



Circular 2008/1 Licensing and reporting requirements - banks

Matters requiring licensing and reporting for stock exchanges,
banks, securities dealers and audit firms

Circular 2008/1

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2 Other Languages

DE: FINMA-RS 2008/1 Bewilligungs- und Meldepflichten Banken 1.1.2013

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Circular 2008/1

Licensing and reporting requirements – Banks

Licensing and reporting requirements for stock exchanges, banks, securities dealers and audit firms

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Concordance:	Previously SFBC circ. 92/1 "Licensing and reporting requirements" dated 24 September 1992
Legal bases:	FINMASA Articles 7(1)(b), 25, 27, 29 FINMA-AO Article 13 FINMA-FO Article 18 BA Articles 3, 3bis, 3ter, 37a, 37h BO Articles 11, 12, 13, 20, 32, 41 FBO-FINMA Articles 2, 6, 8, 11, 15, 16, 17 CAO Articles 7, 9, 10, 11, 12, 14, 15, 16, 42, 50, 56, 88, 90, 91, 96, 100, 101, 102, 112 LiqO Articles 16, 17b, 18, 26, 28 SESTA Articles 3, 4, 6, 9, 10, 15, 20, 35, 37 SESTO Articles 8, 12, 14, 17, 20, 25, 27, 28, 29, 39, 43, 45, 46, 48, 50, 51, 52, 53, 56 SESTO-FINMA Articles 6, 26 AMLO-FINMA Article 31

Addressees

BA			ISA			SESTA			CISA						AMLA			OTHERS	
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X	Financial groups and congl.																		
	Other intermediaries																		
	Insurers																		
	Insurance groups and congl.																		
	Insurance intermediaries																		
X	Stock exchanges and participants																		
X	Securities dealers																		
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I. Objective

This Circular provides a concise summary on matters subject to licensing and reporting requirements for stock exchanges, banks, securities dealers and audit firms. These requirements are explained in FINMASA, FINMA-AO, the BA, the BO, the SESTA, the SESTO and the SESTO-FINMA, the CAO as well as the AMLO-FINMA and FINMA-FO. 1

Unless explicitly stated otherwise, any licensing mentioned refers to the FINMA. Otherwise, the relevant licensing authority is given in brackets. 1a

The circular makes no claims of being up-to-date and complete at all times. It does not replace the legal bases provided by the acts and the implementing ordinances. 1b

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	Regulations	Articles 3(2), 4 (2) SESTA	Prior to commencement of operations and to amendments thereof	
	Continuation of operations	Article 3(5) SESTA	Before changing license prerequisites	
	Board of appeal: organizational structure, procedural rules and appointment of members	Article 9 SESTA	Prior to issuance, nomination and changes	
2.1.2	Additional duties concerning ongoing operations			
	Election of head of monitoring body	Article 8(3) SESTO	Prior to election	
	Admission of foreign securities dealers as stock-exchange members	Article 12 SESTO	Prior to admission	
	Establishment of a subsidiary, branch office or representative office abroad	Article 12 SESTO	Prior to their establishment	
2.2	Duties for stock exchanges registered abroad			
	Commencement of operations as a stock exchange	Article 3(3) SESTA, Article 14 SESTO	Prior to commencement of operations in Switzerland	

III. Stock exchanges Matters Requiring Reporting

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	Recommendations of the stock exchange's disclosure office	Article 26(2) SESTO-FINMA	Once these have been issued	
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IV. Banks and securities dealers: Matters Requiring Licensing

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	Articles of association, shareholders' agreements as well as organizational and business rules	Article 3(3) BA, Article 10(2) and (6) SESTA, Articles 17(2) and 25(1)(a) SESTO	Prior to amending these	

	TABLE OF CONTENTS	LEGAL BASE	DEADLINE
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	Banks and securities dealers no longer subject to the Banking Act or Stock Exchange Act (institution continues to exist but without banking or securities-dealer status)	Article 29 FINMASA	As soon as decision is made internally; in any case prior to general meeting
	Deletion from commercial register	Article 29 FINMASA	Upon completion of liquidation or merger
4.1.1.2	Additional duties for banks and securities dealers controlled by foreign shareholders*		
	Foreign control	Article 3bis(1), 3ter(1) and (2) BA, Article 37 SESTA, Article 56(3)–(4) SESTO	Prior to commencement of operations or as soon as changes in ownership are known
4.1.2	Capital resources		
4.1.2.0	Scope of consolidation		
	Consolidation: exceptional treatment approved by the auditor	Article 9 CAO, Article 29 SESTO	Upon request by the bank
	Exemption from having to comply with the capital requirements for stand-alone institutions	Article 10(1) CAO, Article 29 SESTO	Upon request by the bank
	Solo consolidation	Article 10(3) CAO, Article 29 SESTO	Upon request by the bank
	Financial sub-groups: exemption from the duty to consolidate	Article 11(2) CAO, Article 29 SESTO	Upon request by the bank
	Consolidation of captives for operational risks	Article 12 CAO, Article 29 SESTO	Upon request by the bank
4.1.2.1	Eligible capital		
	If the fair value option is applied: consideration of certain unrealized gains or losses in Tier 1 capital	Article 15 CAO, FINMA circ 13/1 margin nos. 147 and 154, Article 29 SESTO	Upon request by the bank
	Eligibility of private bankers' capital contribution in the course of the approval of shareholders' agreements	Article 25(1)(a) CAO	Upon request by the bank

	TABLE OF CONTENTS	LEGAL BASE	DEADLINE
	Repayment of Additional Tier 1 capital	Article 27(1)(b) and (c) CAO, Article 29 SESTO	Upon request by the bank
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	Approval of a participation claim in an improvement after a debt reduction of a capital instrument with a conditional debt waiver	Article 27(4) and (5) (b) CAO, Article 29 SESTO	Upon request by the bank
	Request to repay Tier 2 capital early	Article 30(1)(d) CAO, Article 29 SESTO	Upon request by the bank
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	Calculation of the capital requirements for credit risks using the IRB approach	Article 50(3) CAO, FINMA circ. 08/19 margin no. 269, Article 29 SESTO	Upon request by the bank
	Calculation of the credit equivalent for derivatives by means of EPE modeling	Article 56(2) CAO, Article 29 SESTO	Upon request by the bank
	Use of own-estimate haircuts in comprehensive approach	FINMA circ. 08/19 margin no. 151, Article 29 SESTO	Upon request by the bank
	Use of VaR models to calculate the exposure amount after credit risk mitigation	FINMA circ 08/19 margin nos. 166-168, Article 29 SESTO	Upon request by the bank
	Securitization transactions: where the Basel minimum standards stipulate that the regulatory authority is to be consulted (cf. [§538, 607, 620]), banks must obtain the external auditor's approval.	FINMA circ 08/19 margin nos. 254, Article 29 SESTO	Upon agreement of the audit firm
	Securitization transactions: fallback option for the calculation of KIRB [§639]	FINMA circ 08/19 margin nos. 255, Article 29 SESTO	Upon request by the bank

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4.1.2.3	Capital requirements for market risks		
	Treatment of qualifying interests in companies operating in the financial sector pursuant to the trading book rules	FINMA circ. 08/20 margin nos. 26-28, Article 29 SESTO	Upon request by the bank
	Calculation of the capital requirements for market risk using a model-based market risk approach	Article 88(1) CAO, FINMA circ. 08/20 margin no. 228, Article 29 SESTO	Upon request by the bank
4.1.2.4	Capital requirements for operational risks		
	Reduction of the earnings indicator GI, e.g. following the divestment of a business area	FINMA circ. 08/21 margin nos. 16, Article 29 SESTO	Upon request by the bank
	Determination of the earnings indicator GI using internationally recognized reporting standards	Article 91(4) CAO, FINMA circ. 08/21 margin no. 17, Article 29 SESTO	Upon request by the bank
	Full or partial change from the AMA to the basic indicator or standardized approach	FINMA circ. 08/21 margin no. 48, Article 29 SESTO	Upon request by the bank or ordered by the FINMA
	Calculation of the capital requirements for operating risks using the AMA	Article 90(2) CAO, FINMA circ 08/21 margin no. 46, Article 29 SESTO	Upon request by the bank
4.1.3	Risk diversification		
	Authorization to exceed upper limits for a brief period	Article 112(2)(c) CAO, Article 29 SESTO	Prior to entering into a commitment
4.1.3.1	Additional duties for banks and securities dealers who must comply with the provisions at the consolidated level		
	Authorization to exceed upper limits for a brief period	Article 112(2)(c) CAO, Article 29 SESTO	Prior to entering into a commitment
4.1.4	Annual financial statements		
	Application to extend deadline for publication of the annual report and interim financial statements	Article 32(3) BO, Article 29 SESTO	Prior to expiry of legal deadline

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4.1.5	Supervision and audit		
	Exceptional approval for not having to assign the same audit firm to groups and conglomerates	Article 13 FINMA-AO	Upon request by the bank
	Exemption from requirement to establish an internal audit department	Article 12(4) BO, FINMA circ. 08/24 margin no. 55, Article 20(3) SESTO	Without deadline
	Exceptional approval for outsourcing Internal Audit's duties to independent third parties and for other special cases	FINMA circ. 08/24 margin nos. 55 and 59	Prior to granting the mandate
4.2	Banks and securities dealers domiciled abroad		
4.2.1	License to operate a business		
	Establishment of a branch	Article 2(1)(a) FBO-FINMA, Article 39(1)(a) no. 1 SESTO	Prior to their establishment
	Establishment of a representative office	Article 2(1)(b) FBO-FINMA, Article 39(1)(a) no. 2 SESTO	Prior to their establishment
	Foreign member of a stock exchange domiciled in Switzerland	Articles 39(1)(b) and 53 SESTO	Prior to membership
	Closure of a branch	Article 11 FBO-FINMA, Article 48 SESTO	Prior to closure
4.2.2	Annual report of foreign banks and securities dealers		
	Application to extend publication deadline	Article 32(3) BO, Article 29 SESTO	Prior to expiry of legal deadline

V. Banks and securities dealers: Matters Requiring Reporting

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5.1	Banks and securities dealers domiciled in Switzerland			5*
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	Purchase, increase or decrease of qualifying or significant equity interests	Articles 3(2)(cbis), 3(5), 3(6) BA, Article 28 SESTO	As soon as change becomes known to the bank or the securities dealer or at least annually	
	List of holders of qualifying or significant equity interests in the bank or securities dealer	Article 13 BO, FINMA circ. 08/14 margin nos. 12 and 17, Article 28(4)-(5) SESTO	60 days after the end of the business year	
	Establishment of subsidiaries, branch offices or representative offices abroad	Article 3(7) BA, Article 6b(1) BO, Article 25(1)(b) SESTO	Prior to their establishment	
	Information about change or cessation of activities abroad as well as change of audit firm or supervisory authority abroad	Article 20(2) BO, Article 25(1)(c)-(d) SESTO	Prior to changes	
5.1.2	Capital resources			
5.1.2.1	Requirements for all banks and securities dealers domiciled in Switzerland			
	Shortfall below the minimum capital requirements (notification to FINMA and audit firm)	Article 42(3) and (4) CAO, Article 29 SESTO	immediately	
	Submission of the capital adequacy reporting form at stand-alone level to the SNB	Article 14(1) CAO, Article 29 SESTO	Quarterly within 6 weeks	

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	Duties for all banks and securities dealers domiciled in Switzerland (except for private banks pursuant to Article 16(1) CAO and foreign controlled banks pursuant to FINMA circ. 08/22 margin no. 5)		
	Disclosure ("Pillar 3")	Article 16 CAO, FINMA circ. 08/22 margin no. 29 SESTO	In accordance with the FINMA circular 08/22, margin no. 53-59
5.1.2.2	Additional duties for banks and securities dealers who must comply with the provisions at a consolidated level		
	Submission of the capital adequacy reporting form at consolidated level to the SNB	Article 14(1) and (2) CAO, Article 29 SESTO	Semi-annually within 6 weeks
5.1.2.3	Additional duties for banks and securities dealers which use the IRB approach to calculate the required capital for credit risk		
	Significant changes to the rating system	FINMA circ. 08/19, margin no. 286	Immediately
	Changes in risk management practices	FINMA circ. 08/19, margin no. 287	Immediately
5.1.2.4	Additional duties for banks and securities dealers which use the model-based market risk approach to calculate the required capital for market risks		
	Significant changes in risk aggregation models (both FINMA and audit firm must be notified)	FINMA circ 08/20 margin nos. 242 and 362, Article 29 SESTO	Immediately
	Changes in the risk approach (notification to FINMA and audit firm)	FINMA circ. 08/20 margin nos. 243 and 363, Article 29 SESTO	Immediately
	Changes to the period used for the stress-based VaR	FINMA circ. 08/20 margin nos. 363.1, Article 29 SESTO	Immediately

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	Results of backtesting with more than four exceptions for the relevant observation period before 250 observations are available (both FINMA and audit firm must be notified)	FINMA circ. 08/20 margin nos. 333 and 364, Article 29 SESTO	Immediately
	Results of backtesting (notification to FINMA and audit firm)	FINMA circ. 08/20 margin no. 365, Article 29 SESTO	Within 15 trading days after the end of each quarter
5.1.2.5	Additional duties for banks and securities dealers using the fair value option		
	"Reporting for the application of the fair value option" to FINMA (Appendix of FINMA circ. 13/1)	FINMA circ. 13/1 margin no. 149, Article 29 SESTO	On FINMA's request
5.1.2.6	Additional duties for banks and securities dealers who use the "look-through treatment" in the standard approach (securitization transactions [§573])		
	The most senior claim of the entire transaction is without an external rating and therefore receives an average risk weighting of all claims in the underlying pool.	FINMA circ. 08/19 margin nos. 261-262, Article 29 SESTO	At the time of submitting the capital adequacy reporting form
5.1.2.7	Additional duties for banks and securities dealers who use the "supervisory formula" (securitization transactions [§635])		
	Parameters h and v are set to zero if exclusively securitizing retail loans	FINMA circ. 08/19 margin nos. 264, Article 29 SESTO	At the time of submitting the capital adequacy reporting form
5.1.3	Liquidity*		
	Reporting of privileged and secured deposits	Articles 37a and 37h BA, Article 18(1) LiqO	Part of the normal reporting procedures
	Authorization of an internal model approach for the calculation of increased liquidity needs due to market value changes of derivative and other financial transactions (only banks)	Article 16(9)(b) LiqO	Prior to a bank's implementing such a model (application possible at any time)

	TABLE OF CONTENTS	LEGAL BASE	DEADLINE
	Notification of a temporary shortfall of the minimum requirements due to extraordinary circumstance that lead to a drastic liquidity shortage (only banks)	Article 17b(1) and (2) LiqO	Immediately
	LCR reports during the month for banks with a shortfall of the minimum requirements, with a timely delivery deadline (only banks)	Article 17b(5) LiqO	As stipulated by FINMA
	Submission to the SNB of cash liquidity statement (only banks)	Articles 17c LiqO	Monthly
	Authorization of a look-through approach to calculate the intra-group cash flows (only banks)	Article 17d LiqO in conj. with FINMA circ. 15/2 margin no. 246	Prior to a bank's implementing such a model (application possible at any time)
	Reporting on the liquidity position in accordance with Articles 23–25 LiqO (only systemically important banks)	Article 28 LiqO	Monthly
	Notification of a shortfall of the requirements stipulated in Article 21 LiqO or an impending shortfall due to extraordinary cash outflows (only systemically important banks)	Article 26(1) and (2) LiqO	immediately
	Authorization of an internal modelling approach to calculate the portion of operational deposits of corporate and large clients (only banks)	Annex 2, Sect. 2.2 LiqO in conj. with FINMA circ. 15/2 margin no. 227	Prior to a bank's implementing such a model (application possible at any time)
5.1.4	Risk diversification		
5.1.4.1	Requirements for all banks and securities dealers domiciled in Switzerland		
	Submission of form "Disclosure of risk concentrations" together with the overview on intra-group positions to the audit firm	Articles 100(1) and 102 CAO, Article 29 SESTO	Quarterly within a month's time
	Reporting to the audit firm and the FINMA if a risk concentration exceeds the upper limit or the aggregate risk concentration exceeds the upper limit without FINMA approval	Article 101 CAO, Article 29 SESTO	Immediately upon identification

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	Reporting of interest-rate risks at stand-alone level to the SNB	Article 12 BO, FINMA circ. 08/6 margin no. 53	Quarterly within 6 weeks
5.1.4.2	Additional duties for banks and securities dealers who must comply with the provisions at a consolidated level		
	Submission of form "Disclosure of risk concentrations" together with the overview on intra-group positions to the audit firm	Articles 7(1), 100(1) and (2), 102 CAO, Article 29 SESTO	Semi-annually within 6 weeks
	Reporting to the audit firm and the FINMA if a risk concentration exceeds the upper limit	Articles 7(1), 101 CAO, Article 29 SESTO	Immediately upon identification
	Reporting of interest-rate risks at consolidated level to the SNB	Article 12 BO, FINMA circ. 08/6 margin no. 53	Quarterly within 6 weeks
5.1.5	Financial statements		
	Submission of annual reports (two printed copies and one electronic copy) and interim financial statements (one electronic copy)	Articles 32(2), 41 BO, Article 29 SESTO, FINMA circ. 15/1 margin nos. 617 and 619	Annual financial statements: 4 months after closing date Interim financial statements: 2 months after closing date
	Revaluation of fixed assets over cost	FINMA circ. 15/1, margin no. 257	Prior to publication of annual financial statements
5.1.6	Supervision*		
	General duty to inform FINMA	Article 29 FINMASA, Article 35 SESA	Determined individually
	Supervisory reporting	FINMA circ. 08/14 margin nos. 17 and 19, Article 29 SESTO	Within 60 days after conclusion of the annual and interim closings
	Reporting of business relationships involving large sums and cases where the reputation of the financial intermediary or Switzerland as a financial center could be in jeopardy	Article 31 AMLO-FINMA	immediately
	Reporting of the 10 largest exposures to the audit firm	Annex 3 FINMA circ. 08/14	As per the agreement with the audit firm

	TABLE OF CONTENTS	LEGAL BASE	DEADLINE
	First-time appointment or change of audit firm	Article 25(2) FINMA-SA	Immediately after the decision.1
5.2	Banks and securities dealers domiciled abroad		
5.2.1	Branch offices in Switzerland		
	Designate a branch office to be in charge of relations with the FINMA	Article 6(1)(b) FBO-FINMA, Article 43(1)(b) SESTO	Upon establishment of a second branch office
	Submission of the annual financial statements and the interim financial statements to FINMA (3 copies)	Article 8(4) FBO-FINMA and Article 32(2) BO, Article 45(4) SESTO, FINMA circ. 15/1 margin nos. 617 and 619	Annual financial statements: 4 months after closing date Interim financial statements: 2 months after closing date
	Submission of annual report of the foreign bank or securities dealer to FINMA (1 copy)	Article 9(1) FBO-FINMA, Article 46(1) SESTO	Within 4 months after the end of the business year
5.2.2	Representative offices in Switzerland		
	Designate a representative office to be in charge of relations with the FINMA	Article 15(b) FBO-FINMA, Article 50(b) SESTO	Upon establishment of a second representative office
	Submission of annual report of the foreign bank or foreign securities dealer to FINMA (1 copy)	Article 16 FBO-FINMA, Article 51 SESTO	Within 4 months after the closing of the books
	Closure of representative office	Article 17 FBO-FINMA, Article 52 SESTO	Upon closure of representative office
5.3	Additional reporting duties for securities dealers		
	Reporting required for the transparency of securities trading (to the stock exchanges)	Article 15(2) SESTA, SESTO-FINMA	Within deadlines set by the Stock Exchange rules or depending on turnover
	If securities are traded at several stock exchanges: reporting by the stock exchange which has to notify the FINMA	Article 6(2) SESTO-FINMA	Prior to definition and prior to change

	TABLE OF CONTENTS	LEGAL BASE	DEADLINE
	Information on which stock exchange (Swiss and foreign) the securities trader is a member	Article 27 SESTO	60 days after the end of the business year

VI. Audit firms: Matters Requiring Licensing

Repealed		6*
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VII. Audit firms: Matters Requiring Reporting

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7.1	Audit firms and audit procedures*			
	Data to be submitted annually	Article 14 FINMA-AO	Annually, at the latest by end of September	
	Other reporting requirements:		Immediately after detection but at least annually	
	Criminal acts; serious abuses; loss of more than half of equity; jeopardizing creditors; creditors no longer covered by assets (further, the Banking Act auditors, if they are also statutory auditors, are also obliged in accordance with Article 729b CO to notify the courts in case of overindebtedness if the Board of Directors of the bank or securities dealer fails to do so)	Article 27(3) FINMA-SA	Immediately upon identification	
	All information and documents required by the FINMA for the fulfillment of its duties	Article 29 FINMA-SA	Determined individually	
7.2	Audit Reports*			
	Submission of risk analysis, audit strategy and audit reports	Article 27(3) FINMA-SA, FINMA circ. 13/3 margin no. 109	Annually, but at the latest 4 months after the annual closing	

VIII. Audit firm's Reporting and Licensing Requirements

Audit firms under the Stock Exchange Act and the Banking Act examine whether stock exchanges, banks and securities dealers comply with the relevant requirements and report any violations to the FINMA, even if the reporting or licensing requirements no longer exist at the time when the violations are determined. 8

IX. List of Abbreviations

FBO-FINMA	Foreign Banks Ordinance-FINMA (SR 952.111)	9
BA	Banking Act (SR 952.0)	
BO	Banking Ordinance (SR 952.02)	
SESTA	Stock Exchange Act (SR 954.1)	
SESTO	Stock Exchange Ordinance (SR 954.11)	
SESTO-FINMA	Stock Exchange Ordinance-FINMA (SR 954.193)	
CAO	Capital Adequacy Ordinance (SR 952.03)	
FINMA	Swiss Financial Market Supervisory Authority	
FINMA-FO	FINMA Fee Ordinance (SR 956.122)	
FINMA-AO	FINMA Audit Ordinance (SR 956.161)	
FINMA circ.	Circular(s) of the Swiss Financial Market Supervisory Authority	
FINMASA	Financial Markets Supervision Act (SR 956.1)	
AMLO-FINMA	Ordinance of the Swiss Financial Market Supervisory Authority on the Prevention of Money Laundering and Terrorist Financing in the Banking, Securities Dealing and Investment Scheme Industry (SR 955.033.0)	
LiqO	Liquidity Ordinance (SR 952.06)	
CO	Swiss Code of Obligations (SR 220)	
margin no.	Margin number	
SNB	Swiss National Bank	

List of amendments

The circular is amended as follows:

These amendments will enter into force on 1 January 2009.

Repealed	margin no. 4: Section 4.1.1.2 (Establishment of a branch or an agency in Switzerland)
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These amendments will enter into force on 1 January 2011.

Amended	margin no. 5: Section 5.1.6 (Prevention of money laundering)
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These amendments will enter into force on 1 September 2011.

Amended	margin no. 5: Section 5.1.3 (Deposit insurance scheme)
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These amendments will enter into force on 1 January 2013.

Repealed	margin no. 5: Section 5.1.7 (Supervision over large banks)
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Amended	margin nos. 6 and 7 (Auditing)
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In addition, the references to the Capital Adequacy Ordinance (CAO; SR 952.03) have been adapted to the version that entered into force on 1 January 2013.

Moreover, the references to Articles 16 et seqq. BO have been adapted in line with the Liquidity Ordinance which entered into force on 1 January 2013 (LiqO; SR 952.06).

The references to the BO and the FINMA-AO have been adapted to the amended provisions that entered into force on 1 January 2015.

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