

FINANCIAL MARKET REGULATION: PENDING PROJECTS

(Status and outlook as of 1 April 2019)

Project	Regulatory level	Status and next steps		
		Hearing / consultation	Adopted / to be adopted	Planned entry into force
Cross-sector				
Financial services and financial institutions *				
<p>The Financial Services Act (FinSA) governs 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 Financial Institutions Act (FinIA). The new laws were passed on 15 June 2018 and will enter into force on 1 January 2020. A new authorisation category was also created for financial innovators. This came into force ahead of the new laws on 1 January 2019. Work on the Federal Council ordinance is being led by the Federal Department of Finance.</p> <p>The newly created superordinate regulations are to be transposed into FINMA's rules and regulations. On the one hand, FINMA has been granted selective powers to issue ordinances. On the other hand, the new provisions are to be incorporated into its existing codified supervisory practice. This will necessitate the creation of a new FINMA ordinance (FinIO-FINMA) as well as amendments to various existing FINMA ordinances (FINMA Collective Investment Schemes Ordinance, FINMA Collective Investment Schemes Bankruptcy Ordinance, FINMA Anti-Money Laundering Ordinance). Various circulars will also need amending. In the next step, the necessary changes will need to be made to the recognised self-regulatory standards.</p>	<p>law ordinance FINMA ordinance circular</p>	<p>Q3/14 Q4/18 Q4/19 Q4/19</p>	<p>Q2/18 To be confirmed (TBC) Q2/19 Q2/19</p>	<p>Q1/20 Q1/20 Q3/20 Q3/20</p>
Money laundering *				
<p>The Financial Action Task Force (FATF) published its fourth country report on Switzerland in December 2016 and found shortcomings in certain areas with regard to legislation and the effectiveness of the measures to combat money laundering/terrorist financing. In response to this, the Anti-Money Laundering Act (AMLA) is being revised under the direction of the FDF. A consultation on a draft bill took place in 2018.</p> <p>The first adjustments directly at the level of the FINMA Anti-Money Laundering Ordinance (AMLO-FINMA) were adopted following a public hearing in 2017 and will enter into force at the beginning of 2020. It is expected that the ongoing revision of the AMLA will necessitate further amendments to the AMLO-FINMA.</p>	<p>law FINMA ordinance</p>	<p>Q3/18 Q3/17</p>	<p>TBC Q2/18</p>	<p>TBC Q1/20</p>
FinTech licence *				
<p>In preparing the FinSA and FinIA draft legislation, the Parliament and Federal Council established the basis for a new licensing category (known as the FinTech licence) in the law (Banking Act) and ordinance (Banking Ordinance) and adjusted the criteria for the sandbox. FINMA subsequently also adjusted its AMLO-FINMA.</p> <p>The new licensing category and the amended provisions concerning the sandbox necessitate adjustments at the level of FINMA circulars (FINMA Circ. 2008/21 "Operational risks – banks" and 2018/3 "Outsourcing – banks and insurers", FINMA Circ. 2013/3 "Auditing" and FINMA Circ. 2008/3 "Public deposits with non-banks").</p>	<p>law ordinance FINMA ordinance circular</p>	<p>Q3/14 Q2/18 Q3/18 Q2/19</p>	<p>Q2/18 Q4/18 Q4/18 Q3/19</p>	<p>Q1/19 Q1/19 Q1/19 Q3/19</p>
Blockchain *				
<p>At the end of 2018 the Federal Council adopted a report on the legal framework for blockchain and distributed ledger technology (DLT) in the financial sector. The report shows that Switzerland's legal framework is well suited to dealing with new technologies, including blockchain. Nevertheless, there is still a need for selective adjustments. It has instructed the FDF and the Federal Department of Justice and Police (FDJP) to draw up a consultation draft in the first quarter of 2019. In particular, it recognised a need for adjustments to laws and ordinances in the areas of the CC/CO, CPIL, DEBA and FMIA.</p>	<p>law ordinance</p>	<p>Q1/19 Q1/19</p>	<p>TBC TBC</p>	<p>TBC TBC</p>

* 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.

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Banks				
<p>Bank insolvency, deposit protection and segregation * The Federal Council decided in February 2017 that the deposit protection scheme would be strengthened through a series of measures. Furthermore, the adjustments to banking insolvency legislation (BA; in particular the so-called bail-in) and the introduction of an obligation to segregate customer assets deposited with banks that were originally contained in the draft FinSA and FinIA legislation are reflected in the proposal.</p>	law	Q1/19	TBC	TBC
<p>Basel III – final stages * In the fourth quarter of 2017 the Basel Committee reached agreement on the open points of the Basel III reform package and concluded this work. The national implementation will be led by the FDF. The final stages will necessitate adjustments to the BO, the CAO and the Liquidity Ordinance (LiqO), as well as the corresponding FINMA regulations.</p>	ordinance circular	TBC TBC	TBC TBC	TBC TBC
<p>Small banks regime Regulation and supervision will become less complex and intensive for smaller, low-risk banks and the existing proportional, risk-based approach will be further strengthened. A separate small banks regime will provide the basis for this. An adjustment to the CAO by the Federal Council and amendments to various FINMA circulars are necessary as a result of this (FINMA Circ. 18/3 “Outsourcing – banks and insurers”, 08/21 “Operational risks – banks”, 17/1 “Corporate governance – banks”, 16/1 “Disclosure – banks”, 19/1 “Risk diversification – banks”, 17/7 “Credit risks – banks” and 19/2).</p>	ordinance circular	Q2/19 Q2/19	TBC Q4/19	Q1/20 Q1/20
<p>Accounting – banks FINMA is formalising the accounting guidelines in a new FINMA ordinance. FINMA Circular 2015/1 “Accounting – banks” will be substantially shortened. Changes to the content in the area of value adjustments are proposed and a new approach for the creation of value adjustments for default risks, which takes into account the principle of proportionality based on the categorisation of banks, is being introduced.</p>	FINMA ordinance circular	Q2/19 Q2/19	Q4/19 Q4/19	Q1/20 Q1/20
Collective investment schemes				
<p>Limited Qualified Investment Funds * To increase the attractiveness of Switzerland as a fund location, the Federal Council is planning an amendment to the Collective Investment Schemes Act (CISA). The aim is to establish the basis for a fund not subject to approval for qualified investors (L-QIF).</p>	law	Q3/19	TBC	TBC
Insurance companies				
<p>Insurance contracts * Urgent consumer protection concerns were addressed in an initial partial revision of the Insurance Contract Act (ICA) 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 came 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.</p>	law	Q3/16	TBC	Q1/20
<p>Insurance supervision law * On 7 September 2016, the Federal Council assigned the Federal Department of Finance 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. A subsequent revision of the Insurance Supervision Ordinance (ISO) and the FINMA Circular is planned.</p>	law ordinance circular	Q4/18 TBC TBC	TBC TBC TBC	TBC TBC TBC

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Planned ex-post evaluations				
<p>Ex-post evaluations are used where appropriate to assess the effectiveness of FINMA ordinances and circulars after they have entered into force. In contrast to a feasibility study, they are based on real-world experience in the practical application and implementation of the regulations by those concerned. Ex-post evaluations take place within the framework of the normal regulatory process.</p> <p>Circular on 'Direct transmission'</p> <p>Circular on 'Risk diversification – banks'</p> <p>Circular on "Auditing"</p> <p>Circular on "Pricing of occupational pension funds"</p> <p>Circular on "Interest rate risks – banks" / "Disclosure – banks"</p>		<p>2019</p> <p>2023</p> <p>2022</p> <p>2022</p> <p>TBC</p>		

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