AFBS News June 2024

Legislation and Regulation: Switzerland

Federal Council

The Federal Council adopted the dispatch to Parliament on the revision of the **anti-money laundering** framework. The framework introduces a federal register of beneficial owners which requires legal persons to disclose beneficial owners. The register will not be publicly accessible. It will be managed by the Federal Department of Justice and Police. Banks wish it to be a trusted source of reference for due diligence purposes. Banks welcome the proposal to expand scope of the law to advisers and lawyers providing advice in financial services; this offers a level playing field. They are opposed to including the obligation of sanction compliance in the law. **Info**: DE FR IT EN ; SBA comment: DE FR IT EN

The Federal Council accepted the self-regulation against **greenwashing** as sufficient for the moment; there will be no state regulation for the moment. The self-regulation has been prepared jointly by banking, asset management, and insurance sectors. Federal Council will re-evaluate the situation once the EU publishes any amendments to its SFDR, but by the end of 2027 at the latest.
Industry associations welcome the Federal Council's decision in a joint statement. **Info**: Federal Council: DE FR IT EN; SBA press release: DE FR IT EN; SBA Self-regulation guidelines: DE FR IT EN

The Federal Council published for comments new legislation on **corporate reporting** on business impact environment, human rights, and corruption and related mitigation measures. It wishes to stay aligned with EU developments but intends to offer firms the choice between a set of equivalent reporting standards, which will be listed in the Ordinance. The consultation ends on 17 October 2024. **Info**: DE FR IT

The Federal Council published for comments the draft Ordinance on cyber security. It defines the national cyber security strategy, the administration's tasks for cyber security, the information exchange, and the reporting duties. The latter includes the cyber incidents that must be reported, the information to be provided and the deadline to report the incident. **Info**: DE FR IT

The Federal Council received a status report on the progress towards implementation of open finance. The sector's multibanking initiative, adhered to by 40 banks, is seen as a commitment towards more openness. Contrary to the EU, no state regulation is planned in Switzerland. **Info**: DE FR IT EN

It further agreed to maintain date of entry into force of Basel III standards in Switzerland per 1 January 2025. It did so in spite of several countries with major international financial centres (USA, EU, UK) postponing deadlines. **Info**: Federal Council: DE FR IT EN and SBA: DE FR IT EN

Money Laundering Reporting Office MROS

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The MROS published its annual report for the year 2023. The report focuses on main strategic developments such as the high reporting volume and the preparations for the Public-Private-Partnership, the goAML information system, annual statistics, typologies, its practice and the international cooperation in the fight against money laundering. **Info**: DE FR IT EN

Competition Commission

The Competition Commission (COMCO) published its comment on the UBS-CS transaction. It finds that for several banking business models the transaction has led to lower competition and that this situation could have harmful consequences for customers. In order to keep a competitive banking sector, the COMCO suggests that supervision and regulation do not hinder entries into the market or expansions of current business models. It suggests FINMA to accelerate authorisation procedures to ease market entry by foreign banks. It acknowledges the necessity of foreign banks' presence in Switzerland as they are the only banks to offer international network and connectivity. It also states that new or revised regulation should not harm the current competitors and especially UBS to be competitive on the international carpet. **Info**: DE

Legislation and Regulation: International

European Union

The Committee of Ministers of the Council of Europe adopted the Convention on Artificial Intelligence. The convention wants to ensure compliance with the legal standards applicable to AI in terms of human rights, democracy and the rule of law. The treaty will be open to non-European countries. The framework convention will be opened for signature on 5 September 2024. Switzerland was involved throughout the negotiations. **Info**: Council of Europe: FR EN; Federal Council: DE FR IT EN

The EU Parliament adopted the regulation on transparency and integrity of Environmental, Social and Governance (ESG) rating activities. The framework lays down organisational requirements for ESG rating providers to increase transparency. **Info**: LINK

The EU Parliament approved the Corporate Sustainability Due Diligence Directive (CSDDD), requiring firms and their upstream and downstream partners, including supply, production and distribution to prevent, end, or mitigate their adverse impact on human rights and the environment. **Info**: EU Parliament: LINK; EU Commission: LINK

European Supervisory Authorities ESA

The ESAs (banking sector, insurance sector, securities markets) published their respective final reports on greenwashing. They reiterate their common understanding of greenwashing as a practice whereby sustainability-related statements, declarations, actions, or communications do not clearly and fairly reflect the underlying sustainability profile of an entity, a financial product, or financial service. **Info**: LINK

The European Securities and Markets Authority published its Final Report on the Guidelines on funds' names using ESG or sustainability-related terms. Recommendations include an 80% threshold linked to the proportion of investments used to meet environmental or social characteristic or sustainable investment objectives and the exclusion of specified investments if funds want to use transition-, social-, governance-, environmental-, impact-, sustainability-related terms. **Info**: LINK

USA – Switzerland sign new FATCA

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US and Swiss authorities signed a revised FATCA along Model 1 standards. It replaces the Model 2 standard which is in force presently. With the new agreement, Switzerland will also receive information from the USA and data will flow through the respective country's government rather than directly. The changes are expected to take effect from 2027, after adoption of legislation for implementation in Switzerland. **Info**: DE FR IT EN

Digitalisation

FINMA published a guidance on its findings from cyber risk supervision, clarification of FINMA Guidance 05/2020 and scenario-based cyber risk exercises. FINMA gives guidance on *outsourcing; *governance and identification; *protective measures; * detection, response and restoration. **Info**: DE FR IT EN

Sustainable Finance

SBA published its comment on the Climate Protection Ordinance. The comment highlights the importance of coordination with other regulation and jurisdictions. It is essential to clarify the scope which in the present Ordinance is of special importance regarding roadmaps and transition plans. The SBA encourages its members to participate at the climate tests organised by the Federal Office for the Environment. **Info**: DE

SSF published its annual Swiss Sustainable Investment Market Study. 86 respondents took part in this year's edition which is five less compared to the previous edition. The volume of the investments declared in the survey increased by 3%. The increase of overall sustainability-related investment is significantly lower than the market performance in 2023. Participants improved their measurement methodologies for sustainability-related investments leading to some volumes not being reported compared to the previous year. Additionally, some participants did not report assets under management that only use exclusions or ESG integration as Sustainable Investment (SI) approaches anymore. **Info**: LINK

The Competition Commission published a commentary regarding the eventual breach of antitrust law by the SBA self-regulations on ESG namely the "Guidelines for financial service providers on the integration of ESG preferences and ESG risks into investment advice and portfolio management" and the "Guidelines for mortgage providers on the promotion of energy efficiency". The commentary concludes that no article of the antitrust law is breached since there is neither a non-competition agreement according to art. 4 para. 1 nor a non-competition agreement that would lead to an impairment of competition according to art. 5 para. 1 of the antitrust law. **Info**: DE; SBA: DE FR

Internal

New Members

Bank of Africa, représentation à Zürich.

Events

AFBS Events

AFBS Roundtable: FINMA Circ Operational Risk, Audit Procedure; speakers from EY; 21.8.2024 Zürich; 22.8.2024 Geneva; 10.9.2024 Lugano.

AFBS Roundtable: Electronic Signature; speakers from Oberson Abels; 13.9.2024 Zürich; 18.9.2024 Geneva.

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Last Minute

Swiss Sustainable Finance publishes Swiss sustainable lending study: DOC

Federal Council announced the new SNB Governing Board as of 1 October 2024. **Info**: DE FR IT EN

SNB publishes the annual financial stability report 2024. **Info**: EN

SNB publishes the annual banking statistics 2023. **Info**: DE FR EN

AMAS publishes the Swiss Asset Management Study 2024: DE FR EN

SIX Climate Data Special Report: The Role of Global Market Data and Global Indices: LINK

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