AFBS News April 2017 EN

Legislation and Regulation – Domestic

Annual Reports

The **FINMA** announces that it will focus its superviso-ry activity on the banks' anti-money laundering procedures. It gives high priority to market integrity and invites banks to abide by international standards in customer due diligence and cross-border activity both with banks and with asset management firms. **Info**: DE ; FR ; IT ; EN

The **Money Laundering Reporting Office MROS** received more reports than in the past (2900 against 2300 in 2015). It notes that banks more extensively make use of the "right to report". It confirms that a financial intermediary should prevent tipping off clients under investigation and execute transactions normally. **Info**: DE ; FR ; IT ; EN

The **Attorney General** presents its new methodo-logy of investigation and describes cases it has been confronted with during the year under review. **Info**: DE ; FR ; IT ; EN

The **Swiss National Bank SNB** presents its activities in monitoring the financial system and oversight of the financial market infrastructures, in particular the SIX Group. It gives a special focus on risk management and cyber security. **Info**: DE ; FR ; IT ; EN

Leverage Ratio and Risk Diversification

The draft revision of the Capital Adequacy Ordinance requires large loans and investments to be limited to 25% of a bank's core capital (not total capital as before). Also, it introduces a leverage ratio of 3% of core capital. A further quantitative impact study will be undertaken, in particular on the large exposure rules' impact on small banks. **Info**: DE ; FR ; IT ; EN

The FINMA publishes for comments its updated draft Circular Risk Diversification Banks. The Circular defines different concepts of exposure and lays out risk mitigation techniques. **Info:** DE ; FR ; IT ; EN

The new regulation on leverage ratio is expected to enter into force on 1.1.2018; the one on risk diversification and the FINMA Circular on 1.1.2019. Consultation ends on 14.7.2017.

Legislation and Regulation – International

Tax Regularisation

Brazil adopted a second round of its regularisation programme, lasting from 3.4.2017 to 31.7.2017. Reference date for determining the amount to be declared is 30.6.2016. Errors in the declaration lead to a fine but do not exclude from participation. The rate is 15% + 20% fine, thus a total of 35%. **Info**: law in PT: link

Exchange of Tax Information

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The Swiss Federal Tax Administration has opened its portal where financial intermediaries can register for the purposes of implementing the Automatic Information Exchange. **Info**: DE ; FR ; IT .

The OECD has published an update of the Common Reporting Standard and the related FAQ with details on technical and procedural issues such as processing of corrections: CRS: link ; FAQ: doc

SIX Group assesses the possibility of providing data and performing withholding and reporting under sec-tion 871(m) of the US Tax Code. This imposes withholding on equity instruments that are linked to US securities. **Info**: DE ; EN

The consultation on the third package of agreements on automatic information exchange ended on 13.4.2017. It includes countries such as Russia, China, the United Arab Emirates. The AFBS estimates that bilateral negotiations should help to clarify the currency control regimes, restrictive in several coun-tries. In the Financial Dialogues Switzerland should aim at reducing restrictions for wealthy clients.

Russian FATCA

In 2014 the Russian Parliament adopted legislation allowing banks to comply with the US FATCA and at the same time introducing reporting obligations on Russian nationals/residents client of a financial institution outside of Russia. This legislation has become more pressing as an FAQ provides details on its implementation. It is criticised for imposing a parallel system to the Common Reporting Standard. The UK obtained exemption for British banks.

OECD and VAT on Services

In 2015 the OECD adopted guidelines governing the application of VAT on cross-border services. The sale of goods is taxed at the place of the consumer. At present there are no plans to apply the same regime to the cross-border provision of financial services; however this cannot be excluded at a later stage. **Info**: OECD: link

Miscellanea

SAQ relationship manager certification

The AFBS thoroughly assessed the relationship mana-ger certification. It focused on the certification for wealth mangement advisers, which is available in two formats: for advisers of Swiss clients (including third pillar and mortgage business) and of international clients (focus on the cross-border dimension of client servicing). Examination is standardised and can be performed by selected providers approved and monitored by the Swiss Association for Quality SAQ. **Info**: AFBS Memo doc ; SAQ: DE ; FR ; EN

Financial Market Infrastructure

On 3.4.2017 the FINMA authorised SIX SIS as Swiss trade repository under the Financial Market Infrastructure Law. There is a staggered implementation (1.10.2017-1.4.2018) of reporting obligations according to the type of transaction and counterparty. FINMA also authorised the Luxembourg Regis-TR as a foreign trade repository for the receipt of reports. Thus reporting to Regis-TR from Switzerland cannot assure full compliance under EMIR substitute compliance. **Info**: FINMA: DE ; FR ; IT ; EN – SIX – Regis-TR

Cyber Intelligence

The large foreign banks held a workshop on cyber intelligence. Presentations by FINMA and MELANI, the reporting office on information security, showed that the first focused on regulatory compliance and the second

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was focussed on the national relevant infrastructure providers. Banks discussed reports from major cyber-incidents. It became clear that such risks cannot be fought without cross-border and cross-sector partnerships. The MELANI published the latest edition of its semi-annual situation reports. **Info**: DE ; FR ; IT ; EN

Agenda

Events

Russia: challenging but with opportunities: R.Lavi, N.Herold, Sqope (Suisse) Sàrl; C.Troyanov, A.Burkhard, Altenburger Ltd.: 15.5.2017 Zürich; 16.5.2017: Geneva.

Risk Management Framework: W.Mathis, Habib Bank AG and AFBS representative to the SBA Commission of Financial Market Regulation and Accounting: 4.5.2017 Zürich; 5.5.2017 Geneva; 12.5.2017 Lugano.

Members

Affiliations: Morgan Stanley & Co. International plc, London, Zurich Branch – Paicolex Trust Management AG (observer) – STRATEO, Genève, Succursale d'Arkéa Direct Bank SA, Puteaux (Paris).

Last Minute

SFTA Newsletter first quarter 2017: DE ; FR ; IT // Luxembourg Bankers Association and EY survey on cost of regulation: link // SWLEgal newsletter on the data protection law: DE ; FR ; EN // The EU consults on next steps in FinTech: link // State Secretariat for International Finance: Key Figures Financial Centre April 2017: DE ; FR ; IT ; EN // SWLegal newsletter on Fintech and Blockchain: DE ; FR ; EN // Swiss Federal Tax Administration list on current tax questions in Parliament: DE ; FR // The FATF updates its statements on jurisdictions: EN and FINMA: DE ; FR ; IT ; EN // Federal Council does not support the RASA initiative nor submit a counterproposal: DE ; FR ; IT

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