AFBS News April 2022

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

FINMA published the **Annual Report** 2021. In its media conference, the CEO Urban Angehrn outlined the risks he sees in the mortgage market, where minor corrections may expose institutes to considerable stress. FINMA is sceptical towards relaxation of the requirements for mortgage lending. It sees that the Ukraine crisis can pose major risks for the financial sector and individual institutions but does not think it being a major risk for the financial centre as such. **Info**: Media Conference and Annual Report: DE FR IT EN and AFBS Summary: LINK

FINMA alerts that **external wealth managers** need to apply with a supervisory organisation for affiliation before the end of the year if they wish to continue business under the new Financial Services Act. It observes that only a small share of the qualifying entities did file an application yet. SBA and FINMA are discussing the regime which distributes liability for supervisory activity between FINMA and the custodian bank. **Info**: DE FR IT EN

FINMA published for comments the revision of its **Anti-Money Laundering Ordinance AMLO-FINMA**. It enshrines current practice regarding the periodical verification of the identity of beneficial owners and the risk-based approach for the periodical update of client KYC. It further transposes into the AML Ordinance regulation regarding measures to be adopted in case of suspicion of money laundering. The deadline for the audition was the 10 May 2022. **Info**: DE FR IT EN

FINMA also published for comments a revision of the **Data Ordinance**. It is aligned to the new Data Protection Act and governs data processing by FINMA in the context of its supervisory activities. Audition ended on 10.5.2022. **Info**: DE FR IT EN

Cyber Security

On 5 April 2022 the Swiss financial community founded the Financial Services Cyber Security Centre, FS-CSC. The association is open for affiliation to all financial firms in Switzerland and offers early warning alerts, information sharing and exchange of experience and intelligence in the realm of cyber resilience. **Info**: DE FR IT EN

Legislative and Regulatory Projects

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AFBS commented the draft legislation on information security which introduces regulation regarding the new setup with the Financial Services Cyber Security Centre FS-CSC. AFBS underlined the importance of reporting procedures being standardised and harmonised among receiving entities to avoid multiple reporting and interaction with multiple entities. **Info**: AFBS Comments: LINK and SBA Comments: LINK

The AFBS Comments to the proposal for Swiss implementation of the **OECD Minimum Tax** Scheme confirm support of the comments made by the Swiss Bankers' Association. They insist on the necessity to apply simple procedures for the distribution of the national top-up-tax among cantons and to avoid retroactive application. **Info**: Federal Council: DE FR IT and SBA: DE FR EN and AFSBS Comments: LINK and SBA comments: LINK

SBA rejects the draft legislation on introducing the Trust in Swiss law. It criticises the proposal for its fiscal aspects which assimilate the trust to a foundation and therefore would lead to unfavourable tax treatment in the international comparison. The proposal is particularly delicate as it would apply Swiss regulation to any trust with a Swiss nexus, including pre-existing structures set up abroad. **Info**: DE

Legislation and Regulation: International

Russia-Ukraine Conflict: Sanctions

AFBS accompanies member banks in the implementation of sanction measures in relation to the Russia-Ukraine conflict. Regular AFBS Roundtables allow exchange of views and sharing of experience. AFBS Memos provide an update and identify common understanding. The AFBS Roundtables are open to AFBS Members. **Info**: Federal Council: DE FR IT EN and wuergler@afbs.ch.

Hague Convention on Place of Jurisdiction

The Federal Council proposes legislation to allow Switzerland to adhere to the Hague Convention on the Place of Jurisdiction. The convention governs competence of courts and recognition of rulings in the cross-border context. Switzerland's adhesion would contribute to increase legal certainty. It can strengthen Switzerland's position as an international economy and reinforce the status of its courts. The consultation lasts until 7 July 2022. **Info**: DE FR IT

Digital

Promote Switzerland as a Trusted Place for Data Storage

The Federal Council intends to strengthen Switzerland as a place for the safe storage of data and for the assurance of the owner's full sovereignty over data. It wishes to introduce regulation with that scope. The measures encompass the drafting of a code of conduct governing the management of data spaces; define interoperability between single data spaces; promote the emergence of trusted data spaces at the international level. The potential of usage of data is not sufficiently exploited in Switzerland. The creation of trusted data spaces shall contribute to improve the situation and offer a framework which offers broad usage of data and control of one's own data. **Info**: DE FR IT EN

The Swiss Federal Tax Administration publishes a report clarifying the fiscal treatment of crypto-currencies. They are subject to direct federal tax, anticipatory tax, and stamp tax duties. The publication assesses the fiscal impact of

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crypto tokens held as a means of payment as well as the treatment of issuance and holding of tokens. It lists three categories of tokens: payment tokens, investment tokens and utility tokens. **Info**: DE FR IT

Sustainable Finance

The Federal Council published for comments the draft Ordinance implementing the recommendations of the **Task-Force on Climate-related Financial Disclosures** TCFD. The Ordinance includes disclosure requirements that are part of the counter-proposal to the responsible business initiative. **Info**: DE FR IT EN

On 29 March 2022 the Swiss Bankers' Association published its **action plan** for the future of sustainable finance. It is working on drafting liberal self-regulation which defines a minimum standard for its members in the realm of advisory and, with the Asset Management Association Switzerland, in the realm of portfolio management. It adheres to the Net-Zero initiatives, and it intensifies support of education in view of assuring client advisers are aware of ESG matters. **Info**: DE FR EN and Net-Zero: DE FR EN

The think tank foraus published a paper evaluating the foundation of a **Swiss Green Investment Bank**. The bank should provide "climate financing" and contribute to "capacity building" for the public and private sector. **Info**: DE

Members of the EU Parliament suggested the EU taxonomy for sustainability to take into account the impact of **crypto mining** activities, which are heavy consumers of energy. **Info:** EN

Swiss Sustainable Finance publishes its **Roadmap** for Swiss Financial Market Players in Transition to a Sustainable Future. The document has been elaborated upon member input which was mirrored with stakeholders prior to be finalised in wording. It lists recommended action which encompasses * creation of basis for integration ESG into decision making; * implementing instruments; * align financial flows with ESG goals. **Info**: LINK

Economiesuisse updates on its initiative promoting the SBTi Science Based Targets initiative which offers firms a toolbox for their implementation of the appropriate measures. **Info**: DE FR IT

Miscellanea

Internal

AFBS Events

17 May 2022: SDX SIX Digital Exchange, David Newns; V/C.

18 May 2022: EU Tax Developments, Klaus von Brocke, Kanzlei von Brocke, V/C.

30 May 2022: Digital Assets in a cross-border context, speakers from Broseta and BBVA (Suiza) SA, V/C.

23 May 2022: Taxation of Crypto Assets, speakers from BakerMcKenzie, V/C.

1 June 2022: FINMA and MROS Annual Report: Assessment of Content, Joel Fischer, Bär & Karrer and Veit Bütterlin, AlixPartners, V/C.

1 July 2022: SNB presentation of projects Helvetia and Jura on digital currencies; V/C.

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Last Minute

- The Federal Council publishes its Annual Report 2021: DE FR IT
- Annual Report of the Supervisory Authority on the Federal Prosecutor's Office: DE FR IT
- SIF key figures on the Swiss financial centre: DE FR IT EN
- Swiss Federal Tax Administration Activity Report 2021: DE FR
- The Swiss Federal Audit Office publishes a report on the work of the Money Laundering Reporting Office: full report: DE and summary: DE FR IT EN
- Avenir Suisse Freedom Index 2021: DE FR IT EN
- Avenir Suisse on subventions' impact on market access: DE FR

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