AFBS News December 2021

Save the Date: The Association of Foreign Banks in Switzerland will commemorate its 50th Anniversary on 14 June 2022 in Zürich.

Legislation and Regulation: Switzerland

FINMA

The FINMA updated its **Risk Monitor**. It withdraws LIBOR transition form the risk list and adds the impact of climate change and greenwashing. The exposure to real estate lending in the low-interest-rate environment; difficulties related to market access and threats from cyber-attacks are the key risks the FINMA identifies. The FINMA will focus its supervisory activity on the intermediaries' way in mitigating such risks.
Info: FINMA DE FR IT EN

Market Access

The Federal Council adopts two reports on the state of play regarding market access. In one report it updates on the implementation of the roadmap concluded with Italy in 2015 and confirms that, since the majority of goals have been met, no further initiatives are planned. In the second report it explains the situation with regards to bilateral agreements on market access with Germany, France and Italy. While an agreement is in place with Germany, the situation remains difficult with Italy and France, which both require the setting-up of a permanent establishment.
Info: Italy DE FR IT; MiFID II DE FR IT

Liquidity Ordinance

The Federal Council conducts a minor revision of the Liquidity Ordinance. It introduces measures to allow TBTF banks to better absorb liquidity shortages. In the same context the Federal Council responds to a concern of banks active in trade finance and reviews the capital adequacy requirements. The measure intends to offer flexibility and at the same time intends to assure compatibility with the Basel III standards.
Info: DE FR

Stock Exchange

The Federal Council published for comments its draft legislation transposing the emergency protective measures for the Swiss stock exchange into the Financial Market Infrastructure Act FMIA. The Ordinance expires at the end of the year and the Federal Council suggests to be granted the possibility of adopting protective measures by law. In such a way, more immediate action is possible, and measures can be put in place for adequate duration.
Info: DE FR

Legislation and Regulation: International

Virtual Assets

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The **FATF** updates its Guidelines on Virtual Assets and on services providers active in this realm. It insists on the need of countries and service providers to understand and adequately mitigate AML risks related to virtual assets. The guidelines describe the way in which FATF Guidelines should be applied to the realm of virtual assets and by what means their activities should be supervised. It offers a summary of effective application by selected countries.
Info: FATF LINK

At the same time the US Office of Foreign Assets Control OFAC issues guidance regarding **sanctions compliance** by the virtual currency industry. It confirms that the same principles apply as to fiat currency transactions and that increased attention is required as new players and new forms of interaction are emerging. Case studies help illustrating the guidance.
Info: OFAC LINK

The European Banking Federation EBF responds to the Basel Committee for Banking Supervision BCBS draft regulation on crypto assets. It underlines the importance of defining a regulatory framework that is creating a level playing field between fiat and crypto assets and that encourages banks to deploy their activities in the realm of crypto assets. Transactions in crypto assets should not be migrating to the unregulated sector and banks should be involved to contribute with their experience in risk management practice.
Info: BCBS LINK - EBF LINK

EU Whistleblower Directive

The EU Directive 2019/1937 on the protection of whistleblowers entered into force already in December 2019. The obligation to provide an appropriate internal whistleblowing channel which is compliant with the EU Directive and the EU General Data Protection Regulation (EU GDPR) will apply to private and public sector companies with 250 or more employees as of 17 December 2021. Companies with a size of 50 - 249 employees will be granted a transition period until December 2023. The EU Directive is not directly applicable in Switzerland. However, it is of relevance for Swiss companies that have business branches in the EU, which generally employ at least 50 people. They are exposed to the risk of falling within the scope of the EU Directive.
Info: EU Directive 2019/1937

COVID19

The agreement with Germany on exemptions from taxation and constitution of a permanent establishment due to work from home has been extended until 31 March 2022 at least.
Info: LINK

Digital

NCSC Semi-annual Report 2021/1 (Jan-Jun 2021)

The National Cyber Security Centre (NCSC) issued its semi-annual report on the most important cyber incidents of the first half of 2021, in Switzerland and internationally. Between January and June 2021, the NCSC received a total of 10,234 reports of various cyber incidents, which is almost twice the number received in the first half of 2020. The majority of reports concerned various forms of fraud, in particular CEO fraud, fake support calls, classified ad fraud, or activities of investment fraudsters. The NCSC also notes a substantial increase of incidents involving ransomware and phishing.
Info: NCSC report in DE FR IT EN

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Sustainable Finance

Roadmap for Transition

Swiss Sustainable Finance SSF considers transparency as being a key element for supporting transition towards an environmentally compatible economy. It has published a roadmap recommending action for market players in the fields of standard setting, transparency, innovation, and dialogue & education. SSF suggests integrating sustainability aspects into all financial decisions by 2023 and to implement recommended actions by 2017.
Info: SSF LINK and DOC

FINMA

The FINMA has committed itself to contribute to the implementation of the **COP26**. It supports the NGFS Network for Greening the Financial System's recommendations by integrating climate-related financial risk into its supervisory practice. It aims at gaining better understanding through dialogue with supervised entities and to specify expectations in more detail and with a broader scope, if appropriate.
Info: DE FR IT EN

The FINMA Guidance 05/2021 provides **indications for funds** on how to inform on their application of sustainability principles: by allowing the investor to make an informed decision; by adapting its internal organisation to take into account the respect of sustainability principles; by assuring transparent and open information at the point of sale, also to limit civil liability.
Info: DE FR IT EN

The FINMA also updated its Circular **Disclosure Banks** in view of including transparency obligations for the disclosure of climate risks. The regulation initially applies to banks of supervisory categories 1 and 2 only. The rules are based on the TCFD principles (Task force for Climate-related Financial Disclosure).
Info: DE FR IT EN

Transparency Standards

The Asset Management Association AMAS and Swiss Sustainable Finance publish recommendations on minimum requirements and transparency standards for sustainable investments. The document follows up on the Federal Council's decision to invite the industry players to define themselves standards upon the international principles rather than issuing government regulation.
Info: AMAS DE FR EN

Green Confederation Bonds

The Federal Council decided to set the foundation to enable the Confederation to issue green bonds, so-called green Confederation bonds. With the issuance of green bonds, the application of international standards in Switzerland should be enhanced. This can further help to encourage stakeholder from private sector to issue bonds in the format too. The Federal Finance Administration (FFA), in cooperation with the Federal Department of the Environment, Transport, Energy and Communications (DETEC), will no prepare a framework for the issuance of green Confederation bonds and submit it to the Federal Council by the end of 2022 for a decision.
Info: Federal Council DE FR IT EN

Miscellanea

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Duty to Report Vacancies

The Federal Council updates the list of job profiles to which the duty to report vacancies applies. It states that five profiles encompassing approximately 213,000 posts will be included in the list.
Info: DE FR IT

Economic Impact of the Swiss Financial Sector

According to the latest study of BAK Economics, the Swiss financial sector is one of the most important pillars of the Swiss economy. Along the entire value chain, a gross value added of CHF 95.5 bn was generated in 2020. Roughly 40% of the Swiss economic footprint was generated by banks, 30% by insurance companies and 30% by companies from other sectors indirectly involved in the provision of financial and insurance services. During the pandemic, this infrastructure function was of particular importance.
Info: BAK Economics Economic Impact of the Swiss Financial Sector, 11/21 LINK

KOF Employment Indicator: Highest level since the financial crisis

According to KOF Employment Indicator, the situation on the Swiss labour market has further continued to improve in the third quarter of 2021 and is at its highest level since 2008. The renewed increase is mainly due to the larger number of companies that consider their current staffing levels to be too low. The labour market situation in the hospitality industry has improved particularly strongly. The indicator value suggests strong employment growth in the Swiss labour market over the current and coming quarters.
Info: KOF Employment Indicator DE FR EN

Internal

Application for Membership

Banque Internationale de Commerce – BRED (Suisse) SA

Bank of China Limited Geneva Branch

Last Minute

- The OECD updates its publication on Fighting Tax Crimes (available in EN, FR and Spanish): LINK
- European Securities and Markets Authority (ESMA) published its annual report on the EU market abuse sanctions: LINK
- OECD Toolkit note: Understanding tokenisation of assets in financial markets: LINK
- PriceWaterhouseCoopers on BEPS 2.0: Overview of the proposals for a global minimum tax: LINK
- Federal Department of Finance: How are public finances affected by COVID-19 crisis, ageing and climate change in the long-term: DE FR IT EN
- Study Oliver Wyman: Switzerland's Digital DNA 2020 - Three-quarters of the Swiss population want to improve their digital skills following their experiences with home office, distant learning and online shopping during the Corona pandemic: LINK
- OECD published its Economic Outlook December 2021: LINK
- The European Banking Authority (EBA) published its work programme with objectives, priorities and deliverables in the forthcoming years: LINK

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