AFBS News November 2020

Legislation and Regulation: Switzerland

Ombudsman's Office

The newly implemented Financial Services Act (FINSA) provides for a mediation procedure before an ombudsman to settle disputes between clients and financial service providers. Financial services providers must be affiliated to an officially recognised ombudsman office. The FDF published a list of currently seven recognised banking ombudsmen.
Info: FDF list of Ombudsmen: DE FR IT EN

With the debate on the adoption of the legislation on distributed ledger technology Parliament made an amendment to the FinSA clarifying that affiliation duty does not apply to intermediaries which do not services private clients.
Info: DE FR IT

New Swiss Data Protection Law (DPA)

With the revision of the Data Protection Act, the legislator is undertaking a paradigm shift; in the new legislation, the focus will be on the process of data processing, i.e. the entire data lifecycle, from collection and use to anonymisation or deletion. Previously, the focus was on the existence of data collections. The revision is also introducing new concepts such as profiling and tightening criminal sanctions. It adapts to most foreign legal systems, notably the EU GDPR. It is expected to enter into force end of 2021.
Info: The final text as adopted by Parliament is available in DE FR IT

Contingents for third country workers

The Federal Council confirmed contingent of third country workers for 2021 at the same level as for 2020. It furthermore adopted a special regime for workers from the UK which no longer falls under the agreement on the free movement of persons with the EU. In total 3500 work permits are available for UK nationals.
Info: Federal Council Press Release DE FR IT and EY assessment: LINK

Distributed Ledger Technology

Parliament adopted the legislation amending Swiss Law to blockchain and DLT technology. The related Ordinance has been published for comments.
Info: DE FR IT

COVID-19

With its communication of 2.10.2020 the FINMA abolished special exceptions for account opening for Swiss residents. It extended exemption for authentication of ID documents for foreign residents until 30.6.2021 if COVID19-related obstacles make the orderly procedure excessively complicated or impossible. In any case,

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authentication needs to be available within 120 days from account opening and the exception needs to be duly documented in the file.
Info: FINMA Guidance in DE FR IT EN

The Federal Council submitted to Parliament a draft legislation governing COVID19 Hardship Assistance loans. The support amount of the confederation is determined at CHF 1 Bio; short time working compensation as granted in spring shall be continued; professional sports clubs should also be able to benefit from the COVID19 hardship programme. It contemporaneously adopted the related Ordinance.
Info: Law in DE FR IT EN / Ordinance in DE FR IT EN

FINMA Goals

On 18 November 2020 the FINMA published its goals for the period 2021-2024. It intends to focus on risks arising from structural change by assuring stability of the institutes and the financial centre as a whole through capital adequacy, fight against money laundering, high standards with respect to risk management. It equally wishes to ease innovation in technology and sustainable finance through technology neutral regulation.
Info: FINMA Press Release in DE FR IT EN

FINMA Risk Monitor

The FINMA also published the update of its risk monitor identifying key risks it sees for the supervisory activity. They include financial risks induced from climate change, from negative interest rates and the situation on the real estate market, the impact of COVID-19 on corporate lending and on banks' exposure to cyber-attacks. Money laundering remains a key concern as the impact of transition from LIBOR to risk-free interest rates.
Info: FINMA Risk Monitor in DE FR IT EN

FINMA: Regulatory Activity

The FINMA amended the draft Circular on **Video and Online Identification**. It extends the means available for identification by introducing the possibility of identification by scanning data on the person's biometrical chip. This is available as a complement to corroborate the client's identity.
Info: FINMA Press Release in DE FR IT EN

The FINMA published latest preparations for the **implementation of the Financial Services Law**, which encompass a listing of the relevant deadlines and in particular requirements for portfolio managers and trustees.
Info: FINMA Press Release in DE FR IT EN

It also adopted its **Ordinance on the implementation of the FinSA and FinIA** which governs professional liability of portfolio managers, trustees and portfolio managers of collective assets, calculation of de-minimis thresholds, risk management and internal control for portfolio managers of collective assets.
Info: FINMA Press Release in DE FR IT EN

Duty to Report Vacancies

The Federal Council updated the list of job profiles that require vacancy reporting under the Swiss legislation on mass immigration. Vacancies in the segments, where unemployment is above 5% need to be reported. Due to COVID19 in several employment segments, that threshold has been trespassed. The Federal Administration updates the list.

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Info: Federal Council Press Release in DE FR IT and on www.arbeit.swiss .

Sustainable Finance

Sustainable Finance

The Federal Office of the Environment and the State Secretariat for International Finance published the second edition of the **Climate Compatibility Assessment** which was conducted during 2020. It was extended to financial firms allowing assessment of their portfolios also. The report concludes that the financial market still excessively invests in the expansion of fossil energy sources, at 80% with a mere 20% being invested in renewable energy sources. 20% of the portfolios submitted were "ESG compatible", they performed slightly better than others.
Info: FOEN Press Release in DE FR IT EN

The Federal Council adopted its **Sustainable Development Strategy 2030** . It focuses on the goals of * sustainable consumption and production, * climate, energy and biodiversity; * equal opportunities and intends to promote achievement of the goals through * a competitive, internationally open economy; * the financial centre as a place of competence; * education and research to promote personal responsibility and involvement.
Info: Federal Office for Spatial Development in DE FR IT EN

Swiss Green Fintech Network

To further strengthen Switzerland's position as a leading location for sustainable financial services, the State Secretariat for International Finance (SIF), together with industry representatives, launched the Green Fintech Network on 3 November 2020. The network's mandate is to identify areas where the conditions for green fintech in Switzerland could be improved. It should submit concrete proposals to both the government and the private sector. An action plan is expected to be published in spring 2021.
Info: SIF press release in DE EN FR IT

In summer 2020, the SIF conducted a survey within the Swiss green fintech sector on opportunities for concrete technological applications and potential obstacles for Swiss green Fintechs in terms of funding, availability of data or regulatory environment.
Info: Results of the survey in EN DE FR IT

Digital

Cyber Security

The Reporting and Analysis **Centre for Information Assurance MELANI** published its latest half-year report. Attackers extensively exploited the new situation of work from home and remote contacts among staff. Attacks exploited social engineering techniques as well as the distribution of malware through attachments or links leading to a webpage where malware downloads. The quick setup of work from home networks opened vulnerabilities of networks and allowed attackers to infiltrate and extract ransom. Attacks used various channels to exploit network overload and the new ways of remote interaction.
Info: MELANI report in DE FR IT EN

National Cyber Security Centre

The Reporting Centre for Information Assurance MELANI is being integrated into the National Cyber Security Centre NCSC. The NCSC will be a coordinating body among government and private enterprise entities active in

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the realm of cyber security in view of enhancing resilience of the Swiss financial centre and the Swiss economy in general. The NCSC is setting up the necessary networks for information collection, analysis and sharing among constituents.
Info: NCSC News in DE FR IT EN

Miscellanea

The Federal Council adopted guideline for the application of **artificial intelligence** by the federal administration.
Info: Federal Council in DE FR IT

The Federal Council intends to promote re-usability of data by different entities of the **public administration** and to simplify data input by the owners: DE FR IT EN

It furthermore re-organised the activities in the realm of information and communication technology, concentrating these activities in the department of digital transformation and IT. The organisation encompasses the NCSC and is to assure coordination among the different departments' activities.
Info: Federal Council in DE FR IT

Internal

New Member

- Società Bancaria Ticinese: Observer status

AFBS Events

- 21 January 2021: **Sustainable Finance for Foreign Banks**: Regulatory and market environment and potential activities by a financial intermediary. With Susanne De Zordi, gwp Geissbühler Weber & Partner AG and Jan Amrit Poser, Bank J. Safra Sarasin Ltd. and AFBS representative to the SBA and FINMA expert groups.

Last Minute

- The SBA publishes the update of the Banking Barometer: DE FR IT EN
- The Federal Council adopts its strategy against corruption. It firstly applies to the federal government, but the Federal Council intends to cooperate with cantons and communes and expects the private sector to address the fight against corruption. DE FR IT
- The Zürich School for Applied Sciences ZHAW invites for the "Finance Circle", a series of seminars where experts discuss topical matters relating to the Swiss financial industry. Discussions in DE. Participation is free of charge: LINK
- The ZHAW published a study on opportunities for banking professionals (in DE): LINK
- Swiss Sustainable Finance (SSF) published the report Financing the Low-Carbon Economy: Instruments, Barriers and Recommendations, bringing up a broad range of finance solutions to support the transition to a climate-friendly economy: LINK
- Deloitte on the impact of climate-driven regulatory initiatives on Swiss financial institutions: LINK
- German Banking Association: 5 economic policy proposals for post-Covid area (in DE): LINK
- European Central Bank (ECB) published its final guide on climate-related and environmental risks for banks: LINK
- Bank of International Settlement (BIS) on Stablecoins: risks, potential and regulation: LINK
- European Securities and Markets Authority (ESMA) published the results of its Fast Track Peer Review (Peer Review) of the Wirecard collapse: LINK
- International Monetary Fund (IMF) published the latest World Economic Outlook: LINK
- OECD published a report on tax administrations' policies and practices to enhance gender balance: LINK
- BAK studies on the Economic Impact of the Swiss Financial Sector: EN DE FR

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