

Regulatory developments

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

Status: 1 July 2022

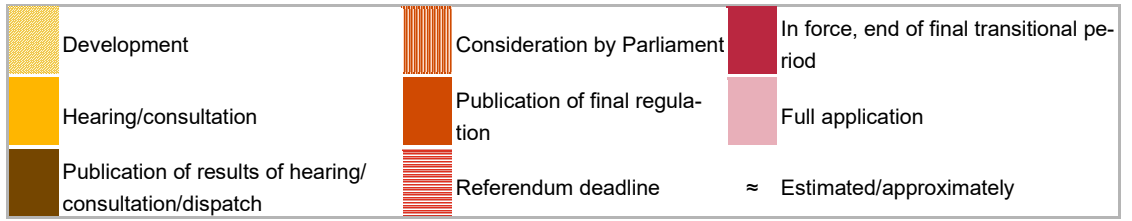


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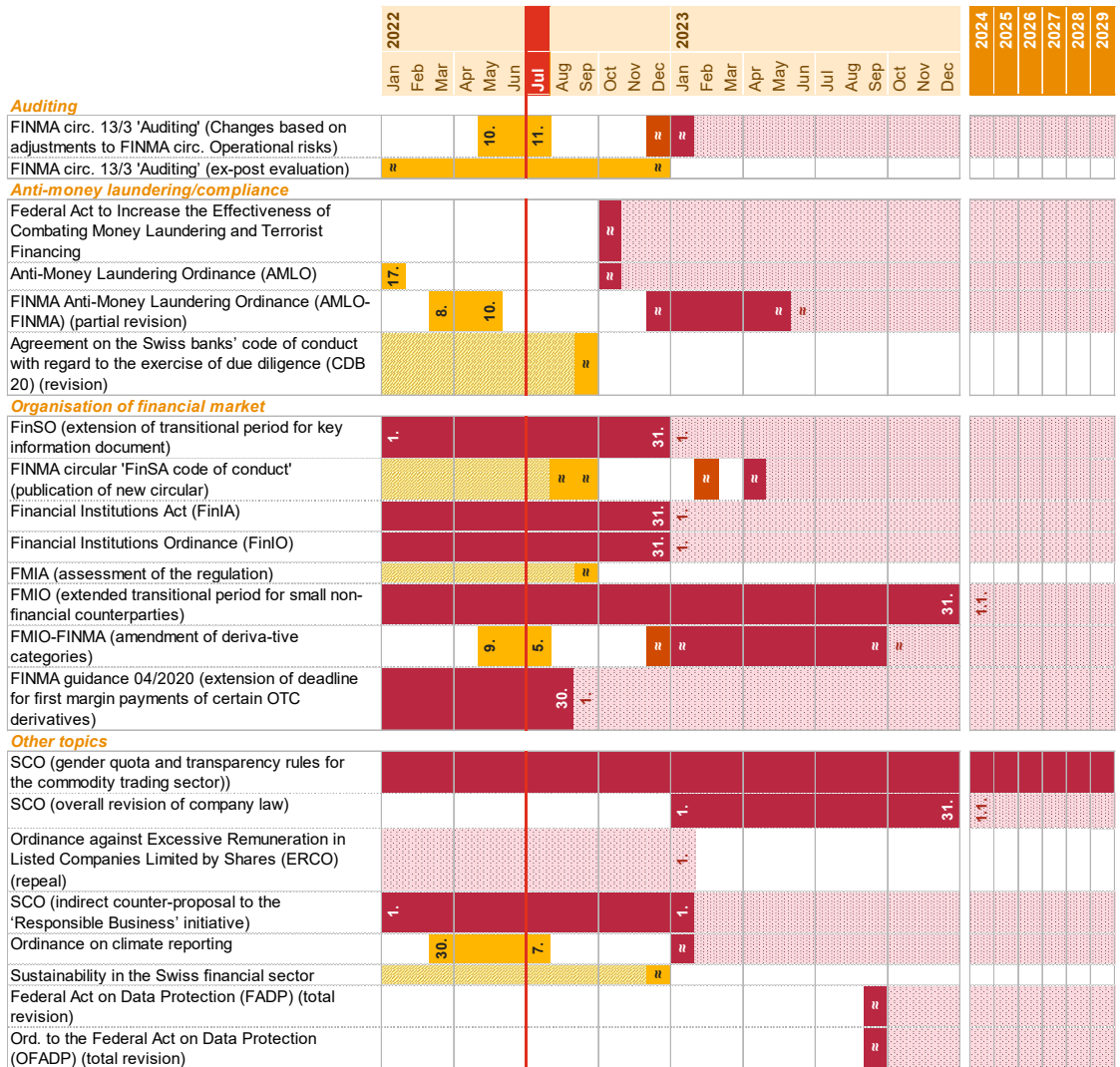
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1. Chronological project overview



1.1. Interdisciplinary projects



1.2. Banks/securities firms

	2022						Jul	2023						2024	2025	2026	2027	2028	2029								
	Jan	Feb	Mar	Apr	May	Jun		Aug	Sep	Oct	Nov	Dec	Jan							Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Accounting																											
FINMA Ord. on accounting and total revision of FINMA circ. 20/1 'Accounting – banks'																				31.12.	1.1.						
Disclosure																											
FINMA Ordinance on the disclosure of risks and equity capital and the principles of corporate governance							n		n											n							
FINMA circ. 16/1 'Disclosure' (climate-related financial risks)				30.																							
Capital adequacy/risk diversification																											
CAO (gone concern requirements)																				31.12.	1.1.						
CAO (reactivation of counter-cyclical capital buffer)	26.								30.																		
CAO (Basel III framework revision - post-crisis reforms)							n		n											n							
Liquidity																											
LiqO (liquidity requirements for systemically important banks)	13.					3.	1.																		31.	1.1.	
Asset management/crossborder																											
SBA guidelines on informing investors about structured products (repeal)						30.																					
Credit business																											
SBA guidelines on minimum requirements for mortgage financing (amendment)																				n							
SBA guidelines on the examination, valuation and treatment of mortgage-backed loans (amendment)																				n							
Organisation/risk management																											
FINMA circ. 18/3 'Outsourcing'														31.	1.												
SBA recommendations for business continuity management (BCM) (repeal)																				n							
FINMA circ. 08/21 'Operational Risks' (total revision)				10.			11.				n	n								n	n						
Sustainability																											
SBA Guidelines on the integration of ESG preferences and ESG risks into investment advice and portfolio management						28.								1.											31.12.	1.1.	
SBA Guidelines for mortgage providers on the promotion of energy efficiency						28.								1.											31.	1.1.	
Other topics																											
BankA (insolvency, deposit insurance)				7.											n												
BankO (insolvency, deposit insurance)				8.			15.								n										n	n	
FINMA Banking Insolvency Ordinance (BIV-FINMA) (Amendments to BankA and BankO)															n	n											
SBA Guidelines on the treatment of assets without contact and dormant assets held at Swiss banks (Guidelines on Dormant Assets 2014)						30.																					
SBA Guidelines on the treatment of assets without contact and dormant assets held at Swiss banks (Guidelines on Dormant Assets 2022)						2.	1.																				
SBA guidelines on the independence of financial research / SBA allocation directives for the new issues market (amendment)	n										n																

1.3. Collective investment institutions

	2022						Jul	2023						2024	2025	2026	2027	2028	2029							
	Jan	Feb	Mar	Apr	May	Jun		Aug	Sep	Oct	Nov	Dec	Jan							Feb	Mar	Apr	May	Jun	Jul	Aug
CISA (introduction of funds not subject to authorisation)				7.											n											
CISO (Limited Qualified Investment Funds L-QIF)								n		n					n											
FinSO and CISO (prolongation of transition period for key information document)	1.											31.	1.													

2. Interdisciplinary projects

2.1. Auditing

FINMA circular 13/3 'Auditing' | Amendments due to adjustment of FINMA circular on operational risks

- Status:**
- Hearing until 11 July 2022
 - Expected adoption: December 2022
 - Expected entry into force: 1 January 2023

-
- Split of current 'Information Technology (IT)' audit field into two new audit fields: 'Management of ICT risks' and 'Management of cyber risks'.
 - For the 'Management of ICT risks' audit field, gradual coverage over four years is now applied instead of six years as previously.
 - Introduction of a new 'Operational Resilience' audit field.

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

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

-
- Assessment of the effectiveness of the originally enacted regulation.

2.2. Anti-money laundering/compliance

Anti-Money Laundering Act (AMLA)

- Status:**
- Adopted by Parliament on 19 March 2021
 - Referendum deadline: 8 July 2021
 - Expected entry into force: 1 October 2022

-
- 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 advisers (such as lawyers or trustees), which was highly contested in Parliament.

Anti-Money Laundering Ordinance (AMLO)

- Status:**
- Hearing until 17 January 2022
 - Expected entry into force: 1 October 2022

-
- 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.

FINMA Anti-Money Laundering Ordinance (AMLO-FINMA) | Partial revision

- Status:**
- Consultation until 10 May 2022
 - Expected entry into force: 1 December 2022

-
- Adoption of the amendments to the Anti Money Laundering Act (AMLA) and the Anti-Money Laundering Ordinance (AMLO).
 - Regulates the criteria for the risk-based periodic validation that client data is up to date and on the relevant processes established in an internal directive.
 - Duties in the event of a suspicion of money laundering transferred from the AMLO-FINMA to the AMLO.
 - A few minor adjustments: Extension of the scope of application to DLT trading facilities, clarification regarding the threshold for transactions with virtual currencies, specification of the regulatory competency of SRO-SIA.
 - A transitional period of six months from the date of entry into force for technical arrangements to clarify the threshold for transactions in virtual currencies.

Agreement on the Swiss banks' code of conduct with regard to the exercise of due diligence (CDB 20) | Revision

- Status:**
- In revision

-
- Adjustment of self-regulation approved or recognised by FINMA.

2.3. Organisation of financial market

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.
 - Adjustment 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 circular 'FinSA code of conduct' | Publication of new circular

- Status:**
- Hearing expected: Q3 2022
 - Expected entry into force: Q1 2023

-
- Publication of basic questions regarding the implementation in practice and interpretation of the code of conduct according to the Financial Services Act (FinSA) and the Financial Services Ordinance (FinSO).

Financial Institutions Act (FinIA)

- Status:**
- In force since 1 January 2020
 - Transitional 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.

Financial Institutions Ordinance (FinIO)

- Status:**
- In force since 1 January 2020
 - Individual transitional 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.

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

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

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

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 adjustment to 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.

FINMA Financial Market Infrastructure Ordinance (FMIO-FINMA) | Adjustment of derivatives categories

- Status:**
- Hearing until 5 July 2022
 - Expected entry into force: Q1 2023
 - Transitional period expected: Compliance with the defined reporting requirements within 9 months of entry into force

-
- Adjustment of the derivatives categories subject to the obligation to clear trades via a counterparty in the EU.
 - Precise definition of the content to be reported in the event of reportable derivative transactions.

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

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- Extension of the deadlines according to art. 131 para. 5 lit. d^{bis} 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.

2.4. Other topics

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 disclosing the information in the compensation report for
 - Board of Directors: at the latest as of the financial year beginning 5 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.

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

- Status:**
- Entry into force: 1 January 2023
 - 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.

Ordinance against Excessive Remuneration in Listed Companies Limited by Shares (ERCO) | Repeal

- Status:**
- Date of repeal: 1 January 2023

-
- Transfer of the provisions of the Ordinance against Excessive Remuneration in Listed Companies Limited by Shares (ERCO) to the Code of Obligations.
 - Repeal of the Ordinance as of 1 January 2023.

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 CO₂ 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.

Ordinance on climate reporting

- Status:**
- Hearing until 7 July 2022
 - Expected entry into force: 1 January 2023

-
- Precise definition of the contents of reporting on climate (in particular on CO₂ targets) required for large Swiss companies as part of the reporting on environmental issues in accordance with the Code of Obligations art. 964a–c. Other environmental issues are not covered by this Ordinance.
 - Regulation of the presumption that the climate reporting obligation for large Swiss companies is fulfilled if the reporting is based on the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD). If a company applies guidelines or standards other than those of the TCFD, it must demonstrate that the reporting obligation is fulfilled in some other way.
 - The requirement to integrate climate reporting in the report on non-financial matters and to publish it on the company's website in a digital format (e.g. pdf or XBRL), which is both human and machine readable.

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

-
- 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, adjustment of the Financial Market Supervision Act to avoid 'greenwashing'.

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: 1 September 2023

-
- 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.

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

- Status:**
- Hearing until 14 October 2021
 - Expected entry into force: 1 September 2023

-
- 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.

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
 - Transitional periods for the creation of value adjustments for expected losses and for inherent default risks until 31 December 2025 at the latest
-
- Application of the provisions for the creation of value adjustments for default risks for the FY 2021 financial statements at the latest.
 - The intention is for value adjustments to be created on a straight-line basis for expected or inherent default risks during a transitional period lasting until 31 December 2025.
 - The amount of any shortfall may also be booked in full at an earlier date up to the end of 2025.

3.2. Disclosure

FINMA Ordinance on the Disclosure of Risks and Capital Requirements and the Principles of Corporate Governance (DisO-FINMA) | Replaces FINMA circular 16/1

- Status:**
- Consultation for transposition into national regulation: expected July 2022
 - Expected entry into force: 1 July 2024
-
- Replacement of current FINMA circular 16/1 'Disclosure – banks' by a FINMA ordinance.
 - 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.
 - Adjustment of the existing individual disclosure templates and tables.

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

-
- 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 as part of an ex-post evaluation.

3.3. Capital adequacy/risk diversification

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

- 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.

Capital Adequacy Ordinance (CAO) | Reactivation of counter-cyclical capital buffer

- Status:**
- Entry into force: 30 September 2022

-
- Reactivation of the counter-cyclical capital buffer of 2.5% Core Tier 1 capital for risk-weighted positions of mortgage loans directly and indirectly financing residential property located in Switzerland.
 - The counter-cyclical buffer will be effective from 30 September 2022 and will continue in force until it is deactivated or amended.

Capital Adequacy Ordinance (CAO) | Basel III framework revision – Post-crisis reforms

- Status:**
- Consultation for transposition into national regulation: expected July 2022
 - Expected entry into force: 1 July 2024
 - Phased increase of output floors for internal model-based approaches until 2028

-
- Adjustment of 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.
 - Adjustment of 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.
 - Adjustment 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.
 - Replacement of the previous FINMA circulars by FINMA ordinances:
 - Ordinance on the Trading Book and Banking Book and Eligible Capital (TBEO-FINMA): Replaces FINMA circular 13/1 'Eligible capital – banks';
 - Ordinance on the Leverage Ratio and Operational Risks (LROO-FINMA): Replaces FINMA circular 15/3 'Leverage ratio – banks' and the quantitative part of the FINMA circular 08/21 'Operational risks – banks';
 - Ordinance on Credit Risks (CreO-FINMA): Replaces FINMA circular 17/7 'Credit risks – banks';
 - Ordinance on Market Risks (MarO-FINMA): Replaces FINMA circular 08/20 'Market risks – banks'.

3.4. Liquidity

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

- Status:**
- In force since 1 July 2022
 - Transitional periods until 31 December 2023

-
- 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:
 - Risks arising from the extension of loans;
 - Cliff risk and stress scenario using a 90-day time horizon.
 - Transitional period of
 - 3 months to comply with reporting obligations
 - 18 months to comply with the basic requirements.

3.5. Asset management/cross-border

SBA Guidelines on informing investors about structured products | Repeal

Status: • Repealed as of 30 June 2022

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

3.6. Credit business

SBA Guidelines on minimum requirements for mortgage loans | Adjustment

Status: • Expected entry into force: 1 July 2024 (simultaneous with final Basel III standards)

- Reduction of the minimum requirements for investment property mortgage loans.
- Repeal of the tighter requirements imposed in 2019 and standardisation of the specifications for all property types:
 - Minimum down payment: 10%;
 - Maximum amortisation period to two thirds of the collateral value: 15 years.

SBA Guidelines on assessing, valuing and processing loans secured against property | Adjustment

Status: • Expected entry into force: 1 July 2024 (simultaneous with final Basel III standards)

- Inclusion of regulations on not-for-profit social housing.
- Obligation to record the purchase price, the collateral's value and the basis for calculation of each real estate collateral.
- Requirements regarding the independence of internal bank functions in the valuation of real estate collateral and in the use of valuation models.

3.7. Organisation/risk management

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
• Transitional period of five years to amend pre-existing outsourcing arrangements

- 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.

SBA Recommendations for Business Continuity Management (BCM) | Repeal

Status: • Expected repeal: 31 December 2022

- Parts of the SBA Recommendations previously recognised as self-regulation are covered by the total revision of the FINMA circular.
- Recognition of the corresponding parts of the SBA Recommendations as a minimum standard is expected to be repealed with the entry into force of the circular.

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

Status: • Hearing until 11 July 2022
• Expected adoption: December 2022
• Expected entry into force: 1 January 2023
• Transitional periods for operational resilience aspects from one year to three years after entry into force

- Reclassification of the quantitative capital requirements for operational risks into the final Basel III regulations.
- Clarification of the role and responsibilities of the Board of Directors in relation to operational risks.
- Obligation to regularly and independently assess the effectiveness of key controls and the separation of duties, responsibilities and competences to ensure independence and to prevent conflicts of interest.
- Obligation to perform risk and control assessments of significant changes in the products, activities, processes and systems.
- Requirements for change management in the field of information and communication technology (ICT) and ensuring the separation of ICT environments for development, testing and production.
- Expansion of the specifications for operating the ICT infrastructure and incident management.
- Clarification of measures for managing cyber risks.
- Clarification of the handling of critical data and increasing the desired level of protection compared to previous specifications.
- Adoption of an updated version of the previous SBA Recommendations for Business Continuity Management (BCM).
- Implementation of operational resilience specifications.
- Relaxation of the rules for banks and investment firms in supervisory categories 4 and 5, as well as banks in the regime for small banks and non-account-holding securities firms.

3.8. Sustainability

SBA Guidelines for financial service providers on the integration of ESG preferences and ESG risks into investment advice and portfolio management

- Status:**
- Entry into force: 1 January 2023
 - Transitional period until 1 January 2025
-

- Binding self-regulation for SBA members; non-members can adopt the guidelines on a voluntary basis. These guidelines **are not currently recognised nor approved as self-regulation by FINMA**.
 - Establish a uniform minimum standard for consideration of ESG preferences and ESG risks in investment advice and portfolio management to prevent greenwashing.
 - Regulation of:
 - obligations for the provision of information;
 - collection and consideration of ESG preferences of clients;
 - documentation and accountability;
 - requirements for providing employee training and professional development;
 - Internal Audit conducts a review of compliance with the guidelines at least every 3 years.
 - Transitional periods for the implementation of:
 - training and professional development until 1 January 2024;
 - new client relationships until 1 January 2024;
 - existing client relationships until 1 January 2025.
-

SBA Guidelines for mortgage providers on the promotion of energy efficiency

- Status:**
- Entry into force: 1 January 2023
 - Transitional period for adapting banks' internal processes until 1 January 2024
-

- Binding self-regulation for SBA members; non-members can adopt the guidelines on a voluntary basis. These guidelines **are not currently recognised nor approved as self-regulation by FINMA**.
- Encourage mortgage providers to consider long-term value retention and energy efficiency when offering clients advice on financing a property.
- Allow different conditions in the areas of loan-to-value, affordability, amortisation and interest rates that distinguish between the financing of sustainable properties and non-sustainable properties.
- Take measures to identify and collect relevant information available to the public on the climate efficiency of buildings (especially labels and certificates).
- Provide regular training for client advisers and mortgage specialists regarding the procedure for long-term value retention and energy efficiency.

3.9. Other topics

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

- Status:**
- Adopted by Parliament on 17 December 2021
 - Referendum deadline: 7 April 2022
 - Expected entry into force: 1 January 2023
-
- 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 adapting the Mortgage Bond Act (MBoA).
 - Adjustment of banks' self-regulation to protect privileged deposits within five years at the latest.

Banking Ordinance (BankO) | Insolvency, deposit insurance

- Status:**
- Hearing until 15 July 2022
 - Expected entry into force: 1 January 2023, at the earliest
 - Expected transitional period until 2028

-
- Adoption of the amendments to the Banking Act on the topics of insolvency and deposit insurance.
 - Resolvability:
 - Requirements regarding the assessment of the ability to restructure and liquidate internationally important banks in Switzerland and abroad;
 - Clarification of the financial and organisational requirements for companies not subject to supervision that belong to a systematically important banking group and that are material to its business.
 - Deposit insurance:
 - Definition and description of privileged deposits, amounts and depositors;
 - Adoption of detailed provisions in the areas of IT infrastructure, personnel and processes for preparatory measures that ensure, in the course of normal business activities, a payment schedule is drawn up, depositors are contacted and the privileged amounts are guaranteed;
 - Further provisions for systemically important banks and relaxations of the rules for small banks;
 - Review of the preparatory measures at least every five years and review of the list of depositors every two years by the independent auditors.
 - Measures in the event of insolvency risk:
 - To enable the issue of financial instruments in the event of the restructuring of cantonal banks.
 - Determination of the supervisory categories of banks:
 - Adjustment and increase of the thresholds for total assets, insured deposits and assets under management to take account of developments in the financial market;
 - Introduction of a requirement to review the thresholds at least every five years.
 - Adaptation of the Mortgage Bond Ordinance (MBoO):
 - Clarification of the rules governing the management of coverage, in particular its classification and safekeeping;
 - Clarification of the tasks of the investigating officer appointed by FINMA in cooperation with the central mortgage bond institutions.
 - Transitional periods:
 - Deposit in the form of securities or cash loans within 11 months of the entry into force of the Ordinance;
 - Preparation of evidence of the ability to restructure and liquidate internationally important banks by 30 June 2024;
 - Independent auditors shall carry out the first review of the preparatory measures for deposit insurance and the list of depositors in the sixth year after the entry into force of the Ordinance, probably in 2028.

FINMA Banking Insolvency Ordinance (BIV-FINMA) | Adjustments 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 (BIO-FINMA, IBO-FINMA and Ordinance on the Bankruptcy of Collective Investment Schemes, CISBO-FINMA) into a new FINMA Insolvency Ordinance.

SBA Guidelines on the treatment of assets without contact and dormant assets at Swiss banks | Revision

Status: • Entry into force: 1 July 2022

- Replacement of the Guidelines of 1 January 2015.
- Update and clarification of the rules based on practical experience, in particular the rules on the publication of assets without contact and dormant assets.
- Removal of the maximum amount of CHF 1,000 for the rebooking of balances relating to customer relationships that are without contact or dormant to collective accounts.
- Opening of safe-deposit boxes:
 - Bank must keep a record of the opening. No longer necessary to involve someone subject to a professional duty of confidentiality or the auditor;
 - Contents with no value may be destroyed after documenting them.
- Stipulation of the rules on the liquidation of assets after the reporting deadline has expired and transfer to the Federal Finance Administration.

SBA Guidelines on the Independence of Financial Research (2018)/ SBA Allocation Directives for the New Issues Market (2004) | Adjustment

Status: • In revision

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

4. Collective investment institutions

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: 1 April 2023
-
- 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: August 2022
 - Expected entry into force: 1 April 2023
-
- Adoption of the amendments 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.
 - Adjustment 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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