

Circular 2016/4

Insurance groups and conglomerates

Supervision, organisation, structure, intra-group transactions, and reporting by insurance groups and conglomerates

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 Legal framework: FINMASA Art. 7 para. 1 let. b, 29
 ISA Art. 25, 64, 65, 68, 71, 72 73, 76, 79
 ISO Art. 111a, 191, 192, 193, 194, 204, 205

Addressees																						
BA			ISA			SESTA		CISA					AMLA		Other							
Banks	Financial groups and congl.	Other intermediaries	Insurers	Insurance groups and congl.	Insurance intermediaries	Stock exch. and participants	Securities dealers	Fund management companies	SICAVs	Limited partnerships for CISs	SICAFs	Custodian banks	Asset managers CISs	Distributors	Representatives of foreign CISs	Other intermediaries	SROs	DSFIs	SRO-supervised institutions	Audit firms	Rating agencies	
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I. Subject matter

This circular deals with the supervision, organisation, structure and intra-group transactions of insurance groups and conglomerates and with reporting by these groups and conglomerates. For readability reasons, groups and conglomerates are referred to collectively as "groups" in this document. 1

Sections III–VI apply only to insurance groups which are subject to supervision by FINMA under Article 65 and/or Article 73 of the Insurance Supervision Act (ISA; SR 961.01). 2

II. Supervision of insurance groups and conglomerates

A. General

Under Article 64 ISA, an insurance group is formed by two or more companies if at least one of them is an insurance company, if they as a whole are mainly active in the insurance sector, and if they form a single economic entity or are linked in another way through influence or control. 3

Under Article 72 ISA, an insurance conglomerate is formed by two or more companies if at least one of them is an insurance company, if at least one of them is a bank or securities dealer (financial sector) of substantial economic importance, if they as a whole are mainly active in the insurance sector and form a single economic entity, or are linked in another way through influence or control. 4

The key factor in deciding whether a company belongs to the insurance sector or the financial sector (especially banks and securities dealers, but also financial services providers which provide services to third parties unrelated to the group) is the main activity of the company and the sector to which it provides services. Companies which cannot be clearly assigned to one sector or the other are assigned to the insurance sector (Art. 205 Insurance Supervision Ordinance [ISO; SR 961.011]). 5

The financial sector is of substantial economic importance if: 6

- the total assets of the financial sector exceed 10% of the total assets of an insurance group, or 7

- the capital requirements for the financial sector exceed 10% of an insurance group's core capital (see Art. 48 ISO). 8

B. Supervision of insurance groups

a) General requirements

Under Articles 65 and/or 73 ISA, FINMA can place an insurance group which belongs to a company in Switzerland under group/conglomerate supervision. The key factor is whether an insurance group is actually managed from Switzerland or, if managed from abroad, is not subject there to equivalent group/conglomerate supervision. 9

b) Criteria

An insurance group can be placed under group/conglomerate supervision if it meets any of the following criteria: 10

- international character of the insurance group 11
- complex insurance group structures 12

An insurance group has a complex structure, has nested company structures, operates several business areas, or has intra-group links based on internal transactions. 13

- other important reasons 14

There may be other reasons for placing an insurance group under group or conglomerate supervision (e.g. substantial market share in a product group, public interest in macro-prudential oversight of a grouping of companies in the insurance sector, etc.). 15

If FINMA decides to place an insurance group under supervision, it is placed under group supervision by means of a ruling. In accordance with Article 191 para. 3 ISO, FINMA designates the company which is responsible to it as the point of contact for the insurance group's obligations under supervisory law. 16

III. Organisation of insurance groups - minimum reporting requirements

The organisation of insurance groups is governed by Article 191 in conjunction with Article 204 ISO. 17

A group's organisational structure is the way in which it is organised in line with its operational management and how it is divided up into a number of business areas. 18

The control structure embodies the principles and structures by which the insurance group is directed, monitored and controlled. This control structure must be illustrated and described. Firstly, the group documents its functions and committees with their responsibilities 19

and competencies (which may be defined in a set of organisational rules); secondly, it provides an overview of its key policies. FINMA must be notified whenever a head of a control function is appointed and must be provided with a copy of the individual's CV.

The management structure consists of a board of directors of a public limited company or cooperative and the individuals who are tasked with managing the company at insurance group level. An organisational chart of the insurance group showing the names of the members of the management structure along with the name and description of their respective area of responsibility as defined in the organisational structure must be provided. FINMA must be notified whenever a member of the management structure is appointed and must be provided with the individual's CV. 20

IV. Structure of insurance groups

The structure of insurance groups is governed by Article 192 in conjunction with Article 204 ISO. 21

A. Material holdings

Whenever a company within an insurance group intends to create, acquire or sell a material holding (including mergers and liquidations), the insurance group must report this to FINMA (ad-hoc report; Art. 192 para. 2 and Art. 204 ISO). The reporting requirement also applies if a previously non-material holding becomes material. 22

FINMA defines what constitutes a material holding in each case, i.e. individually for each insurance group (see Art. 192 para. 3 and Art. 204 ISO). 23

B. Reporting requirement relating to changes in the shareholder composition of insurance groups

Certain circumstances relating to changes in an insurance group's shareholder composition within the meaning of Article 29 para. 2 of the Financial Market Supervision Act (FINMASA; SR 956.1) must be reported. This is particularly the case if a direct or indirect holding of individuals or legal entities in the parent company of an insurance group meets one of the following criteria: 24

- the change results in the 10%, 20%, 33% or 50% voting rights thresholds of the parent company being reached or breached, 25
- an individual or group which is organised by contract or in some other way can exert substantial influence on the parent company of the group, or 26
- the change is media-relevant or triggers a reporting requirement under stock exchange law (in Switzerland or elsewhere). 27

V. Intra-group transactions - reporting requirements

Intra-group transactions (IGTs) and the ways in which they are monitored are defined in Articles 193 f and 204 ISO. 28

Reports which must be made before a change within the meaning of Article 194 para. 1 sentence 1 ISO becomes legally effective are referred to hereafter as "IGT ad-hoc reports". The term "IGT portfolio report" is used for reports within the meaning of Article 194 para. 1 sentence 2 ISO; these are submitted annually. 29

The minimum threshold values within the meaning of Article 193 para. 2 ISO are based on the insurance group's reported equity capital (usually taken from the group's last audited financial results) and are defined as follows: 30

Percentage minimum values for IGT ad-hoc reports	Percentage minimum values for the IGT portfolio report	31
2 %	0.1 %	

If the portfolio or structure of the IGTs changes materially during the financial year as a result of IGTs which are not subject to ad-hoc reporting requirements, FINMA must be provided with an interim portfolio report. 32

If the impact of IGTs which are not subject to reporting requirements becomes material, the insurance group must list them separately in the IGT portfolio report for each IGT category, indicating the quantity and total amount. 33

FINMA provides specific electronic documents for IGT reporting. 34

VI. Insurance group report

A. Reporting

The insurance group report consists of: 35

- consolidated financial statements as defined in Article 25 para. 1 ISA 36

According to Article 25 ISA, insurance groups must produce consolidated financial statements annually to 31 December covering the previous financial year. Reference can be made to the rules set out in the Swiss Code of Obligations (SCO; SR 220) regarding accounting and financial reporting (Art. 957 ff. SCO, specifically Art. 961 ff. and 963b SCO) and the recognised accounting standards specified in the Accounting Standards Ordinance (VASR; SR 221.432). 37

- a report on the group's financial situation (see Art. 203a ISO and Art. 111a ISO). 38

The report on the group's financial situation (public disclosure as defined in Art. 111a and Art. 203a ISO) must be submitted to FINMA in accordance with FINMA Circular 2016/2 "Disclosure - insurers". 39

- an activity report from the group's internal audit unit. This is based on the international standards defined by the Institute of Internal Auditors. 40

B. Reporting deadlines

Insurance groups must submit their internal audit activity report by 31 March of the following year. The submission dates for the consolidated financial statements are set out in Article 25 para. 3 ISA. The report on the group's financial situation is based on FINMA Circular 2016/2 "Disclosure - insurers". 41

Semi-annual consolidated financial statements must be submitted to FINMA by 30 September of the current financial year. 42