

## FINANCIAL MARKET REGULATION: PENDING PROJECTS

(Status and outlook as of 25 January 2017)

Project	Regulatory level	Status and next steps		
		Hearing/ consultation	Adopted / to be adopted	Planned entry into force
<b>Cross-sector</b>				
<p><b>Financial services and financial institutions *</b></p> <p>On 14 December 2016, the Council of States adopted the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA). The debate in the National Council is planned for spring 2017. FinSA will govern the requirements for providing financial services and offering financial instruments (rules of business conduct at point of sale and prospectus requirements). It now also brings together the supervisory regulations for asset managers, managers of group assets, fund managers and investment firms into a Financial Institutions Act (FinIA). A new authorisation category will also be created for financial innovators.</p>	law	Q3/14	open	17/18
<p><b>Disclosure of qualified participations (FMIO-FINMA)</b></p> <p>The Financial Market Infrastructure Act (FMIA) has also brought adjustments to the notification duty for qualified participations in listed companies. In addition to the beneficial owner of any such participation, third parties who have the discretionary power to exercise the associated voting rights are also subject to the notification duty (Art. 120 FMIA), which has been detailed in FMIO-FINMA. In autumn 2016, in response to problems with the practical implementation of the rules, FINMA put out for discussion a proposal to amend the implementing provisions of FMIO-FINMA.</p>	ordinance	Q3/16	Q1/17	Q1/17
<p><b>Outsourcing</b></p> <p>In view of the growing importance of outsourcing in the banking and insurance sectors, FINMA has revised the provisions of circular "Outsourcing - banks". The circular regulates the way in which banks handle outsourced services and now also covers insurance companies. In addition, systemically important banks must meet more stringent requirements when outsourcing critical services. FINMA's principle-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.</p>	circular	Q4/16	open	open
<p><b>Financial market infrastructures</b></p> <p>The Financial Market Infrastructure Act (FMIA) entered into force on 1 January 2016, as did Federal Council Ordinance FMIO, FINMA Ordinance FMIO-FINMA and the revised National Bank Ordinance (NBO). The FMIA package requires adjustments to be made to FINMA's existing regulations, mainly the circulars on "Reporting requirements for securities transactions" and on "Securities journals". It also requires the development of a new circular on organised trading facilities (OTFs).</p>	circular	Q3/16	Q1/17	Q1/18

\* See FDF web page ([www.efd.admin.ch](http://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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<b>Banks</b>				
<p><b>Too big to fail *</b> 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 will form the subject of the next Federal Council evaluation report to be completed by the end of February 2017 in accordance with Article 52 of the Banking Act (BA).</p>	law	open	open	open
<p><b>Basel III - capital adequacy standards *</b> 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. As a result, the Capital Adequacy Ordinance (CAO) and circular "Leverage ratio - banks" will have to be amended.</p>	ordinance circular	Q2/17	Q4/17	Q1/18
<p>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 Capital Adequacy Ordinance and FINMA Circular "Risk distribution - banks".</p>	ordinance circular	Q2/17	Q4/17	Q1/19
<p>Implementation of the updated interest rate risk standards will require a revision of circular "Interest rates - banks". These standards are extremely important in the prevailing low interest rate environment. In the area of disclosure, it is a matter of implementing the so-called Phase II by partially revising circular "Disclosure - banks". This primarily affects the major banks (e.g. due to the TLAC-related disclosure requirements). The hearing on this subject is due to begin in the third quarter of 2017.</p>	circular	Q3/17	Q4/17	Q1/18
<p>The results of the fundamental review of the trading book for the market risk conditions of the BCBS must also be implemented, which again means amending the CAO and circular "Market risks - banks" by the end of 2019.</p>	circular	Q1/18	Q1/18	Q4/19
<p><b>Basel III - liquidity standards *</b> In the context of the Basel III liquidity regulations, it is now 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 NSFR must be added to circular "Liquidity risks – banks". FINMA also conducted an ex post evaluation of the LCR, as a result of which both the LiqO and circular "Liquidity risks – banks" will be revised. It is also planned to implement the principle of proportionality more consistently.</p>	ordinance circular	Q1/17	Q2/17	Q1/18
<p><b>Postponement of contract terminations - stay (BIO-FINMA)</b> Article 12 para. 2<sup>bis</sup> of the Banking Ordinance (BO), which came into force on 1 January 2016, requires Swiss banks only to enter into new contracts governed by foreign law or a foreign jurisdiction if their counterparties contractually recognise a postponement of premature contract terminations decreed by FINMA (known as a "stay"). Lean implementing provisions based on international standards will be incorporated into the Banking Insolvency Ordinance (BIO-FINMA) to give shape to the obligations stemming from this law and to give the parties involved a secure legal basis for implementation.</p>	ordinance	Q3/16	Q1/17	Q2/17
<p><b>Corporate governance</b> FINMA is consolidating the supervisory requirements relating to corporate governance, internal control system and risk management for banks. This consolidation takes the form of a circular incorporating the most recent findings from the financial crisis and the revised international standards.</p>	circular	Q1/16	Q3/16	Q3/17

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<b>Insurance companies</b>				
<p><b>Insurance contracts *</b> 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 introduced in an initial partial revision which came into effect on 1 January 2006. It was planned to undertake a total revision 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 draft for this partial revision was put out for consultation by the Federal Council on 6 July 2016.</p>	law	Q3/16	open	open
<p><b>Insurance supervision law *</b> On 7 September 2016, the Federal Council commissioned the FDF to develop a consultation draft on the revision of the 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.</p>	law	open	open	open

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