary and Financial Affairs > Financial Centre Strategy) for the content and status of key financial sector regulatory projects in which FINMA does not take a leading role.