

# Regulatory developments

Synopsis of the most important regulatory developments in the banking and asset management industry

Status: 1 January 2022











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# 1. Chronological project overview

	Development		Consideration by Parliament		In force, end of final transition period
	Hearing/consultation		Publication of final regulation		Full application
	Publication of results of hearing/consultation/dispatch		Referendum deadline	≈	Estimated/approximately

## 1.1. Interdisciplinary projects

	2021												2022												2023					2023	2024	2025	2026	2027	2028
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun											
<b>Auditing</b>																																			
FINMA circ. 13/3 'Auditing' (ex-post evaluation)																																			
<b>Anti-money laundering/compliance</b>																																			
Federal Act to Increase the Effectiveness of Combating Money Laundering and Terrorist Financing																																			
Anti-Money Laundering Ordinance (AMLO)																																			
<b>Organisation of financial market</b>																																			
Financial Services Act (FinSA)																																			
Financial Services Ordinance (FinSO)																																			
FinSO (extension of transitional period for key information document)																																			
Financial Institutions Act (FinIA)																																			
Financial Institutions Ordinance (FinIO)																																			
FinIO-FINMA (adjustments resulting from FinSA/FinIA)																																			
FMIA (assessment of the regulation)																																			
FMIO (extended transitional period for small non-financial counterparties)																																			
FINMA guidance 04/2020 (extension of deadline for first margin payments of certain OTC derivatives)																																			
FINMA guidance 02/2021 (derivative trading obligations and reference rate replacement)																																			
<b>Other topics</b>																																			
SCO (gender quota and transparency rules for the commodity trading sector)																																			
SCO (overall revision of company law)																																			
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Ordinance on transparency on non-financial matters																																			
Federal Act on Data Protection (FADP) (total revision)																																			
Ord. to the Federal Act on Data Protection (OFADP) (total revision)																																			
FINMA guidance 03/2018 (LIBOR: risks of potential replacement)																																			
Federal Act on the Adaptation of Federal Law to Developments in Distributed Ledger Technology (other adjustments)																																			
Ord. on the implementing regulations relating to the Federal Act on the Adaptation of Federal Law to Developments in Distributed Ledger Technology																																			
Sustainability in the Swiss financial sector																																			

## 1.2. Banks/securities firms

	2021						2022						2023						2024-2028																	
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	2023	2024	2025	2026	2027	2028						
<b>Accounting</b>																																				
FINMA Ord. on accounting and total revision of FINMA circ. 'Accounting – banks'																																				
FINMA guidance 04/2021 (value adjustments for default risks of non-impaired receivables)				7.																																
<b>Disclosure</b>																																				
FINMA circ. 16/1 'Disclosure' (phase III)																																				
FINMA circ. 16/1 'Disclosure' (climate-related financial risks)	1.									30.																										
<b>Capital adequacy/risk diversification</b>																																				
CAO (gone concern requirements)																																				
Basel III framework revision (post-crisis reforms)																																				
<b>Liquidity</b>																																				
LiqO (liquidity requirements for systemically important banks)			30.																																	
LiqO (partial revision of NSFR)	1.	1.																																		
FINMA circ. 15/2 'Liquidity risks' (adjustments NSFR)																																				
<b>Asset management/crossborder</b>																																				
SBA portfolio management guidelines 2020																																				
SBA guidelines on informing investors about structured products / SBA guidelines on the duty to keep documentary records / SBA code of conduct for securities firms (repeal)																																				
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FINMA Banking Insolvency Ordinance (BIV-FINMA) (Amendments to BankA and BankO)																																				
SBA guidelines on the treatment of assets without contact and dormant assets / SBA allocation directives for the new issues market (amendment)																																				

## 1.3. Fund management companies/investment funds/ representatives of foreign collective investment schemes

	2021						2022						2023						2024-2028																	
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	2023	2024	2025	2026	2027	2028						
CISA (introduction of funds not subject to authorisation)																																				
CISO (Limited Qualified Investment Funds L-QIF)																																				
FinSO and CISO (prolongation of transition period for key information document)																																				
FINMA guidance 05/2021 (prevention and combating greenwashing)																																				
Asset Management Association Switzerland guidelines																																				

## 2. Interdisciplinary projects

### 2.1. Auditing

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#### FINMA circular 13/3 'Auditing' | Ex-post evaluation

**Status:** • Ex-post evaluation expected in 2022

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- Assessment of the effectiveness of the originally enacted regulation.

### 2.2. Anti-money laundering/compliance

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#### Anti-Money Laundering Act (AMLA)

**Status:** • Adopted by Parliament on 19 March 2021  
• Referendum deadline: 8 July 2021  
• Expected entry into force: mid-2022

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- Stipulates the explicit duty of financial intermediaries to check the details of the beneficial owner.
- Duty to perform a regular risk-based review of whether the client documentation is up to date.
- Associations that collect or distribute assets abroad for charitable purposes must be entered in the commercial register.
- The law does not include the subordination of advisors (such as lawyers or trustees), which was highly contested in Parliament.

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#### Anti-Money Laundering Ordinance (AMLO)

**Status:** • Hearing until 17 January 2022  
• Expected entry into force as of 1 July 2022

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- Incorporation of relevant provisions of the anti-money laundering ordinances of public authorities (including AMLO-FINMA) to the Anti-Money Laundering Ordinance of the Federal Council:
  - Duties in the event of suspected money laundering;
  - Definition of the term 'reasonable suspicion' in the French-language version.

## 2.3. Organisation of financial market

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### Financial Services Act (FinSA)

- Status:**
- In force since 1 January 2020
  - Transition periods up to two years after entry into force
- 
- Adjustment of the code of conduct and product rules in the customer segment concerned (private customers/professional customers):
    - Information on financial services provider, service and product, including by means of a key information document;
    - Suitability check before transactions involving financial instruments (except 'execution-only');
    - Suitability check if providing advice and asset management services.
  - Guidelines regarding the organisation of financial services providers and the avoidance of conflicts of interest.
  - Duty to inform about accepting compensation from third parties or obligation to pass on compensation from third parties.
  - Obligation to enter client advisers in the register of client advisers if financial service providers are not supervised in accordance with FINMASA, and to engage in continuing professional education and training.
  - Extension of legal means in favour of customers, including right to the publication of documents.
  - Transitional periods after entry into force:
    - Six months for the registration of client advisers and affiliation of financial services providers with an ombudsman;
    - Two years for the introduction of the duties relating to the provision of financial services (e.g. duty to publish a prospectus for securities, key information document for financial instruments, publication).

### Financial Services Ordinance (FinSO)

- Status:**
- In force since 1 January 2020
  - Transitional period until 31 December 2021 to comply with the duties regarding client segmentation, expertise, code of conduct, organisation
  - Various other transitional periods for the publication of prospectuses and key information documents
- 
- Specification of financial service providers' duties to provide advice and information.
  - Implementing regulations for the provisions of the FinSA:
    - Organisation of financial services providers;
    - New register of client advisers;
    - Client documentation;
    - Ombudsman services;
    - Prospectus when offering securities;
    - Key information document.
  - If a financial service provider wants to comply with the requirements for the organisation and rules of conduct before the expiry of the transitional period of two years, it must irrevocably notify its auditor of the selected transition date. Until then, the previous regulations of the Stock Exchange Act (SESTA) or the Collective Investment Schemes Act (CISA) shall continue to apply.

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## Financial Services Ordinance (FinSO) | Extension of transitional period for key information document

- Status:**
- In force since 1 January 2022
  - Extension of the transitional period for the preparation of the key information document until 31 December 2022

- 
- The transitional provision previously defined in FinSO and CISO provided for the preparation of key information documents for structured products, collective investment schemes and other financial instruments as of 1 January 2022.
  - Modification of the transitional provisions of art. 111 FinSO and art. 144 CISO, so that a simplified prospectus can continue to be prepared until 31 December 2022, following the extension of the transitional period in the European Union.

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## Financial Institutions Act (FinIA)

- Status:**
- In force since 1 January 2020
  - Transition periods up to three years after entry into force

- 
- Regulation of the licensing obligation and the supervision of all financial service providers that operate an asset management business, i.e. asset managers, trustees, fund administrators, fund managers and securities firms.
  - Banks, insurance companies and pension funds, among others, are not subject to the Financial Institutions Act.
  - Definition of the licensing requirements with regulations concerning the organisation, assurance of proper conduct of business, legal form, risk management, internal controls and capital requirements.
  - Transitional periods:
    - *Financial institutions that have a licence in accordance with FINMASA when FinIA enters into force:* These institutions do not require a new licence, but must comply with the requirements of FinIA by 31 December 2020.
    - *Financial institutions newly subject to a licensing obligation:* Must notify FINMA within six months of entry into force and must satisfy the requirements of this act and submit a licence application within three years of the act's entry into force;
    - *Asset managers and trustees:* Must notify FINMA immediately if business activities are started within one year of FinIA entering into force, with affiliation and submission of a licence application to the supervisory organisation within one year of approval by the supervisory organisation.

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## Financial Institutions Ordinance (FinIO)

- Status:**
- In force since 1 January 2020
  - Individual transition periods up to three years after entry into force

- 
- Specification of the implementing provisions relating to the Financial Institutions Act (FinIA).
  - Regulations relating to authorisation and organisational requirements for supervised financial institutions.



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## FINMA Financial Institutions Ordinance (FinIO-FINMA) | Adjustments resulting from FinSA/FinIA

- Status:**
- In force since 1 January 2021
  - Transitional period until 31 December 2021 for managers of collective investment schemes and fund management companies that have a licence at the time of entry into force

- 
- Requirements concerning professional liability insurance for asset managers and trustees.
  - Detailed regulations for fund administrators: Regulation of the assets to be taken into account for the calculation of the de minimis threshold.
  - Detailed regulations for fund administrators and fund management companies:
    - Requirements concerning risk management, compliance and internal control system;
    - Requirements concerning professional liability insurance;
    - Requirements concerning the regulatory audit and financial audit.
  - Regulation of the capital adequacy reporting form for securities firms that do not hold accounts.

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## Financial Market Infrastructure Act (FMIA) | Assessment of the regulation

- Status:**
- Carried out by the Federal Department of Finance

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- Assessment of FMIA as of 2019 in light of international and technological developments.

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## Financial Market Infrastructure Ordinance (FMIO) | Extended transitional period for small non-financial counterparties

- Status:**
- In force since 1 January 2019
  - Transitional period until 1 January 2024

- 
- Extension of transitional period to 1 January 2024 for small non-financial counterparties to report derivatives transactions.
  - No change in transitional deadlines for financial counterparties and for non-financial counterparties which are not small.
  - Review of FMIO to be initiated as of 2019 in light of international and technological developments.

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## FINMA guidance 04/2020 | Extension of the timeframe to exchange initial margins for certain OTC derivatives

- Status:**
- In force since 14 April 2020
  - Extension of transitional period until 1 September 2022

- 
- Extension of the deadlines according to art. 131 para. 5 lit. d<sup>bis</sup> and lit. e FMIO for completing the final two implementation phases of the margin requirements for non-centrally cleared OTC derivatives by one year.
  - Duty to exchange initial margins applies to counterparties whose aggregated month-end average gross position of non-centrally-cleared OTC derivatives at group or financial or insurance group level:
    - is greater than CHF 50 billion for each of the months of March, April and May 2021: from 1 September 2021;
    - is greater than CHF 8 billion for each of the months of March, April and May 2022: from 1 September 2022.

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## FINMA guidance 02/2021 | Derivative trading obligations and reference rate replacement

**Status:** • In force since 5 July 2021

- Clarification with regard to the replacement of reference rates: Adjustments to existing derivative contracts solely to address the reference rate reforms are not considered as newly concluded derivative contracts and therefore do not trigger either central clearing or bilateral margin obligations.

## 2.4. Other topics

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### Code of Obligations | Amendment to the Law on companies limited by shares (gender quota and transparency rules for the commodity trading sector)

**Status:** • In force since 1 January 2021  
• Transitional periods up to 31 December 2030 at the latest

- Gender quotas for the Board of Directors (min. 30 % each) and Executive Board (min. 20 %) of large listed companies (>250 employees), 'comply or explain' clause, with transitional period for reporting in the remuneration report on the
  - Board of Directors: at the latest for the financial year beginning five years after the entry into force;
  - Executive Board: at the latest as of the financial year beginning 10 years after the entry into force.
- Increased transparency requirements applicable to the commodities sector through the disclosure of payments to state-owned entities.
  - First-time application for the financial year beginning one year after the entry into force.

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### Code of Obligations | Amendment to the Law on companies limited by shares (overall revision of company law)

**Status:** • Adopted by Parliament on 19 June 2020  
• Revisions to the Law published on 30 June 2020  
• Referendum deadline: 8 October 2020  
• Expected entry into force: 1 January 2023, at the earliest  
• Adaptation of the articles of incorporation and organisational regulations to the new law within two years of its entry into force

- Implementation of the provisions of the Ordinance against excessive remuneration in listed companies limited by shares (ERCO) in federal law.
- Establishes guidelines for signing-on bonuses and compensation for prohibition of competition.
- Liberalisation of the incorporation and capital provisions.
- Revision of the provisions relating to impending illiquidity, capital impairment and over-indebtedness (art. 725 et seq CO).
- Better alignment of the law on companies limited by shares (Company Law) to the new Accounting Law, e.g. regarding a company's own shares and the use of foreign currencies in accounting and financial reporting.
- Proposed solutions with regard to shares held that are not recorded in the stock register (so-called 'dispo shares').
- More flexibility for conducting general meetings by electronic means.

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## Code of Obligations | Indirect counterproposal to the 'Responsible Business Initiative'

- Status:**
- In force since 1 January 2022
  - Transitional period: First-time application for the financial year beginning one year after the entry into force, i.e. applicable to the 2023 financial year

- 
- Obligation to publish a report on non-financial matters, in particular on CO<sub>2</sub> objectives, social issues, human rights, employee concerns and the fight against corruption, applicable to:
    - Public Interest Entities,
    - with at least 500 full-time positions on an annual average on a group basis, and
    - which exceed one of the following criteria in two consecutive financial years:
      - Total assets: CHF 20 million,
      - Turnover: CHF 40 million.
  - Introduction of due diligence and transparency requirements in relation to minerals and metals from conflict zones and to child labour:
    - Compliance with duties of due diligence regarding the supply arising from the trade and processing of specified metals from conflict zones and high-risk areas;
    - Compliance with duties of due diligence when offering products or services that are under reasonable suspicion of being produced or supplied using child labour;
    - Reporting on the fulfilment of the duties of due diligence.

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## Ordinance on transparency on non-financial matters

- Status:**
- Consultation expected: March 2022

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- Preparation of an implementing ordinance for the binding implementation of the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) for large Swiss companies.
  - This relates to reporting obligations concerning climate-related activities as part of the counterproposal to the Responsible Business Initiative.

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## Federal Act on Data Protection (FADP) | Total revision

- Status:**
- Adopted by Parliament on 25 September 2020
  - Referendum deadline: 14 January 2021
  - Expected entry into force: 2nd half of 2022

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- Extended duties to provide information and keep records.
  - Strengthening of the supervisory body and tighter sanctions.
  - Takes into consideration the EU's General Data Protection Regulation (EU-GDPR), which applies as of 25 May 2018, and the Council of Europe's Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 108).
  - Companies that have cross-border business in the EU must observe the provisions of EU-GDPR.
  - In September 2018, Parliament approved a phased approach to the bill:
    - 1. Implementation of EU Directive 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties (further development of the Schengen acquis).
    - 2. Total revision of the Federal Act on Data Protection (FADP) approved by Parliament on 25 September 2020.

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## Ordinance to the Federal Act on Data Protection (OFADP) | Total revision

- Status:**
- Hearing until 14 October 2021
  - Expected entry into force: 2nd half of 2022

- 
- Total revision of the ordinance on the basis of the amended Federal Act on Data Protection.
  - Specification of the implementing provisions for the Federal Act on Data Protection:
    - Minimum data security requirements,
    - Procedures related to the duty of disclosure and duty to inform,
    - Reporting of data security breaches.

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## FINMA guidance 03/2018, 10/2020 and 03/2021 | LIBOR: risks of potential replacement

- Status:**
- Replacement of LIBOR by the end of 2021 at the latest

- 
- Banks currently participating in fixing the LIBOR will be no longer compelled to contribute rates from 2021 onwards.
  - The National Working Group on Swiss Franc Reference Rates (NWG) is developing reform proposals to replace LIBOR.
  - Establish a basis for replacing the CHF LIBOR with the introduction of the Swiss Average Rate Overnight (SARON).
  - Risks for the institutions:
    - Legal risks relating to contracts for financial products that have a final maturity date after 2021;
    - Valuation risks relating to derivatives and lending contracts that reference LIBOR;
    - Operational readiness.
  - FINMA guidance 10/2020 published recommendations and expected milestones regarding the replacement of LIBOR in its guidance 10/2020.
  - FINMA guidance 03/2021 states that new LIBOR-based business transactions concluded as of the second half of 2021 may be considered a violation of the regulatory requirements with regard to adequate risk management, except for justified and documented exceptions.

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## Federal Act on the Adaptation of Federal Law to Developments in Distributed Ledger Technology

- Status:**
- In force since 1 February 2021 for amendments to the Code of Obligations, the Federal Intermediated Securities Act and the Federal Act on International Private Law
  - In force since 1 August 2021 for other amendments

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Legal framework for the amendments to several laws in connection with blockchain/distributed ledger technology (DLT):

- In the Code of Obligations: Increase legal certainty for the transfer of DLT-based assets by creating the possibility of digital registers of rights, which can guarantee the functions of securities.
- In the Federal Act on Debt Collection and Bankruptcy: Increase legal certainty by explicitly regulating the segregation of crypto-based assets in the event of bankruptcy.
- In the Banking Act: Regulation of the treatment of crypto-based assets as custodial assets and on the segregation of public deposits.
- In the Financial Market Infrastructure Act: Create a new licence category for DLT-based trading systems.
- In the Financial Institutions Act: Create the possibility to obtain a licence to operate an organised trading facility as a securities firm.

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## Ordinance on the implementing regulations relating to the Federal Act on the Adaptation of Federal Law to Developments in Distributed Ledger Technology

**Status:** • In force since 1 August 2021

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Implementation of the adaptations of the Federal Act on the Adaptation of Federal Law to Developments in Distributed Ledger Technology in relevant ordinances and implementing decrees. The following ordinances relevant to the financial market will be subject to substantial amendments:

- Banking Ordinance (BankO):
  - Definition of cryptographic-based assets subject to approval; and
  - Establish the authorisation requirements.
- Financial Institutions Ordinance (FinIO):
  - Extension of the recording and reporting duties of securities firms to DLT securities authorised for trading on a DLT trading facility;
  - New provisions on the eligible capital for non-account-holding securities firms;
  - Establish the duties of representatives of foreign financial institutions that provide financial services to comply with the FinSA regulations and to enter their client advisors in a register of advisors if services are provided to private customers.
- Anti-Money Laundering Ordinance (AMLO):
  - Establish the requirement to subject financial intermediaries to the AMLO, to permit the transfer of virtual currencies to third parties and to maintain a lasting business relationship with the contracting party.
- Financial Market Infrastructure Ordinance (FMIO):
  - Precise definition of the authorisation requirements and obligations of DLT trading facilities newly provided for in the FMIA.
- Audit Oversight Ordinance (AOO):
  - Simplified licensing requirements for the auditor in charge (lead auditor) of FinTech companies.

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## Sustainability in the Swiss financial sector

**Status:** • Publication of the report of the Federal Council of 17 November 2021 on the climate-related impact of the financial sector

- Review of progress of implementation by the financial sector by the end of 2022

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- Recommendation to financial market actors on the creation of transparency on financial products and client portfolios using comparable and meaningful indicators of climate-related impact.
- Promoting a common definition of sustainability impact to avoid 'greenwashing'.
- Reassessment of the progress of implementation by the financial sector by the end of 2022 and, if necessary, revision of the Financial Market Supervision Act to avoid 'greenwashing'.

# 3. Banks/securities firms

## 3.1. Accounting and reporting

### FINMA Accounting Ordinance and total revision of FINMA circular 20/1 'Accounting – banks'

- Status:**
- In force since 1 January 2020
  - Application of the provisions for the creation of value adjustments for default risks in the financial statements for the 2021 financial year, at the latest
  - Transitional periods for the creation of value adjustments for expected losses and for inherent default risks until 31 December 2025, at the latest
- 
- Enactment of the FINMA ordinance on accounting, which contains the fundamental provisions on valuation and recognition, and the integration of accounting and disclosure practice and the existing FAQs in the total revision of FINMA circ. 20/1.
  - Introduction of an approach for calculating allowances for past due receivables not considered to be impaired in addition to the specific allowances for doubtful accounts receivable:
    - Category 1 and 2 banks:
      - Expected loss approach in accordance with the international accounting standard used;
      - If no international accounting standard is used, the expected losses are determined on the basis of:
        - Model-based expected loss approach for all portfolios using the IRB approach;
        - a simplified approach for other holdings.
    - Category 3 banks with significant activities in the interest rate spreads business:
      - Creation of value adjustments for inherent default risks.
    - Other banks:
      - Creation of value adjustments for latent default risks.
  - Banks can voluntarily apply a stronger, more comprehensive approach.
  - Value adjustments for expected and inherent losses may be used for specific allowances for doubtful accounts unless international accounting standards are applied.
  - Disclosure of:
    - Methods, data and assumptions for the recognition of allowances for past due receivables not considered to be impaired;
    - Parameters relating to the use, underfunding and rebuilding of value adjustments for expected and inherent losses.

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## FINMA guidance 04/2021 | Implementation of new approaches for value adjustments for default risks of non-impaired receivables

**Status:** • In force since 7 October 2021

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Based on an analysis of the financial statements of banks that used the new approach to create value adjustments for inherent default risks in the 2020 financial year, FINMA has explained certain findings:

- The amount of value adjustments for inherent default risks is very low for some banks.
- The explanations in the notes to the financial statements on the methods and the data and information used are rather brief and generalised. FINMA expects the disclosure to enable the reader to form a judgement on the applied approach.
- For many banks, the parameters concerning how the value adjustments are applied and the duration of recovery are not or only partially disclosed.
- If a bank creates several types of value adjustment, FINMA expects that only one type of value adjustment for non-impaired receivables will be disclosed.

## 3.2. Disclosure

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### FINMA circular 16/1 'Disclosure – banks' | Phase III

**Status:** • Basel Committee standard published on 11 December 2018  
• Implementation in Swiss law pending, expected entry into force: approx. 2023

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- Extension of the duties of disclosure in the areas of:
  - Credit valuation adjustment (CVA);
  - Regulatory treatment of problematic activities;
  - Qualitative and quantitative information on operational risks;
  - Comparison of risk-weighted assets calculated using model-based and standardised approaches;
  - Encumbered/ceded assets;
  - Dividend restrictions.
- Adaptation of the other current disclosure templates and tables from Phase II.

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### FINMA circular 16/1 'Disclosure – banks' | Climate-related financial risks

**Status:** • In force since 1 July 2021  
• Initial disclosure of details of climate-related risks in the annual report for the 2021 financial year, i.e. usually by 30 April 2022

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- Annual disclosure of climate-related financial risk management information:
  - Key features of the governance structure for climate-related financial risks;
  - Description of the climate-related financial risks affecting the business and risk strategy;
  - Risk management structures and processes to identify, assess and manage climate-related financial risks;
  - Criteria and methods for assessing the significance of climate-related financial risks;
  - Quantitative information and methodology.
- Limited application to category 1 and 2 banks only. A number of associations participating in the public consultation called for an extension of the climate-related disclosure requirements to banks in all supervisory categories. This will be examined further by FINMA in an ex-post evaluation.

### 3.3. Capital adequacy/risk diversification

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#### Capital Adequacy Ordinance (CAO) | Gone-concern capital, deduction of financial interests in subsidiaries and other amendments

- Status:**
- In force since 1 January 2019
  - Transitional periods for additional gone-concern minimum capital requirements until 2025
- 
- Introduction of gone-concern minimum capital for domestic systemically important banks (D-SIBs).
  - Investments in group companies active in financial services: deduction of financial interests from capital (from an individual company perspective) replaced by a financial interest risk-weighting for group companies based in:
    - Switzerland: 250 %
    - Abroad: 400 %
  - Group companies that provide the services necessary for the continuation of a bank's business processes are subject to consolidated supervision by FINMA.

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#### Basel III framework revision | Post-crisis reforms

- Status:**
- Consultation for transposition into national regulation: expected July 2022
  - Expected entry into force as of 1 July 2024
  - Phased increase of output floors for internal model-based approaches until 2028
- 
- Revisions to the standardised approach for weighting credit risks through:
    - Greater differentiation of risk weights rather than using flat rates, especially for exposures secured by residential or commercial property depending on the loan-to-value ratio; and
    - Further assessment requirements for the application of external ratings.
  - Use of the advanced IRB approach not allowed for certain exposure classes, especially exposures to corporates and to financial institutions.
  - Revisions to the calculation methodology of credit valuation adjustments (CVAs).
  - Replacement of previous approach to minimum capital requirements for operational risk (basic indicator, standardised and advanced measurement approaches) by a standardised approach based on earnings and historical losses.
  - Revision of the calculation methodology of the leverage ratio and introduction of a leverage ratio buffer for global systemically important banks (G-SIBs).
  - Output floor set for the internal model-based approaches at a minimum 72.5 % of risk-weighted assets calculated using the standardised approaches.
  - Entry into force of the requirements for calculating minimum capital requirements for market risks (FRTB) postponed from 2019 to 2024.
  - Simplified implementation of the rules for category 3 to 5 banks.



## 3.4. Liquidity

### Liquidity Ordinance (LiqO) | Liquidity requirements for systemically important banks

- Status:**
- Hearing until 13 January 2022
  - Expected entry into force as of 1 July 2022
  - Transitional period: 31 December 2022

- Definition of the basic requirements to be met by all systemically important banks and additional institution-specific requirements to ensure the necessary liquidity to absorb liquidity shocks.
- Introduction of requirements related to liquidity needs, in addition to the liquidity requirements applicable to all banks, for:
  - Intra-day risks;
  - Risks arising from the extension of loans;
  - Cliff risk and stress scenario using a 90-day time horizon.
- Immediate entry into force of reporting obligations.
- A six-month transitional period to comply with the basic requirements.

### Liquidity Ordinance (LiqO) | Partial revision of NSFR

- Status:**
- In force since 1 July 2021

- Enactment of mandatory requirements relating to the Net Stable Funding Ratio (NSFR).
- The requirement is met if the weighted Available Stable Financing (ASF) is greater than the weighted Required Stable Financing (RSF).
- Exemptions possible for individual institutions belonging to a financial group.
- Banks subject to the regime for small banks are exempt from compliance with the NSFR requirements.

### FINMA circular 15/2 'Liquidity risks – banks' | Adjustments to the NSFR

- Status:**
- In force since 1 July 2021

- Requirements for the introduction of the net stable funding ratio (NSFR) were already the subject of a consultation or hearing in 2017. Adjustments to the requirements, which have become necessary since then.
- Technical implementing regulations and specifications of the new NSFR requirements according to art. 17f-s LiqO.
- Qualitative requirements and LCR: clarifications, further details and additions in certain areas.

## 3.5. Asset management/cross-border

### SBA Portfolio Management Guidelines 2020

- Status:**
- Entry into force on 1 January 2022 at the latest

- Ensuring the content of the additional rules is compatible with the Financial Services Act (FinSA).
- Better consideration of current investment strategies.
- Guidelines adopted in the form of voluntary self-regulation, without recognition by FINMA and thus not generally binding.
- Institutions that adopt FinSA before the end of the transitional period, i.e. before 1 January 2022, and notify their auditors of the change may apply the Guidelines as of that date.

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**SBA Guidelines on informing investors about structured products/□**  
**SBA Guidelines on the duty to keep documentary records according to art. 24 para. 3**  
**Collective Investment Schemes Act (CISA)/□**  
**SBA Code of Conduct for Securities Dealers governing securities transactions | Repeal**

**Status:** • Repealed as of 31 December 2021

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- Repeal of the guidelines of the Swiss Bankers Association recognised by FINMA as a minimum standard.

### 3.6. Credit business

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**SBA Guidelines on minimum requirements for mortgage financing/**  
**SBA Guidelines on the examination, valuation and treatment of mortgage-backed loans**  
**| Amendment**

**Status:** • Under revision

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- Amendment of the guidelines of the Swiss Bankers Association recognised by FINMA as a minimum standard.

### 3.7. Organisation/risk management

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**FINMA circular 18/3 'Outsourcing – banks and insurers' | Total revision**

**Status:** • In force since 1 April 2018  
• After entry into force: immediate application to new or modified outsourcing arrangements  
• Transition period of five years to amend pre-existing outsourcing arrangements

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- Replaces FINMA circular 08/7 'Outsourcing – banks'.
- Obligation to maintain a record of all outsourced services.
- Requirements of the circular apply to intra-group outsourcing. However, rules may be relaxed if risks are proven not to exist or requirements are not relevant.
- In case of outsourcing abroad, all the necessary data required in the event of restructuring, resolution and liquidation must be accessible in Switzerland at all times.
- Extension of the area of application to include insurance companies.

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**FINMA circular 08/21 'Operational risks' | Total revision**

**Status:** • Hearing expected in Q2 2022  
• Expected entry into force: Q1 2023

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- Reclassification of the quantitative capital requirements for operational risks into the final Basel III regulations.
- Revision of the qualitative requirements for operational risks by adapting them to the following documents of the Basel Committee:
  - Principles for operational resilience (March 2021)
  - Reviews to the principles for the sound management of operational risk (March 2021).

## 3.8. Other topics

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### Banking Act (BankA) | Insolvency, deposit insurance, segregation

- Status:**
- Adopted by Parliament on 17 December 2021
  - Referendum deadline: 7 April 2022
  - Expected entry into force as of autumn 2022, at the earliest

- 
- Measures to improve depositor and customer protection:
    - Period in which insured deposits are paid out in the event of bankruptcy shortened to seven working days;
    - Banks may deposit securities with a secure third-party custodian or grant cash loans to the deposit insurance institution amounting to 50 % of the contribution obligation;
    - No requirement to hold liquidity for potential cash outflows to the depositor protection scheme;
    - The scheme's systemic upper limit is to be increased to 1.6% of the total amount of insured deposits and at least CHF 6 billion;
    - Obligation of each bank to make preparations rapidly to draw up payment schedules, contact depositors and execute payments on the basis of the lists of depositors.
  - Legal basis of instruments for restructuring banks which affect the rights of owners and creditors and were previously only regulated in the FINMA Banking Insolvency Ordinance (BIO-FINMA).
  - Introduction in the Federal Intermediated Securities Act (FISA) of the obligation to segregate proprietary assets and customers' assets recorded in custody accounts throughout the entire domestic 'custody chain' and for the first 'link' in the custody chain abroad.
  - Improving the function of the Swiss mortgage bond system in the event of the insolvency of a member bank by amending the Mortgage Bond Act (MBoA).

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### Banking Ordinance (BankO) | Insolvency, deposit insurance, segregation

- Status:**
- Consultation expected: April 2022

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- Follow-up to the changes in the Banking Act on the topics of insolvency, deposit protection and segregation.

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### FINMA Banking Insolvency Ordinance (BIV-FINMA) | Amendments to BankA and BankO

- Status:**
- Hearing expected in Q1 2023
  - Expected entry into force: Q1 2024

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- Adoption of the amendments to the Banking Act and the Banking Ordinance.
  - Review of a potential consolidation of the various insolvency regulations of FINMA (BIV-FINMA, ICBO-FINMA and Ordinance on the Bankruptcy of Collective Investment Schemes, CISBO-FINMA) into a new FINMA insolvency ordinance.

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### SBA Guidelines on the treatment of assets without contact and dormant assets held at Swiss banks/□

#### SBA Allocation Directives for the New Issues Market□ Amendment

- Status:**
- In revision

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- Amendment of the guidelines of the Swiss Bankers Association recognised by FINMA as a minimum standard.

## 4. Collective investment institutions

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### Collective Investment Scheme Act (CISA) | Introduction of funds not subject to authorisation

- Status:**
- Adopted by Parliament on 17 December 2021
  - Referendum deadline: 7 April 2022
  - Expected entry into force: end of 2022
- 
- Introduction of a category of funds that are not subject to authorisation by FINMA.
  - Limited Qualified Investment Funds (L-QIF) would be reserved for qualified investors such as pension funds and insurers.

### Collective Investment Schemes Ordinance (CISO) | Limited Qualified Investment Funds (L-QIF)

- Status:**
- Consultation expected: May 2022
- 
- Adoption of revisions to the Collective Investment Schemes Act (CISA) concerning Limited Qualified Investment Funds (L-QIFs).

### Financial Services Ordinance (FinSO) and Collective Investment Schemes Ordinance (CISO) | Extension of transitional period for key information document

- Status:**
- In force since 1 January 2022
  - Extension of the transitional period for the preparation of the key information document until 31 December 2022
- 
- The transitional provision previously defined in FinSO and CISO provided for the preparation of key information documents for structured products, collective investment schemes and other financial instruments as of 1 January 2022.
  - Modification of the transitional provisions of art. 111 FinSO and art. 144 CISO, so that a simplified prospectus can continue to be prepared until 31 December 2022, following the extension of the transitional period in the European Union.

### FINMA guidance 05/2021 | Prevention and combating greenwashing

- Status:**
- In force since 3 November 2021
- 
- Recommendation regarding transparency in sustainability reporting for sustainability-related Swiss collective investments.
  - List of scenarios considered as greenwashing or having a potential greenwashing risk.
  - Expectations regarding the appropriate organisational structure of institutions that manage sustainability-related Swiss or foreign collective investments.
  - Rules of conduct at the point of sale.

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## Guidelines of the Asset Management Association Switzerland

**Status:** • In force since 1 January 2022

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- Revision and adjustments of the provisions of the guidelines of the Asset Management Association Switzerland (AMAS) in view of the entry into force of the FinSA and the FinIA:
  - Code of conduct;
  - Guidelines on the calculation and disclosure of the Total Expense Ratio (TER) of collective investment schemes;
  - Guidelines on the valuation of the assets of collective investment schemes and the handling of valuation errors in the case of open-end collective investment schemes;
  - Guidelines on the calculation and publication of performance data of collective investment schemes;
  - Guidelines for real estate funds;
  - Guidelines for money market funds.
- The following guidelines shall be repealed as of 31 December 2021:
  - Guidelines for the distribution of collective investment schemes dated 22 May 2014;
  - Guidelines for the key investor information document of securities funds and of other funds for traditional investments in the form of mutual funds dated 20 January 2012.
- Aspects newly regulated by the FinSA shall no longer be part of the self-regulation. The self-regulation shall further clarify product-specific rules contained in the CISA. The changes mainly concern the wording and include changes in terminology and legal classification. Other changes not directly related to the new legal classification were made in individual cases.
- For reasons of time, the revised guidelines were published by AMAS on 17 June 2021 as a binding minimum standard before their recognition by FINMA. Individual changes may become necessary due to the steps in the formal recognition procedure provided for by the FINMASA Ordinance. The guidelines were considered voluntary self-regulation until FINMA recognised the self-regulation. FINMA recognised the self-regulation as a minimum standard on 28 September 2021.

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