FINANCIAL MARKET REGULATION:
PENDING PROJECTS

(Status and outlook as of 18 May 2018)

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 debated the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA). Both draft laws were then debated in the National Council in September 2017. A consensus should be reached in winter 2017/spring 2018 and the final vote is scheduled in summer 2018. 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	Q2/18	To be confirmed (TBC)
Financial market infrastructures A key aspect of the Swiss regulations on derivatives trading is the obligation to settle certain categories of over-the-counter (OTC) derivatives via a central counterparty authorised or recognised by FINMA. OTC derivatives are those that are not traded on a trading venue such as an exchange or multilateral trading facility. The FMIA requires FINMA to name the categories of OTC derivatives that are now subject to this settlement obligation. It has done so with reference to the European legislation, since Swiss market participants predominantly trade derivatives on a cross-border basis and in particular with market participants based in the EU. The categories concerned are standardised OTC interest-rate derivatives and OTC credit derivatives. An addendum to FMIO-FINMA is needed to take account of this.	FINMA ordinance	Q4/17	Q1/18	Q3/18
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 regime for combating money laundering and terrorist financing, the FATF found shortcomings in certain areas with regard to legislation and the effectiveness of the measures to combat ML/TF and it made corresponding recommendations. The Federal Department of Finance analysed these recommendations, and a consultation on a draft bill should begin soon. According to the Federal Council, rectifying the shortcomings that were found will also require amendments 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 FINMA ordinance	Q2/18 Q3/17	TBC Q2/18	TBC TBC
Video and online identification FINMA's circular on 'Video and online identification' enables financial intermediaries to identify new clients digitally. The circular is a vital part of FINMA's effort to ensure technology-neutral regulation. Video and online identification technology is advancing at a fast pace. After a year of application in practice, FINMA is conducting its first ex-post review of the circular to identify any need for adjustment to take account of technological innovations as well as the experience gained so far.	circular	Q1/18	Q2/18	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
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 was tasked with producing a draft for consultation on changes to the appropriate legislation. 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	Q3/18	TBC	TBC
Too big to fail * The structure of the gone-concern emergency plans of systemically important banks (SIBs) 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 produced under Article 52 of the Banking Act (BA) and published on 28 June 2017. The Federal Department of Finance was mandated to produce a draft for consultation on gone-concern capital requirements for Swiss-focused SIBs by 28 February 2018.	ordinance	Q1/18	TBC	TBC
Further regulations are also needed in the law on bank insolvency. A draft for consultation will be produced simultaneously with the regulations about the deposit protection.	law	Q3/18	TBC	TBC
Basel III – capital adequacy standards * In implementing the Basel Committee on Banking Supervision's Basel III standards, the Federal Council has made various changes to its Capital Adequacy Ordinance (CAO). From 2018, the leverage ratio with a minimum of 3% will be a regulatory key figure. The rules on risk diversification have also been amended and now impose a maximum limit on loan amounts to address the risk of a bank encountering financial difficulties due to a default on a major loan. These changes do not enter into force until 1 January 2019. The Federal Council also decided that banks will be allowed to continue applying the existing current exposure method for derivatives and the existing capital requirements for fund investments for a further two years until the end of 2019.	ordinance	Q2/17	Q4/17	Q1/18 or Q1/19
The changes to the CAO necessitate adjustments to the circular on 'Leverage Ratio', in particular with regard to calculating the overall derivatives exposure.	circular	Q4/17	Q2/18	Q2/18
Given the extension of the deadline for the current exposure method, the circular on 'Credit risks – banks' will also need to be adjusted with regard to calculating the minimum capital required for a central counterparty's default fund.	circular	Q4/17	Q2/18	Q2/18
Finally, the changes to the CAO concerning risk diversification have made amendments to the circular on 'Risk diversification – banks' necessary.	circular	Q2/17	Q4/17	Q1/19
On the basis created in 2016 by the Banking Ordinance and CAO, the following circulars will be amended in line with the Basel III standards: 'Interest rate risks – banks', 'Capital buffer and capital planning – banks', 'Eligible equity capital – banks', 'Disclosure – banks' and 'Credit risks – banks'. The amendments are scheduled to enter into force on 1 January 2019, with the altered disclosure requirements for banks with annual disclosure taking effect as of the reportingf date 31 December 2018. The national regulations will thus enter into force with a delay relative to the international implementation schedule, which is by 2018.	circular	Q4/17	Q2/18	Q1/19
The Basel III standards also contain new rules on calculating capital requirements for market risks. According to the international implementation schedule, these are to enter into force on 1 January 2022.	ordinance circular	TBC	TBC	TBC
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 on 'Accounting – banks'.	FINMA ordinance circular	TBC	TBC	TBC
Auditing FINMA is taking measures to make regulatory audits by audit firms more risk-oriented. Audits should be more strongly aligned with the supervised institution's risk situation and should anticipate challenges it may face in the future. The aim is to improve efficiency in auditing. To this end, FINMA is revising its circular on 'Auditing'.	circular	Q4/17	Q2/18	Q1/19

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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 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.	law	Q3/16	TBC	TBC
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.	law	Q3/18	TBC	TBC
A revision of the Insurance Supervision Ordinance (ISO) is planned.	ordinance	TBC	TBC	TBC
Occupational pensions				
The circulars on 'Revolving-door tariffs' and 'Risk insurance tariffs in occupational pensions' date from 2008 and need to be updated. They will be merged into a single circular.	circular	Q2/18	Q4/18	Q4/18
Planned ex-post evaluations				
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 feasability 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.				
Circular on 'Direct transmission'		2019		
Circular on 'Risk diversification − banks'		2023		

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