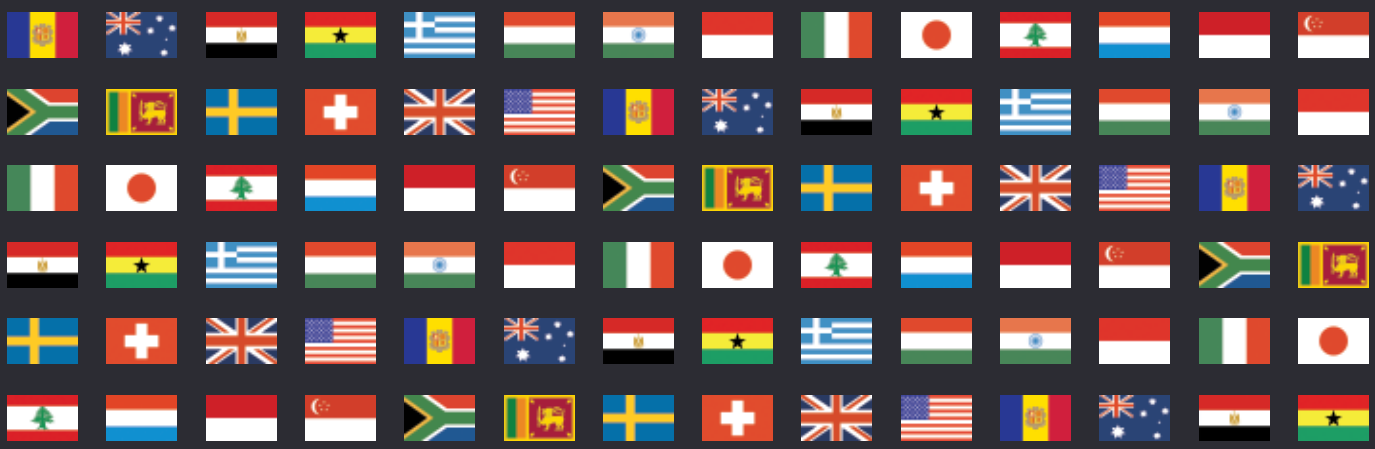
Banking Regulation 2021

Contributing editors
Gregory J Lyons, Alison M Hashmall, Chen Xu, Josie Dikkers and Amy Aixi Zhang



LEXOLOGY®
Getting The Deal Through

Publisher
Tom Barnes
tom.barnes@lbresearch.com

Subscriptions
Claire Bagnall
claire.bagnall@lbresearch.com

Senior business development manager
Adam Sargent
adam.sargent@gettingthedealthrough.com

Published by
Law Business Research Ltd
Meridian House, 34-35 Farringdon Street
London, EC4A 4HL, UK

First published 2008
Fourteenth edition
ISBN 978-1-83862-630-3

Printed and distributed by
Encompass Print Solutions
Tel: 0844 2480 112

Banking Regulation 2021

Contributing editors

Gregory J Lyons, Alison M Hashmall, Chen Xu, Josie Dikkers and Amy Aixi Zhang

Debevoise & Plimpton LLP

Lexology Getting The Deal Through is delighted to publish the fourteenth edition of *Banking Regulation*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes a new chapter on Greece.

Lexology Getting The Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.lexology.com/gtdt.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editors, Gregory J Lyons, Alison M Hashmall, Chen Xu, Josie Dikkers and Amy Aixi Zhang of Debevoise & Plimpton LLP, for their assistance with this volume.

LEXOLOGY
Getting The Deal Through

London
March 2021

Reproduced with permission from Law Business Research Ltd
This article was first published in April 2021
For further information please contact editorial@gettingthedealthrough.com

Contents

Switzerland

Patrick Hünerwadel, Shelby R du Pasquier, Marcel Tranchet, Maria Chiriaeva and Isy Isaac Sakkal

Lenz & Staehelin

REGULATORY FRAMEWORK

Key policies

1 What are the principal governmental and regulatory policies that govern the banking sector?

The Swiss banking sector is subject to the supervision of the Swiss Financial Market Supervisory Authority (FINMA).

FINMA licences are granted to the legal entity pursuing the banking activities, not to the managers or shareholders. The licensing requirements are set out in the Swiss Federal Act on Banks and Savings Banks (Banking Act). Among other things, the applicant must establish that the persons entrusted with the management enjoy a good reputation and thereby assure a proper conduct of business operations (ie, guarantee of irreproachable activity). If, at a later stage, any of the licence requirements are no longer satisfied, FINMA may take administrative measures, including, in extreme cases, the withdrawal of the banking licence.

One of the most highly publicised aspects of Swiss banking regulation is Swiss banking secrecy. Unauthorised disclosure of information pertaining to the client-bank relationship is prohibited under the Banking Act.

Regulated institutions

2 What are the defining characteristics of a bank to be caught by the banking laws and regulations? Is non-bank fintech regulated differently?

From a Swiss perspective, a banking activity means accepting deposits from the public (or by way of refinancing from other banks) for the purpose of financing a large number of persons or entities. Banking activities may only be conducted in or from Switzerland if the relevant entity has been granted a licence by FINMA.

On 1 January 2019, the Banking Act was amended to introduce the 'Fintech licence'. This licence involves less stringent requirements than a traditional banking licence and it allows deposits to be accepted from the public, provided that:

- the aggregate amount of deposits does not exceed 100 million Swiss francs;
- the deposits do not bear interest (and are not otherwise remunerated); and
- the deposits are not re-invested by the company (ie, they are not used for on-lending purposes).

3 Do the rules vary depending on the size or complexity of the banking institution?

While the general rules are the same for all banks, FINMA assigns Swiss banks to supervisory categories. Banks are grouped into such categories as a function of their total assets, assets under management and capital. Categories 1 and 2 include systemically important financial institutions (SIFI). As of the date of writing, category 1 consists of UBS, Credit Suisse, PostFinance, Raiffeisen Schweiz Genossenschaft and Zürcher Kantonalbank. FINMA conducts a risk-oriented supervision that focuses on large, important and complex market participants. Conversely, institutions in category 5 are supervised on the basis of quantitative indicators and only looked at more closely when issues arise. The capital adequacy target also varies depending on the applicable category of the relevant bank.

A specific regime for 'small banks' has been introduced recently by FINMA for banks belonging to supervisory categories 4 and 5. The Liquidity Ordinance provides for a relaxation of the liquidity coverage ratio requirements for small banks, while the Capital Adequacy Ordinance provides for simplified rules for calculating capital requirements for small, particularly liquid and well-capitalised banks and securities firms (eg, to forego the calculation of risk-weighted assets). The small bank regime, which is voluntary, also implies a reduction from the audit frequency. In February 2020, FINMA announced that 64 banks were taking part in the small bank regime.

Primary and secondary legislation

4 Summarise the primary statutes and regulations that govern the banking industry.

The Banking Act is the main statute governing banking activities in, or from, Switzerland. The provisions of the Banking Act are detailed in several implementing ordinances issued by the Swiss government (Swiss Federal Council) and by FINMA. In addition, FINMA issued a series of circulars setting out its interpretation of the regulatory framework. These regulations are complemented by the Federal Act on the Swiss Financial Market Supervisory Authority (FINMASA), which is a framework law governing the supervisory activities and instruments of FINMA.

Pursuant to the Swiss Federal Act on Financial Institutions (FinIA), a Swiss bank may, under its banking licence, act as a securities firm. Securities firms activities are governed by the Swiss Federal Act on Financial Services (FinSA), as well as the Financial Markets Infrastructure Act (FMIA) and their respective implementing ordinances. From a Swiss law perspective, securities firms may act, on a commercial basis, namely as:

- market makers;
- brokers operating on a short-term basis for their own accounts; and
- brokers acting in their own name for the account of their clients.

Swiss banks also qualify as 'financial intermediaries' within the meaning of the Swiss anti-money laundering legal framework and, as such, fall within the ambit of the Federal Anti-Money Laundering Act (AMLA) and its implementing ordinances.

A Swiss bank may also serve as custodian for collective investment schemes. Such activity is subject to the Collective Investment Scheme Act and its implementing ordinances.

Furthermore, the organisation and operation of financial market infrastructures are governed by the FMIA, which also sets out the general requirements regarding market behaviour rules.

Finally, the Swiss banking sector has a long tradition of self-regulation by industry-sponsored organisations. The Swiss Bankers Association and the Asset Management Association Switzerland regularly issue self-regulatory guidelines to their members, which FINMA recognises as minimum standards that need to be complied with by all Swiss banks. This is particularly true regarding the duty of due diligence in identifying the contracting party and the beneficial owner (Agreement on the Swiss Banks' Code of Conduct with regard to the Exercise of Due Diligence), the rules of conduct for securities dealing and the guidelines governing portfolio management.

Regulatory authorities

5 Which regulatory authorities are primarily responsible for overseeing banks?

FINMA is the supervisory authority in charge of supervising, in particular:

- banks;
- securities firms;
- collective investment schemes and fund management companies;
- managers of funds and individual portfolios;
- trustees; and
- insurance companies.

Systemic risks are addressed by the Swiss National Bank (SNB). FINMA and the SNB agreed on principles to coordinate their respective tasks.

Government deposit insurance

6 Describe the extent to which deposits are insured by the government. Describe the extent to which the government has taken an ownership interest in the banking sector and intends to maintain, increase or decrease that interest.

Deposits with Swiss banks are not, as a rule, insured by any public authority in Switzerland. Special rules apply to cantonal banks; namely, banks that are controlled by a Swiss canton (at least one-third of the capital and voting rights must be held by a Swiss canton in order for a bank to be characterised as 'cantonal'). The relevant cantonal legislation will specify to what extent the liabilities incurred by a cantonal bank are insured by the concerned canton.

In addition, the Banking Act provides for a privileged deposit system in case a bank is declared bankrupt. Deposits totalling 100,000 Swiss francs per client are regarded as privileged deposits. Deposits held by a Swiss bank of a foreign bank are also protected by the depositor protection system. As a first step of the system, privileged deposits are immediately paid out from the remaining liquidity of the bankrupt bank. If the institution's available liquidity does not cover all privileged bank deposits, that is, 100,000 Swiss francs per client, the depositor protection scheme is used as a second step. For that purpose, all Swiss banks are under an obligation to participate in a deposit-protection scheme that aims at securing the payment of privileged bank deposits. Such deposits also rank in a privileged class in the bankruptcy estate of the relevant bank. The deposit-protection scheme is limited to a maximum aggregate amount of 6 billion Swiss francs. Banks are required to secure preferential deposits by claims against third parties secured in Switzerland, or by assets in Switzerland, for a total amount corresponding to at least 125 per cent of the preferential deposits they hold. FINMA may increase this amount or grant derogations.

In addition to this deposit protection scheme, the Banking Act includes specific provisions on reorganisation procedures, prompter repayment of preferential deposits and the continuation of basic banking services during insolvency proceedings.

It should be noted that, unlike cash deposits in bank accounts, assets such as shares, units in collective investment schemes and other securities held in custodial accounts are client property, and in the event of bankruptcy of the bank, these assets are ring-fenced in their entirety and released to clients.

On 19 June 2020, the Swiss Federal Council submitted to the Swiss parliament proposed amendments to the Banking Act namely aimed at strengthening the current deposit protection scheme. In particular, in case of bankruptcy, Swiss banks would have to pay out cash deposits within seven business days (instead of 20 business days, as currently provided), which is in line with international standards. Further, banks would no longer need to secure half of their obligatory deposit insurance contributions in the form of additional liquidity, but by depositing securities or Swiss francs in cash with a custodian. This amendment is currently being addressed by the Swiss parliament and is expected to come into force in 2022, at the earliest.

Transactions between affiliates

7 Which legal and regulatory limitations apply to transactions between a bank and its affiliates? What constitutes an 'affiliate' for this purpose? Briefly describe the range of permissible and prohibited activities for financial institutions and whether there have been any changes to how those activities are classified.

Swiss banking laws do not provide for limitations that expressly apply to transactions between a bank and its affiliates. A bank's transactions with its affiliates may, however, fall under the general limits imposed on a bank's risk exposure towards a single counterparty (or a group of related counterparties) for diversification purposes. Risk exposure towards one single counterparty or a group of related counterparties exceeding 10 per cent of the bank's capital is to be monitored by the bank and, under certain circumstances, reported to FINMA. As a rule, such risk concentrations cannot exceed 25 per cent of the bank's overall capital. The Capital Adequacy Ordinance (CAO) provides that risk concentrations are to be measured only according to core capital (Tier 1), as supplementary capital (Tier 2) is generally not to be taken into account.

Under Swiss banking laws, entities are considered 'affiliates' if they are linked through a controlling relationship (ie, directly or indirectly held with more than 50 per cent of the voting rights or capital or dominated in any other manner) or by a factual or legal obligation to assist.

It is worth noting that a financial group or conglomerate, which includes a Swiss bank or securities firm or is effectively managed from Switzerland, may be subject to FINMA consolidated supervision. In this context, intra-group positions of a Swiss bank would, in principle, fall within the limits imposed on single-risk positions for diversification purposes. Only risk positions towards fully consolidated 'affiliates' may, under certain circumstances, be exempted from these limits.

In terms of capital adequacy requirements, the CAO provides for gone concern capital requirements for SIFIs. This regime provides, inter alia, for an abolition of the full deduction of parent companies' positions held in subsidiaries from core equity capital and of the accompanying relief measures allowed and for their replacement with the implementation of a risk weighting with weights up to 250 per cent with respect to positions in Swiss-based subsidiaries and 400 per cent with respect to positions in non-Swiss subsidiaries. These requirements relate to the parent companies' capital ratios only, to the exclusion of consolidated ratios. Amendments to the CAO entered into force on 1 January

2020. Besides introducing simplified requirements for 'small banks', the revised CAO aims at ensuring that sufficient gone-concern capital is available in the event of a crisis. In particular, certain group entities of systemically important banks such as their parents or Swiss units performing systemically important functions will need to fulfil, both at group level and on a stand-alone basis, the specific requirements that systemically relevant banks have to comply with.

Regulatory challenges

8 What are the principal regulatory challenges facing the banking industry?

In our view, the principal regulatory challenges facing the Swiss banking industry may be summarised as follows.

Anti-money laundering regulation and implementation of the latest Financial Action Task Force recommendations

Following the latest Financial Action Task Force (FATF) assessment of the Swiss AML legal framework, FINMA decided to revise the FINMA AML Ordinance in order to address certain remaining shortcomings identified by the FATF, as well as to implement FINMA's practice in this area. The revised FINMA AML Ordinance entered into force in 2020 and introduced, inter alia, more detailed requirements for global monitoring of AML risks. It specifies the risk management measures that must be put in place if domiciliary companies or complex structures are used or if there are links with high-risk countries. Further, FINMA reduced the threshold for identification measures for cash transactions from 25,000 Swiss francs to the level set by the FATF (ie, 15,000 Swiss francs).

In parallel, the Swiss Bankers Association published a revised Swiss banks' code of conduct with regard to the exercise of due diligence that came into force on 1 January 2020. This document sets out the duties of the banks relating to the identification of contracting parties as well as the identification of controlling parties or beneficial owners. The updated version is in line with both the revised FINMA AML Ordinance and the revised FINMA Circular 2016/7 on video and online identification (which will be revised in the course of 2021 to take into account technological developments).

In addition, the Swiss parliament is currently addressing amendments to the AMLA following the fourth FATF review of Switzerland conducted in 2016. While both the timing and the content of the revision are uncertain at this stage, the contemplated key measures proposed by the Federal Council are the following:

- increased obligations to verify information on beneficial owners and update such information;
- obligation for certain associations with an increased risk of abuse to be entered in the commercial register, to keep a register of its members and to have a representative body domiciled In Switzerland;
- financial intermediaries would be granted the right to terminate a business relationship with a pending reporting of suspicions to the Money Laundering Reporting Office (MROS) after a period of 40 days, if the MROS has not forwarded the report to a criminal prosecution authority; and
- in addition to financial intermediaries and certain merchants, advisors would potentially also be subject to the AMLA if they provide certain commercial services related to the establishment, management or administration of domiciliary companies and trusts.

New Swiss legislation on financial services and financial institutions

On 1 January 2020, the FinSA and the FinIA, along with their implementing ordinances, entered into force, subject to certain transitional provisions. While the purpose of the FinIA is to provide a 'new legal framework' governing all financial institutions, the objective of the FinSA is to regulate financial services, whether provided in Switzerland or on a cross-border basis by non-Swiss providers of financial services. FINMA regulation implementing FinSA and FinIA entered into force on 1 January 2021.

The introduction of the new FinSA and FinIA involves, inter alia, the following key changes to the current Swiss regulatory framework:

- financial services and institutions are governed in Switzerland by a general set of regulations on the supervision of financial services, embodied in the FinSA, the FinIA and the FMIA;
- client advisers of non-Swiss service providers, which are not subject to supervision in their home country (or that provide financial services to private clients), are now to register in a client advisers register, as a prerequisite to providing financial services to Swiss-based clients;
- the introduction of categorisation rules based on the European Union concept of 'professional clients' and 'private clients';
- the implementation of market conduct rules, including the obligation to verify the appropriateness and suitability of financial services, as well as inducements and transparency rules (integrating into the FinSA the most recent case law of the Swiss Supreme Court as regards the transparency and consent requirements for a financial institution to keep trailer fees);
- the provision of uniform prospectus rules that generally apply to all securities offered publicly into or in Switzerland, as well as a change of paradigm in the enforcement of the claims of investors against financial institutions; and
- the prudential supervision of independent asset managers and trustees that were previously not subject to prudential supervision. Their supervision is conducted by independent supervisory organisations approved and monitored by FINMA.

Sustainable finance

Sustainability has been an important topic impacting, among other sectors, the Swiss financial sector and financial institutions active in Switzerland. In June 2020, the Swiss authorities adopted a report and guidelines on sustainability in the financial sector. The report identifies several areas of sustainability, which will need to be developed in the future and sets out some guidelines in this context. Simultaneously, FINMA addressed the subject of climate-related financial risks. On 10 November 2020, the Swiss regulator launched a public consultation in view of improving disclosure of financial climate risks by financial institutions.

While at this stage, the approach taken by Switzerland is generally more liberal than the EU's in connection with green finance, initiatives are mainly coming from the industry itself seeking competitiveness of the Swiss financial sector. In this context, among others, the Asset Management Association Switzerland in cooperation with the Swiss Sustainable Finance Association have recently issued certain recommendations on sustainable asset management.

LIBOR transition

On 4 December 2020, FINMA published a transition roadmap for LIBOR aiming at preparing financial institutions for a discontinuation of LIBOR in various currencies. FINMA considers the end of LIBOR by the end of 2021 to be one of the main operational risk facing its supervised institutions. FINMA also issued recommendations in connection with derivatives. In particular, FINMA recommended that relevant institutions sign the Fallbacks Protocol developed and published by the International Swaps and Derivatives Association (ISDA).

Consumer protection

9 | Are banks subject to consumer protection rules?

Swiss regulatory laws do not provide for a specific consumer protection legal framework. However, as regards a certain type of loans, Swiss financial institutions are to observe mandatory provisions that cannot be altered to the detriment of consumers. Loans granted to individuals for purposes other than business or commercial activities, in the range of 500 Swiss francs and 80,000 Swiss francs (providing that the consumer is not obliged to reimburse the credit within less than three months), are subject to the Consumer Credit Act (CCA). The CCA sets out a series of mandatory consumer protection rules, including:

- the consumer credit contracts must be made in writing and comply with a with a maximum rate of interest set by the authorities (ie, in principle 15 per cent); and
- the consumer credit contracts must list a series of pieces of information, without which they are null and void (eg, the right of the consumer to revoke a line of credit in writing and within seven days of sending or the delivery of the contract to the borrower).

It should also be noted that in national and international transactions with consumers, depending on the countries involved, specific consumer protection rules may apply as regards the determination of the competent jurisdiction.

Future changes

10 | In what ways do you anticipate the legal and regulatory policy changing over the next few years?

According to FINMA's general strategic goals for the period from 2021 to 2024, the following fall within its main policy challenges:

- safeguarding the stability of supervised financial institutions;
- sustaining positive impact on the conduct of supervised financial institutions;
- ensuring that supervised financial institutions maintain the highest risk management standards and promote responsible corporate governance;
- providing long-term mitigation of the 'too big to fail' risk;
- ensuring that the financial system remains robust in the light of forthcoming structural changes and that clients are able to benefit from new opportunities without being exposed to additional risks;
- promoting innovation in the Swiss financial centre;
- contributing to the sustainable development of the Swiss financial center by giving particular consideration to climate-related risks; and
- ensuring that the Swiss financial regulation is in line with international standards.

In addition, one of the main challenges for the current year is the implementation of the FinSA and FinIA, which constitutes a complete overhaul of the legal framework applicable to financial institutions and the provision of financial services in Switzerland, including new licensing requirements for portfolio managers and trustees.

Finally, FINMA intends to strengthen Switzerland's position as one of the leaders in the fintech sector. To this end, the Swiss regulator engaged in a number of international bodies to establish a framework aimed at promoting innovation, as well as the protection of customers and investors in this area. Among other things, the Swiss parliament approved, in September 2020, an amendment to several federal acts to take into account developments in distributed ledger technology. These new provisions enter into force in 2021 and will generally enable the introduction of ledger-based securities that are represented in a blockchain.

SUPERVISION

Extent of oversight

11 | How are banks supervised by their regulatory authorities? How often do these examinations occur and how extensive are they?

Swiss banking supervision is based on a division of tasks between the Swiss Financial Market Supervisory Authority (FINMA) and the banks' external auditors.

Pursuant to this two-tier supervision system, the auditors conduct on-site audits, while FINMA retains responsibility for overall supervision and enforcement measures. To a certain extent, the auditors act as an extension (long arm) of FINMA, exercising direct supervision through regular audit checks.

In addition to examining the annual financial statements with an independent valuation of assets and liabilities, the auditors also review whether the banks comply with their articles of association and their organisational rules, as well as with the provisions of Swiss banking laws, the circulars issued by FINMA and any applicable self-regulatory provisions.

External auditors must, on an annual basis, prepare 'long-form reports' addressed to the members of the board of directors of the bank concerned and to FINMA. These reports provide a comprehensive overview of the business activities and the internal organisation of the relevant bank. The purpose of these reports is to allow FINMA to check that the financial institution complies with the regulatory requirements and that the individuals entrusted with its management enjoy a good reputation and thereby assure the proper conduct of business operations (ie, guarantee of irreproachable activity). These audit reports are the main informational tools through which FINMA exercises its supervision.

In addition to the long-form reports, the auditors are obliged to inform FINMA if they suspect any breach of law or uncover other serious irregularities. FINMA then initiates investigations and takes other measures necessary to ensure compliance with the legal framework and to eliminate irregularities.

A special supervisory regime exists for systemically important financial institutions given the systemic risk caused by the size of these institutions. Under such regime, broadly speaking, FINMA does not exclusively rely on the reports received from the auditors but carries out its own investigations in accordance with its risk-based supervision approach.

Enforcement

12 | How do the regulatory authorities enforce banking laws and regulations?

The enforcement of Swiss banking laws and regulations is closely linked to the obligation for Swiss banks to ensure compliance, at all times, with the requirements for a banking licence (continuing compliance with the conditions of a banking licence).

If, at any time after the licence has been granted, any of the licence requirements are no longer satisfied, FINMA may take administrative measures aimed at a remedy of the respective breach. FINMA may also appoint an investigator to clarify the factual situation and to facilitate the implementation of the measures imposed by the authority. Should the breach of the legal and regulatory framework be characterised as serious, FINMA could ultimately withdraw the banking licence, something that would trigger the forced liquidation of the bank.

13 What are the most common enforcement issues and how have they been addressed by the regulators and the banks?

The most common enforcement issues encountered in the practice of FINMA can be summarised as follows:

- the insolvency procedures and protective measures related to authorised and unauthorised entities;
- procedures against individuals, including entry onto a watch list (ie, a database with information on individuals whose business conduct is questionable or does not meet the respective requirements) and the sending of business conduct letters whereby FINMA informs the individual of its reservations as regards the assurance of proper business conduct;
- compliance with know-your-customer rules set out in the AMLA and the Agreement on the Swiss Banks' Code of Conduct with regard to the Exercise of Due Diligence, as well as insider trading and market manipulation; and
- the ongoing supervision of licensed entities (especially banks and securities firms), in particular, in order to ensure that the persons entrusted with the management of these entities fulfil on an ongoing basis the guarantee of irreproachable activity.

FINMA publishes a summary enforcement report to increase the transparency of its enforcement activities. This report contains anonymised summaries of cases and includes references to court decisions and statistics on FINMA's enforcement activities.

RESOLUTION

Government takeovers

14 In what circumstances may banks be taken over by the government or regulatory authorities? How frequent is this in practice? How are the interests of the various stakeholders treated?

Swiss law does not provide for any specific rules setting out the conditions and situations in which a Swiss bank may be taken over by the government or regulatory authorities.

By contrast, the involvement of the Swiss Financial Market Supervisory Authority (FINMA) in the context of bank reorganisation and liquidation proceedings is expressly addressed in the Swiss Federal Act on Banks and Savings Banks (Banking Act) and the implementing FINMA-Bank Insolvency Ordinance.

A legislative process is currently in progress for an amendment of the Banking Act. Along with amendments to the deposit protection scheme, the proposed amendments aim at increasing the effectiveness and legal basis of certain bank resolution measures. In particular, the content of the restructuring plan, the requirement that a restructuring plan needs to comply with the no-creditor-worse-off-than-in-liquidation-safeguard test and the available capital measures (cancellation of existing equity and the write-down or conversion of debt into equity) will be addressed by the amendments to the Banking Act, and such amendments are expected to enter into force in 2022, at the earliest.

Bank failures

15 What is the role of the bank's management and directors in the case of a bank failure? Must banks have a resolution plan or similar document?

FINMA requires that Swiss banks have sound business contingency management in place to ensure that critical business functions can be maintained or restored as quickly as possible in the event of a crisis. Systemically important financial institutions (SIFIs) are, in addition, required to have contingency or recovery plans ('living wills') in place. The responsibility for the establishment of such plans lies with the bank's board of directors and senior management.

Also, if a bank becomes over-indebted or experiences serious liquidity issues, FINMA can order broad and far-reaching protective measures, which may directly affect the bank's conduct of business and the role of the bank's management and directors. These protective measures may be taken independently from, or in addition to, the ordering of formal restructuring or liquidation proceedings. FINMA is, in particular, vested with the power to:

- give direct instructions to the bank's governing bodies;
- limit the powers of the bank's directors or managers or remove them from office;
- remove the bank's statutory auditors;
- limit the business activities of the bank;
- prohibit the bank to make or accept payments or undertake securities transactions;
- order a temporary stay of a counterparty's right to enforce a debt against the bank; and
- order a temporary stay of any contractual termination or termination of a counterparty right with respect to any contracts (subject to certain conditions).

16 Are managers or directors personally liable in the case of a bank failure?

Swiss law does not provide for a specific liability regime applicable to directors or managers of a bank. Should the bank's failure result from an intentional or negligent breach of the directors' or managers' duties, the general rules of Swiss company law would apply to determine the managers' or directors' personal liability for the damage caused to the company, its shareholders or creditors.

This liability for mismanagement must be distinguished from the liability regime applicable to the (managing or non-managing) partners of those Swiss banks that have the legal form of a partnership or a limited partnership (often referred to as Swiss private banks). In the case of bankruptcy of a Swiss private bank, the partners with unlimited liability would be jointly and severally liable with their own personal assets.

Planning exercises

17 Describe any resolution planning or similar exercises that banks are required to conduct.

In line with international standards and as mentioned above, SIFIs must have both a recovery and a resolution plan aimed at identifying risks with respect to the stability of the financial system owing to their systemically important nature and determining viable ways to deal with the impact of a crisis.

In accordance with the Banking Ordinance, a SIFI must establish a recovery plan that contains the measures that it would take in case of crisis and that would allow it to pursue its activities without requiring governmental funds. Responsibility for drafting and regularly updating the recovery plan rests with the executive board level of the SIFI and must be embedded in a viable corporate governance framework. The recovery plan, as well as any amendment of it, is subject to FINMA's approval. Provided that the legal requirements are met, FINMA approves the recovery plan and then elaborates a resolution plan on its own, based on the information provided by the SIFI. The resolution plan presents how, in concrete terms, a recovery measure or a SIFI liquidation could take place. On 25 February 2020, FINMA confirmed that the recovery and resolution plans of Credit Suisse and UBS are in place, while noting that those of PostFinance, Raiffeisen and Zürcher Kantonalbank are still to be implemented.

CAPITAL REQUIREMENTS

Capital adequacy

18 | Describe the legal and regulatory capital adequacy requirements for banks. Must banks make contingent capital arrangements?

The granting of a banking licence is subject to a minimum equity requirement. The fully paid-up share capital of a Swiss bank must amount to a minimum of 10 million Swiss francs and must not be directly or indirectly financed by the bank, offset against claims of the bank, or secured by assets of the bank. In practice, the Swiss Financial Market Supervisory Authority (FINMA) determines in each case the appropriate level of capital with regard to the scope of the contemplated activities. Capital adequacy and measurement rules are detailed in the Capital Adequacy Ordinance (CAO), the Liquidity Ordinance (LiqO) and the FINMA Circular 2015/2 'Liquidity risks – banks'.

The current regime provides for minimum capital requirements that call at all times for an aggregate (Tier 1 and Tier 2) capital ratio of 8 per cent of the bank's risk-weighted assets. In addition, risk-weighted positions must be covered at a ratio of 4.5 per cent with common equity Tier 1 (CET I) capital and at a ratio of 6 per cent with Tier 1 capital. Furthermore, banks are to have, from 1 January 2016, a capital buffer in the form of CET I capital between 2.5 and 4.8 per cent of the risk-weighted assets. Finally, under certain circumstances, the Swiss National Bank (SNB) can request that the Swiss government order that an additional countercyclical buffer of up to 2.5 per cent of all, or certain categories of the risk-weighted assets, be maintained in Switzerland in the form of CET I capital. In February 2013, such a countercyclical buffer was activated at the level of 1 per cent on loans secured against residential properties in Switzerland. On 30 June 2014, it was increased to 2 per cent. Banks with total assets of at least 250 billion Swiss francs, of which the total foreign commitment amounts to at least 10 billion Swiss francs, or with a total foreign commitment of at least 25 billion Swiss francs, are further required to maintain an extended countercyclical buffer in the form of common equity Tier 1 capital. Finally, if FINMA deems risks not adequately covered by these capital requirements, it can order banks to maintain additional capital.

In accordance with Basel III requirements, the CAO requires a risk-weighted capital ratio that rises with increasing size, as well as an unweighted capital adequacy requirement for all non-systemically important banks. A safety net in the form of a leverage ratio has been implemented with this capital adequacy requirement based on the leverage ratio. In this context, a minimum core capital (Tier 1) to a total exposure ratio of 3 per cent is now required for all non- systemically important financial institutions (SIFI). FINMA Circular 2015/3 'Leverage ratio' enables banks to also apply the Basel III standard approach for derivatives when calculating the leverage ratio.

Revised risk diversification provisions in the CAO entered into force on 1 January 2019. Under these rules, risk concentrations are measured only according to core capital (Tier 1), meaning that supplementary capital (Tier 2) is generally no longer taken into account. Moreover, banks are allowed only very restricted use of models for determining their risk concentrations, as modelling errors have a major impact when calculating these risks. Further changes concern overruns of the upper limits set out in the CAO (large exposures exceeding 25 per cent of core capital are generally no longer permitted), the weighting of certain assets, as well as the adjustment of some special rules for systemically important banks. The revised risk diversification provisions in the CAO are supplemented by the revised FINMA Circular 2019/1 'Risk diversification – banks'.

As regards quantitative liquidity requirements applied to non-systemic banks, the LiqO provides for two minimum standards: a liquidity coverage ratio (LCR) and a net stable funding ratio (NSFR). The LCR was introduced to ensure that banks hold a liquidity buffer to offset increased net cash outflows under a specified 30-day stress scenario. According to the LiqO, non-systemic banks were to comply with 60 per cent of the LCR's requirements as of 1 January 2015. By each of the following three years, they have to comply with an additional 10 per cent until they have complied with 90 per cent of the LCR's requirements for 2018 (phase-in until 1 January 2019). The NSFR, which requires non-systemic banks to have sufficient stable funding available to cover illiquid assets, initially had to be implemented in January 2018. However, owing to delays with the introduction of the NSFR in the European Union and the United States, the Swiss Federal Council decided in November 2017, and again in November 2018, to postpone the implementation of the NSFR. In November 2019, the Swiss Federal Council decided to implement the NSFR by mid-2021, in line with its expected implementation in the European Union and the United States. The revised LiqO was adopted by the Swiss Federal Council in September 2020 and will enter into force on 1 July 2021, along with the revised FINMA Circular 2015/2 'Liquidity risks – banks'.

With regard to SIFIs, the CAO sets out a specific capital adequacy regime. The latter calls for more stringent requirements as regards the bank's risk-weighted assets, which broadly comprise a basic requirement of leverage ratio of 4.5 per cent, in line with the Basel III minimum requirements applicable to all banks, an additional component of risk-weighted assets of 12.86 per cent and a surcharge. These requirements must not fall below 3 per cent with respect to the leverage ratio and 8 per cent as regards risk-weighted assets that the SIFI is to maintain at all times. With regard to the surcharge, its size is set with respect to the degree of systemic importance (ie, the total exposure and the market share of the relevant SIFI). SIFIs also have to satisfy countercyclical equity buffers and leverage ratio requirements. In addition to capital, liquidity, organisational and risk diversification requirements, the applicable regime also entails provisions that allow the government to order adjustments to the remuneration system of a bank that would have to rely on government funding.

19 | How are the capital adequacy guidelines enforced?

Enforcement of the capital adequacy requirements is part of the ongoing supervision process aimed at ensuring that the requirements of the banking licence are met. Compliance with capital adequacy requirements has to be reported to the SNB on a quarterly basis and is one of the topics addressed in the long-form reports issued by the bank's external auditors on a yearly basis.

Undercapitalisation

20 | What happens in the event that a bank becomes undercapitalised?

FINMA benefits from an exclusive competence to intervene in the event of a bank's undercapitalisation.

Upon the occurrence of a risk of undercapitalisation or insolvency, FINMA can take various protective measures, such as a moratorium of claims. Further, in case of need, FINMA may appoint a trustee in charge of the bank's reorganisation. The latter is then to propose to FINMA a reorganisation plan with the purpose of protecting the bank's creditors. Such a scheme generally aims to recapitalise the bank, for example, through converting debt into equity. As a result of the 2008 global financial crisis, FINMA was also granted additional powers with a view to increasing the likelihood of successful restructuring of a distressed bank. FINMA may order the transfer of all, or part of the bank's activities, to a 'bridge bank', compel a conversion of certain convertible debt instruments issued by the bank (eg, contingent convertibles) or a reduction (or cancellation) of the bank's equity capital, or both, and,

as an ultima ratio, order the conversion of the bank's debt obligations into equity. FINMA is also authorised to liquidate insolvent banks, in particular if no reorganisation is possible. These measures are set out in more detail in the FINMA-Bank Insolvency Ordinance.

Moreover, the Swiss Federal Act on Banks and Savings Banks allows FINMA to couple any protective measure or reorganisation measure with a temporary stay of any contractual termination or termination right of a counterparty with respect to any contracts or the exercise of certain netting, realisation and transfer rights (which prevail in the absence of a stay ordered by FINMA) for up to 48 hours. In this context, the Banking Ordinance generally requires, for enforceability purposes, that banks only enter into new agreements or agree to amendments to agreements, which are subject to foreign law or provide for a foreign jurisdiction, provided the counterparty acknowledges FINMA's stay right. This obligation is further specified in the FINMA-Bank Insolvency Ordinance. Accordingly, agreements entered into by foreign group entities are only subject to this obligation if the respective financial contract was guaranteed or otherwise secured by a Swiss bank or securities firm.

Insolvency

21 What are the legal and regulatory processes in the event that a bank becomes insolvent?

FINMA has the authority to intervene if a bank becomes insolvent.

Recent and future changes

22 Have capital adequacy guidelines changed, or are they expected to change in the near future?

In addition to the special capital adequacy regime and the leverage ratio regime imposed on Swiss SIFIs, FINMA implemented capital adequacy and liquidity rules in line with international standards. For banks to build up the required capital and replace or phase out capital that no longer qualifies under the new rules, transitional rules provided for an implementation schedule over a time period stretching to 2019.

The evolution of the standards issued by the Basel Committee on Banking Supervision, changes to the Banking Ordinance and the CAO, as well as amended international accounting standards, necessitated changes to a number of FINMA circulars.

This revision of FINMA circulars is one of the last steps in the national implementation of the Basel III standards. The implementation of the net stable funding ratio and the revised standards published by the Basel Committee in December 2017 are still pending. Implementation is scheduled for mid-2021.

In January 2019, amendments to the CAO entered into force. The revision focused on capital requirements for any restructuring and resolution (gone concern requirements). Following the introduction of such gone concern capital requirements for UBS and Credit Suisse in 2016, these now also apply to the other SIFIs (ie, PostFinance AG, Raiffeisen and Zürcher Kantonalbank). The amended CAO also provides for new rules for the treatment of SIFIs' stakes in their subsidiaries. Further amendments to the CAO were introduced in January 2020 to ensure that the parent entities of SIFIs are sufficiently well capitalised in the event of a crisis.

OWNERSHIP RESTRICTIONS AND IMPLICATIONS

Controlling interest

23 Describe the legal and regulatory limitations regarding the types of entities and individuals that may own a controlling interest in a bank (or non-bank). What constitutes 'control' for this purpose?

For the purposes of the Swiss Federal Act on Banks and Savings Banks (Banking Act), a participation is deemed to be a qualified participation if it amounts to 10 per cent or more of the capital or voting rights of the bank or if the holder of the participation is otherwise in a position to significantly influence the business activities of the bank (a 'qualified participation'). In addition, the Swiss Financial Market Supervisory Authority (FINMA) typically requires the disclosure of participations of 5 per cent or more for its assessment of whether or not the requirements of a banking licence are continuously met.

The Banking Act does not set any restrictions on the type of entities or individuals holding a controlling interest in a bank. However, one of the general requirements for a bank to obtain a licence is that individuals or legal entities holding, be it directly or indirectly, a qualified participation in a bank must ensure that their influence has no negative impact on the prudent and reliable business activities of the bank. Therefore, the bank's shareholders and their activities can be relevant for the granting and the maintenance of a banking licence.

Examples of circumstances where shareholders with a qualified participation may have a negative influence on the bank are a lack of transparency, unclear organisation or financial difficulties of financial conglomerates, as well as an influence of a criminal organisation on the shareholder. Should FINMA be of the view that the requirements for the banking licence are no longer met because of a shareholder with a qualified participation, it may suspend the voting rights in relation to such qualified participation or, if appropriate and as a measure of last resort, withdraw the licence, which would trigger a liquidation proceeding.

Foreign ownership

24 Are there any restrictions on foreign ownership of banks (or non-banks)?

If foreign nationals with qualified participations directly or indirectly hold more than half of the voting rights of, or otherwise a controlling influence on, a bank incorporated under Swiss law, the granting of the banking licence is subject to additional requirements. In particular, the corporate name of a foreign-controlled Swiss bank must not indicate or suggest that the bank is controlled by Swiss persons and the jurisdictions where the owners of the qualified participation have their registered office or domicile must grant 'reciprocity', which is:

- Swiss residents and Swiss entities must have the possibility to operate a bank in the respective country; and
- such banks operated by Swiss residents are not subject to more restrictive provisions compared to foreign banks in Switzerland.

The reciprocity requirement is subject to any obligations to the contrary in governmental treaties and is, therefore, not applicable to World Trade Organization member states. Furthermore, FINMA may request that the bank is subject to adequate consolidated supervision by a foreign supervisory authority if the bank forms part of a group active in the financial sector.

If a bank incorporated under Swiss law becomes foreign controlled as described above or if, in the case of a foreign-controlled bank, the foreign holders of a direct or indirect qualified participation in the Swiss bank change, a new special licence for foreign-controlled banks must

be obtained prior to such event. For the purposes of the Banking Act, a 'foreigner' is:

- an individual who is not a Swiss citizen and has no permanent residence permit for Switzerland; or
- a legal entity or partnership that has its registered office outside Switzerland or, if its registered office is in Switzerland, is controlled by individuals as defined above.

Implications and responsibilities

25 What are the legal and regulatory implications for entities that control banks?

There are no restrictions as to the business activities of the entities holding qualified participations in a bank, provided the conditions for the granting and maintenance of the licence are complied with. Generally, transactions between the (controlling) shareholders of a bank and the bank itself may be subject to specific requirements (eg, the granting of loans to significant shareholders must be in compliance with generally recognised banking principles).

26 What are the legal and regulatory duties and responsibilities of an entity or individual that controls a bank?

Each controlling shareholder has the duty to give notification of the acquisition or disposal of a qualified participation, as well as its participation reaching, exceeding or falling below certain thresholds. Further, the holder of a qualified participation must not negatively influence the prudent and reliable business activities of the bank, otherwise the bank may lose its licence.

In cases where justified concerns exist that a bank is over-indebted, no longer complies with the capital adequacy rules or has serious liquidity problems, FINMA may order certain protective measures and the establishment of a recapitalisation plan. Under a recapitalisation plan, the rights of creditors and shareholders may be impaired.

27 What are the implications for a controlling entity or individual in the event that a bank becomes insolvent?

There are no specific implications for a controlling shareholder of a bank if the bank becomes insolvent. However, if a bank becomes insolvent, FINMA has broad authority to intervene and to take protective or reorganisation measures to protect the bank's creditors. Such measures may have indirect implications for the shareholders.

CHANGES IN CONTROL

Required approvals

28 Describe the regulatory approvals needed to acquire control of a bank (or non-bank). How is 'control' defined for this purpose?

The acquisition of a qualified participation in a bank by a Swiss individual or a Swiss entity triggers a reporting requirement to the Swiss Financial Market Supervisory Authority (FINMA). All individuals and legal entities must report to FINMA before directly or indirectly buying or selling a qualified participation in a bank. FINMA will examine whether the influence of the new shareholder with a qualified participation would be detrimental to the prudent and reliable business activities of the bank and will intervene if necessary.

Foreign-controlled banks must apply to FINMA for a further additional licence when foreign holders of qualified participations change.

Foreign acquirers

29 Are the regulatory authorities receptive to foreign acquirers? How is the regulatory process different for a foreign acquirer?

The bank must apply to FINMA for an additional licence, provided that foreign nationals directly or indirectly hold more than half of the votes of, or otherwise a dominant influence on, the bank. If the transfer to foreign control causes the bank to become part of a financial group, FINMA requires the foreign supervisory to give its consent and be in a position to ensure consolidated supervision of the group as a whole (including the Swiss institution).

30 Under what circumstances can a foreign bank (or non-bank) establish an office and engage in business? For example, can it establish a branch or must it form or acquire a locally chartered bank?

A foreign bank needs to be authorised by FINMA as a branch if it employs staff in Switzerland who, on a professional basis, permanently carry out transactions or manage client accounts on its behalf in or from Switzerland that give rise to legal obligations. Likewise, a foreign bank is to obtain an authorisation from the Swiss regulator if it employs people who, permanently and on a professional basis, carry out activities in or from Switzerland that are not sufficient to indicate a branch, such as, for example, representation activities (eg, advertising).

The licensing requirements for a branch and a representative office (to a lesser extent) are similar to the ones applicable to a domestic Swiss bank, with the exception of the capital requirements (although financial collateral for a branch may be required by FINMA). It is also required that the foreign bank be subject to appropriate supervision which includes the Swiss branch or the representative office. Further, with respect to Swiss branches, if the foreign banks form part of a group active in the financial sector, appropriate consolidated supervision of the group by foreign supervisory authorities is required.

Alternatively, a foreign bank may also choose to acquire a locally chartered bank. An additional licence will be required for this purpose as well.

Factors considered by authorities

31 What factors are considered by the relevant regulatory authorities in an acquisition of control of a bank (or non-bank)?

FINMA generally considers whether the requirements for the banking licence are still met and, in particular, whether the new shareholders with a qualified participation will not negatively influence the bank's prudent and reliable business activities.

Filing requirements

32 Describe the required filings for an acquisition of control of a bank.

Each individual or legal entity must notify FINMA prior to acquiring or selling a direct or indirect qualified participation in a bank organised under Swiss law. This notification duty also applies if a qualified shareholder increases or reduces its qualified participation and attains, falls below or exceeds 10, 20, 33 or 50 per cent of the capital or voting rights in the bank. The notification must include a declaration whether the participation is held for its own account and whether any option or similar rights have been granted over the participation.

The bank itself is also required to notify FINMA of any changes triggering the notification duty of the shareholders once it becomes aware of such change, in any case, at least once a year.

In the case of a foreign-controlled bank, prior to any change of a foreign holder of a qualified participation, the bank must apply to FINMA for a special licence. In its application, the bank has to demonstrate all the facts based on which FINMA may assess whether the conditions for the special permit are satisfied.

Time frame for approval

33 What is the typical time frame for regulatory approval for both a domestic and a foreign acquirer?

Generally, the timing of the approvals or statements by FINMA largely depends on its workload. The process for a special banking licence in the case of a foreign-controlled bank may take three months. However, if the country of domicile or residence of the foreigner is not a World Trade Organization member, the process may take significantly longer. FINMA will have to assess whether that country grants the right of reciprocity.

If the acquirer is not a foreigner, there is no formal approval or licence required and, thus, a statement of FINMA is generally available within a shorter time frame.

UPDATE AND TRENDS

Key developments of the past year

34 Are there any emerging trends or hot topics in banking regulation in your jurisdiction?

On 1 January 2020, the Swiss Federal Act on Financial Services (FinSA) and Swiss Federal Act on Financial Institutions (FinIA) regime entered into force. The FinSA regime represents a major change both for domestic banks and foreign banks providing financial services to Swiss-based clients. The definition of financial services under the FinSA is restricted to the acquisition or disposal of financial instruments, the receipt and transmission of orders in relation to financial instruments, asset management, investment advice and granting of loans to finance transactions with financial instruments. The provision of financial services to clients in Switzerland on a cross-border basis falls within the scope of the FinSA. The following FinSA rules, therefore, apply to foreign financial service providers, unless the financial service is the result of reverse solicitation:

- client classification according to the new client categories (private, professional and institutional clients);
- compliance with organisational measures and rules of conduct (eg, information, suitability, documentation, reporting, transparency and duty of care);
- affiliation with an ombudsman's office; and
- registration in a client advisers register for the client advisers of foreign financial service providers acting in Switzerland on a cross-border basis, it being noted that an exemption is available if such foreign financial service providers are prudentially supervised in their home jurisdiction and if the financial services are solely rendered to Swiss-based professional and institutional clients.

Certain transitional deadlines apply in the context of the FinSA's implementation. While compliance with the new client classification rules as well as the rules of conduct and organisational measures are subject to a transitional period of two years (ie, until 31 December 2021), the affiliation with an ombudsman's office and the registration in the client advisers register are already in force.

Patrick Hünerwadel
patrick.hunerwadel@lenzstaehelin.com

Shelby R du Pasquier
shelby.dupasquier@lenzstaehelin.com

Marcel Tranchet
marcel.tranchet@lenzstaehelin.com

Maria Chiriaeva
maria.chiriaeva@lenzstaehelin.com

Isy Isaac Sakkal
isy.sakkal@lenzstaehelin.com

Brandschenkestrasse 24
CH-8027 Zurich
Switzerland
Tel: +41 58 450 80 00
Fax: +41 58 450 80 01

Avenue de Rhodanie 58
CH-1007 Lausanne
Switzerland
Tel: +41 58 450 70 00
Fax: +41 58 450 70 01

Route de Chêne 30
CH-1211 Geneva 6
Switzerland
Tel: +41 58 450 70 00
Fax: +41 58 450 70 01

www.lenzstaehelin.com

CORONAVIRUS

Coronavirus

35 What emergency legislation, relief programmes and other initiatives specific to your practice area has been implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

In March 2020, the Swiss Federal Council announced a package of measures to cushion the economic impact of the covid-19 pandemic by, inter alia, providing for a rapid and unbureaucratic supply of liquidity to the economy via the banks. In this context, the Swiss Federal Council adopted an emergency ordinance on the granting of government-backed loans. This aimed at addressing liquidity issues of small and medium-sized enterprises by giving them access to credit facilities guaranteed by the Confederation. Further, the Swiss Federal Council approved the proposal of the Swiss National Bank (SNB) to deactivate the countercyclical capital buffer with immediate effect. By alleviating the requirement for banks to hold additional capital for residential mortgage loans, this measure gave banks more flexibility in their lending activities to better meet the credit and liquidity needs of households and businesses. In addition, the Swiss Financial Market Supervisory Authority (FINMA) took the following measures in the course of 2020:

- temporary exclusion of central bank reserves from the calculation of the leverage ratio to release banks from the requirement that all balance sheet items should be backed by capital regardless

of the risk, thus allowing an increased liquidity supply to the real economy;
- relaxation of certain risk diversification requirements allowing to temporary cross the upper limit of 25 per cent (individual large exposure) or 100 per cent (large exposures) of Tier 1 capital;
- acceptance of a 10-day average of the yield curves as the calculation basis for the Swiss Solvency Test; and
- simplified identification processes under anti-money laundering legislation, in particular in connection with clients domiciled abroad.

In spring 2020, FINMA and the SNB recommended a prudent dividend distribution policy and welcomed the suspension of share buyback programmes. Finally, FINMA noted that in high-stress situations (such as the pandemic), there is an increased risk of cyber-attacks and issued new rules related to the reporting of such attacks to FINMA.

Other titles available in this series

Acquisition Finance
Advertising & Marketing
Agribusiness
Air Transport
Anti-Corruption Regulation
Anti-Money Laundering
Appeals
Arbitration
Art Law
Asset Recovery
Automotive
Aviation Finance & Leasing
Aviation Liability
Banking Regulation
Business & Human Rights
Cartel Regulation
Class Actions
Cloud Computing
Commercial Contracts
Competition Compliance
Complex Commercial Litigation
Construction
Copyright
Corporate Governance
Corporate Immigration
Corporate Reorganisations
Cybersecurity
Data Protection & Privacy
Debt Capital Markets
Defence & Security Procurement
Dispute Resolution
Distribution & Agency
Domains & Domain Names
Dominance
Drone Regulation
e-Commerce
Electricity Regulation
Energy Disputes
Enforcement of Foreign Judgments
Environment & Climate Regulation
Equity Derivatives
Executive Compensation & Employee Benefits
Financial Services Compliance
Financial Services Litigation
Fintech
Foreign Investment Review
Franchise
Fund Management
Gaming
Gas Regulation
Government Investigations
Government Relations
Healthcare Enforcement & Litigation
Healthcare M&A
High-Yield Debt
Initial Public Offerings
Insurance & Reinsurance
Insurance Litigation
Intellectual Property & Antitrust
Investment Treaty Arbitration
Islamic Finance & Markets
Joint Ventures
Labour & Employment
Legal Privilege & Professional Secrecy
Licensing
Life Sciences
Litigation Funding
Loans & Secured Financing
Luxury & Fashion
M&A Litigation
Mediation
Merger Control
Mining
Oil Regulation
Partnerships
Patents
Pensions & Retirement Plans
Pharma & Medical Device Regulation
Pharmaceutical Antitrust
Ports & Terminals
Private Antitrust Litigation
Private Banking & Wealth Management
Private Client
Private Equity
Private M&A
Product Liability
Product Recall
Project Finance
Public M&A
Public Procurement
Public-Private Partnerships
Rail Transport
Real Estate
Real Estate M&A
Renewable Energy
Restructuring & Insolvency
Right of Publicity
Risk & Compliance Management
Securities Finance
Securities Litigation
Shareholder Activism & Engagement
Ship Finance
Shipbuilding
Shipping
Sovereign Immunity
Sports Law
State Aid
Structured Finance & Securitisation
Tax Controversy
Tax on Inbound Investment
Technology M&A
Telecoms & Media
Trade & Customs
Trademarks
Transfer Pricing
Vertical Agreements

Also available digitally

lexology.com/gtdt

an LBR business

ISBN 978-1-83862-630-3