# AFBS News NOV 2018 EN

# 47th Ordinary General Assembly on 5 June 2019, Geneva

## Legislation and Regulation – Domestic

### Quantitative Impact Study on Basel III – FINMA invites for participation

The Swiss Authorities started the national implementation of the final Basel III standards, of which the timely execution of a Quantitative Impact Study is an important part. The FINMA, as well as the AFBS and the SBA, invited banks to participate. The QIS needs to be performed before end of March 2019.

### Draft Ordinances on Financial Services and Financial Institutes

The Federal Council published the draft Ordinances on Financial Services and Financial Institutes and invites for comments until 6.2.2019. The main focus for foreign banks lies on gaps with MiFID II and unwarranted Swiss Finish, both in the Ordinances and in their various annexes. It further needs to be assured that the provisions do not put the foreign banks in a competitive disadvantage, be it to foreign financial service providers approaching clients based in Switzerland, be it to Swiss institutes whose foreign entities receive exemptions from registration and ombudsman duties when entering the Swiss market. **Info**: DE FR IT EN

The AFBS invited for Roundtables to discuss the draft Ordinances and collect input for AFBS Comments.

### Information exchanged for the first time

End of September 2018 Switzerland exchanged for the first time data on approximately 2 mio financial accounts. The exchange occurred with the EU countries and nine more jurisdictions. Initially, France was unable to participate due to technical problems; it is said that these problems could be resolved and data exchanged. Cyprus and Romania were excluded as their data protection standards are not compatible. **Info**: DE FR IT EN

### Revision of the Swiss Implementation of the Automatic Exchange of Information AEoI

During introduction of the AEoI the OECD standard had admitted the so-called white-list approach for a transitional period. It allows to apply simplified diligence duties also in relation with entities in countries that did not yet sign an agreement but had committed to doing so. This approach is no longer applicable from 1.1.2019; therefore Art 1 of the Swiss Ordinance is waived from that date. **Info**: DE FR IT EN

Based upon the G20 country report the Federal Council is preparing a **revision of the Swiss regulation** on AEoI. Main novelties are the abolition of exemptions for accounts of associations, foundations and co-ownerships; more stringent rules regarding capital payment accounts and shorter grace periods for obtaining missing documentation for identification. The consultation starts in February 2019.

AFBS Info serves as a platform for early information and is submitted for confidential use only. Certain information may still be awaiting final approval and may thus be subject to change. Although all sources of information are selected with the utmost care, errors and inaccuracies cannot be excluded.

### Transfer of Data and Art 271 Penal Code

The Federal Department of Justice and Police declares that a transmission of data to a foreign competent authority in a case of breach according to the EU General Data Protection regulation does not constitute an offence to Art. 271 Swiss Penal Code. **Info**: DE FR IT

### Interest Rate Benchmark

The UK Financial Conduct Authority confirms the end-date of LIBOR for end-2021. In Switzerland a working group with all relevant players established the "Swiss Average Rate Overnight" SARON as new benchmark in different segments of the interbank market. It also recommended the SARON as an alternative to the LIBOR and is defining technical details for the transition. **Info**: UK FCA: LINK

### Federal Council on Gold Trading

The Federal Council publishes a report on the role of Switzerland in gold trading and human rights. Switzerland assures 40% of the world-wide refining capacity. The majority of gold originates in industrial mines; the Swiss legal framework prohibits trading in gold from illicit origin; Switzerland is in contact with international organisations in view of promoting human rights standards in the mining industry. The report recommends strengthening of stakeholder involvement; promoting implementation of the OECD standards and using blockchain for traceability. **Info**: DE FR IT EN

## Legislation and Regulation – International

### EU: Third Country Market Access

The EU is reviewing its financial services regulation. In this context it also plans to amend Art 46 MiFIR, which governs the third country access to EU-domiciled professional clients and eligible counterparties. There are controversial views on the proposal. **Info** EN and EN

### IOSCO: Leverage by Investment Funds

The International Organisation of Security Commissions published for consultation a paper on leverage by investment funds. It shall assist national supervisory authorities in identifying funds that may pose a risk to financial stability and to measure it. **Info**: www.iosco.org and DOC

### OECD: residence by investment

The OECD has become aware of new practices, which allow persons to avoid the automatic information exchange. Several countries offer residence by investment and citizenship by investment schemes. It publishes a list of jurisdictions offering such schemes. Further, a Q&A is available with guidance for financial intermediaries to more easily detect whether specific situations can potentially be a case of abusive behaviour. **Info**: LINK

## Miscellanea

### Digital

The Federal Council continues its support of digitalisation of the federal administration by adopting the e-government strategy as proposed by "eGovernment Switzerland", the government agency for the promotion of

AFBS Info serves as a platform for early information and is submitted for confidential use only. Certain information may still be awaiting final approval and may thus be subject to change. Although all sources of information are selected with the utmost care, errors and inaccuracies cannot be excluded.

digital services. Focus is on user experience, transparency and open architecture through common standards and interoperability. **Info**: Federal Council: DE FR IT EN and e-government: DE FR IT EN

Long Finance publishes three reports on smart ledger technology and the SmartJurisdictionsIndex listing countries and their framework for smart ledger technology. It assesses the countries' readiness and availability of infrastructure for the development of smart ledger and blockchain technology. Switzerland ranks 18th. **Info** link

### AML-Standard for Cryptocurrency

The Capital Markets and Technology Association published a self-regulation, which serves as a guidance for the avoidance of money laundering in the treatment of digital assets by businesses and financial intermediaries. It also issued a blueprint on how to tokenize shares. **Info** ALM-Standards LINK – Tokenisation of shares LINK

## Agenda

### Members

End of membership: OpenFunds Investment Services AG (end of August 2018) - Bastions Partners Office SA (end of 2018) - Banque SYZ SA (end of 2018).

### Events

AFBS Roundtable: Crypto Currencies, ICO, Blockchain and Crypto Funds: J.Brzezek Crypto Broker AG; Zürich: 11.12.2018.

AFBS Roundtable: TRAFEC: Trade Finance Goes Digital: presentation of the digital platform for executing international trade and with testimonials from banks; Q&A: Geneva: 11.12.2018; Zürich: 13.12.2018.

Digitalised Banking: Fraud and Liability Risks: Zürich: 4.12.2018, P.Reichart Wartmann Merker; Geneva: 14.1.2019, P.Mouttet Mentha Avocats.

Trends in Human Capital: von Rundstedt & Partner Switzerland SA: Zürich: 16.1.2019 P.Scheiwiller; Geneva: 21.1.2019 A.Dagier-Joncourt; Lugano: 25.1.2019 M.Costantini.

AML in the CryptoCurrencies Business: L.Schlichting, Kellerhals-Carrard and Poseidon Group, and A.Ghislieri, Eidoo: Zürich: 22.1.2019; Geneva: 23.1.2019, Lugano: tbd.

CH - EU - UK: Cross-Border Banking at a Cross Roads: S.Hirsbrunner, Steptoe & Johnson LLP Brussels: Geneva: 28.1.2019; Zürich: 29.1.2019.

Cross-Border Services Provision to Italian Residents: L.Zitiello, Zitiello Associati Studio Legale, Milano; P. Altamura, G.Belgiojoso, Studio Colombo Altamura Pometto, Commercialisti, Milano: Lugano: 1.2.2019; Geneva: 6.2.2019; Zürich: 7.2.2019.

## Last Minute

Canton of Geneva adopts its reform on corporate taxation: Geneva: link and KPMG: link

EU Commission contingency plan in view of the exit of the UK in March 2019: link

AFBS Info serves as a platform for early information and is submitted for confidential use only. Certain information may still be awaiting final approval and may thus be subject to change. Although all sources of information are selected with the utmost care, errors and inaccuracies cannot be excluded.

Switzerland ranks 38th in the World Bank's "Ease of Doing Business" statistics: LINK

SIX publishes latest news on the implementation of the new ISO 20022 payment standards: DE FR EN

AFBS Info serves as a platform for early information and is submitted for confidential use only. Certain information may still be awaiting final approval and may thus be subject to change. Although all sources of information are selected with the utmost care, errors and inaccuracies cannot be excluded.