AFBS News February 2022

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

Legislation and Regulation: Switzerland

Federal Council

The Federal Council published for comments a draft legislation for the introduction of the **trust** into the Swiss law. As there are some questions regarding the taxation of the trusts which are open to debate, the AFBS will organise a working group to discuss these remaining questions. **Info**: Federal Council: DE FR IT – AFBS Members are invited to join the discussion by sending an email to deneys@afbs.ch.

The Federal Council wants to extend the protective measures for the Swiss Stock Exchange and adopt them in law. **Info**: Federal Council: DE FR IT and AFBS Comments: DOC.

The Federal Council also intends to adapt the Law on Internal Security in view of including regulation regarding the newly created National Cyber Security Centre and related procedures for exchange of information among institutes which belong to relevant infrastructure, such as banks and financial institutions. **Info**: Federal Council: DE FR IT

FINMA

The FINMA publishes guidelines regarding the recognition of self-regulation as minimum standard. It emphasises that such texts need to satisfy a series of minimum criteria of form and of content. Such texts need to belong to the realm of regulatory competence of the FINMA and to be broadly supported among the industry. Beyond consultation of government entities, the draft may also have to undergo public consultation if its scope goes beyond members of the initiating organisation. **Info**: DE FR IT

It further amended its Guidance on Reporting on Collective Investment Schemes CIS. The guidelines particularly concern financial intermediaries managing foreign funds with alternative investment strategies. Data needs to be provided to the FINMA before year-end.
Info: DOC

Parliament

Swiss Parliament adopts the revision of the **Collective Investment Schemes Act** with the introduction of the Limited Qualified Investor Fund L-QIF. Such investment fund can be set up by a regulated entity in Switzerland but

does not require product approval provided its offering is restricted to qualified investors. To become applicable, the legislation needs to be transposed in the Ordinance. **Info**: Parliament: DE ; AMAS: DE ; Lenz&Staehelin: EN

Swiss Parliament also approves abolition of **anticipatory tax** on bonds; this shall contribute to improve the attractiveness of the Swiss financial centre for the issuance of bonds by Swiss debtors. A referendum has been called for. It also adopted the revision of the Bank Act with the introduction of amendments regarding **depositor protection** by shortening payout from 21 to seven days and increasing segregated assets for coverage purposes.

Legislation and Regulation: International

Switzerland EU

The Federal Council conducted its discussion on the way forward in relation with the EU. It based its decision on a report of 10 January 2022 and agreed not to pursue the goal of a framework agreement but to continue negotiating specific matters in the context of the existing bilateral agreements. It further intends to reduce regulatory differences between the EU and the Swiss framework. The media release does not make explicit reference to the financial sector. **Info**: DE FR IT EN

OECD Anti-Base Erosion Model

In December the OECD had published details on the Second Pillar of the Anti-Base Erosion Model which will imply 15% as a minimal taxation for multinational enterprises which have a global revenue of above EUR 750 Mio. **Info:** EN and FR

CRD 6

The EU Commission issued a proposal for revision of the Credit Risk Directive CRD6. Among others the draft proposes to require third country financial firms intending to offer financial services in an EU country to establish a branch and to apply for authorisation in the respective target market. The measure would considerably restrict the freedom to provide financial services on a cross-border basis. **Info**: LINK

Digital

Digital Public Deeds

The Federal Council adopts the dispatch on the draft law on digitalisation for notaries. It intends to offer choice between deeds in paper and dematerialised deeds which are stored in a central registry. Upon input during consultation the Federal Council refrained from imposing dematerialised deeds as unique form available. **Info**: DE FR IT

E-ID bis

The Federal Council adopts key principles for the introduction of an E-ID. Self-Sovereign Identity and Privacy-by-Design shall contribute to enhance confidentiality and trust by users. The users shall be able to control data usage, exchange of data shall be minimised, and data storage centralised on a government-managed infrastructure. Draft

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legislation for comments shall be published mid-2022. **Info**: DE FR IT

Taxation of Crypto Currencies

The Swiss Federal Tax Administration revised its working paper on taxation of crypto assets. **Info**: DE FR IT

Sustainable Finance

Self-Regulation

Based upon initiation from the Federal Council, the Swiss Bankers' Association and the Asset Management Association are in the process of drafting self-regulation on three fields: private client advisory process; mortgage lending; disclosure of portfolio exposure. The documents are expected to be issued early in Q2 2022.

Miscellanea

The FINMA invited banks to share views and experiences on their participation in the Small Banks' Regime. The views are mitigated: while some banks broadly welcome the regime, many see limited benefit due to the fact that they remain obliged to report according to international standards to their parent company. This is a specificity to foreign banks. Furthermore, several banks do not adopt the extended audit intervals as their boards prefer having a regular oversight and an external view on the daily operations. Major cost savings are expected to materialise when new regulation fully takes into account proportionality.

Internal

Application for Membership

Termination of Membership

- FIRST INDEPENDENT FUND SERVICES Ltd.

- Millennium Banque Privée BCP (Suisse) SA

AFBS Events

The Future of Home Office; 21.03. in Zurich (11.00-12.30); 25.03. in Geneva (11.00-12.30); 01.04. in Lugano (11.00-12.30)

Last Minute

- Swiss Green Economy Symposium 2022 invites for submissions: https://sges.ch/
- Swiss Sustainable Finance sets out a roadmap for transition to a sustainable future: LINK
- The Swiss Finance Institute proposes Master Classes which might be of interest for the AFBS members and their staff: LINK

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- Project Jura: Swiss National Bank and Banque de France assess usability of wholesale digital bank currencies in the cross-border context: **SNB:** DE FR IT and **BIS:** EN
- Federal Department of Foreign Affairs brochure "One World" on sustainable change:DE FR IT EN

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