



finma

Eidgenössische Finanzmarktaufsicht FINMA  
Autorité fédérale de surveillance des marchés financiers FINMA  
Autorità federale di vigilanza sui mercati finanziari FINMA  
Swiss Financial Market Supervisory Authority FINMA

An aerial photograph of a city, likely Zurich, showing a river, dense residential buildings with red-tiled roofs, and a large institutional building with a blue dome. The image is overlaid with several semi-transparent blue geometric shapes, including triangles and polygons, which create a modern, architectural feel. The text 'Annual Report 2015' is centered over the middle of the image.

# Annual Report 2015

## FINMA's mandate

---

The Swiss Financial Market Supervisory Authority FINMA is a public-law institution in its own right. Acting as an independent supervisory authority, FINMA is charged with protecting the interests of creditors, investors and policyholders, as well as ensuring that the Swiss financial markets function properly.

FINMA is mandated to protect individual financial market clients against unfair business practices and inequitable executions in securities markets, and to ensure that the financial institutions it supervises remain solvent. It also secures the functioning of the financial markets which in turn safeguards and enhances the stability of the Swiss financial system. Effective protection of individual clients and of the functioning of the financial markets helps to promote competitiveness and the reputation of Switzerland's financial centre.

FINMA supervises banks, securities dealers, insurance companies, financial market infrastructures and financial intermediaries, in addition to products and institutions under the Collective Investment Schemes Act. It licenses companies operating in the sectors it supervises, while also ensuring that they comply with statutory regulations and continue to meet their licensing requirements. Moreover, FINMA cooperates with foreign regulators and is responsible for combating money laundering, taking enforcement measures and, where necessary, conducting restructuring and bankruptcy proceedings.


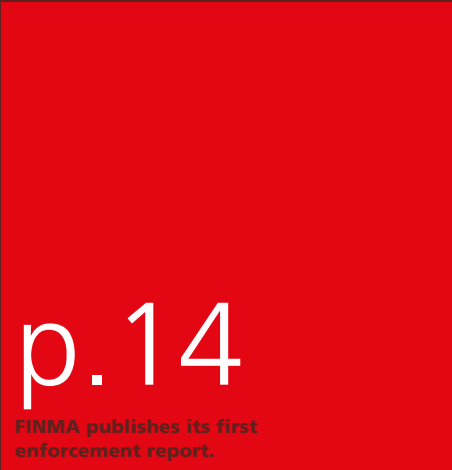
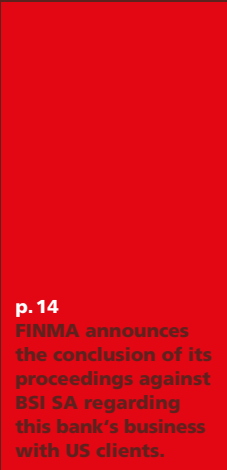

FINMA also supervises the disclosure of shareholdings at listed companies, conducts enforcement proceedings, issues rulings to restore compliance with the law and, where wrongdoing is suspected, files criminal complaints with the competent prosecution authorities. Further, FINMA supervises public takeover bids under the Stock Exchange Act and is the body to which appeals against decisions taken by the Swiss Takeover Board (TOB) may be brought.

Lastly, FINMA participates in the legislative process and, where competent to do so, issues its own ordinances. It also publishes circulars regarding the interpretation and application of financial market law and is responsible for the recognition of self-regulatory standards.

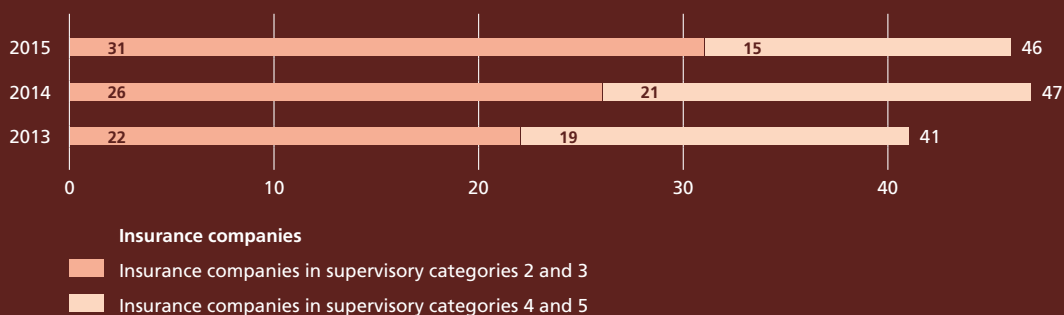
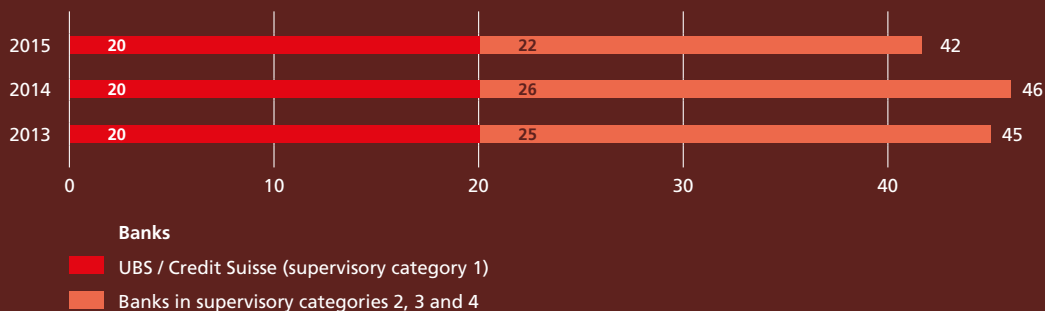


# On-site supervisory reviews in figures

On-site supervisory reviews are one of FINMA's key supervisory tools. While these reviews provide FINMA with comprehensive professional insight into a financial institution, they also encourage objective and open dialogue with licence holders, all of which ultimately helps the authority to identify potential risks. By comparing the results of individual reviews and assessing quantitative and qualitative aspects, FINMA also gains a broader overview of the market as a whole.

JAN.	FEB.	MAR.	APR.
 <p>The SNB announces the end of the euro/franc minimum exchange rate of CHF 1.20 and increases negative interest rates to 0.75%.</p>	 <p>p. 14 FINMA publishes its first enforcement report.</p>	 <p>p. 14 FINMA announces the conclusion of its proceedings against BSI SA regarding this bank's business with US clients.</p>	 <p>The Federal Council decides that the federal law on implementing the FATF recommendations, which had been revised in 2012, should come into force.</p>

## On-site supervisory reviews: banks and insurance companies



In 2015, the Banks division concentrated its on-site supervisory reviews on lending (including mortgages), money laundering, investment banking, suitability, and organisation and processes in different sectors. Although no on-site supervisory reviews as such were carried out at banks in supervisory category 5, brief but intensive on-site deployments (deep dives) contributed to a broader understanding of specific topics.

As in previous years, the main focus of the Insurance division's on-site supervisory reviews in 2015 was on assessing technical provisions. As part of its ongoing supervisory activities, these on-site reviews were also used to look at the outsourcing of insurance activities, corporate governance and the application of the Swiss Solvency Test. The depth of on-site supervisory reviews has been increased across the board.

MAY

**p. 27**  
FINMA licenses UBS Switzerland AG as a bank, securities dealer and custodian bank.

JUNE

**Parliament passes the Financial Market Infrastructure Act (FMIA).**

**p. 60 f.**  
FINMA's Anti-Money Laundering Ordinance is revised in full and published.

JULY

**The European Commission recognises Switzerland's insurance supervision system as equivalent to Solvency II.**

**SNB declares PostFinance to be systemically important.**

**p. 90**  
The revised FINMA Personnel Ordinance comes into force.

**p. 86**

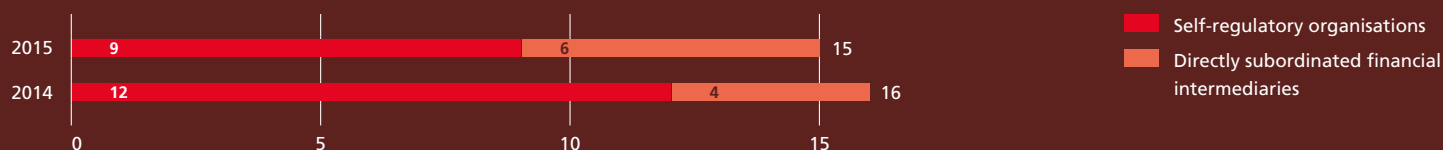
**The Federal Council appoints Thomas Bauer to FINMA's Board of Directors as of 1 August 2015 and as its new chair as of 1 January 2016.**

AUG.

**The revised Insurance Supervision Ordinance (ISO) comes into force.**

**p. 76**  
FINMA appoints mandataries at a number of banks to conduct investigations into the Petrobras case.

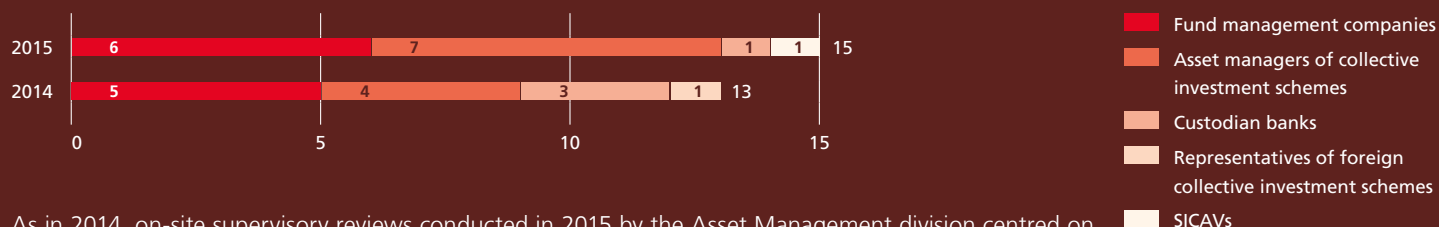
## On-site supervisory reviews: self-regulatory organisations and directly subordinated financial intermediaries



AMLA audits at self-regulatory organisations (SROs) are risk-oriented, which means that they take place more frequently at large SROs with significant risk exposures than at smaller, less high-risk organisations. Apart from focusing on the SROs' major risk exposure, they also aim at identifying critical weaknesses and pinpointing their origins in organisational and operational structures. Corrective measures are then defined and a schedule is drawn up for implementing them. In 2015, particular attention was devoted to reviewing the measures taken by SROs to combat the financing of terrorism and to examining and assessing the evaluation and post-processing of SRO audit reports. Some SRO-specific topics were also audited.

On-site supervisory reviews at directly subordinated financial intermediaries (DSFIs) are not based on benchmarking, but are instead conducted as risk-oriented, case-specific supervisory measures for restoring compliance with the law. In 2015, they affected fiduciaries, asset managers and money transfer service providers. Key focus areas were risk management, adherence to due diligence requirements by contracted third parties, compliance with AMLA due diligence requirements, and reporting rights and/or requirements.

## On-site supervisory reviews: institutions under the Collective Investment Schemes Act



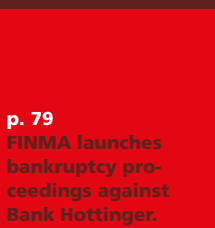
As in 2014, on-site supervisory reviews conducted in 2015 by the Asset Management division centred on risk management, including risk control, and on the safekeeping of investments. Another audit area was also identified in 2015: asset valuation.

SEPT.



**The National Council agrees to introduce automatic information exchange (AIE) with other countries.**

OCT.



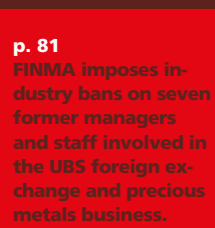
**p. 79**  
FINMA launches bankruptcy proceedings against Bank Hottinger.

NOV.



**The Federal Council approves the dispatch on the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA).**

DEC.



**p. 81**  
FINMA imposes industry bans on seven former managers and staff involved in the UBS foreign exchange and precious metals business.

p. 15

For the first time, FINMA authorises a Chinese bank to set up a branch office in Switzerland.

**The Federal Council raises the capital adequacy requirements for global systemically important banks in Switzerland.**

**The European Commission recognises Switzerland's supervision of central counterparties as equivalent.**

**The FSB publishes guiding principles and minimum values for the total loss-absorbing capacity (TLAC) of global systemically important banks.**

**p. 54**  
The FINMA Insurance Supervision Ordinance (ISO-FINMA) comes into force.

**The Federal Reserve raises its key rate for the first time in nine years, increasing the target range by 0.25 percentage points to 0.25%–0.50%.**

## Ongoing challenges for FINMA and the financial industry

---

Low interest rates, misconduct in the financial industry and ongoing digitalisation are key themes for the Swiss financial sector. FINMA follows these developments closely and intervenes where necessary.

In a rapidly changing environment in which innovation and adapting to new trends are crucial to success, financial institutions face ever new challenges. In times of change, FINMA must not only protect the clients of the financial sector, but also influence the regulatory and supervisory regime governing new services and providers. Looking forward is strategically more important than closing legacy issues.

### Potential for innovation

For some time now, FINMA has been analysing the strategic and operational aspects of technological change in the financial sector. We strongly support an innovative and competitive Swiss financial centre

and see innovation as an important factor in the competitiveness of the financial industry.

It is therefore a priority for FINMA to create a level playing field for all providers of products and services, whether digital or analogue. In our revision of the FINMA Anti-Money Laundering Ordinance, we emphasised its compatibility with digital business models. At the end of 2015, FINMA also launched a consultation on a new circular to facilitate video and online client identification. In addition, we have reviewed our own regulations and found them to be generally well prepared for the digital age. We would also support more flexibility in regulatory require-



ments, for instance by introducing a new licensing category with reduced requirements ("light" licence), or exempting providers below a given size from the Anti-Money Laundering and Banking Acts. FINMA is working on proposals to incorporate such changes into the current regulatory architecture.

#### **Increased risks due to low interest rates**

Interest rates remain extremely low, and in many cases even negative. This has put pressure on the profitability of financial institutions, causing them to intensify their search for yield. FINMA is keeping a close eye on areas such as mortgage lending for investment properties and real estate investments.

Low interest rates continue to present a challenge for life insurers. FINMA has responded by phasing out regulatory reliefs in solvency calculations granted three years ago, in order to provide insured persons with the protection they need, even if interest rates remain low.

#### **Strengthening "too big to fail" legislation**

The Federal Council's decision to reinforce the "too big to fail" legislation was a milestone in strengthening the stability of the Swiss financial system. Switzerland will introduce higher capital requirements for global systemically important banks, making it the first country worldwide to announce binding requirements governing the loss-absorbing capacity of its largest banks in the event of resolution, and accelerating the implemen-

tation of their emergency plans. These steps are necessary to minimise the need for the state to implicitly guarantee systemically important banks. FINMA will closely monitor the implementation of the new requirements.

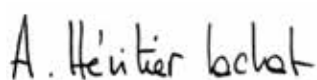
#### **Supervision of conduct**

In 2015, our focus was not only on prudential supervision. As we pointed out in the foreword to last year's annual report, widespread misconduct in the financial industry undermines trust in the financial system. We again initiated many enforcement proceedings, taking corrective measures against institutions and individuals involved in cases of misconduct.

These issues have prompted us to step up our supervision of compliance with conduct requirements. We have introduced new approaches to four themes: suitability of products and services for clients; market integrity; cross-border financial services; and combating money laundering and financial crime. Consistent and risk-oriented supervision is now applied proactively and rigorously across these four areas.

#### **Appointment of new FINMA Board members**

In the summer of 2015, the Federal Council appointed four new members to FINMA's Board of Directors, including a new chair, for the 2016–2019 term of office. The Board retains the broad and balanced expertise it requires to fulfil its role as FINMA's strategy-setting body.



Prof. Anne Héritier Lachat  
Chair



Mark Branson  
CEO

December 2015

## FINMA: AN OVERVIEW

---

- 8 FINMA's core tasks
- 14 2015 in milestones
- 16 FINMA in the political context
- 17 FINMA and its national stakeholders
- 19 FINMA and international standard-setting bodies

## MAIN ACTIVITIES

---

- 24 Further development of the Swiss "too big to fail" legislation
- 28 Further development of supervision and regulation in the insurance sector
- 30 Strengthening and systemisation of business conduct supervision
- 32 FINMA and differentiated regulation
- 34 Financial technology and digitalisation

## SUPERVISION, ENFORCEMENT AND REGULATION

---

### BANKS AND SECURITIES DEALERS

- 38 Overview of banks and securities dealers
- 42 Appreciation of the franc and negative interest rates: consequences for the banking sector
- 45 Changes in banking regulation
- 46 At a glance: steps in the Basel reform agenda

### INSURANCE COMPANIES

- 48 Overview of insurance companies
- 51 Protection of policyholders in health insurance
- 54 Changes in insurance regulation
- 58 At a glance: life insurers in a low interest rate environment

### MARKETS

- 60 Overview of markets
- 63 Supervision of financial market infrastructures
- 65 Changes in market regulation
- 66 At a glance: due diligence requirements for digital payment methods



## ASSET MANAGEMENT

- 68 Overview of asset management
- 72 Developments in investment funds
- 74 At a glance: the Swiss fund market

## ENFORCEMENT

- 76 Overview of enforcement
- 80 Enforcement statistics
- 82 At a glance: enforcement measures

## ORGANISATION AND STAFF

---

- 86 Board of Directors and Executive Board
- 90 Staff

## APPENDIX

---

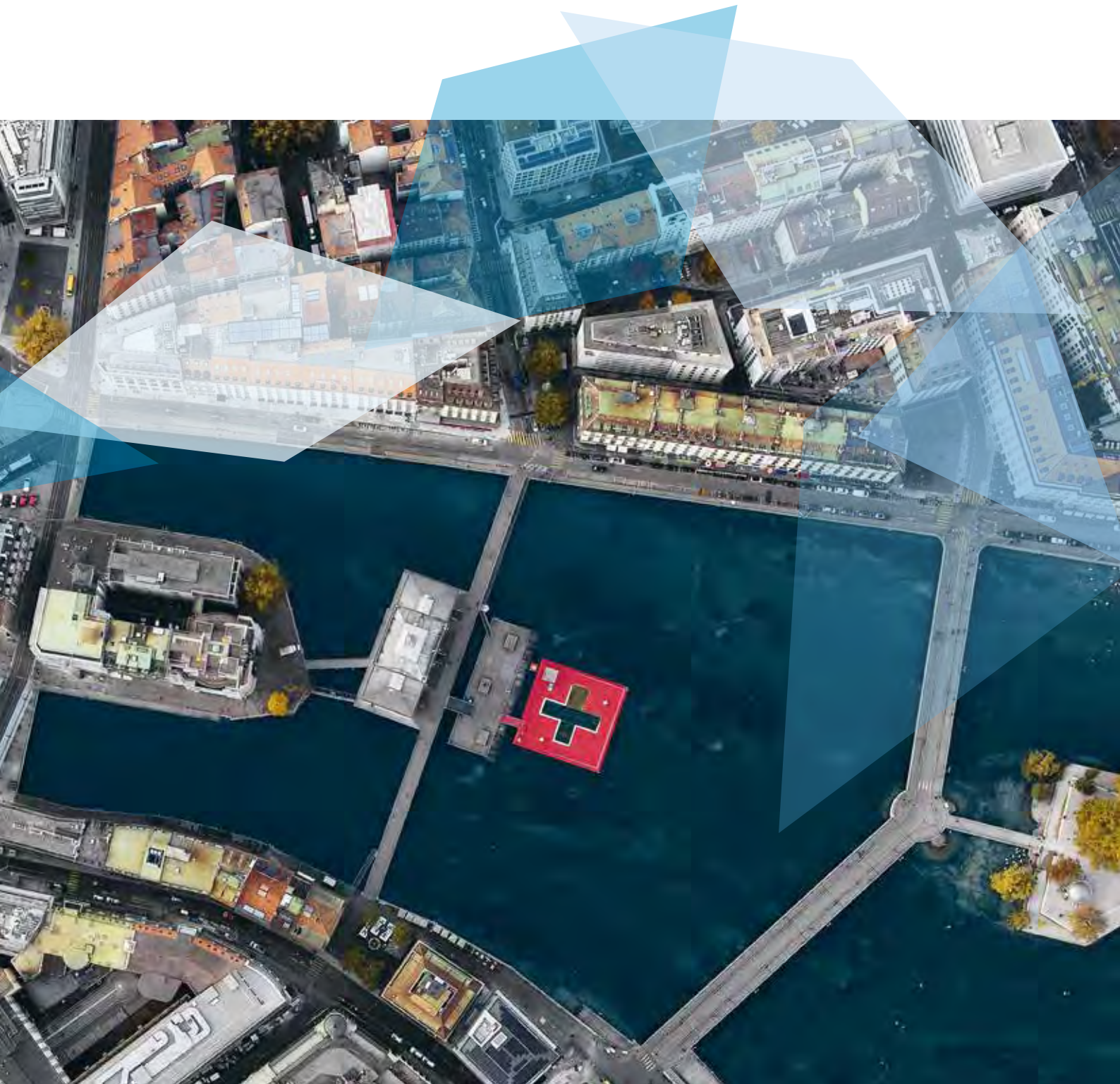
- 96 Supervisory categories
- 98 Statistics
- 102 National and international memoranda of understanding
- 104 Abbreviations





# FINMA: An overview

- 8 FINMA's core tasks
- 14 2015 in milestones
- 16 FINMA in the political context
- 17 FINMA and its national stakeholders
- 19 FINMA and international standard-setting bodies



FINMA performs its supervisory tasks through licensing, monitoring, enforcement and regulation. A key part of its activities is the ongoing supervision of authorised financial market participants. In line with financial market law, the scope and type of supervision depend mainly on the risks posed by the institutions FINMA supervises.

FINMA supervises 311<sup>1</sup> banks and 214 insurers, as well as other companies. The five biggest banks have total combined assets amounting to over 60% of the total assets held by all the supervised banks. The aggregated total assets of 42 insurance companies come to almost 95% of assets held by all supervised insurers. These figures demonstrate that each institution does not pose the same risks, which is why FINMA takes a risk-oriented approach to supervision: the greater the risk posed by an institution, the more intensive the supervision.

### Supervision based on an institution's risk potential

To ensure maximum efficiency and effectiveness, FINMA has developed a risk-based supervisory approach in line with the administrative principle of proportionality. This approach involves measuring the risks of a supervised company based on two criteria – categorisation and individual rating.

All institutions have been assigned to one of six supervisory categories,<sup>2</sup> depending on their risk impact for creditors, investors and policyholders, the system as a whole, and the reputation of the Swiss financial centre. Each institution is also given an individual rating, which is checked periodically and reflects FINMA's assessment of its current situation. The ratings range from excellent condition to serious shortcomings and are based on quantitative and qualitative factors such as solvency and liquidity, strategic orientation, corporate governance and business conduct.

For each institution, categorisation and individual rating determine the intensity of supervision, the supervisory tools used and the use of audit firms combined with FINMA's direct supervision. Depending on the complexity and risk profile of each institution, FINMA can thus allocate its resources with maximum efficiency.

### Central interfaces between FINMA and supervised institutions

Each supervised institution has a central contact at FINMA who has detailed knowledge of the company and is involved in the various matters relating to it. They coordinate supervision of the institution and liaise with cross-divisional units within FINMA, for instance with the Anti-Money Laundering and Financial Crime section. An institution's risk-related issues are thus handled by one contact point, providing professional and efficient supervision from one source.

Separate teams may be used to supervise large companies (i.e. those in supervisory categories 1 and 2), while at the other end of the supervisory spectrum, individual employees may be responsible for a number of smaller institutions.

### Supervision in practice

As FINMA's main focus is on prudential supervision,<sup>3</sup> the financial stability of the institutions it supervises is paramount. Ongoing supervision of licence holders is designed to assess the risks to which they are exposed and enable timely intervention if problems arise, thus preventing losses for creditors, investors and policyholders, and averting dangers to the system as a whole. Information acquisition is essential to supervision. This comes from reporting requirements and the duty to report, as well as direct contact with the financial market participants themselves.

Supervisory dialogue is key. It entails meetings with the supervised institution's board of directors and executive board on fundamental issues, such as the company's strategic orientation, governance, capitalisation, profitability, risk situation and other topics. FINMA also has several meetings each year at a more technical level with management and specialists from

<sup>1</sup> Prudentially supervised banks and securities dealers, including groups.

<sup>2</sup> See "Supervisory categories", p. 96 f.

<sup>3</sup> Prudential supervision aims first and foremost to ensure that solvency is guaranteed, adequate risk control is in place and proper business conduct is assured. Prudential supervision of banks, insurance companies and other financial intermediaries is based on the licensing requirements for a specific type of activity, ongoing monitoring of compliance with those requirements and other factors that are subject to regulation.



different areas, especially from risk management and internal audit. Further, current topics such as cyber risks or cross-border legal risks can trigger several ad hoc meetings during the year.

Besides collecting and evaluating standard information, FINMA performs case-specific controls and assessments through on-site supervisory reviews<sup>4</sup> from which it gains a rapid overview of a business or risk area. Issues arising from daily business or in-depth, subject-specific analyses can result in such a review, the outcome of which may lead FINMA to request some institutions to take specific measures and to monitor their implementation closely. Stress tests can also be used to validate particular kinds of information.

Moreover, on-site supervisory reviews are used to assess different companies in light of the same topic. These cross-sectoral analyses enable benchmarking, which helps to identify weaknesses at an early stage. FINMA holds regular, comparative, on-site supervisory reviews of issues of a macro-economic nature, for instance interest rate risks. Such issues are monitored by its internal units from a cross-divisional perspective.

Larger institutions generally receive an assessment letter every year informing them of the findings of FINMA's ongoing supervision. They are informed about their rating under FINMA's supervisory approach and about any deficiencies identified, as well as the measures they must take to rectify them. Milestones for implementing these measures are discussed regularly as part of ongoing supervision and may lead to further on-site supervisory reviews or to audits performed by audit firms.

<sup>4</sup> See "On-site supervisory reviews in figures" on the inside cover of this report.

### Auditors and mandataries used to extend FINMA's reach

FINMA is a relatively lean organisation with a modest number of employees by international standards, particularly given the size of the Swiss financial centre. Under financial market law, FINMA can use the services of audit firms to help it fulfil its mandate. Auditors perform financial audits as defined in the Code of Obligations, and regulatory audits as defined in financial market law, allowing FINMA to effectively extend its supervisory reach. As yet, supervised institutions have been free to select an auditor approved by the Federal Audit Oversight Authority (FAOA) and to assume the associated costs. Regulatory audit costs in 2015 for the 2014 financial year came to CHF 109 million compared to CHF 115.8 million in the previous year. Banks accounted for about 83% of this sum, with insurers and asset managers accounting for 5% and 11% respectively.<sup>5</sup>

### Regulatory audit costs

Regulatory audit costs for each area of supervision (CHF in millions) <sup>6</sup>	2015	2014	2013
Asset management	11.8	12.0	11.0
Banks and securities dealers	89.8	95.8	95.8
Markets <sup>7</sup>	1.9	2.0	n/a
Insurance	5.5	6.0	4.0
<b>Total</b>	<b>109.0</b>	<b>115.8</b>	<b>110.8<sup>8</sup></b>

In its 2014 country evaluation,<sup>9</sup> the IMF recommended that FINMA conduct more of these audits itself instead of assigning them to audit firms. It also stated that these audits, which are conducted on FINMA's behalf, should also be invoiced by FINMA to avoid conflicts of interest between auditors.

Regulatory audits have been reworked to optimise the way in which they are managed. At the beginning of 2014, FINMA decided to expand and increase the consistency of the instructions, guidelines and reporting templates for audit firms. Regulating reporting modalities and the basic content and conduct of regulatory audits, the Financial Market Auditing Ordinance (FMAO) was revised by the Federal Council and came into effect on 1 January 2015. FINMA subsequently amended FINMA Circular 2013/3 "Auditing",<sup>10</sup> which also became effective on 1 January 2015.

FINMA uses audit firms in three different ways. Firstly, as part of the regulatory audit, audit firms verify whether the supervised institutions comply with the applicable regulations. They need to acquire a comprehensive, qualitative and forward-looking account of the institution by conducting a basic audit carried out annually in compliance with a standard audit strategy approved by FINMA. If there is some uncertainty over the findings of the basic audit or if FINMA identifies irregularities during its on-site supervisory reviews, it may also commission additional audits.

The second role audit firms assume is as mandataries, i.e. third parties which FINMA appoints as part of its ongoing supervision to perform an audit of a supervised institution. Besides audit firms, FINMA uses law firms or other experts as mandataries who have the required professional expertise and experience and are independent of the institution under audit. FINMA sets down the duties of a mandatory in an appointment order. In fulfilling their mandate, mandataries must observe, and are subject to, FINMA's guidelines<sup>11</sup> on the orderly fulfilment of mandates by FINMA mandataries, as well as the direct instructions it provides.

<sup>5</sup> The number, size and various supervisory approaches influence the costs of a regulatory audit. Depending on the type of institution, external audit firms may be used more intensively. For instance, more insurance companies than banks are supervised directly by FINMA.

<sup>6</sup> The figures given for each year apply to audits conducted in the previous financial year.

<sup>7</sup> Includes financial intermediaries and financial market infrastructures.

<sup>8</sup> Excludes audit costs for areas supervised by the Markets division.

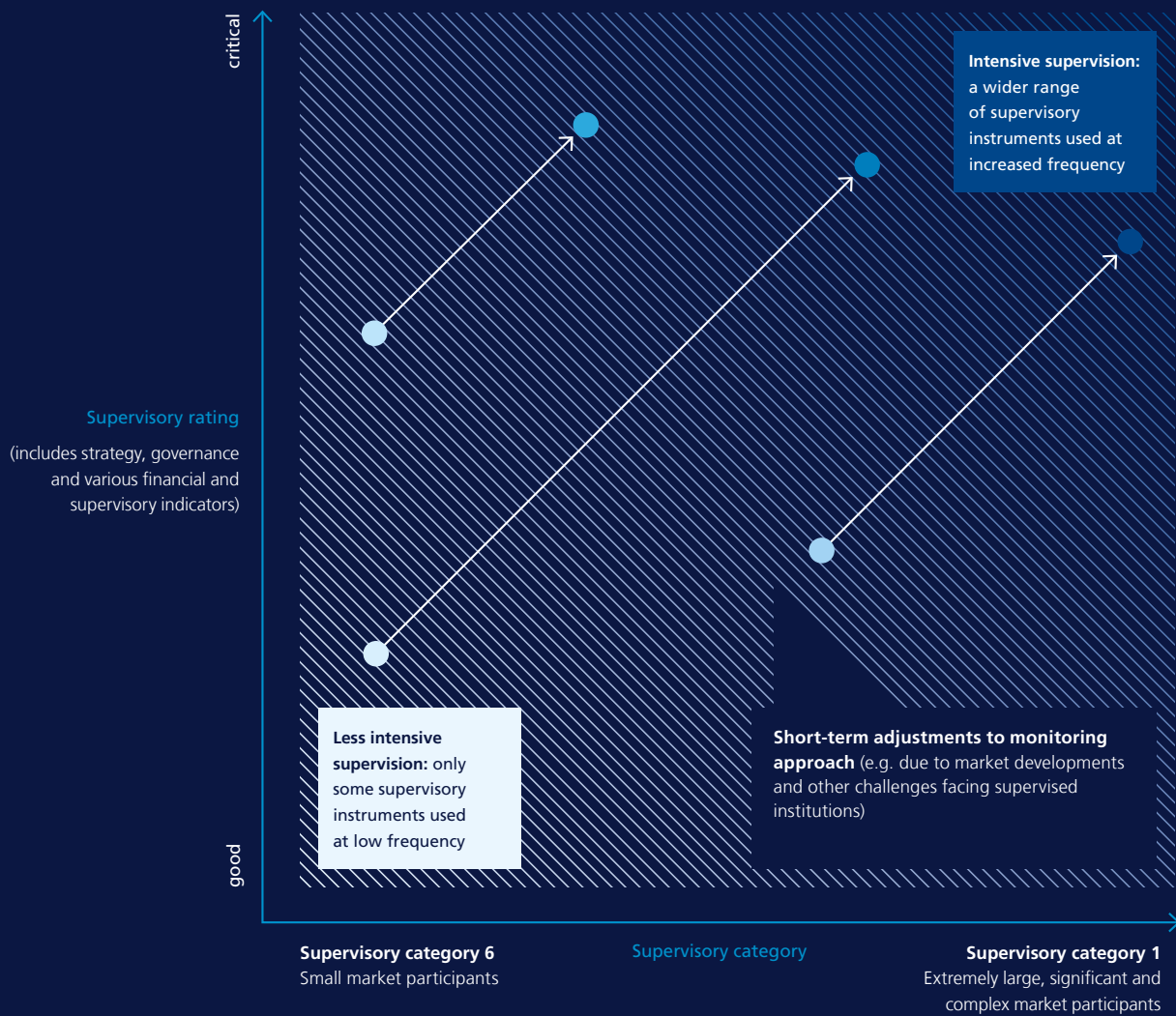
<sup>9</sup> Financial Sector Assessment Program (FSAP); see also FINMA Annual Report 2013, "FINMA undergoes inspections", p. 24 f., and FINMA Annual Report 2014, "Evaluation of the financial centre in Switzerland", p. 22 f.

<sup>10</sup> See FINMA Circular 2013/3 "Auditing" (<http://www.finma.ch/de/rs-2013-03.pdf>; in German).

<sup>11</sup> See "Guidelines on the orderly fulfilment of mandates" (<http://www.finma.ch/de/wl-mandat-serfuellung.pdf>; in German) dated 28 November 2013.

# Risk-oriented supervision

## Categorisation and individual rating determine the intensity of supervision



FINMA is increasingly using mandataries to help it fulfil its supervisory remit. In 2015, 17 mandataries were appointed to monitor adherence to embargo and anti-money laundering provisions and cross-border financial services and to investigate organisational and business conduct requirements.<sup>12</sup>

Also, audit firms or other experts can act as investigating agents mandated by FINMA during its enforcement proceedings.<sup>13</sup>

### **Escalation levels for irregularities**

If FINMA identifies irregularities during its ongoing supervision, it increases the intensity of supervision. It could, for example, increase the number of meetings or conduct on-site supervisory reviews or case-related audits. FINMA can escalate its response as needed. If intensified supervision fails to restore compliance with the law, enforcement measures are taken. In extreme cases, this can lead to licence withdrawal.

<sup>12</sup> Financial market laws require governing bodies of a supervised institution and the company itself to ensure proper business conduct.

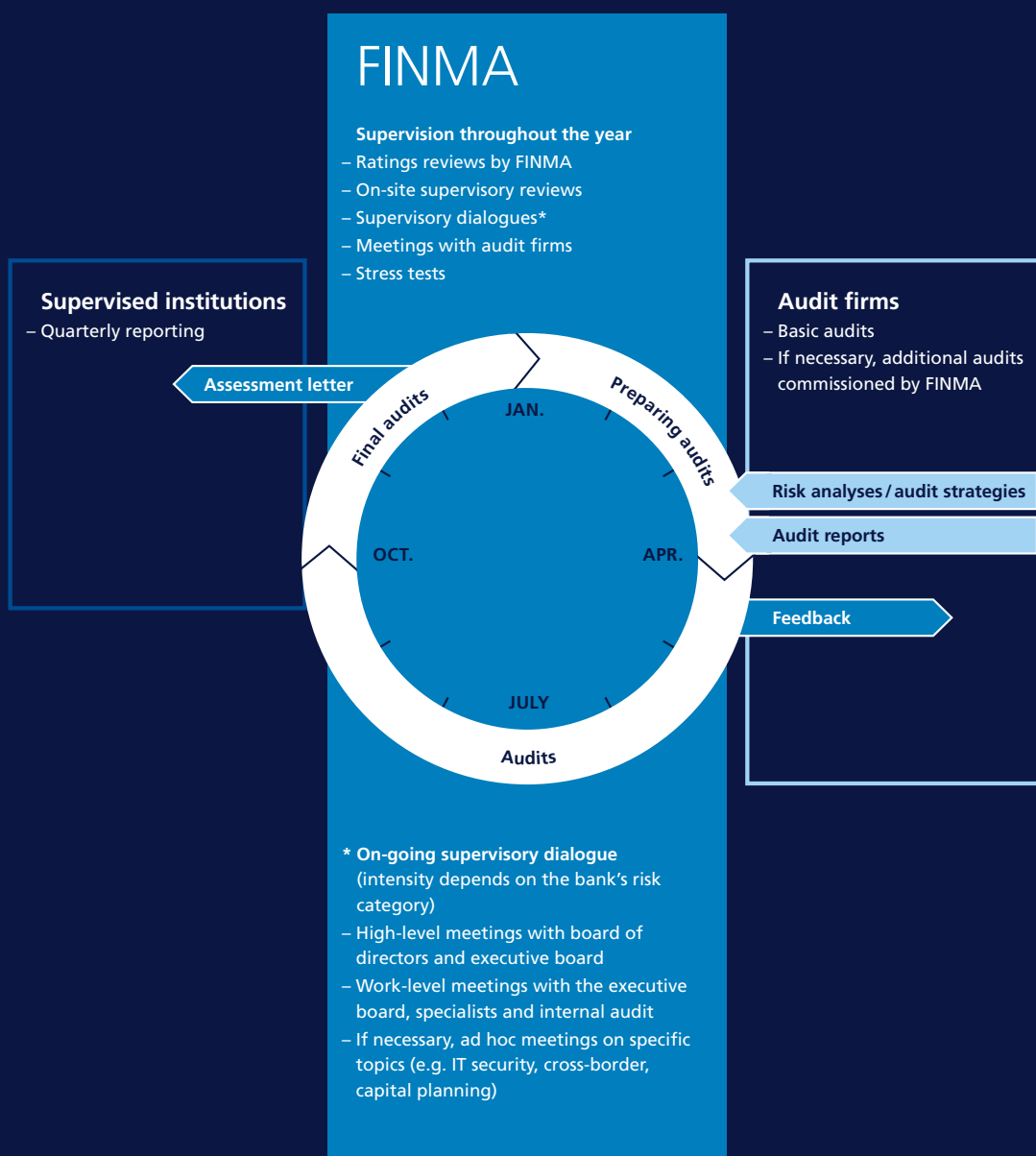
<sup>13</sup> If it becomes apparent from prudential supervision and the investigations conducted that FINMA is obliged to enforce supervisory law, it initiates administrative proceedings under the Federal Act on Administrative Procedure. These enforcement proceedings allow FINMA to impose and enforce measures to restore compliance with the law.



# Supervisory cycle

The intensity of supervision, the supervisory tools applied and the level of FINMA's direct supervision, combined with the use of auditors, vary for each supervised institution, depending on its supervisory category and rating.

## Example of the annual banking supervisory cycle



From supervisory ordinances to interest rates, 2015 was a varied and challenging year for FINMA. The key milestones are summarised below by quarter.

### First quarter

#### FINMA publishes its first enforcement report

On 24 February, FINMA published its first separate report on its enforcement activities during the previous financial year. The 2014 enforcement report contained details of priorities, trends, anonymised case summaries and comprehensive figures documenting FINMA's enforcement investigations and proceedings. In future, FINMA will publish an enforcement report every year to promote prevention and transparency in its enforcement activities.

#### BSI SA: first agreement of the US program

On 30 March, BSI SA was the first category 2 bank<sup>14</sup> to sign a non-prosecution agreement as part of the U.S. Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks. FINMA issued a press release on the same day about the enforcement proceedings conducted against the bank in 2013.

### Second quarter

#### Banking licence for UBS Switzerland AG

In May, FINMA issued UBS Switzerland AG with a licence to operate as a bank, securities dealer and custodian bank. As a result, UBS AG was able to transfer its retail, corporate and asset management business in Switzerland to a separate Swiss bank and thus segregate its systemically important functions from the rest of its business (ex ante separation).

#### Swiss insurance supervision equivalent to Solvency II<sup>15</sup> in the EU

On 5 June, the European Commission recognised the Swiss solvency and insurance supervisory system as fully equivalent to Solvency II for an indefinite duration. Switzerland was the first country to gain equivalence to the European Solvency II Directive for reinsurance, calculation of solvency and group supervision. This will enable Swiss insurers and reinsurers in the international market to avoid being placed at a competitive disadvantage and being subjected to regulatory duplication. It also means FINMA can exercise effective supervision, which is coordinated at the international level.

#### Publication of fully revised FINMA Anti-Money Laundering Ordinance

On 23 June, FINMA published its fully revised Anti-Money Laundering Ordinance (AMLO-FINMA).<sup>16</sup> The new version takes account of the revised Anti-Money Laundering Act and updated international standards. It also implements findings from supervisory practice and recent market developments.

The revised FINMA Anti-Money Laundering Ordinance contains numerous amendments to the formal and material due diligence and organisational requirements to which financial intermediaries must adhere.

#### Conclusion of proceedings against Groupe Mutuel

In June, FINMA concluded extensive enforcement proceedings against Groupe Mutuel. The investigation revealed that group companies active in the supplementary health insurance business had inadequate corporate governance standards and did not comply with the regulatory requirements for legally binding business plans. Groupe Mutuel was therefore in serious breach of supervisory law. Having initiated corrective measures in 2014, FINMA additionally imposed a restricted 18-month acquisition ban on Groupe Mutuel's supplementary health insurance business.

#### Federal Council approves new FINMA Personnel Ordinance

To promote a modern human resource policy and improve its attractiveness as an employer, FINMA revised its Personnel Ordinance, which had been in place since its foundation. On 13 May, the Federal Council approved the revised FINMA Personnel Ordinance, which came into force on 1 July 2015.<sup>17</sup> The changes made include the abolition of variable salary components and a rule on cooling-off periods to avoid conflicts of interest when employees leave FINMA to join a supervised institution.

### Third quarter

#### Appointment of new FINMA Board members

On 1 July, the Federal Council appointed FINMA's Board of Directors for the term of office from 2016 to 2019. The new chair from 1 January 2016 is Dr Thomas Bauer. The Federal Council also appointed three new Board members: Prof. Marlene Amstad, Bernard Keller and Dr Renate Schwob, also with effect from 1 January 2016. Current Board members Philippe Egger, Bruno Frick, Prof. Yvan Lengwiler, Günter Pleines and Franz Wipfli were reappointed for the same term of office. The former chair, Prof. Anne Héritier Lachat, and the former vice-chair, Paul Müller, had previously indicated their wish to step down from the Board when their term expired at the end of 2015.

#### Entry into force of the FINMA Insurance Supervision Ordinance

The Federal Council approved the revised Insurance Supervision Ordinance (ISO) with effect from 1 July 2015. Revision of the ISO was an important prerequisite for the European

<sup>14</sup> This categorisation relates to the agreement concluded at the end of August 2013 (joint statement) to resolve the tax dispute between the banks and the US (see also the FDF press release of 30 August 2013 ([https://www.efd.admin.ch/efd/en/home/dokumentation/nsb-news\\_list.msg-id-50049.html](https://www.efd.admin.ch/efd/en/home/dokumentation/nsb-news_list.msg-id-50049.html))).

<sup>15</sup> Solvency II primarily refers to EU Directive 2009/138/EC of 25 November 2009 passed by the European Parliament and Council on the taking-up and pursuit of insurance and reinsurance business (Solvency II; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:335:0001:0155:en:PDF>). It is also often used to refer to the economic and risk-based method of assessing the capital adequacy of an insurance company described in the Directive.

<sup>16</sup> See FINMA Ordinance on the Prevention of Money Laundering and Terrorist Financing (FINMA Anti-Money Laundering Ordinance) of 3 June 2015 (<https://www.admin.ch/opc/de/classified-compilation/20101812/index.html>; in German).

<sup>17</sup> See FINMA Personnel Ordinance of 11 August 2008 (<https://www.admin.ch/opc/de/classified-compilation/20080899/index.html>; in German).

Commission's recognition of equivalence between the Swiss insurance supervisory system and the EU Solvency II Directive. In addition, the FINMA Insurance Supervision Ordinance (ISO-FINMA)<sup>18</sup> and FINMA circulars detailing and implementing aspects of the ISO were revised. While existing legislation was condensed, FINMA also issued two new circulars. This resulted in a reduction of the volume of regulation by about one third. The consultation ran from 8 July to 19 August. ISO-FINMA came into force on 15 December 2015 and the revised circulars on 1 January 2016.

#### Recommendation of AIFMD passport for Switzerland

On 30 July, in accordance with the EU Alternative Investment Fund Managers Directive (AIFMD),<sup>19</sup> the European Securities and Markets Authority (ESMA) recommended to the European Commission that Swiss alternative investment fund managers be allowed facilitated access to the European market through the AIFMD passport.

#### Licence for a branch of the China Construction Bank Corporation

In a ruling dated 25 September 2015, FINMA granted China Construction Bank Corporation, Beijing, a licence to open a branch in Switzerland as a bank and securities dealer. It is to provide services in corporate and trade finance and in currency and money market transactions, especially payment processing and clearing in renminbi (Chinese currency). The establishment of this branch is the first time a Chinese bank in Switzerland has been able to act as a renminbi hub with authorisation from the Chinese central bank, the People's Bank of China.

#### Fourth quarter

##### Swiss "too big to fail" legislation strengthened

In October 2015, three years after the first package of measures to curb the "too big to fail" problem, the Federal Council set higher capital adequacy requirements for global systemically important banks in Switzerland. It also took other measures to enhance these banks' resilience. Switzerland was the first country to introduce binding targets for the loss-absorbing and recapitalisation capacity of its big banks in the event of resolution. The leverage ratio<sup>20</sup> for global systemically important banks is 5% and the loss-absorbing potential is now to be equivalent to 10% of total exposure.<sup>21</sup> Moreover, Swiss emergency plans must be implemented by the end of 2019. The corresponding revision of the Banking Ordinance and Capital Adequacy Ordinance is scheduled for 2016.

#### Bankruptcy proceedings initiated against Bank Hottinger & Cie Ltd

FINMA initiated bankruptcy proceedings against Bank Hottinger & Cie Ltd at the end of October. The bank had run into difficulty owing to sustained losses and a number of unresolved lawsuits. As there was no prospect of restructuring the bank and it was in danger of becoming overly indebted, FINMA had no option but to initiate bankruptcy proceedings. The bankruptcy liquidators appointed by FINMA started by segregating custody accounts and refunding privileged deposits of up to CHF 100,000. The bank's clients were also given the opportunity to transfer their custody accounts to another bank and have their privileged deposits paid into those accounts.

#### Licence for a branch office of a foreign asset manager

Since the partial revision of the Collective Investment Schemes Act, Swiss branches of foreign collective investment scheme

managers can be recognised as asset managers domiciled in Switzerland subject to certain conditions. With its ruling of 10 November 2015, FINMA issued a licence for the first time to a foreign asset manager to set up a branch in Switzerland. Another licence was issued just before the year ended.

#### EU recognises Swiss supervision of central counterparties as equivalent

On 13 November, the European Commission recognised Swiss supervision of central counterparties<sup>22</sup> as equivalent to the provisions that apply within the European Union. This decision provides a basis on which Swiss central counterparties can access the EU market. This positive evaluation of Switzerland's supervision of central counterparties strengthens the reputation and competitiveness of the Swiss financial centre.

#### Seven industry bans in UBS foreign exchange and precious metals trading

In December, FINMA issued industry bans against two former managers, four former traders and one former employee working in the UBS foreign exchange and precious metals business. The bans were imposed for periods of between six months and five years. FINMA had concluded that those involved were directly responsible for serious breaches of regulation, as communicated in 2014. Four other enforcement proceedings against UBS traders were discontinued in August 2015.

#### US tax dispute

In 2015, 76 category 2<sup>23</sup> banks concluded the U.S. Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks initiated by the Department of Justice (DoJ) and thereby resolved the tax dispute with the US within the Swiss legal framework. The banks paid fines totalling USD 1.13 billion. FINMA welcomes the conclusion of this protracted litigation, which had weighed on the Swiss banking sector.

<sup>18</sup> See FINMA Insurance Supervision Ordinance (ISO-FINMA) of 9 November 2005 (<https://www.admin.ch/opc/de/classified-compilation/20052702/index.html>; in German).

<sup>19</sup> See Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 of Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:174:0001:0073:EN:PDF>).

<sup>20</sup> The leverage ratio is the minimum amount of capital required in relation to total exposure, in which balance sheet positions are not risk-weighted.

<sup>21</sup> Total exposure is the sum of a bank's on- and off-balance sheet positions.

<sup>22</sup> An institution which acts as a contracting party between a buyer and a seller in transactions involving financial instruments is known as a central counterparty.

<sup>23</sup> See footnote 14, p. 14.

Also in 2015, FINMA sought to fulfil its accountability to Parliament by participating in meetings examining supervisory activities and by providing information on a variety of key issues.

There were fewer requests for FINMA representatives to provide information to parliamentary committees in 2015 than in the previous year. FINMA did, however, remain available to the committees to answer questions on technical issues, and it also accounted to the supervisory committees for its work.

### Expert input on legislative committee work

In the first half of 2015, FINMA was invited to provide its expertise on reforming private insurance to the Committee for Social Security and Health of the Swiss Council of States (SSH-CS) in relation to the Pensions 2020 consultations. In late autumn, FINMA representatives also attended a hearing chaired by the Committee for Economic Affairs and Taxation of the National Council (CEAT-N) on the subject of FinTech.<sup>24</sup>

### HSBC Private Bank (Suisse) SA hearing

FINMA is subject to parliamentary oversight and is therefore accountable to Parliament for its supervisory activities. The FDF/EAER sub-committee<sup>25</sup> of the Control Committee of the Council of States (CC-CS) invited FINMA's chair of the Board of Directors and its CEO to a meeting about FINMA's role in preventing money laundering in relation to HSBC Private Bank (Suisse) SA.

The Control Committee was satisfied with the information provided. It issued a press release at the end of May 2015 stating that FINMA had been able to show that it had taken a number of measures, in terms of prevention, monitoring and enforcement, with respect to HSBC Private Bank (Suisse) SA since its foundation on 1 January 2009. As a result, the Control Committee ruled that there was no need for further action from a parliamentary oversight perspective.

### Annual meeting with the Control Committees

As part of its annual submission to the FDF/EAER sub-committee, FINMA gave an account of its supervisory work during 2014 and reported on ongoing business. This meeting is generally scheduled in April following publication of FINMA's annual report.

### Information event on the role of enforcement in supervision

In addition to parliamentary hearings, consultations and accountability requirements, FINMA organised, as in previous years, an information event for members of parliament at its offices in 2015. The event was to inform them about how FINMA practises enforcement and to talk about enforcement measures such as disgorgement of profits, industry bans and enforcement proceedings in general.

<sup>24</sup> See "Financial technology and digitalisation", p. 34 f.

<sup>25</sup> See <https://www.parlament.ch/en/organe/committees/supervisory-committees/control-committees-cc/sub-committees>.



FINMA maintains contacts with a large number of national institutions and associations. Within its regulatory remit, it pursues an open and transparent information policy with supervised institutions, other stakeholders and the public.

FINMA maintains regular contact in various forms with almost 100 institutions and associations, including the umbrella associations of supervised institutions; business, professional and staff associations; consumer protection organisations; and ombudsmen in the various supervisory areas. FINMA also aims to improve understanding of supervisory and regulatory matters and raise awareness of financial market issues through active dialogue with its stakeholder groups.

### Expert panels

In 2015, in cooperation with the private sector, FINMA initiated four subject-specific expert panels with representatives from the highest echelons of the business sector. The subjects covered were asset management, retail banking, capital markets and private banking. These panels aim to promote direct exchange between decision-makers from supervisory authorities and key financial market participants. Each panel met twice during 2015. Besides the financial market situation, specific supervisory and regulatory issues were discussed.

### Advisory committee on the future of the financial centre

In 2015, FINMA played an active role in the “Beirat Zukunft Finanzplatz”, a committee focusing on the future of the financial centre set up by the Federal Council. It is chaired by Prof. Aymo Brunetti and comprises representatives from research, business and administration. The role of the committee is to analyse the basic challenges and future perspectives of the financial centre in terms of the economy as a whole and to make recommendations to the Federal Council. FINMA contributed both its technical expertise and supervisory perspective to the committee’s work.

### Cooperation with administrative authorities

Within its legal mandate, FINMA also cooperates with the Federal Department of Finance (FDF), the Swiss National Bank (SNB) and other authorities on matters of shared regulatory and supervisory concern.

---

## FINMA in dialogue with academia

In 2015, FINMA again hosted seminars during which academics<sup>26</sup> presented their latest findings on financial market topics. FINMA’s aim in staging these events is to enter into dialogue with the academic community and engage in critical discussion of relevant issues. The seminars are also an opportunity for FINMA staff to learn more about recent research.

---

<sup>26</sup> Prof. René Matteotti, Prof. Michel Maréchal (University of Zurich), Matthias Efinger (University of Geneva), Prof. Didier Sornette (ETH Zurich) and Prof. Peter Maas (University of St. Gallen).

# Key topics discussed with important stakeholder groups

FINMA conducts annual or semi-annual discussions with the most important associations and stakeholder groups of supervised institutions. The main topics covered in 2015 are indicated below.

## BANKS

### Swiss Bankers Association (SBA)

- Cross-border financial services
- Access to the EU market for Swiss financial services providers
- Financial technology (FinTech) and digitalisation

## INSURANCE COMPANIES

### Swiss Insurance Association (SIA)

- Implementation of the revised Insurance Supervision Ordinance
- New and revised FINMA circulars
- Further development of the Swiss Solvency Test
- Governance assessment; audit items for internal control systems
- Recognition of minimum standards in business continuity management

## COLLECTIVE INVESTMENT SCHEMES

### Swiss Funds & Asset Management Association (SFAMA)

- Amendment of current sample documents and various SFAMA guidelines to reflect the revised Collective Investment Schemes Act and Collective Investment Schemes Ordinance
- Market access, especially in relation to the AIFMD passport for third countries
- Financial technology (FinTech) and digitalisation

## AUDIT FIRMS

### EXPERTsuisse\*

- Experiences related to the auditing guidelines introduced in 2013
- Compliance with supervisory provisions defining incompatibility with an audit mandate
- Experiences related to the transfer of supervisory powers to the Federal Audit Oversight Authority (FAOA)
- Implementation of FINMA Circular "Market conduct rules"<sup>27</sup>

\*Swiss Institute of Certified Accountants and Tax Consultants was renamed EXPERTsuisse on 1 April 2015.

<sup>27</sup> See FINMA Circular 2013/8 "Market conduct rules" ([www.finma.ch/en/rs-2013-08.pdf](http://www.finma.ch/en/rs-2013-08.pdf)).

In 2015, international standard-setting committees continued to make progress on regulatory projects, which set key operating conditions for FINMA's supervisory role and the Swiss financial centre in general. FINMA also played an active role on many committees.

As part of its international remit, FINMA represents Switzerland on a number of international standard-setting bodies, including the Basel Committee on Banking Supervision (BCBS), the International Association of Insurance Supervisors (IAIS), the International Organization of Securities Commissions (IOSCO) and subgroups of the Financial Stability Board (FSB). These bodies facilitate valuable exchanges of experience at an international level and formulate internationally recognised minimum standards for financial market regulation and supervision. In these forums, FINMA promotes solutions which do not distort financial market competition and which permit implementation at a national level that is appropriate to the Swiss financial sector.

### Financial Stability Board

The Financial Stability Board (FSB) liaises between the G-20 and the BCBS, the IAIS and IOSCO, representing the various sectors. While Switzerland is not a member of the G-20, it can still contribute to the definition of key regulatory reforms through its FSB membership. Within the FSB, FINMA represents Switzerland on the Standing Committee on Supervisory and Regulatory Cooperation, the Resolution Steering Group and a number of subsidiary bodies. FINMA also works closely with the SNB and the State Secretariat for International Financial Matters (SIF), which represent Switzerland in the FSB Plenary and other bodies.

In 2015, the FSB continued its work on the international reform agenda, which was established in the aftermath of the financial crisis. For instance, the adoption of international minimum requirements for the total loss-absorbing capacity (TLAC) of global systemically important banks (G-SIBs) in the event of resolution has been a big step towards resolving the "too big to fail" problem.<sup>28</sup> The FSB also introduced a minimum standard, which aims

to restrict the reuse of collateral from securities financing transactions with non-banks in order to mitigate risks in the shadow banking system.

### Basel Committee on Banking Supervision

Switzerland is represented by FINMA and the SNB on the Basel Committee. The main role of the Basel Committee in 2015 was to restore confidence in capital ratios. It revised the calculation methods for risk-weighted assets to this end, holding public hearings on adjusted standard rates for credit and operational risks. In parallel, the committee gave careful consideration to a fundamental review of the trading book and the interest rate risks in the banking book. Moreover, the committee established criteria for simple, transparent and comparable securitisations to revive the high-quality securitisation market and made further refinements to the leverage ratio calculation.

In 2015, the Basel Committee also continued its country tests for implementing the Basel III minimum standards and completed its work with the FSB on the TLAC minimum standards for global systemically important banks.

### International Association of Insurance Supervisors

In 2015, FINMA continued to play its part in the IAIS Executive Committee, as well as other IAIS committees and working groups. As part of an organisational reform, the IAIS abolished observer status on 1 January 2015, which had previously been available to insurance representatives. The IAIS will nevertheless remain accessible to the sector through a transparent public hearing process, meetings with stakeholder groups and an extended newsletter.

At the request of the IAIS and based on its analysis, the FSB published a new list of global systemically

<sup>28</sup> See "Further development of Swiss 'too big to fail' legislation", p. 24 ff.

important insurers (G-SIIs) at the beginning of November 2015. The list still does not include any Swiss insurers. Towards the end of November 2015, the IAIS also published a consultation paper<sup>29</sup> on the revised G-SII identification methodology. It aims to further define the current approach in order to take proper account of all types of insurance, reinsurance and other financial activities. The IAIS also developed and published the calculation basis for the higher loss absorbency (HLA)<sup>30</sup> requirement, which G-SIIs will have to meet starting in 2019.

There was also progress in 2015 on the Common Framework (ComFrame) for the Supervision of Internationally Active Insurance Groups (IAIGs). ComFrame is designed to form the international basis on which national supervisors will holistically record the qualitative and quantitative risks of insurance groups. A new risk-based international capital standard (ICS), which IAIGs will have to meet from 2020, is being developed for quantitative aspects. The IAIS also revised its general standards, covering licensing, corporate governance, risk management and group supervision.

### International Organization of Securities Commissions

FINMA represents Switzerland on the IOSCO where it sits on governing bodies and other committees. In 2015, the cross-border activities task force created in 2013 under the vice-chairmanship of FINMA successfully concluded its work and published a final report.<sup>31</sup> As part of its research into the systemic importance of financial institutions outside banking and insurance, IOSCO in conjunction with the FSB carried out work to analyse systemic risks in asset management. It also published a report<sup>32</sup> on credible means of deterring misconduct in securities trading as a contribution to the international exchange of experience in this area. Further reports were published on financial benchmarks, securitisations, money market funds, SME capital market financing, central counterparties and rating agencies.

In summer 2015, IOSCO set its strategic vision for the next five years by finalising its mission, goals and priorities, as well as its action and financial plans. It plans to improve the current basis for international cooperation (based on the IOSCO MMoU and the Enhanced MMoU). The organisation will also look at the stability of central counterparties, as their failure could have serious repercussions for the financial system. In addition, in view of previous well-documented instances of misconduct, IOSCO will also focus resources on the issue of market conduct. Finally, it will increasingly focus on how its members implement its standards.

<sup>29</sup> See the IAIS consultation paper of 25 November 2015 "Global Systemically Important Insurers: Proposed Updated Assessment Methodology" (<http://iaisweb.org/index.cfm?event=open-File&nodeId=58005>).

<sup>30</sup> The term "higher loss absorbency" (HLA) refers to the increased capacity to absorb (unexpected) losses with capital.

<sup>31</sup> See Board of IOSCO's final report in September 2015 "IOSCO Task Force on Cross-Border Regulation – Final Report" (<http://www.iosco.org/library/pubdocs/pdf/IOSCOPD507.pdf>).

<sup>32</sup> See IOSCO report in June 2015 "Credible Deterrence In The Enforcement Of Securities Regulation" (<http://www.iosco.org/library/pubdocs/pdf/IOSCOPD490.pdf>).



### FINMA's international cooperation in figures

FINMA was represented in a total of 82 working groups at the four central international standard-setting bodies in 2015.

Standard-setting committees	Number of working groups
FSB	16
BCBS	30
IAIS	19
IOSCO	17
<b>Total</b>	<b>82</b>

Given the comprehensive reform agenda which emerged in the wake of the financial crisis, FINMA's involvement in international bodies grew markedly for a number of years. This trend levelled off in 2015, partly as a result of FINMA's efforts to prioritise its participation in international committees.





# Main activities

- 24** Further development of the Swiss “too big to fail” legislation
- 28** Further development of supervision and regulation in the insurance sector
- 30** Strengthening and systemisation of business conduct supervision
- 32** FINMA and differentiated regulation
- 34** Financial technology and digitalisation



Switzerland again played a leading role in 2015 responding to challenges related to financial institutions that are “too big to fail”. In October, the Federal Council decided to introduce higher capital requirements for global systemically important Swiss banks by the end of 2019 and to accelerate the implementation of emergency plans. Switzerland is thus the first country worldwide to introduce binding requirements for the loss-absorbing and recapitalisation capacity of its largest banks in the event of resolution.

Since the financial crisis, the regulatory and supervisory authorities in leading international financial centres have been attempting to lessen the severity of the “too big to fail” problem. The issue is particularly pressing in Switzerland as its financial sector, and in particular its two large banks, account for a significant percentage of GDP. This explains why it was one of the first countries to take action, with Swiss “too big to fail” standards being introduced into the Banking Act on 1 March 2012. From the outset, the Federal Council was to review the provisions within three years and compare them with international standards. In February 2015, the Federal Council published an evaluation report based on the recommendations<sup>33</sup> of the expert group<sup>34</sup> headed by Prof. Aymo Brunetti. While this report approved the basic design of the “too big to fail” legislation, it also advocated amending capital requirements and reviewing the implementation of emergency plans. Following publication of the report, the Federal Council called for the FDF, together with the SNB, the SIF and FINMA, to draft proposals for amending the Swiss “too big to fail” standards by the end of 2015. The working group presented its key findings to the Federal Council at the beginning of October.

On this basis, the Federal Council agreed on 21 October 2015 that in future both big Swiss banks, UBS and Credit Suisse, should have significantly more loss-absorbing capital. The aims of the higher capital requirements for these two global systemically important banks are twofold. While going-concern capital is intended to cope with potential losses from ongoing business activities and prevent insolvency, gone-concern capital ensures the continuation of systemically important functions in the event of resolution. The gone-concern requirements can also be met fully through debt capital, which can be converted into equity if capital reserves (bail-in) prove inadequate.

The public hearing process on the new regulations is scheduled for the first quarter of 2016.

### New quantitative and qualitative capital adequacy requirements

In October, the Federal Council passed more stringent requirements for global systemically important banks with regard to leverage ratio and risk-weighted assets. Both these requirements are now significantly higher than in 2012. That means both large banks are now to have a total loss-absorbing capacity (TLAC) equivalent to 10% of their total exposure.<sup>35</sup> The leverage ratio acts as a security net, particularly if risk weightings retrospectively turn out to be inappropriate. It is now 5% for going-concern instruments and a further 5% for bail-in capital for resolution (gone concern). The requirement expressed in terms of risk-weighted assets (RWA) should reflect the differing risk profiles of the various investment classes. The risk-weighted requirements now come to 14.3% each for going-concern and gone-concern instruments, giving a total requirement of 28.6%.

The quality of the capital instruments permitted should improve as should the quantitative minimum capital requirements. The going-concern leverage ratio requirement for Common Equity Tier 1 capital, for example, will increase by almost 50% compared to the former regulations.

### Mandatory implementation of emergency plans by 2019

In line with the principles-based approach, Switzerland wants to ensure that the systemically important functions of UBS and Credit Suisse can be preserved, supported by realistic emergency plans (recovery and resolution plans) drawn up by the banks themselves. In October, in addition to defining higher capital requirements, the Federal Council set a deadline for

<sup>33</sup> See final report by the group of experts on the “Further development of financial market strategy” of 1 December 2014 (<http://www.news.admin.ch/NSBSubscriber/message/attachments/37585.pdf>; in German).

<sup>34</sup> See “Federal Council report ‘Too big to fail’ (TBTF), evaluation under Article 52 of the Banking Act and in response to postulates 11.4185 and 14.3002” of 18 February 2015 (<https://www.admin.ch/opc/de/federal-gazette/2015/1927.pdf>; in German).

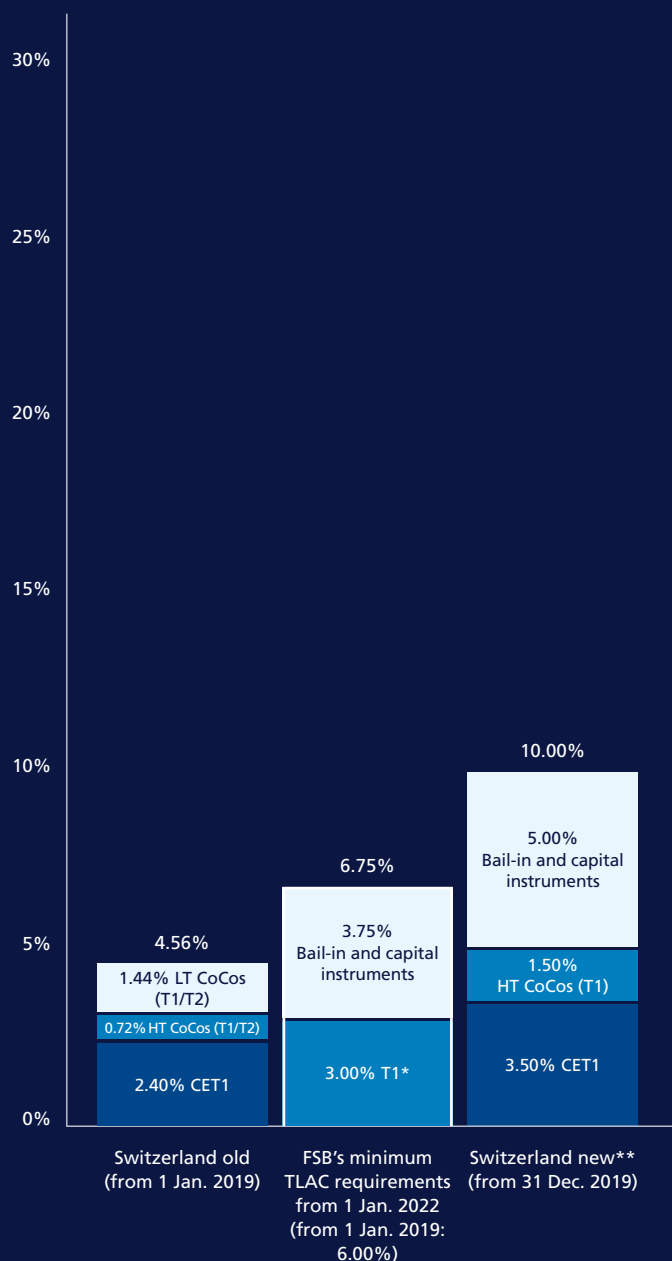
<sup>35</sup> See footnote 21, p. 15.



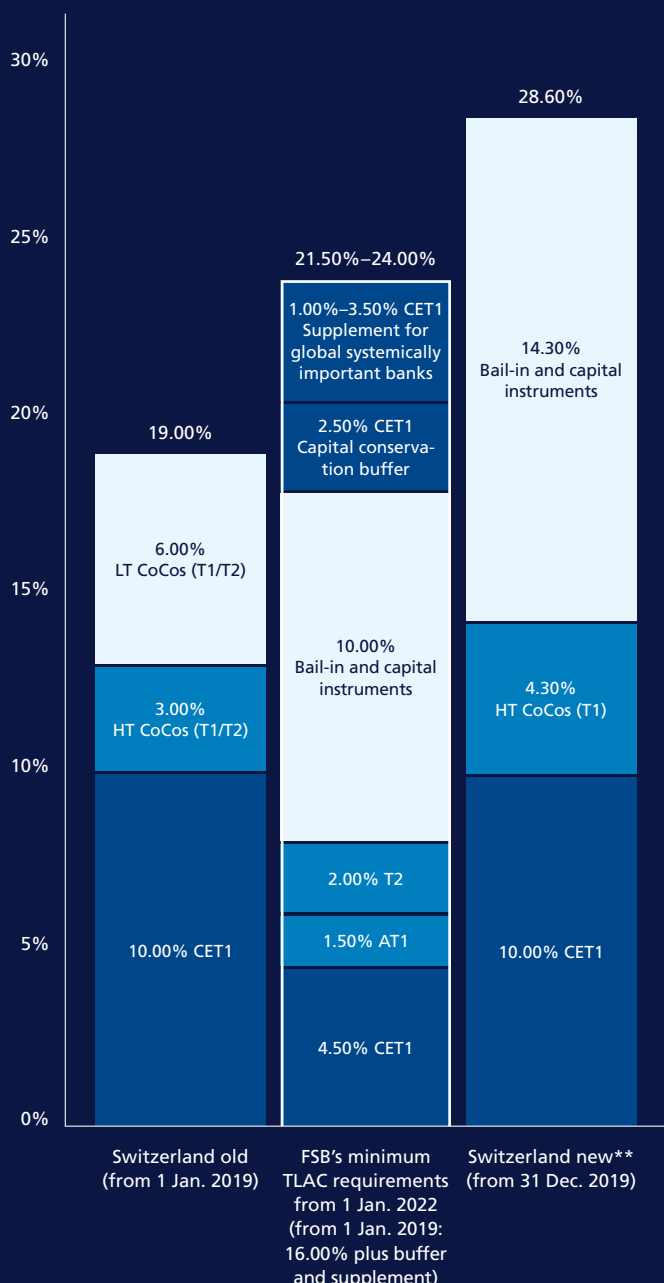
# Capital requirements

The new calibration of the Swiss standards includes historic loss values, comparisons with international standards and the risk profile of the big Swiss banks.

## Unweighted requirements (leverage ratio)



## Risk-weighted requirements



CET1	Common Equity Tier 1
T1	Tier 1
AT1	Additional Tier 1
T2	Tier 2
CoCos	Contingent convertible bonds
HT	High trigger
LT	Low trigger
TLAC	Total loss-absorbing capacity

	Gone concern
	Going concern
	Going concern

\* The Basel Committee will put forward the final leverage ratio calibration in 2016.  
 \*\* Following the Federal Council's decision of 21 October 2015.

implementing emergency plans. By adapting their corporate structures,<sup>36</sup> the large banks have already taken the first major steps to being better prepared for resolution in the event of a crisis. However, there are still extensive intra-group interdependencies precluding the smooth continuation of systemically important functions in a crisis. The Federal Council has remedied this deficiency by making the implementation of emergency plans mandatory by the end of 2019.

#### **Switzerland assumes a leading role**

The measures approved by the Federal Council in 2015, which include the loss-absorbing capacity of 10% of total assets, will substantially strengthen the capital reserves of the two large banks from 2019 onwards. The Federal Council's ruling of October 2015 reflects the considerable risks facing Switzerland owing to the size of its large banks in relation to the domestic economy. FINMA welcomes the decision, as it will enhance the resilience of the large banks and the stability of the financial centre. The new, improved "too big to fail" legislation means Switzerland is an international leader when it comes to binding capital requirements.

<sup>36</sup> See "Setting up of UBS's and Credit Suisse's Swiss legal entities", p. 27.

---

## Setting up of UBS's and Credit Suisse's Swiss legal entities

The transfer of domestic business and systemically important functions to independent Swiss legal entities was a major step forward for the two large Swiss banks in 2015.

### **UBS Switzerland AG**

FINMA licensed UBS Switzerland AG as a bank, securities dealer and custodian bank in the second quarter of 2015. Besides the result of FINMA's review of standard licensing requirements under banking and stock market law, the licensing procedure also requires the fulfilment of specific demands by the global systemically important Swiss banks regarding their capital, liquidity, risk diversification and emergency planning. UBS Switzerland has since commenced operations. The transfer of banking business with private and corporate clients booked in Switzerland means the systemically important functions are all brought together within the Swiss entity. The high-risk investment banking operations of UBS AG have also been segregated. The move to a modular corporate structure significantly strengthens the resolvability of the entire financial group.

### **Credit Suisse (Switzerland) Ltd**

Credit Suisse also plans to transfer its Swiss business from Credit Suisse AG to a separate Swiss legal entity – Credit Suisse (Switzerland) Ltd. This process is already under way for its systemically important functions, which will improve the bank's resolvability.

---

New priorities were set in the insurance sector in 2015, with a new supervisory approach optimising interaction with supervised institutions. Greater emphasis is now being placed on standard models for the Swiss Solvency Test. At the regulatory level, an amendment to the Insurance Supervision Act will extend recovery regulation to insurers.

Historically, the Insurance division was organised in four lines of business: life, health, non-life and reinsurance. Other functions, for instance quantitative risk management, also interacted directly with the supervised institutions. This resulted in numerous and complex relations with the regulator, not only for groups but also for single entities. FINMA's Insurance division was thus restructured in 2015 to make supervision more uniform and accessible. All interaction with supervised institutions is now through a central contact who represents FINMA in all matters relating to the insurer or insurance group. The two groups in supervisory category 2<sup>37</sup> have dedicated supervisory teams. The same approach is applied to institutions which are economically linked and which are not under group supervision. Various technical and cross-divisional functions have also been created to ensure consistent and uniform supervision independently of the individual contact. The integrated supervisory approach improves interaction with the supervised companies and ensures that the results of the different subprocesses – for instance regarding the Swiss Solvency Test (SST),<sup>38</sup> tied assets,<sup>39</sup> rate supervision and governance assessment – are adequately and fully addressed in the supervisory process.

### Swiss Solvency Test: standard models coming to the fore

FINMA introduced a new authorisation process as of 1 January 2016 for internal SST models on the basis of the revised Insurance Supervision Ordinance (ISO) and past experience. The process assumes an increase in the use of standard models<sup>40</sup> and applies a fundamentally new authorisation rationale for companies using internal models.<sup>41</sup> Internal models may only be used if the insurer can prove that there is no suitable standard model and if no serious deficiencies are identified during a summary initial review. FINMA may also conduct a detailed review of the model, in part or in its entirety, during its use.

Owing to the sharp drop in interest rates in past years, FINMA allowed insurers to make temporary adjustments to the Swiss Solvency Test as of 1 January 2013. In place for a period of three years, these adjustments allowed insurers to use a yield curve subject to counterparty credit risk instead of a risk-free yield curve, as well as a modified intervention threshold approach to SST. Contrary to the estimates made then, interest rates have not only remained low, but have fallen even further. By introducing those adjustments, however, the insurance sector gained time to take any steps deemed necessary. FINMA analysed the situation carefully and decided to phase out the adjustments to the yield curve. The modified intervention threshold approach to SST has been implemented as a permanent measure following an amendment to Appendix 4 of FINMA Circular 2008/44 "SST"<sup>42</sup> and will come into force on 1 January 2016.

### Governance assessment

FINMA now periodically sends an online questionnaire on corporate governance to insurers which it developed in 2015. It contains questions on the corporate structure, board of directors, executive board and control functions. Reinsurance captives,<sup>43</sup> branches of foreign insurers in Switzerland, general health insurers also offering supplementary health insurance products, and insurance groups supervised by FINMA are currently exempt from the assessment. Direct insurers are to return the questionnaire by 30 April 2016 and reinsurers by 30 June 2016. This assessment will improve qualitative insurance supervision.

### Protective measures by FINMA in group and conglomerate supervision

The authority to impose protective measures applied by FINMA for solo supervision is now to be extended to insurance groups and conglomerates. If policy-

<sup>37</sup> See "Supervisory categories" in the Appendix, p. 96 f.

<sup>38</sup> The Swiss Solvency Test (SST) is a supervisory instrument that uses economic and risk-based principles to measure the solvency of insurers. It assesses the financial status of an insurance company on the basis of the ratio of eligible capital (risk-bearing capital) to required capital (target capital). The risks assumed by the insurer are taken into account when calculating the target capital.

<sup>39</sup> The value of the capital investments of tied assets must cover the claims arising from insurance contracts at all times. If an insurer goes bankrupt, the proceeds of the assets are used first to satisfy the contractual insurance claims. The Insurance Supervision Ordinance thus contains specific provisions on the capital investments of tied assets.

<sup>40</sup> See Article 50a para. 1 ISO and Article 50b ISO.

<sup>41</sup> See Article 50a para. 2 ISO and Article 50c ISO.

<sup>42</sup> See FINMA Circular 2008/44 "SST", Appendix 4 (<http://www.finma.ch/en/rs-2008-44.pdf>).

<sup>43</sup> Reinsurance captives are wholly owned insurance entities whose objective is to reinsure proprietary group risks through direct insurers. This alternative form of risk transfer enables companies to enhance their risk and capital management within the group.



holders' interests are jeopardised by the conduct of an insurance group or conglomerate, FINMA will now be able to apply Articles 30 to 37 FINMASA to these institutions. This closes a loophole in the supervision of insurance groups and conglomerates, which had practical consequences on a number of occasions in the past. The new regulation will improve the coherence and effectiveness of FINMA's role as supervisor of groups and conglomerates. The corresponding amendment will be included in the current legislative revision of financial market law.

### Recovery regulation for insurers

To date, comprehensive regulation for the recovery of insolvent insurers has not yet been introduced. There are a number of reasons to close this gap by amending Article 53 para. 1 ISA. Specifically, the aim is to ensure that the supervisory system is coherent and that policyholders' interests are better served should recovery proceedings be initiated against an insolvent insurer than in the case of bankruptcy. The introduction of recovery regulation is a step towards implementing the key attributes defined by the FSB<sup>44</sup> for the recovery and resolution of financial institutions. Explicit recovery regulation could also provide some relief on the investment side, for example for less liquid assets, as the current requirement for immediate liquidation no longer applies if recovery is deemed possible. There are, however, formal and material preconditions which first need to be met, for instance:

- restricting creditors' right to appeal;
- lifting of the suspensive effect for decrees in insolvency law;
- empowering FINMA to open and perform a formal recovery procedure;
- engaging a recovery mandatary; and
- authorising FINMA to issue implementing provisions.

The material recovery provisions serve to enable recovery within a company, as well as recovery through the transfer of insurance portfolios to another insurer and transfer to a rescue company. Work on the principles for recovery regulation began in 2015 and will be addressed further during the current revision of the Insurance Contract Act.

### Exemption of certain business from insurance supervision

Regulatory amendments are required for some non-commercial activities. Offering contracts where the provider undertakes for a fee to be liable as guarantor of the contractual partner up to a maximum sum specified in the contract vis-à-vis the lessor constitutes an insurance activity subject to supervision in accordance with a ruling by the Federal Supreme Court<sup>45</sup> of 21 January 2011. There are associations, cooperatives and foundations in Switzerland which grant their members sureties or guarantees under certain conditions. This means there are non-commercial activities which would be subject to insurance supervision on the basis of the legal definition of insurance. It is planned to open up this area of non-profit-oriented activity, albeit only to the extent that there is no supervisory arbitrage<sup>46</sup> and the required transparency to protect clients is observed. Within the scope of the Insurance Supervision Act,<sup>47</sup> FINMA released three previously supervised insurance companies<sup>48</sup> from supervision as of 1 January 2016 and partially subjected them to conditions to fulfil.

<sup>44</sup> See "Key Attributes of Effective Resolution Regimes for Financial Institutions" of 15 October 2014 ([http://www.financialstabilityboard.org/wp-content/uploads/r\\_141015.pdf](http://www.financialstabilityboard.org/wp-content/uploads/r_141015.pdf)).

<sup>45</sup> Federal Supreme Court decision 2C\_410/2010.

<sup>46</sup> The term "supervisory arbitrage" describes the exploitation of differing levels of supervisory stringency.

<sup>47</sup> Article 2 para. 2 let. d ISA (in force since 1 July 2015).

<sup>48</sup> Genossenschaft Hilfskasse des Eidgenössischen Schwingerverbandes, USS Versicherungen Genossenschaft, Genossenschaft Sportversicherungskasse des Schweizerischen Turnverbandes.

FINMA is strengthening and systemising its supervision of conduct rules. Besides the Anti-Money Laundering and Financial Crime section, three other cross-divisional competence centres have been set up. FINMA is also focusing in greater detail on four key areas of supervision: suitability of products and services for clients, market integrity, cross-border financial services and combating money laundering and financial crime.

The Board of Directors defined the promotion of integrity, transparency and client protection in business conduct as one of FINMA's strategic goals for 2013–2016. Following incidents involving misconduct at individual institutions, FINMA is taking concrete steps to advance its conduct supervision. It is strengthening and systemising its preventive supervision in this area on the basis of the regulations currently in force. The aim is to make the supervision of business conduct more forward-looking and to harmonise it at cross-divisional level using the instruments already available.

### Conduct rules in four key areas

FINMA has defined four key areas and established FINMA-wide cross-divisional functions to enhance conduct supervision. The first is suitability,<sup>49</sup> which in terms of prudential supervision aims to ensure that supervised institutions comply with existing conduct rules, thus guaranteeing that products and services offered to individual clients are suitable and appropriate. However, the new competence centre does not supervise products or handle client complaints. The other areas are market integrity, which focuses on market conduct, chiefly supervision in relation to possible cases of insider trading and market manipulation; cross-border, which deals with the risks stemming from cross-border financial services; and supervision of AMLA organisational, due diligence and reporting requirements which the Anti-Money Laundering and Financial Crime section will continue to perform.

### One contact point for supervised institutions

FINMA has defined concrete supervisory goals and responsibilities for each of the four cross-divisional functions. It has also consciously avoided having multiple contacts for the institutions under supervision. The concept of having one contact person per company remains intact.

### Prominent cross-divisional units

The new cross-divisional units have been assigned important supervisory tasks, for example taking part in supervisory discussions and on-site supervisory reviews, helping with investigations into breaches of supervisory law, conducting risk analyses and developing audit programmes for audit firms. They also act as a contact point for external institutions, for example the ombudsman, stock exchanges, the Office of the Attorney General and the Money Laundering Reporting Office Switzerland (MROS). Ultimately, the cross-divisional units are also responsible for upholding the regulatory regime in their respective areas. Supervisory officials and cross-divisional functions work together to provide effective and risk-oriented supervision.

### Risk profile determines the supervisory activity

FINMA has developed internal risk analyses and evaluation models to supervise conduct rules. In terms of risk-oriented supervision, the analyses determine which rating FINMA assigns to the institutions for in-house purposes for the conduct area in question. This ultimately determines the intensity and type of supervision to which an institution is subjected.<sup>50</sup> The evaluations are based on the risk associated with the activity arising from the institution's business model and on its control risks, i.e. organisational deficiencies in managing the risk associated with the activity (for example inadequate guidelines), or specific instances of misconduct. A high activity-related risk can be offset through appropriate control processes and/or a low control risk. The risk assessments of business conduct and the corresponding rating count towards the internal institutional rating at FINMA.

### Full implementation and integration by 2017

The creation of cross-divisional functions and new risk analyses are major supervisory milestones in the

<sup>49</sup> See also "Overview of markets", p. 60.

<sup>50</sup> See "FINMA's core tasks", p. 8 ff.

supervision of compliance with conduct rules. Current methods for the annual collection of data and information on prudentially supervised institutions are being amended to facilitate full implementation of the risk analyses. This is done by collecting information from supervised institutions which was either always available or would be relatively easy to obtain.

Moreover, FINMA audit programmes are being developed for a number of areas, including business conduct. They are performed in multi-year cycles and individually for institutions with high risks. The minimum requirements of the new audit programmes are more specific as regards the auditors' tasks. FINMA has therefore met a key IMF recommendation.<sup>51</sup>

Until full implementation in 2017, the Banks, Asset Management and Insurance divisions will maintain a simplified version of the extended supervisory approach to systematic business conduct supervision. From 2017, all requirements will be in place to fully perform the new risk analyses.

<sup>51</sup> See footnote 9, p. 10.

## Four key areas of business conduct supervision

### SUITABILITY

#### Suitability of products and services for clients

- Assessing an institution's obligations towards its clients (individual asset management, investment advisory services and pension planning, transaction execution)

### MARKET CONDUCT

#### Market integrity

- Assessing the duties of institutions active in the securities market
- Market conduct rules

### CROSS-BORDER

#### Cross-border financial services

- Assessing the risks entered into by companies active in the cross-border business

### AMLA REQUIREMENTS

#### Anti-money laundering and financial crime

- Assessing due diligence requirements under the Anti-Money Laundering Act

Differentiated regulation results from applying the principle of proportionality and adopting different approaches to reflect different circumstances. This is in line with FINMA's risk-based supervisory approach. Growth in regulation stems almost exclusively from developments external to FINMA.

Financial market regulators and supervisory authorities are often accused of taking a one-size-fits-all approach to supervised institutions. They allegedly fail to make adequate allowance for actual circumstances and needs. In response to this allegation, a number of parliamentary initiatives demanded a review of FINMA's regulatory activities. The concluding report found that this general allegation was unfounded in FINMA's case.<sup>52</sup>

### Differentiated regulation

Differentiated regulation adheres to the principle of proportionality. A regulatory measure must be appropriate, necessary and reasonable.<sup>53</sup> Differentiation also requires that different situations be treated differently unless there are compelling reasons for equal treatment.<sup>54</sup> This means financial regulators must allow for different business models and risk structures and apply proportionate regulation instead of one standard approach.

### Prerequisites for differentiated regulation

FINMA is bound by Switzerland's constitution, law and Federal Council ordinances when exercising its regulatory role. FINMA is authorised to issue ordinances if it has corresponding, explicit legal authority (for ordinances setting new regulation, as well as supplementing or substantiating statutory law) or is backed by Federal Council ordinances (for ordinances setting new regulation or substantiating existing statutory law).<sup>55</sup> Further, FINMA can issue circulars detailing the application of financial market legislation.<sup>56</sup> FINMA needs a commensurate level of regulatory competence to differentiate in its regulation, which means the law or ordinance must allow sufficient flexibility. Financial market laws thus provide the framework for FINMA's differentiated regulation.

### Differentiated regulation supplements risk-based supervision

FINMA's supervisory approach combines the principles of proportionality and of adopting different responses to circumstances that are inherently different; it is also based on the risks stemming from supervised institutions.<sup>57</sup> The regulatory regime for risk-based supervision is already in place. The regulation is often explicitly or implicitly linked to the risk categories, for example within FINMA's codified supervisory practice in the form of circulars. The risk-based approach takes account primarily of an institution's size and complexity.

<sup>52</sup> See "FINMA and its regulatory and supervisory activities", "Federal Council report in fulfilment of postulates 12.4095 Graber, 12.4121 de Courten, 12.4122 Schneeberger and 13.3282 de Buman" (in German) of 18 December 2014, p. 30 f. (<http://www.news.admin.ch/NSBSubscriber/message/attachments/37800.pdf>).

<sup>53</sup> Article 5 para. 2 FC.

<sup>54</sup> Article 8 para. 1 FC.

<sup>55</sup> Article 7 para. 1 let. a FINMASA.

<sup>56</sup> Article 7 para. 1 let. b FINMASA.

<sup>57</sup> See "FINMA's core tasks", p. 8 ff.



## Examples of differentiated regulation

### FINMA Circular 2016/1 “Disclosure – banks”

As part of FINMA Circular 2016/1,<sup>58</sup> which came into force on 1 January 2016, FINMA basically exempts small institutions (supervisory categories 4 and 5) from detailed disclosure requirements as defined in the Basel standards. It limits the disclosure obligation to areas which are fundamental to interested depositors. Systemically important large and medium-sized institutions (supervisory categories 1 to 3) are subject to the full extent of the disclosure standards.

### FINMA Circular 2015/2 “Liquidity risks – banks”

FINMA Circular 2015/2<sup>59</sup> applies the proportionality principle to qualitative liquidity risk management requirements and (to a more limited extent) to quantitative requirements (short-term liquidity coverage ratio [LCR]). This reduces the regulatory burden for small and medium-sized banks. Liquidity risk management requirements thus depend on the type of bank, as well as its size, complexity and inherent risks.<sup>60</sup> The circular also fully exempts small banks from certain qualitative requirements. For example, small banks not involved in capital market or trading activities are not required to diversify their financing structure; the same applies to small banks which do not refinance on the money or capital market or through institutional investors.<sup>61</sup>

Furthermore, a post-implementation LCR review is also scheduled to ensure differentiated regulation. One year following the introduction of the LCR, an impact analysis will be held based on initial experiences and a hearing will take place with the banking associations under the auspices of the national working group for liquidity regulation. The hearing is to identify the areas in which the banking associations see scope for simplifying the LCR for small or domestically oriented banks. Easements are feasible wherever the Basel framework allows scope for implementation at the national level, or the requirements pose an unreasonable burden, whether

in terms of calculation and reporting or other key points in implementing the international LCR standards in Switzerland.

### FINMA Circular 2008/21

#### “Operational risks – banks”

In accordance with FINMA Circular 2008/21<sup>62</sup> the qualitative requirements depend on the size of the bank. The requirements are less stringent for: banks in supervisory category 5, securities dealers in supervisory categories 4 and 5 and, in specific instances, banks in supervisory category 4, depending on the nature, extent and complexity of the risk involved in their business activities.<sup>63</sup> The bank and its auditors are mainly responsible for assessing the company’s fulfilment of these criteria. The assessment must be transparent and clearly documented.

### FINMA Circular 2008/32

#### “Corporate governance – insurers”

In accordance with FINMA Circular 2008/32,<sup>64</sup> the application of the provisions of corporate governance, risk management and the internal control system is to take account of the complexity and size of the entity in question and incorporate the proportionality principle.<sup>65</sup>

### FINMA Circular 2016/3 “ORSA”

The regulations in FINMA Circular 2016/3 “ORSA”<sup>66</sup> take account of the particular features, size and complexity of the insurer and of the proportionality principle. The self-assessment of the proprietary risk situation and capital requirements of the insurance company is based on differentiated requirements. Reinsurance captives, for example, can perform a simplified self-assessment.<sup>67</sup> The proportionality principle also applies to reporting: insurers in supervisory categories 2 and 3 and insurance groups report annually to FINMA on the results of their self-assessment. FINMA can also impose more frequent reporting requirements if the risk situation so demands. Insurance companies in supervisory categories 4 and 5 as well as reinsurance captives are exempt from any reporting obligations to FINMA for the time being.<sup>68</sup>

<sup>58</sup> See FINMA Circular 2016/1 “Disclosure – banks” ([www.finma.ch/de/rs-2016-01.pdf](http://www.finma.ch/de/rs-2016-01.pdf); in German).

<sup>59</sup> See FINMA Circular 2015/2 “Liquidity risks – banks” ([www.finma.ch/de/rs-2015-02.pdf](http://www.finma.ch/de/rs-2015-02.pdf); in German).

<sup>60</sup> See margin no. 8.

<sup>61</sup> See margin no. 60.

<sup>62</sup> See FINMA Circular 2008/21 “Operational risks – banks” ([www.finma.ch/de/rs-2008-21.pdf](http://www.finma.ch/de/rs-2008-21.pdf); in German).

<sup>63</sup> See margin no. 117 ff.

<sup>64</sup> See FINMA Circular 2008/32 “Corporate governance – insurers” ([www.finma.ch/de/rs-2008-32.pdf](http://www.finma.ch/de/rs-2008-32.pdf); in German).

<sup>65</sup> See margin no. 3.

<sup>66</sup> See FINMA Circular 2016/3 “ORSA” ([www.finma.ch/en/rs-2016-03.pdf](http://www.finma.ch/en/rs-2016-03.pdf)).

<sup>67</sup> See margin no. 5.

<sup>68</sup> See margin no. 49 ff.

FINMA is helping improve conditions promoting innovation in financial technology and digitalisation. It is taking steps to lower barriers to competition and promote technology-neutral regulation. It is also creating centralised access to information for start-ups.

FINMA supports an innovative and competitive Swiss financial centre. One trend offering major innovation potential is financial technology (FinTech), which means companies tapping into the potential of digital know-how for the financial industry. FINMA has been dealing with financial technology and digitalisation since 2013 through bitcoins<sup>69</sup> and crowdfunding.<sup>70</sup>

### Dialogue with business

FINMA has been reviewing the regulatory and supervisory regime to lower competitive barriers and enhance technology-neutral regulation. It has established dialogue with FinTech start-ups and the associations of established financial service providers to discuss initial ideas for FinTech supervision and regulation.

### Proposal for a new licensing category

FinTech companies in Switzerland may come under the Anti-Money Laundering or Banking Act. The Banking Ordinance stipulates that anyone who receives money or other assets – known as deposits – from more than 20 clients has to apply for a banking licence. Obtaining the requisite banking licence often presents a major hurdle to these companies.

Furthermore, FinTech includes business models and certain characteristics that do not match any of the usual banking risk profiles. FINMA is therefore considering introducing a new licensing category with less stringent requirements than those currently applicable under the Banking Act. The granting of such a licence would be contingent on the institution refraining from maturity transformation, which is common practice in the banking sector. In other words, short-term deposits may not finance long-term loans. The total volume of deposits is also to be limited. Capital and organisational require-

ments can be lowered for these institutions to reflect the reduced systemic and client risk. Bona fide improvements in the supervisory environment for technological innovation may well require changes at statutory level.

### Technology-neutral regulation in the context of digitalisation

Supervisory law should be neutral as regards technological advances, i.e. neither promote nor hinder them. The aim of regulation is to enable fair competition between all market participants, whether they offer an analogue or digital service. Any illegitimate barriers to new service providers or offerings need to be removed. FINMA has analysed its rules to see whether they need to be amended in this respect. Principles-based regulation as applied in Switzerland is conducive to digital business growth.

### Progressive regulation in the FINMA Anti-Money Laundering Ordinance

A series of targeted easements were made during the revision of the FINMA Anti-Money Laundering Ordinance to bring it into line with the digital age.<sup>71</sup> FINMA incorporated acceptance of video and online identification through a new circular drafted and submitted for consultation before the end of 2015, which will facilitate establishing business relationships (onboarding) through digital channels. This means that, subject to certain conditions, appearing in person will no longer be necessary.

### Protecting clients and the financial system remains key

Supervisory gaps in client and system protection must be avoided at all costs. This includes gaps resulting from technological progress.

<sup>69</sup> See FINMA fact sheet "Bitcoins" of 25 June 2014 ([www.finma.ch/en/fb-bitcoins.pdf](http://www.finma.ch/en/fb-bitcoins.pdf)).

<sup>70</sup> See FINMA fact sheet "Crowdfunding" of 1 December 2014 ([www.finma.ch/en/fb-crowdfunding.pdf](http://www.finma.ch/en/fb-crowdfunding.pdf)).

<sup>71</sup> See "At a glance: due diligence requirements for digital payment methods", p. 66 f.

### **Improved access to information through the FinTech desk**

Dialogue with FinTech start-ups has shown that companies which are new to the financial market and its regulations have a particular need for centralised access to information. In response, FINMA is launching its first online tool<sup>72</sup> to assist navigation through the regulatory landscape. A FINMA FinTech-specific information channel will also be set up in the first quarter of 2016.

<sup>72</sup> See [www.finma.ch/en/fintech](http://www.finma.ch/en/fintech).





# Supervision, enforcement and regulation

- 38 Banks and securities dealers
- 48 Insurance companies
- 60 Markets
- 68 Asset Management
- 76 Enforcement





## Overview of banks and securities dealers

Banking supervision in 2015 remained centred on the low interest rate environment and legal risks in cross-border financial services. Market abuse was also a prominent topic, as were further efforts to address the “too big to fail” issue.

On the macroeconomic front, the appreciation of the franc and negative interest rates<sup>73</sup> directly impacted banks' profitability in 2015 and increased retail and asset management risks. The ongoing low interest rate environment increased the pressure on institutions to take higher credit and interest rate risks. Growth slowed somewhat in the real estate and mortgage markets. At year-end, the highest risk levels appeared to be in investment properties and owner-occupied luxury real estate.

### Developments in cross-border financial services

In 2015, many asset management banks also faced higher costs and risks related to ensuring tax conformity. At the same time, numerous proceedings involving the U.S. Department of Justice (DoJ) came to a successful conclusion, although new investigations were also initiated by the German and French authorities.

In 2015, 76 banks signed non-prosecution agreements (NPAs) with the DoJ and resolved their issues with the US in accordance with the Swiss legal regime. Fines amounting to a total of USD 1.13 billion were paid by Swiss banks. Proceedings involving category 1<sup>74</sup> banks were not concluded.

The German authorities informed a number of banks of pending criminal investigations due to the aiding and abetting of tax evasion. On 28 May, Basler Kantonbank was the first Swiss bank to reach an agreement with the German authorities. The French authorities are also investigating allegations of aiding and abetting tax evasion involving several Swiss banks.

### Ongoing consolidation in the banking sector

The combination of macroeconomic challenges such as the low interest rate environment and non-economic difficulties, i.e. tax conformity in cross-border business, has led to ongoing consolidation in the banking sector, particularly for wealth management banks. While new licensing projects remain at a very low level, market exits and market concentration in the banking sector continued in 2015 as seven banks and securities dealers ceased operations, and 28 institutions are still being assisted as they exit the market voluntarily. This trend mostly affected foreign and wealth management banks. Structural change has also been driven by individual institutions achieving a better market position through acquisitions.

FINMA takes a neutral stance on the ongoing banking sector shake-out and does not actively intervene. However, its protection mandate requires it to closely monitor each bank exiting the market. Once a decision to cease banking operations has been taken, FINMA facilitates a targeted release from banking supervision. This can happen once the bank no longer holds any positions worthy of particular protection and any claims by creditors have been satisfied or secured effectively.

Business volume remained stable on the whole in 2015. Market participants who dealt with their legacy issues promptly and have positioned themselves accordingly will find that the operating conditions in the Swiss financial centre have remained intact.

<sup>73</sup> See “Appreciation of the franc and negative interest rates: consequences for the banking sector”, p. 42 ff.

<sup>74</sup> See footnote 14, p. 14.

## Market exits since 2011

broken down by exit type, supervisory category and domestic/foreign banks

	2015	2014	2013	2012	2011
<b>Mergers*</b>	<b>4 (1)</b>	<b>3 (0)</b>	<b>8 (6)</b>	<b>7 (5)</b>	<b>10 (3)</b>
Category 3 (of which foreign banks)	–	–	–	1 (0)	–
Category 4 (of which foreign banks)	–	1 (0)	2 (2)	1 (1)	5 (1)
Category 5 (of which foreign banks)	4 (1)	2 (0)	6 (4)	5 (4)	5 (2)
<b>Voluntary cessation of business requiring supervision</b>	<b>4 (0)</b>	<b>5 (2)</b>	<b>7 (6)</b>	<b>9 (6)</b>	<b>9 (6)</b>
Category 3 (of which foreign banks)	–	–	–	–	1 (0)
Category 4 (of which foreign banks)	–	–	1 (0)	–	–
Category 5 (of which foreign banks)	4 (0)	5 (2)	6 (6)	9 (6)	8 (6)
<b>Voluntary liquidation</b>	<b>3 (2)</b>	<b>3 (2)</b>	<b>1 (1)</b>	<b>3 (2)</b>	<b>3 (1)</b>
Category 3 (of which foreign banks)	–	–	–	–	–
Category 4 (of which foreign banks)	–	–	–	–	–
Category 5 (of which foreign banks)	3 (2)	3 (2)	1 (1)	3 (2)	3 (1)
<b>Licence revocation</b>	<b>0 (0)</b>	<b>1 (0)</b>	<b>0</b>	<b>1 (1)</b>	<b>1 (0)</b>
Category 5 (of which foreign banks)	0 (0)	1 (0)	–	1 (1)	1 (0)
<b>Total (of which foreign banks)</b>	<b>11 (3)</b>	<b>12 (4)</b>	<b>16 (13)</b>	<b>20 (14)</b>	<b>23 (10)</b>

\* Asset deals and mergers were included in the Annual Report 2013.

### **Raiffeisen Group and PostFinance designated systemically important**

On 16 June 2014, the SNB added the Raiffeisen Group to Credit Suisse, UBS and Zürcher Kantonalbank as the fourth systemically important financial group under “too big to fail” legislation. In 2015, FINMA designated Raiffeisen Switzerland Cooperative as a systemically important single entity due to its position as a central organisation in the Raiffeisen Group joint liability scheme. FINMA laid down the special prudential requirements for the Raiffeisen Group and Raiffeisen Switzerland Cooperative in its ruling of 24 July 2015 to the effect that Raiffeisen Switzerland Cooperative is to observe the special capital requirements incumbent on systemically important banks. The Raiffeisen Group’s systemic importance also means it has to submit an emergency plan to FINMA demonstrating that the Raiffeisen Group’s and Raiffeisen Switzerland Cooperative’s systemically important functions can be maintained without interruption in the event of impending insolvency. In addition, Raiffeisen Switzerland Cooperative must draw up a stabilisation plan outlining which measures would be taken to stabilise the cooperative and the entire Raiffeisen Group in the event of a crisis, in order to continue operations without state intervention.

On 29 June 2015, the SNB ruled that PostFinance AG was also systemically important. The determining factor for this ruling was the significant market share held by PostFinance in the systemically important segment of bank deposits and associated payment services. FINMA and PostFinance also established the implementation plan for defining the special requirements, as well as the emergency and stabilisation plan.

### **Audit programme for banks**

In 2015, FINMA issued more detailed instructions for all banking and securities dealers’ audits performed by external audit firms.

In 2013, the IMF reviewed the financial stability and quality of regulation and supervision of the Swiss financial centre, and issued a number of recommendations.<sup>75</sup> It proposed, for example, providing more detailed instructions on performing regulatory audits to authorised audit firms. As a result, this should lead to improvements in some areas, specifically a uniform approach to auditing supervised institutions, better evaluation of relevant criteria, and reporting. FINMA subsequently decided to develop a series of items for auditing by targeting various areas not extensively regulated and hence offering more leeway to external auditors. They are:

- confidentiality of client data;<sup>76</sup>
- central functions for risk control and risk management;
- information technology;
- internal control system;
- compliance risks; and
- legal and litigation risks.

The audit items were defined in cooperation with the Technical Commission for Bank Audits of EXPERTsuisse. Unlike the audit items introduced in 2014 for compliance with the Anti-Money Laundering Act<sup>77</sup> which also serve as a reporting tool, those listed above have no reporting dimension. The work carried out within the scope of these six audit items must be documented in the audit firms’ internal working papers. Any concerns, comments and recommendations must be communicated to FINMA in the regulatory audit report submitted annually to the authority. Moreover, audit items will be defined for other audit areas in the near future.

<sup>75</sup> See footnote 9, p. 10.

<sup>76</sup> See FINMA Circular 2008/21 “Operational risks – banks”, Appendix 3 ([www.finma.ch/de/rs-2008-21.pdf](http://www.finma.ch/de/rs-2008-21.pdf); in German).

<sup>77</sup> Following their audit procedures, audit firms must complete and submit the requisite document on AMLA audit items to FINMA.

---

## Conclusion of US proceedings against UBS for foreign exchange manipulation

The foreign exchange manipulation proceedings brought against UBS were concluded in 2015.

After FINMA, the British Financial Conduct Authority (FCA) and the U.S. Commodities Futures Trading Commission (CFTC) concluded their proceedings against several banks in the foreign exchange manipulation case in November 2014, the U.S. Department of Justice (DoJ) and the Federal Reserve Board announced fines of USD 4.5 billion against UBS AG and five other banks in May 2015. The fines against UBS AG amounted to USD 545 million. All the banks involved signed guilty pleas. In the case against UBS AG, the fines issued by the DoJ were due to the revoking of the non-prosecution agreement (NPA) from the LIBOR case,<sup>78</sup> as the bank had breached the provisions underlying the agreement. This is the first time that the DoJ has revoked an NPA in the financial sector, testifying to the resolve of the US authorities to move against financial market misconduct.

These proceedings underline the seriousness of misconduct by bank employees and managers and demonstrate the need to reinforce the supervision of conduct in the banking sector. FINMA has responded by further strengthening and systemising its supervision of business conduct<sup>79</sup> and increasing its pursuit of individuals<sup>80</sup> who engage in misconduct.

---

<sup>78</sup> See FINMA Annual Report 2012, "Enforcement", "Overview", section "Proceedings against UBS on LIBOR and other interest reference rates", p. 63 f.

<sup>79</sup> See "Strengthening and systemisation of business conduct supervision", p. 30 f.

<sup>80</sup> See "Enforcement overview", "Proceedings against persons", p. 76 f.

## Appreciation of the franc and negative interest rates: consequences for the banking sector

The unexpected appreciation of the franc caused losses – for online bank clients, among others – and increased credit risk, particularly for corporate loans. Negative interest rates are affecting the profitability of many wealth management banks and inducing retail banks to assume higher credit and interest rate risks.

The year began with a surprise in monetary policy: after the SNB stated on 18 December 2014 that it would charge negative interest rates of 0.25% on SNB sight deposits above institution-specific thresholds from 22 January 2015, it announced on 15 January the end of the EUR/CHF minimum exchange rate in tandem with an increase in the negative interest rate to 0.75%. In order to prevent advance speculation, the cap on the Swiss franc was removed unexpectedly. The end of the minimum rate meant the interest rate differential between the euro and the franc widened again: as the diagram on page 44 illustrates, interbank interest rates for the euro and its predecessor currencies had always been significantly higher than for the Swiss franc. This reflected the increased risks relative to the franc. However, the interest rate differential fell drastically in 2008 due to the expansive monetary policy of the European Central Bank (ECB). At almost identical interest rates with the euro presenting a higher risk, money flowed into the Swiss franc, boosting its value substantially. The SNB countered this pressure between 2011 and 2015 by intervening in the market to guarantee a minimum EUR/CHF exchange rate. When this guarantee was lifted, there was a growing need to restore the historical interest rate differential by reducing interest rates to counter pressure on the Swiss franc and to counteract any further damage to the competitiveness of Switzerland's export sector.

### Lower profitability and higher risk-taking incentives

The appreciation of the franc affected banks' profitability and reduced risk averseness. The initial consequences of this change in policy affected a number of online banks at the beginning of the year, both in and outside Switzerland, since there were heavy losses for clients who had bet that the franc would weaken against the euro. As some clients were unable to meet their margin calls, some of the affected

Swiss banks had to form significant reserves. In the medium term, the appreciation of the franc has impacted those wealth management banks most which are already under cost pressure because their running costs in Swiss francs have to be met with foreign currency income that has lost value against the franc. For retail banks, the threat of a collapse in the export sector, tourism and economic growth in general increased credit-related risks. Although growth has proved more robust than feared at the beginning of 2015, the long-term profitability of many companies may well have been affected.

### Wealth management banks hardest hit

The negative interest rates introduced to slow down the franc's appreciation initially impacted wealth management banks the most, as they had the highest levels of SNB sight deposits above the relevant threshold when the negative rates started. To reduce this burden, banks with sight deposits above their threshold were allowed to withdraw funds from the SNB and place them with banks whose holdings were below their respective thresholds. The interest charged by the banks with subthreshold deposits contributed to the fall of interbank rates into negative territory.

### Side effects of negative rates

The negative rates also have side effects of their own: they increase pressure on retail banks to take greater risks. A bank which hedges its interest rate risks using swaps pays a fixed swap rate and receives a variable interest rate. As seen in the bottom left-hand chart on page 44, the asset margin<sup>81</sup> (the light-blue area) is the difference between the mortgage interest received (curve A) and the fixed swap rate paid (curve C) as shown over a ten-year maturity. The liability margin<sup>82</sup> (dark-blue area) is the difference between the variable interbank rate received (curve D) and the deposit interest paid (curve E) in the same

<sup>81</sup> Margin between the interest rates which a bank receives for its assets (e.g. mortgages) and the interbank market rates.

<sup>82</sup> Margin between interbank market rates and the rates paid by a bank on its liabilities (e.g. deposits).



chart. As variable interest rates have been negative since the beginning of 2015, they are a banking expense as opposed to a source of income. At the same time, banks must avoid (if possible) passing the negative interest rates on to depositors so as not to jeopardise their business relationships, for example as expressed through significant long-term deposits or asset management mandates. As a result, the liability margin has been negative since the beginning of 2015. Many banks have relieved some of the pressure by increasing mortgage rates, leading to a rise in the asset margin. However, the overall interest margin (i.e. the sum of the liability and asset margins; curve B) has fallen at many banks.<sup>83</sup> One side effect of the mortgage rate increase in 2015 was a slowdown in mortgage growth. It remains to be seen how long asset margins will remain at the level seen in 2015, particularly for banks operating mainly in regions or client segments with more competitive mortgage markets. Declining interest rate margins increase the pressure to take on higher credit or interest rate risks. Negative interest rates are therefore causing FINMA to monitor banking risks more closely, not least by carrying out mortgage and interest rate stress tests on selected banks and following up on any unusual findings.

### Increase in interest rate risks

The sustained low interest rate environment is also driving an increase in interest rate risks. The pressure on margins is causing concern among many banks that the negative rates could persist or, in the worst case scenario, fall even lower. At the same time, the long-term prospect of low, or even negative interest rates is also increasing the incentive to finance long-term loans with short-term deposits, hence increasing maturity transformation. There is also a growing tendency not to hedge the risk of rising interest rates through swaps. The chart in the lower right-hand corner of page 44 shows the net asset value losses

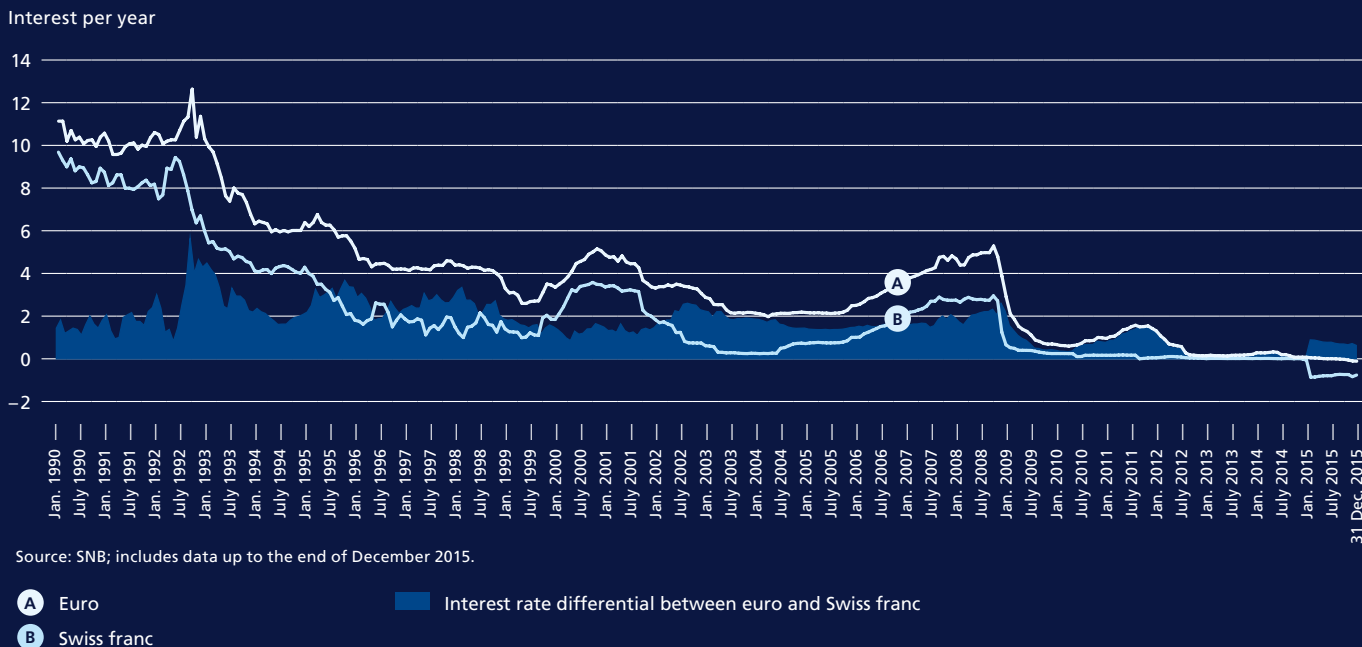
as a percentage of capital which the average retail bank would have to absorb if interest rates rose by 100 basis points.<sup>84</sup> Following a drastic increase in the first years of the global financial crisis between 2007 and 2009, net asset value losses either remained high or fell slightly due to the lengthening of fixed interest rate projections for client deposits between 2009 and 2014. However, since the introduction of negative rates at the start of 2015, there has been a renewed increase in losses.

<sup>83</sup> The upward trend in asset margins for shorter maturities has been less than for ten-year maturities, which means that interest rate margins have fallen more sharply across all maturities than shown in the bottom-left chart on page 44.

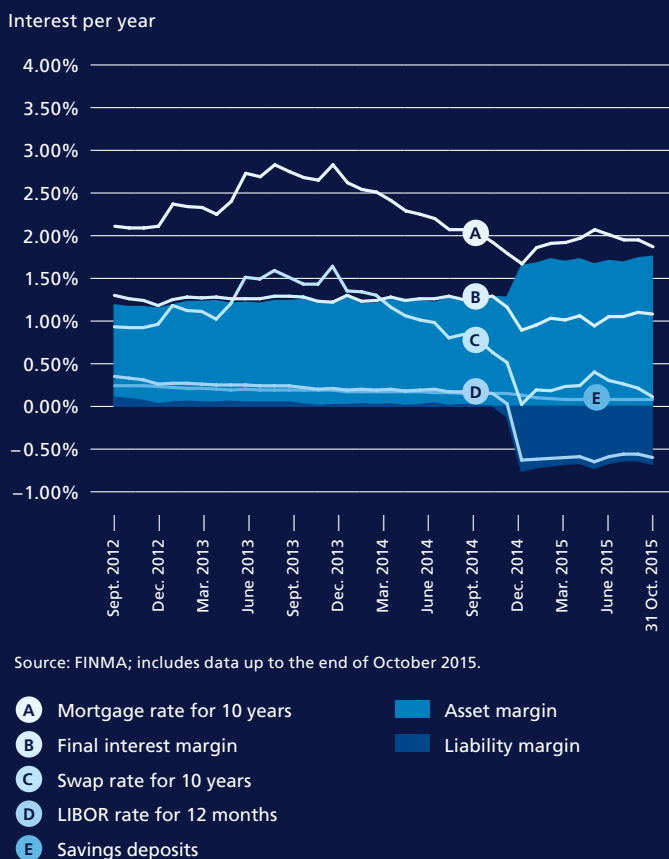
<sup>84</sup> The size-weighted average of the interest rate risks (net asset value losses as a percentage of eligible capital following a 100bp interest rate rise) of all the regional, cantonal and Raiffeisen banks and PostFinance. The fact that there is significant variation across banks must be borne in mind when interpreting the average value.

# Interest rate trends

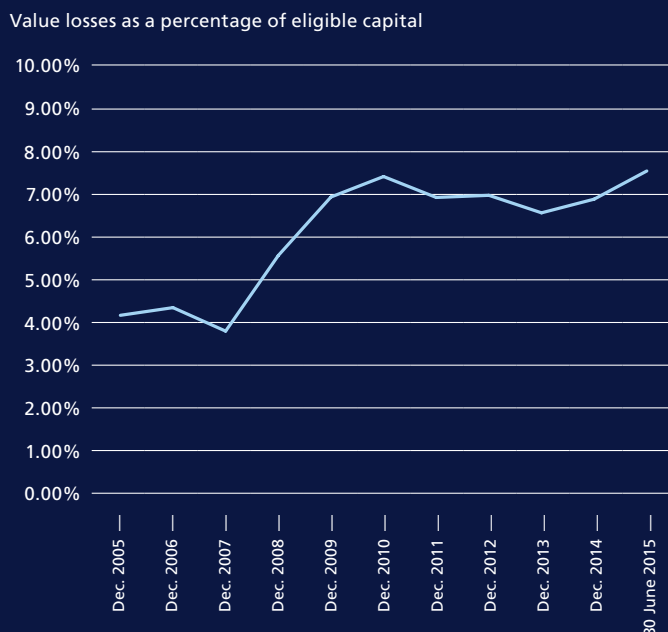
## Interest rate differential between the euro and Swiss franc interbank markets



## Margins of a retail bank in the negative interest rate environment



## Average interest rate risk for retail banks



## Changes in banking regulation

In 2015, changes in international banking regulation standards resulted in adjustments being made in particular to FINMA banking circulars.

FINMA circulars	Regulation process			Changes	In force from
	Type	Content/ subject matter	Aims / reasons		
"Disclosure – banks" (2016/1)	Full revision	The circular deals with regulatory capital and liquidity disclosure obligations. The way in which the new disclosure standards are applied depends on the bank's size. Switzerland's largest 35 banks thus have to comply with international disclosure standards in full or give justification for why they are not doing so. The remaining 90% of Swiss banks generally use the same standards. However, they are granted reliefs, such as less detail in disclosure, lower frequency and longer transition periods, for introducing the new standards.	In addition to its capital and liquidity requirements, the international Basel III regulatory framework incorporates standards in accordance with which banks must provide information about their risks, how they manage those risks, and their regulatory capital and liquidity situation. As the previous disclosure standards did not permit any adequate comparison of the risks posed by individual banks, the "Disclosure – banks" circular (formerly Circular 2008/22) has been amended to reflect the new international requirements.	The revised disclosure standards enhance the basic information available to market participants and increase institutional comparability. Standardised spreadsheet templates, for example, are now used for disclosure purposes.	1 Jan. 2016

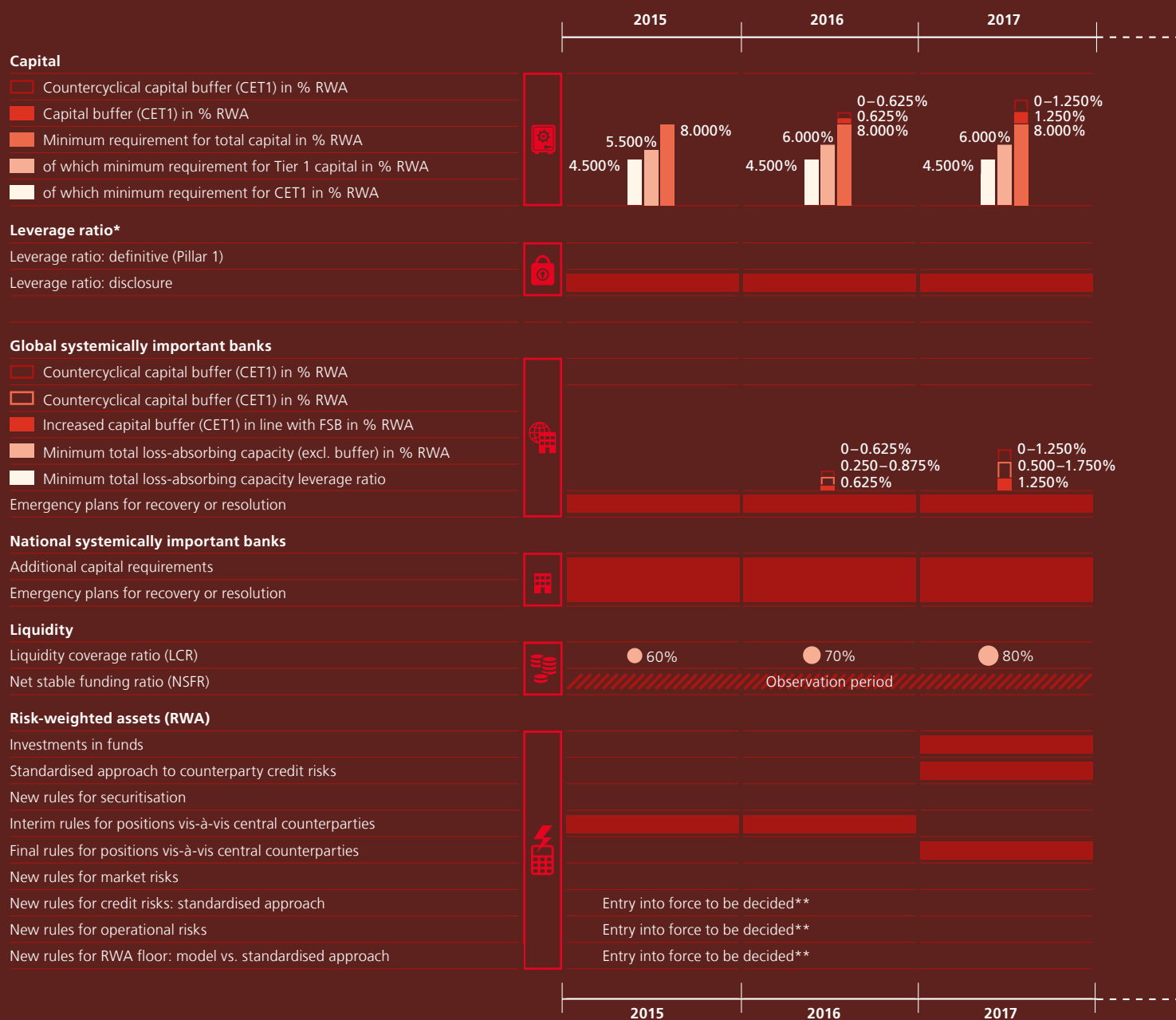
### Outlook

Further amendments to the international Basel III standards<sup>85</sup> are scheduled for implementation into national law over the coming years, entering into force between 2017 and 2019. In response, FINMA plans to review the following circulars in 2016: "Credit risks – banks" (2008/19), "Operational risks – banks" (2008/21) and "Monitoring and internal controls – banks" (2008/24).

<sup>85</sup> See "At a glance: steps in the Basel reform agenda", p. 46 f.

# At a glance: steps in the Basel reform agenda

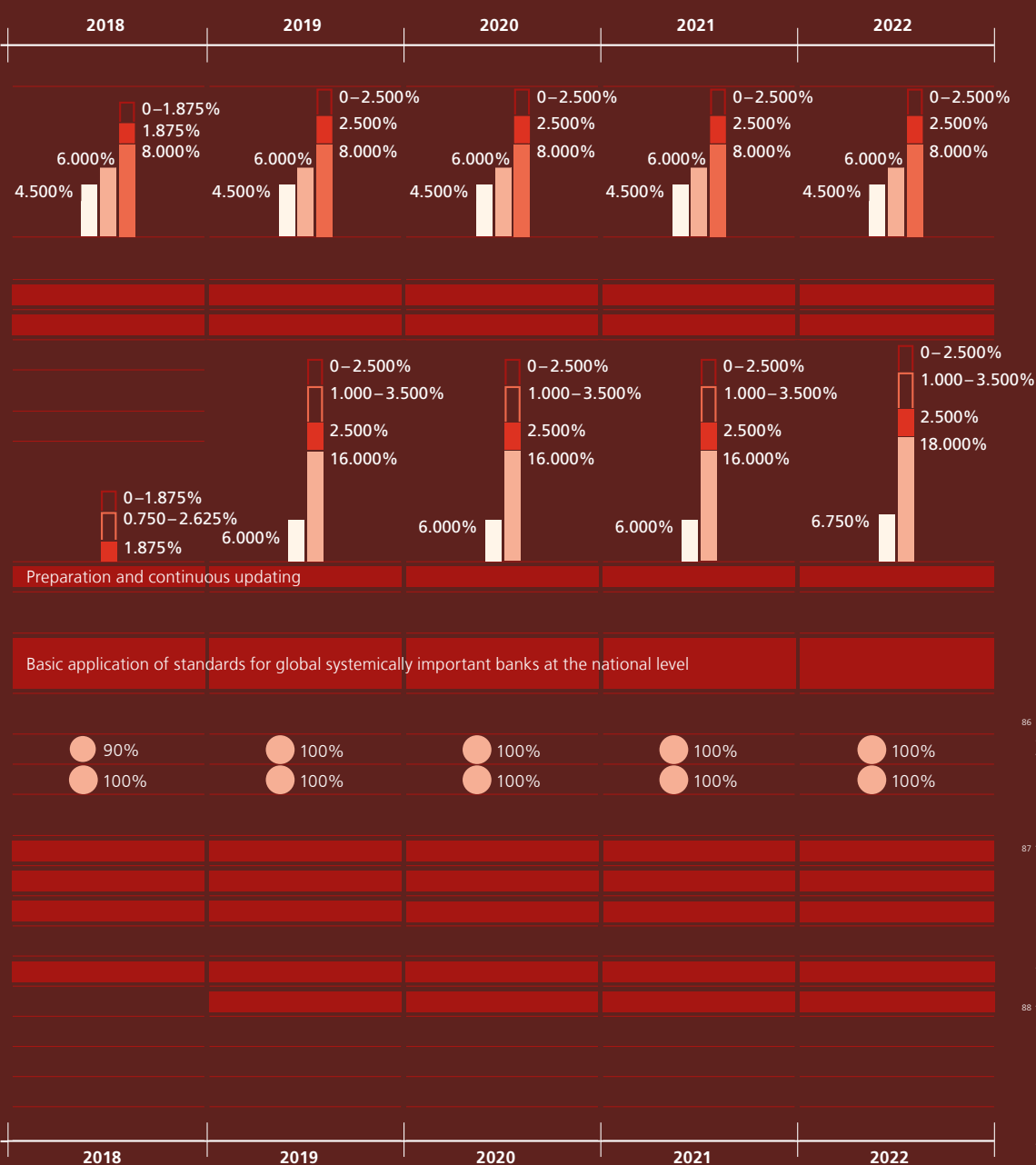
Following several years of intensive preparation, all parts of the Basel III reform agenda should be completed by the end of 2016. The resulting changes in Swiss law will continue to present challenges for FINMA and supervised institutions.



\* Calibration to be finalised in 2016; as an indication, 3% has been mentioned by the Group of Central Bank Governors and Heads of Supervision.

\*\* The date of entry into force will be decided at the end of 2016.

Following the financial crisis, the Basel Committee published its Basel III framework proposals<sup>86</sup> at the end of 2010, containing new minimum regulatory capital and liquidity standards. The new capital standards came into effect in 2013, with transitional periods spanning several years. Work on the new international liquidity standards, including the minimum liquidity coverage ratio (LCR)<sup>87</sup> and net stable funding ratio (NSFR)<sup>88</sup>, has also been concluded. The calculation of risk-weighted capital requirements is being revised in a number of areas as part of an ongoing process. The chart below shows the finalised sections of the Basel reform agenda and the work still outstanding at an international level, due for completion by the end of 2016.



<sup>86</sup> Capital and liquidity rules form the basis for Pillar 1 of Basel III. The supervisory process is Pillar 2, while Pillar 3 comprises the rules governing the disclosure of important key figures and risk information by banks.

<sup>87</sup> The liquidity coverage ratio (LCR) is a new quantitative liquidity benchmark under Basel III. In a predefined stress scenario, it compares highly liquid assets (e.g. high-quality government bonds) with net payment outflows. The ratio must be at least 100%.

<sup>88</sup> The net stable funding ratio (NSFR) also forms part of the Basel III regulatory regime and has a time horizon of one year. It is designed to provide a stable maturity structure for assets and liabilities. The aim is to improve banking resilience over a longer time frame by creating additional incentives for banks to fund their activities with more stable sources of funding on a long-term basis. The ratio must be at least 100%.



The year 2015 was marked by a range of developments in the various business sectors. On the whole, the Swiss insurance market continues to show healthy solvency levels. FINMA has therefore focused primarily on insurance companies that are less well capitalised or facing particular issues.

The continued and pronounced low interest rate environment, combined with a declining risk-return ratio, also left its mark on the insurance sector in 2015, primarily in the form of decreasing returns on investments. Low interest rates are posing a particular challenge for life insurers. Nevertheless, non-life and general health insurers managed to remain very profitable in a saturated domestic market, although growth was limited. The reinsurers and industrial insurers with a primarily international orientation posted mostly robust profits, despite a very competitive market environment with considerable excess capacity. As a centre of insurance, Switzerland continues to be perceived as attractive, with a large yet stable number of insurance institutions.

### Life insurers faced with growing challenges

At the beginning of 2015, the SNB decided to remove the minimum exchange rate of the euro to the Swiss franc and introduced negative interest rates on its sight deposits. This move had a direct effect on life insurers. Life insurance products generally have a high savings component with a guaranteed return which is fixed at the beginning of the contract. The corresponding guaranteed interest rate returns are still higher than risk-free investment returns. For occupational pension schemes, interest rates for retirement accounts may be set every year. FINMA thus reviews solvency and technical provisions, and instructs insurers to close any evident gaps. It also pays particular attention that the interest rates used for pricing are appropriate.<sup>89</sup> On 31 December 2015, there were 20 supervised life insurers.

### Strong solvency among non-life insurers

Non-life insurers maintained solid results in 2015, despite a highly saturated market and stiff competition. The domestic market in particular remains very profitable. The discontinuation of the EUR/CHF minimum exchange rate has had virtually no negative

impact to date. At the same time, the effects of the SNB decision are likely to affect the results of non-life insurers from 2016, especially in connection with the challenges facing the export industry. Solvency among non-life insurers, however, remains extremely stable, with an average SST ratio<sup>90</sup> of 184%. Insurers are also well-positioned across all sectors in terms of their technical provisions: the latest analyses show reserve levels remain solid. Supervisory activities did not reveal any cases in which solvency rules were grossly violated, or any other incidents that could be regarded as misconduct.

An international treaty with the Principality of Liechtenstein will extend the Swiss-wide solidarity pool with price control for natural hazards insurance to include the Principality, thus letting policyholders in Lichtenstein benefit from a larger risk pool.

In 2015, one insurance company<sup>91</sup> was granted a licence to operate as a non-life insurer in Switzerland for the first time. Based on a parliamentary initiative to adjust the Insurance Supervision Act as it applies to cooperative insurance, three companies<sup>92</sup> were released from supervision, while other cases are being assessed. The number of non-life insurers under supervision stood at 99 on 31 December 2015.

### Changes in general health insurance supervision

Fifty-four companies are currently operating in the supplementary health insurance sector (including daily sickness benefits insurance) and achieving a combined premium volume of approximately CH 10 billion, of which 35% comes from inpatient and 28% from outpatient treatment insurance.

The change in the financing of hospitals has been in force for three years and continues to have a positive effect on the results of supplementary hospital

<sup>89</sup> See "At a glance: life insurers in a low interest rate environment", p. 58 f.

<sup>90</sup> The SST ratio is determined by dividing the risk-bearing capital by the target capital. See FINMA Circular 2008/44 "SST", margin no. 17 (<http://www.finma.ch/en/rs-2008-44.pdf>). The intervention thresholds for assessing SST ratios are defined in Appendix 4 of this circular. For further information on the SST, see FINMA fact sheet "The Swiss Solvency Test" (<http://www.finma.ch/en/fb-solvenztest.pdf>).

<sup>91</sup> VZ InsurancePool Ltd.

<sup>92</sup> See footnote 48, p. 29.

insurers. Following significant rate decreases in 2014 and 2015, FINMA has ordered further reductions for 2016 which do not apply across the board, however, but only to certain products. These amount to approximately CHF 60 million in 2016.

Overall, health insurers had no issues in complying with FINMA's solvency rules under the SST. A collaborative project with the industry is currently under way with a view to achieving a better accounting of long-term liabilities. This project could result in changing solvency ratios for some insurers.

Starting in 2016 and based on changes to the Health Insurance Supervision Act and the Insurance Supervision Act, the Federal Office of Public Health and FINMA<sup>93</sup> will work together more closely. In important cases, they will exchange information and/or coordinate their respective supervisory activities.

### **Reinsurers remain solid in a difficult environment of market consolidation**

Reinsurers' financial status remained extremely solid during the year under review. The claims ratio stayed at a low level, not least because natural catastrophes were largely absent in 2014. Annual profits increased by approximately 10% and shareholders again received high dividends. The SST ratio declined somewhat, but remained at a very high level (217%).

The international market environment, on the other hand, remains challenging. The low interest rate environment is encouraging the flow of alternative capital into the reinsurance sector, putting additional pressure on prices and other terms and conditions for reinsurance cover. In 2015, the market also witnessed numerous mergers and acquisitions. This trend was not restricted to dedicated reinsurance

companies, but also affected insurance groups with significant corporate client business. In Switzerland, there are various companies that belong to insurance groups involved in such transactions. The latter invariably involve reviews and adjustments to group-wide strategic and organisational aspects with a view to, for example, improving the cost structure. Moreover, they are expected to reduce demand for reinsurance. As the traditional business model promises rather modest growth in the short-term, doing business with national and supranational authorities is increasingly gaining attention as an alternative.

Full equivalence of the supervisory regime in Switzerland with respect to Solvency II will have a positive impact on the country's reinsurance market place. Equivalence implies equal treatment of Swiss reinsurance companies and of EU reinsurers when doing business with European cedents.<sup>94</sup>

In 2015, FINMA licensed two new reinsurance companies<sup>95</sup> as they moved their domicile to Switzerland. Five smaller companies (reinsurance captives)<sup>96</sup> have been released from supervision.

### **Better coordination of group supervision in the international environment**

Six groups are currently under FINMA group supervision. Nationale Suisse was released from supervision as a separate group on 31 December 2014, as it was acquired by Helvetia Holding AG. Now a purely national enterprise, Vaudoise Insurance Holding Ltd was also released from group supervision as of 9 February 2015. Following the sale of its Valorlife holdings in Liechtenstein, Vaudoise Insurance Holding Ltd consists of only two FINMA-supervised insurance companies and the prerequisites for group supervision are no longer given.

<sup>93</sup> Supervision of health insurers is spread over two authorities: under the Federal Act on Health Insurance Supervision, the Federal Office of Public Health supervises the compulsory health insurance sector, while FINMA supervises supplementary health insurers under the Insurance Contract Act.

<sup>94</sup> The cedent is the reinsurer's client, i.e. the primary insurer or other reinsurer that passes on (cedes) its risks to the reinsurer against a premium. A cedent is also referred to as "the reinsured".

<sup>95</sup> Sampo Canopus Reinsurance AG was granted a reinsurance licence, and ABB Reinsurance Company Ltd was licensed under "Reinsurance by captives".

<sup>96</sup> ASEK Reinsurance AG, Amplinsure Re AG, Heineken Re AG, Wolters Kluwer Reinsurance AG, Stemcor Re AG.

Of the six supervised insurance groups, five are active internationally. Consequently, international coordination through supervisory colleges<sup>97</sup> is of particular importance. In addition to the annual meetings with foreign regulators, information is exchanged actively during the year. The dominant themes in 2015 were the further development of FINMA's coordination agreements<sup>98</sup> and the discussions among the various regulators on how to assess the risk of an insurance group. The various European member states are making it a strong priority to discuss the precise details and consequences of implementing or waiving subgroup supervision for groups active in the EU.

<sup>97</sup> In group supervision, the supervisory colleges are an important forum for collaboration between FINMA and foreign supervisory authorities with respect to a financial group or conglomerate. Here the regular exchange of information and experience aims to facilitate cooperation among the supervisory authorities and improve supervision of internationally active groups and conglomerates.

<sup>98</sup> A coordination agreement is an international institution-specific arrangement that the relevant supervisory authorities enter into among themselves in order to define and agree on their collaboration in the supervisory colleges.

## Protection of policyholders in health insurance

The protection of insured persons is part of FINMA's legal mandate. Examples in health insurance include interventions on account of inadmissible discounts or rate adjustments in supplementary hospital insurance. Furthermore, FINMA encourages the governing bodies of health insurance companies to further develop their corporate governance.

As is the case in all the other insurance sectors, FINMA ensures that insured persons are protected against insolvency risks and misconduct by supplementary health insurers. It monitors the ability of these institutions to pay contractually defined benefits at any given time and issues regulations to supervised insurance companies on their financial position, risk management and corporate governance.

In addition to this supervisory regime, which applies equally to non-life and life insurers, the legislator has prescribed that there should be preventive product control for supplementary health insurers, i.e. insurers may bring their products to market only after FINMA has approved the respective premiums and conditions. FINMA assesses products based on the legal framework, which implies that prices may neither be abusively high nor so low that they would threaten the insurer's solvency. FINMA also ensures that the insurance conditions comply with the relevant laws.

Misuse of supplementary health insurance tariffs is detailed in the provisions of the Insurance Supervision Ordinance and in FINMA Circular 2010/3 "Health insurance under the ICA".<sup>99</sup> The relevant criteria are in particular requirements for admissible profit margins and the prohibition of unfair treatment. To significantly disadvantage an insured person in relation to other insured persons without any legal or actuarial justification is deemed to constitute misuse.

### FINMA intervenes in cases of unequal treatment

During its supervisory activities, FINMA encountered instances of suspected failure to comply with the principle of equal treatment, and it subsequently analysed the data of the entire supplementary health insurance market. While doing so, FINMA noticed

that some insurers offered discounts which were not justifiable from an actuarial perspective. This applies to master agreements on the basis of which reductions are being granted, for example to employees of certain companies and to members of certain associations and clubs.

Discounts are permissible if they are actuarially justifiable. In cases where a collective of insured persons experiences lower claims and administrative expenses, the resulting savings can be passed on to the respective insured persons. An unjustified discount, however, would result in unequal treatment of insured persons within a particular product. In an extreme scenario, an insurer would use part of the premiums it collects from one group in order to offset losses it incurs from the discounts granted to another group.

Protection of insured persons is part of FINMA's legal mandate, which also includes preventing significant unequal treatment with respect to supplementary health insurance rates, thus protecting insured persons against misuse. For these reasons, FINMA has responded to the practice of offering discounts and instituted corresponding measures. In the summer of 2015, it called on all health insurers to cancel all master agreements with unjustifiably high discounts as of the next possible termination date. This targeted and immediate measure was necessary in order to restore lawful conditions and prevent the market from becoming distorted. Furthermore, FINMA conducted more thorough enquiries in some cases in order to take possible corrective measures.

A correction of actuarially non-justifiable discounts can cause an insurance company to adjust its rates in general. FINMA monitors this process closely in order to preserve the interests of all insured persons.

<sup>99</sup> See FINMA Circular 2010/3 "Health insurance under the ICA" ([www.finma.ch/de/rs-2010-03.pdf](http://www.finma.ch/de/rs-2010-03.pdf); in German).

### Challenges in supplementary hospital insurance

The significance of supplementary hospital insurance products is generally declining. The overall number of such policyholders has been decreasing slightly over the years, with various circumstances accelerating this trend. This is partly due to the broad range of cover provided under the Health Insurance Act. The introduction of the new financing scheme for hospitals in 2012 resulted in a further decline in benefits, particularly for cover at hospitals outside the insured person's canton of residence (general ward).

An environment of changing products can lead to excessive rates that are no longer justifiable in terms of the actual cost incurred. FINMA is well aware of this trend and is monitoring the market situation even more closely than before. It intervenes when it notices products with excessive long-term profit margins. For example, it ordered a significant rate reduction in general ward products between 2013 and 2015.<sup>100</sup>

Both charts on page 53 show the trend in benefits in general ward, semi-private and private ward products. Notably, in the case of general ward products, the benefits for inpatient treatment decreased significantly between 2011 and 2014. As regards semi-private and private ward products, what initially was a considerable drop in benefits was dampened significantly by the effects of inflation and the rising demand for old-age provisions. Premium income from hospital insurance products in total declined by 4% compared to 2013; in the case of general ward products, the decline was as high as 34%. Following FINMA's intervention, there were further premium reductions for such products in 2015, with more scheduled for 2016. FINMA rejected the premium increases in the 2016 tariffs requested for some products, ordering premium reductions of up to 60%.

### Further development in corporate governance

The health insurance sector has developed in parallel with public health trends in Switzerland for many decades. This has called for constant adjustment to changes in the political, legal, regulatory and market environment. As recently as the beginning of the 1980s, there were more than 500 general health insurance companies in operation, often as sideline businesses. A major change came with the introduction of the Health Insurance Act in 1996. Today, the health insurance market is dominated by nine health insurance groups, each of them managing a premium volume amounting to more than a billion Swiss francs.

Such developments present particular challenges for management, which must ensure that such growth is met with an appropriate organisational structure, transparency and adequate controls. In the recent past, FINMA had to take measures to remedy deficiencies in the corporate governance of various health insurers. The issue of unjustifiable discounts is also at least partly due to inadequate control mechanisms. FINMA therefore clearly laid out its expectations in this matter during its discussions with health insurance executives in 2015. Starting in 2016, FINMA will conduct systematic governance audits and will also monitor the development of corporate governance over time.

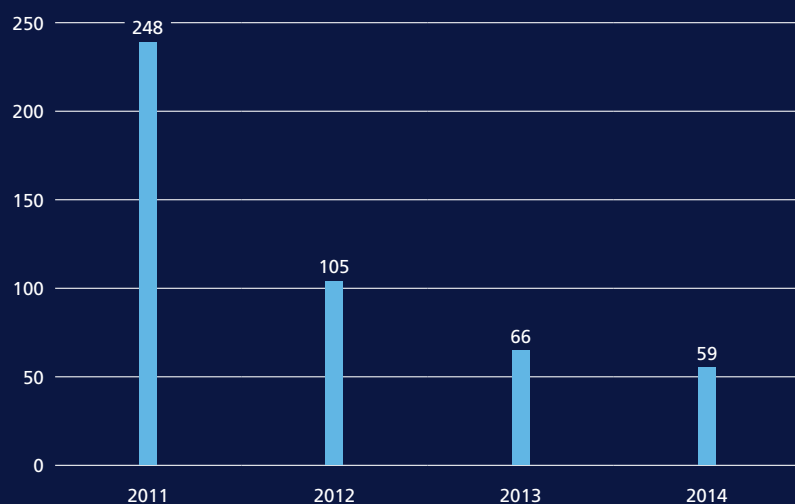
<sup>100</sup> See "Overview of insurance companies", section on "Changes in general health insurance supervision", p. 48 f.



# Benefits in hospital insurance

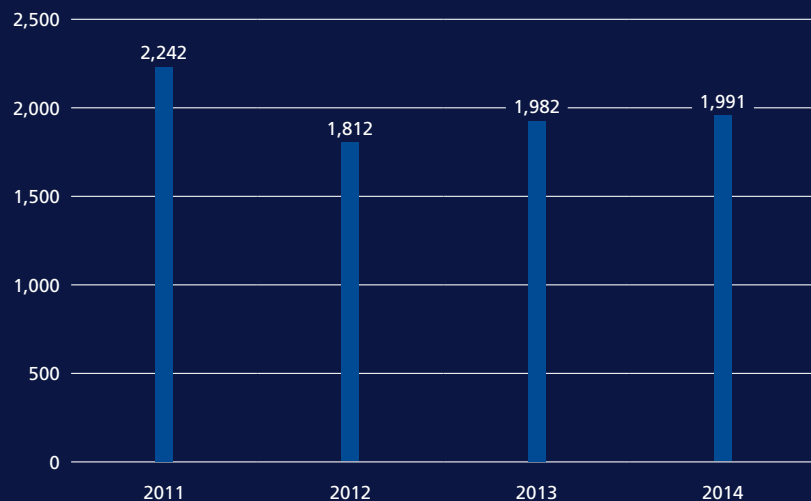
## General hospital wards throughout Switzerland

in CHF millions



## Semi-private and private hospital wards

in CHF millions



## Changes in insurance regulation

The partially revised Insurance Supervision Ordinance came into effect on 1 July 2015. The primary aim of the resulting adjustments was bringing the Swiss solvency rules in line with the requirements of the European Solvency II Directive. This meant making subsequent adjustments to the FINMA Insurance Supervision Ordinance and to some FINMA circulars. Moreover, FINMA issued two new circulars and condensed existing rulings.

FINMA ordinances/ FINMA circulars	Regulation process			Changes	In force from
	Type	Content/subject matter	Aims/reasons		
FINMA Insurance Supervision Ordinance (ISO-FINMA)	Partial revision	A provision requiring a security deposit made by foreign insurance companies to be included in the Ordinance. This was primarily a correction of the regulatory level. In addition, a provision on accounting principles was added in order to achieve consistency with how competencies are delegated under the Insurance Supervision Ordinance.	The aim of the change regarding accounting was to define the minimum requirements for the outline of the balance sheet and the profit loss account in deviation from the Swiss Code of Obligations. This change will better accommodate the specifics of the insurance business and promote transparency in the presentation of activities and the economic situation of insurance companies.	New provisions to be included.	15 Dec. 2015
FINMA Circular 2016/2 "Public Disclosure"	New regulation	The new circular lays out standardised rules for disclosing comparable and relevant information to the public. Improved comparability and greater transparency aim to better protect policyholders.	Adjusting to international standards and achieving equivalence with the EU.	–	1 Jan. 2016
FINMA Circular 2016/3 "ORSA"	New regulation	The new Own Risk and Solvency Assessment (ORSA) circular defines the principles that insurance companies must apply to self-assessment. Insurers need to adopt a forward-looking perspective in order to form an overall picture of the company. The self-assessment provides information about the risk situation, capital adequacy and the relationships between risk and capital.	Adjusting to international standards and achieving equivalence with the EU.	–	1 Jan. 2016

FINMA ordinances / FINMA circulars	Regulation process			Changes	In force from
	Type	Content / subject matter	Aims / reasons		
FINMA Circular 2016/4 "Insurance groups and conglomerates"	Full revision	This circular combines the content of four other circulars (2008/27 "Organisation – insurance groups", 2008/28 "Structure – insurance groups", 2008/29 "Internal business transactions – insurance groups" and 2008/31 "Insurance group report"). In addition, the "Supervision of insurance groups and conglomerates" guideline is also included. This area is now regulated uniformly. FINMA Circular 2008/30 "Solvency I – insurance groups" was repealed.	Revision of the circulars for insurance groups and conglomerates.	Fundamental revision and adjustment to the partially revised Insurance Supervision Ordinance.	1 Jan. 2016
FINMA Circular 2016/5 "Investment guidelines – insurers"	Full revision	Circular 2008/18 underwent several content changes, in particular it extends investment opportunities for insurance companies, which can now invest in private debt, senior secured loans and commodities. The circular also includes provisions on investments in infrastructure. Furthermore, insurance-linked securities and gold bars can be allocated to tied assets.	Full revision of Circular 2008/18.	Fundamental revision, reduction and alignment; adjustment to the partially revised Insurance Supervision Ordinance.	1 Jan. 2016

FINMA ordinances/ FINMA circulars	Regulation process			Changes	In force from
	Type	Content/subject matter	Aims/reasons		
FINMA Circular 2016/6 "Life insurance"	Full revision	This circular combines two previous circulars (2008/39 "Unit-linked life insurance", 2008/40 "Life insurance"). Important changes particularly affect aspects relating to rate setting, biometric risk requirements, models and principles for developing tariffs, and the technical interest rate.	The provisions governing life insurance were amended.	Fundamental revision and adjustment to the partially revised Insurance Supervision Ordinance.	1 Jan. 2016
Other FINMA circulars: – 2013/5 "Liquidity – insurers" – 2011/3 "Provisions – reinsurance" – 2008/42 "Provisions – non-life insurance" – 2008/13 "Rate setting for term insurance – occupational pension schemes" – 2008/12 "Revolving-door principle – occupational pension schemes"	Partial revision	These circulars underwent slight content changes and were edited.	Partial revision and editing changes.	Editing changes and adjustment to the partially revised Insurance Supervision Ordinance.	1 Jan. 2016

FINMA ordinances / FINMA circulars	Regulation process			Changes	In force from
	Type	Content/subject matter	Aims/reasons		
FINMA Circular 2010/1 "Remuneration systems"	Partial revision	This circular lays out the minimum standards for remuneration schemes at financial institutions, in particular banks and insurance companies.	The aim was to define ten principles for a remuneration system in order to promote the long-term success and stability of a financial institution.	The scope of validity for insurance companies is now based on the SST target capital.	1 Jan. 2016
FINMA Circular 2008/44 "SST"	Changes to Appendix 4	These changes grant companies longer terms permanently rather than temporarily, as was the case previously, in which to again reach the prescribed solvency thresholds. In order to better protect policy holders, companies whose solvency ratio is below 80% are no longer permitted to pay dividends.	Continuation of the threshold intervention concept from FINMA Circular 2013/2 "Temporary adjustments to the Swiss Solvency Test (SST)", which expired on 31 December 2015.	Changes to the threshold intervention concept.	1 Jan. 2016
FINMA Circular 2008/33 "Capital requirements for reinsurance captives"	Repealed	This circular has been repealed. Since the revised Insurance Supervision Ordinance came into effect, reinsurance captives have been subject to the SST requirement (the current exception of Art. 2 ISO has been repealed and not replaced).	–	–	1 Jan. 2016

## Outlook

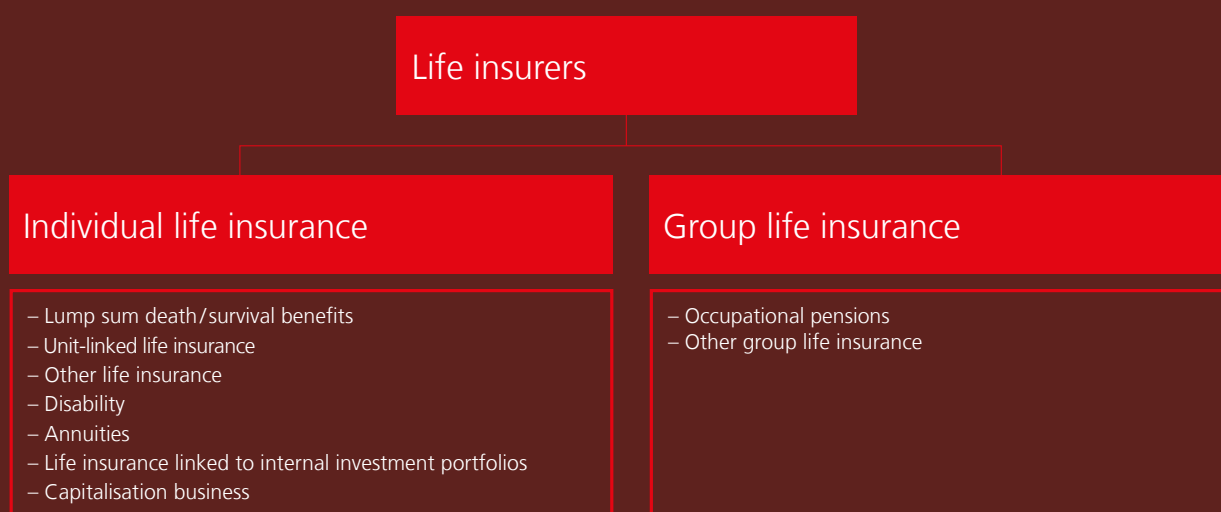
In 2016, FINMA Circulars 2008/16 "Responsible actuary", 2008/32 "Corporate governance – insurers", 2008/35 "Internal audit – insurers" and 2008/44 "SST" will be revised. FINMA Circular "SST" will be fully revised and shortened. The provisions of the Insurance Supervision Ordinance, which were partially revised on 1 July 2015, regarding qualitative topics – e.g. strengthening the control function – will be described in more detail in the circulars "Corporate governance – insurers" and "Internal audit – insurers". FINMA Circular "Responsible actuary" is being edited and adjusted as needed, based on practical experience and in accordance with the revised Insurance Supervision Ordinance. A new FINMA circular on legally binding business plans will be issued to replace the current guidelines on this subject.



# At a glance:

## life insurers in a low interest rate environment

The life insurance sector is facing major challenges. Life insurers have a large number of contracts with guaranteed benefits on their books. Relying on risk-free investments to meet these benefits has become extremely difficult in the persistent phase of low interest rates. Life insurers can meet all their obligations only if they have adequate financial security and prudently selected the parameters when calculating premiums.



### Properties of life insurance products

- Often large savings components (reaching a savings goal; lump sum payment as protection against disability and death)
- Generally long maturities before obligations are met
- Individual life: for the most part contractually guaranteed benefits (during the term, the interest rate cannot be changed)
- Group life: interest rates for retirement accounts are set annually

Premium calculations for pension plans with a high savings component also include interest rate assumptions that result in lower premiums. Such earnings, however, must also then be realised in following years. Here it is necessary to distinguish between individual life insurance and group life insurance, which is life insurance pertaining to occupational pension schemes.

– **Individual life insurance:** Premiums and guaranteed benefits are set for the contract term, or until death in the case of old-age annuities. Such a period generally spans several decades. A change in the selected interest rate due to a significant shift in the interest rate environment cannot be applied to current contracts. Guarantees are contractual and can be adjusted only for future new business.

– **Occupational pensions schemes:** The interest rate for retirement accounts is set annually and applies to the entire portfolio. An old-age annuity that is calculated based on a conversion factor depends on the interest rate assumptions used for determining this conversion factor. The conversion factor is guaranteed for the whole period during which benefits are paid. This guarantee implies that current old-age benefits cannot be adjusted, even if the interest rates change.

The chart on the right shows that interest rate assumptions were based on prudent estimates up to the mid-1990s. Afterwards an extended phase set in during which interest rates stayed at slightly conservative levels for individual life insurance, but not for occupational pension schemes. Since the start of the financial crisis in 2008, the interest rates selected for all sectors have no longer been particularly conservative. Furthermore, the yield on Swiss Confederation bonds, including those with long maturities, has been negative since 2015. The difference to life insurers' guaranteed rates has consequently widened considerably.

### Challenges relating to interest rate guarantees

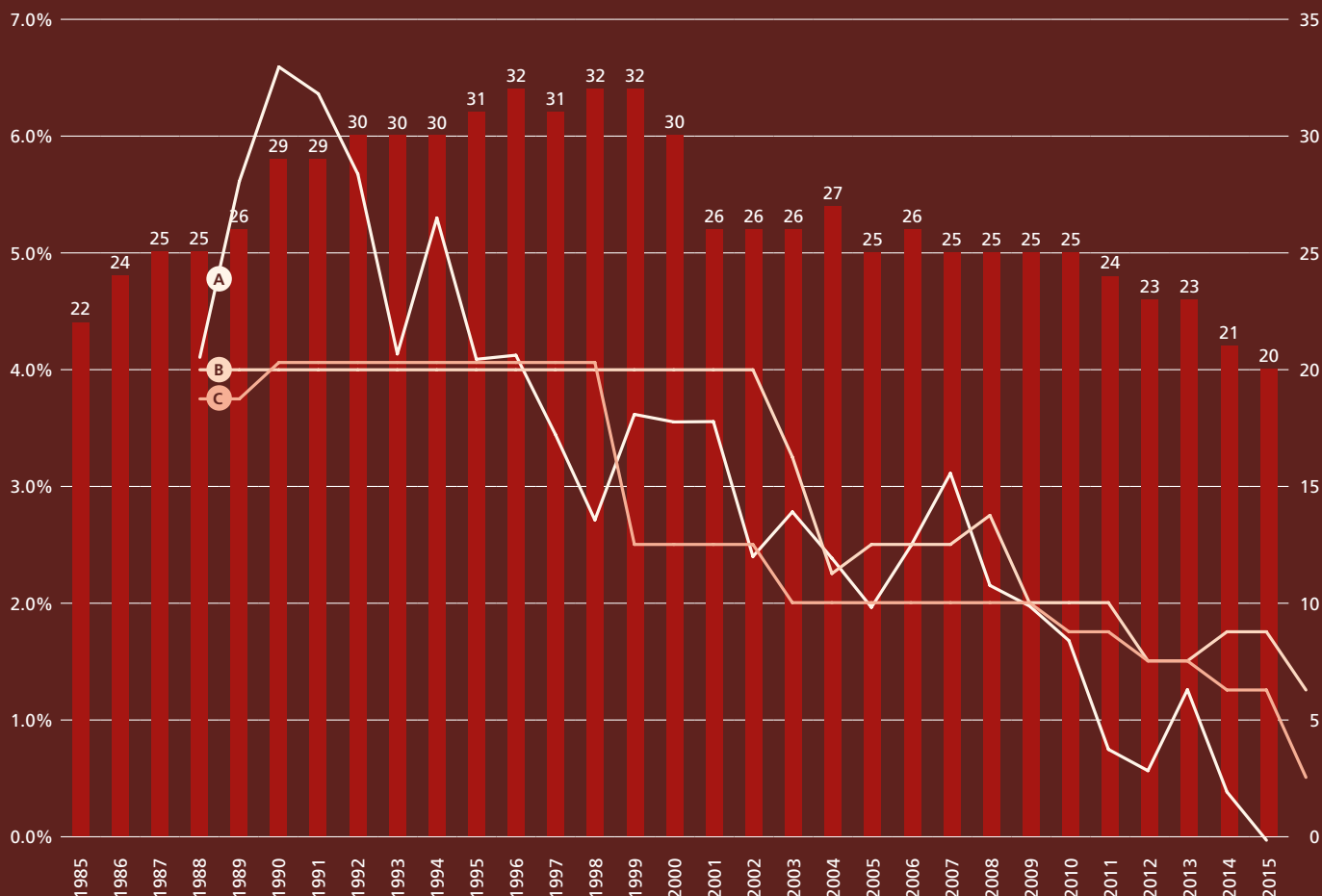
New products with low interest rate guarantees have significantly less appeal for potential clients, and life insurers are finding it very difficult to bring these to market. They are therefore increasingly attempting to offer savings products without interest rate guarantees and, consequently, competition with banking products is rising.

Life insurers have legacy products on their books that pose a heavy burden through guaranteed interest rates. They face a particular challenge in cases where they failed to invest in good time and achieve commensurate returns. As a result, they need to strengthen their reserves considerably, if there are no corresponding revaluation gains from investments.

## History of interest rates and returns

Interest rates

Number of life insurance companies  
under supervision by FINMA



- A** Yield on Swiss Confederation bonds (spot interest rates for 10-year maturities)
- B** BVG minimum interest rate
- C** Maximum technical interest rate of new life insurance contracts in CHF

■ Number of life insurers

### Measures by FINMA

**Financial security:** This includes adequate solvency ratios and sufficient technical provisions. In this regard, the Swiss Solvency Test has proven to be a robust instrument for measuring economic solvency. FINMA assesses technical provisions rigorously and instructs insurers to close any gaps in good time.

**Calculation of premiums:** FINMA is particularly attentive to the prudent selection of parameters to be applied to premium calculations, especially with respect to the choice of interest rate. Since the new Insurance Supervision Ordinance came into effect, FINMA is also able to require individual insurers to apply significantly lower interest rate assumptions than used previously.

In addition to its daily business, the Markets division applied new legislative provisions to subordinate regulations and the supervisory architecture in 2015. Two new competence centres, Suitability and Accounting, were also established.

The Markets division has a direct and indirect supervisory role within FINMA. It oversees financial market infrastructures,<sup>101</sup> directly subordinated financial intermediaries (DSFIs) and self-regulatory organisations (SROs) through direct contact with the supervised institutions. It also supports other FINMA divisions – Banking, Insurance and Asset Management – through its competence centres in the areas of anti-money laundering, individual asset management, auditing and financial reporting.

In 2015, the Markets division focused mainly on the key areas described below.

#### Setting up a cross-divisional Suitability unit

The cross-divisional Suitability<sup>102</sup> function was created in 2015 and incorporated into the Markets division. It operates as a FINMA-wide competence centre for the supervisory obligations of financial institutions in individual asset management, investment advisory services and distribution of financial instruments to individual clients. It supports the supervision of banks, institutions governed by the Collective Investment Schemes Act and life insurance companies in the case of supervisory measures, such as on-site supervisory reviews. It also assists with investigations into breaches of supervisory law and contributes to the risk analyses which FINMA uses for its suitability ratings. The cross-divisional unit also formulates the Investment Suitability audit programme for audit firms, which involves compliance with business conduct and organisational requirements to ensure the financial service is suited to the client.

#### Cooperating with the Federal Audit Oversight Authority

On 1 January 2015, the Federal Audit Oversight Authority (FAOA) assumed FINMA's supervisory competencies for audit firms. To ensure the flow of information between the two authorities, regular

and ad hoc exchanges of information have been arranged and implemented. The subjects covered include contemporary aspects of financial market regulation, auditing, reporting by financial institutions and FAOA sanctions against audit firms or lead auditors.

#### Rating agencies: revised IOSCO CRA Code

In March 2015, IOSCO published a revised version of its "Code of Conduct Fundamentals for Credit Rating Agencies".<sup>103</sup> FINMA's position regarding the recognition of rating agencies for supervisory purposes is based on this publication. The revised version of the IOSCO Code places higher demands on rating processes, the granularity of rating methods and the manner in which the agencies manage (and try to avoid) conflicts of interest. It also demands more stringent transparency requirements for ratings and tighter protection of the confidentiality of non-public information. In addition, the revised IOSCO CRA Code advocates increased governance for rating agencies, regular training and further education for employees, and the implementation of a company-wide risk management function.

#### Prevention of money laundering

##### FATF country review

The Financial Action Task Force on Money Laundering (FATF) will evaluate Switzerland's implementation of the 40 FATF standards in spring 2016. Following the adoption of the revised Anti-Money Laundering Act on 12 December 2014, the FINMA Anti-Money Laundering Ordinance was fully revised in June 2015. FINMA has recognised the new Agreement on the Swiss banks' code of conduct with regard to the exercise of due diligence (CDB) and the code of conduct issued by the Self-Regulatory Organisation of the Swiss Insurance Association (SRO-SIA) as a minimum standard. The new rules come into effect in 2016. The regulations for the 11 self-regulatory organisations in the

<sup>101</sup> Financial market infrastructures in the narrow sense include post-trading services in securities and derivatives trading relating to the clearing and settlement of securities transactions which are provided by securities settlement systems in the form of central counterparties (CCPs) and central securities depositories (CSDs). Payment processing systems are also included. The broader definition encompasses regulated trading platforms. FINMA is responsible for supervising financial market infrastructures (stock exchanges and similar institutions, CCPs and CSDs). Systemically important post-trading infrastructures and payment processing systems are also supervised by the Swiss National Bank (SNB).

<sup>102</sup> See "Strengthening and systemisation of business conduct supervision", p. 30 f.

<sup>103</sup> See "Code of Conduct Fundamentals for Credit Rating Agencies", Board of IOSCO's final report in March 2015 (<http://www.iosco.org/library/pubdocs/pdf/IOSCOPD482.pdf>).

para-banking sector<sup>104</sup> have been adjusted and FINMA has completed preparatory work for systemising its risk-based supervisory approach. It has also reported to the SIF (for the attention of the FATF auditors) about regulating due diligence requirements, effective adherence to these requirements by financial intermediaries, and its risk-based supervisory approach.

#### National risk assessment

One of the new key FATF recommendations is that there should be a national risk assessment. According to the report, which was duly noted by the Federal Council in June 2015, Switzerland is an attractive financial centre. This means there is a higher risk of the proceeds of crimes, committed mainly outside Switzerland, finding their way to Swiss banks. The main predicate offences posing a threat to the Swiss financial sector are fraud, embezzlement, corruption and membership in a criminal organisation. The overall money laundering risk assessment was average. The greatest danger came from international universal and asset management banks, individual asset managers, lawyers and notaries, fiduciaries, and money and asset-transfer service providers.

#### Qualified tax avoidance as a predicate offence

On 12 December 2014, the Swiss Parliament approved the Federal Act implementing the revised FATF recommendations of 2012. One of its provisions is the classification of qualified avoidance of direct taxes, which now qualifies as a tax crime and constitutes a predicate offence for money laundering, as stipulated in Article 305<sup>bis</sup> lets. 1 and 1<sup>bis</sup> SCC. Qualified tax avoidance is defined as tax fraud with a minimum threshold value of CHF 300,000. In accordance with Article 21 AMLO-FINMA, financial intermediaries are allowed to use the maximum tax rate of the country of domicile for tax purposes when developing risk criteria. Article 21 AMLO-FINMA

helps financial intermediaries to determine how the threshold value should be applied in the context of a risk-based approach, and still allows them some room for manoeuvre. In particular, they must determine whether and how to update their current risk criteria for qualified tax avoidance and/or whether they should introduce new specific risk criteria. It is assumed, for example, that the current AMLA high-risk country lists drawn up by financial intermediaries have not yet taken into account the new qualified tax offence and that specific high-risk country lists must therefore be drawn up.

<sup>104</sup> The term "para-banking" refers to other financial intermediaries under Article 2 para. 3 AMLA, e.g. asset managers, fiduciaries and payment services.

---

## Accounting

The Accounting unit and the Auditing cross-divisional function, which is also part of the Markets division and is responsible for managing questions about regulatory audits, work closely with the FAOA.

### **Impact of the new IFRS 9 “Financial Instruments” standard**

The IFRS and US GAAP international accounting standards have recently been updated. The new IFRS 9 “Financial Instruments” standard was published in July 2014 by the International Accounting Standards Board (IASB) and contains highly relevant changes, particularly for banks, but also for insurers. It replaces IAS 39 “Financial Instruments: Recognition and Measurement” and is mandatory for periods starting on or after 1 January 2018. Besides changes in the classification and evaluation of financial instruments and hedge accounting, the new standard contains a fundamental change to the rules for value adjustments related to credit risks. The old method of acknowledging impairments after loss events had occurred (incurred-loss approach) has been replaced by the expected-loss approach, under which impairments must be formed as soon as losses are anticipated. FINMA is monitoring the impact of this change on banks and insurers. It has also launched a project to analyse the introduction of an expected-loss approach into Swiss accounting standards for banks. Representatives of banks and audit firms are involved in a working group dealing with this issue.

---



Financial market infrastructure supervision in 2015 centred on cross-border issues. The European Commission's decision to grant equivalence to the Swiss supervision of central counterparties was an important step as it provides a basis for Swiss central counterparties to access markets in the EU.

International networks and mutual dependencies feature heavily in financial market infrastructures. This increases the need for coordination and cooperation with foreign supervisory authorities and institutions. The main issues in 2015 concerned interoperability<sup>105</sup> between central counterparties (CCPs) in clearing securities transactions and the operational linking of the Swiss central securities depository to TARGET2-Securities (T2S), the new central eurozone platform for securities settlements.<sup>106</sup> For the first time, a stock exchange-like institution for trading in corporate bonds – SIX New Corporate Bond Facility AG – was granted a licence in 2015.

#### Acquisition and integration of a Norwegian central counterparty

In May 2014, SIX x-clear AG, acting as a Swiss CCP, acquired full ownership of the Norwegian central counterparty Oslo Clearing ASA. On 1 May 2015, the legal integration process was completed and clearing activities in Oslo were transferred to a branch office, which required separate authorisation in Norway. The supervisory implications – particularly for risk management, liquidity and supervisory cooperation – were assessed by FINMA and the SNB. Parallel steps were taken at the institutional level and a memorandum of understanding<sup>107</sup> was concluded with the Norwegian supervisory authorities. As part of the integration process, an interoperability arrangement was also established with LCH Ltd London for clearing exchange-traded derivatives on the Oslo stock exchange. This is a first in the field of derivatives clearing.

#### Sharing information on interoperability, restructuring, resolution and crisis management

The scope of supervision and discussion of current interoperability arrangements among the relevant authorities was also expanded to cover shared clearing among trading platforms in the EU, Norway and Switzerland, i.e. between CCP SIX x-clear, LCH Ltd London and Euro CCP Netherlands. This cooperation entailed changes to the CCPs' collateralisation mechanisms, which are based on the international principles for financial market infrastructures<sup>108</sup> and on the differing ways in which they are implemented in the EU and Switzerland.

The regulations on resolution for financial market infrastructures are still under development at international level. FINMA is working on these regulations with experts in international working groups and it participates in meetings of cross-border committees on crisis management for central counterparties.

#### Conclusion of the European Commission's equivalence recognition process

A central counterparty from Switzerland needs authorisation from the European Securities and Markets Authority (ESMA) to offer its services in the EU. A condition for gaining authorisation is equivalence of the supervisory systems. In mid-November 2015, the European Commission approved supervisory regime equivalence for Swiss central counterparties. That means Swiss providers can be granted access to the European market. At present this applies to one central counterparty in Switzerland. Final approval from ESMA is anticipated in the near future.

The EU's positive recognition of Swiss supervision of central counterparties has strengthened the reputation and competitiveness of the Swiss financial centre. It also enables the avoidance of overlapping supervision. The equivalence ruling is an important

<sup>105</sup> Interoperability is the capability of independent, heterogeneous systems to work seamlessly together. As regards CCPs, interoperability involves a legal agreement and technical cooperation between CCPs for the cross-system settlement of transactions in financial instruments. This enables parties in different systems to interact through the CCP and take advantage of CCP offsetting and collateralisation mechanisms when settling securities transactions.

<sup>106</sup> TARGET2-Securities was developed by the Eurosystem and is the central European securities settlement platform for securities transactions in euros. Eventually, all the national central securities depositories in Europe will be linked to it.

<sup>107</sup> See "National and international memoranda of understanding", p. 102 in the Appendix.

<sup>108</sup> See "Principles for financial market infrastructures", April 2012, BIS and IOSCO (<http://www.bis.org/cpmi/publ/d101a.pdf>).

step towards securing effective, efficient and internationally harmonised supervision of central counterparties and the financial market.

#### **SIX SIS connects to TARGET2-Securities**

On 22 June 2015, following an extensive planning and implementation process, the new and harmonised central Eurosystem securities settlement platform TARGET2-Securities (T2S) became operational. The central securities depositories (CSDs)<sup>109</sup> of the 26 individual member states will be connected in stages to the T2S platform. The Swiss central depository SIX SIS, which also settles EUR securities transactions in the system, has been involved since the outset. Since connecting to T2S means that SIX SIS has transferred important securities settlement functions to an external foreign IT platform, FINMA and the SNB monitored the operational link-up, contractual basis and the risks involved. Negotiations to secure the information flow and systemic controls were conducted between the supervisory authorities and central banks, on the one hand, and the ECB as the Eurosystem representative, on the other.

#### **Strengthening of trading surveillance units**

In 2014, research was conducted into the negative effects of fragmenting trading activities over many trading platforms plus over-the-counter (OTC) trading. Fragmentation complicates access to comprehensive data collections, which enable trading surveillance

units and FINMA to effectively supervise the market. Greater cooperation between authorities both nationally and, where appropriate, internationally will be required to maintain and enhance the effectiveness of market supervision. The legal foundation and requirements underpinning such cooperation are set out in the Financial Market Infrastructure Act (FMIA). FINMA also encouraged trading surveillance units to work together, resulting in the conclusion of cross-border cooperation agreements in 2015.

#### **Licensing of SIX New Corporate Bond Facility AG**

On 25 February 2015, FINMA granted an operating licence to an exchange-like institution within SIX Group. SIX New Corporate Bond Facility AG was founded by SIX Swiss Exchange AG as a wholly owned subsidiary under Swiss law with its registered headquarters in Zurich. The trading platform works on a stand-alone application for the market model. Trading is scheduled to start in 2016 once the number of participants required to ensure liquidity has been reached.

<sup>109</sup> A central securities depository (CSD) is a centralised entity where securities are held either in certificated or uncertificated form. At an international level, it can also refer to a platform on which transactions in these securities are settled. Swiss law is different in this respect under Articles 61 paras. 1 and 2 FMIA.

## Changes in market regulation

In 2014, Parliament reviewed the Anti-Money Laundering Act to take account of the latest FATF recommendations. This resulted in a full revision of the FINMA Anti-Money Laundering Ordinance. The Financial Market Infrastructure Act was passed in 2015 and represents a consolidated federal act on financial market infrastructures based on the National Bank Act, the Banking Act and the Stock Exchange Act. FINMA subsequently issued its own ordinance to specify the new Act's implementation details.

FINMA ordinances	Regulation processes			Changes	In force from
	Type	Content/subject matter	Aims/reasons		
FINMA Anti-Money Laundering Ordinance (AMLO-FINMA)	Full revision	The revised AMLO-FINMA incorporates the amendments to the Anti-Money Laundering Act, including FATF recommendations, and specifies the statutory provisions. Supervisory findings and more recent market developments are also included in the revised ordinance.	The fully revised AMLO-FINMA takes account of the FATF recommendations revised in 2012 and the subsequent revision of the Anti-Money Laundering Act.	There were many amendments to the formal and material due diligence and organisational requirements to which financial intermediaries must adhere.	1 Jan. 2016
Financial Market Infrastructure Ordinance (FMIO-FINMA)	New ordinance	FMIO-FINMA contains provisions for implementing reporting requirements for securities trading, clearing obligations for derivatives, as well as disclosure and acquisitions.	FMIA, which came into force on 1 January 2016, is a new, tailored regulatory framework for financial market infrastructures and derivatives trading. The Federal Council's Financial Market Infrastructure Ordinance and FMIO-FINMA were drafted and approved in accordance with the relevant legal provisions.	–	1 Jan. 2016 (Some obligations are subject to transitional periods.)

### Outlook

In December 2015, FINMA submitted a new circular on video and online identification for public consultation with the goal of removing illegitimate barriers to digital channels. This circular aims to extend the due diligence requirements of the Anti-Money Laundering Act and its implementing provisions to the digital environment, as an increasing number of financial intermediaries are communicating with their clients via the Internet and mobile devices. The new circular is drafted in a technology-neutral way, thereby compensating for those anti-money laundering provisions which had originally been drafted solely for the provision of analogue services. This applies especially to the identification of contractual parties and beneficial owners when business relationships are first established.

The entry into force of the Financial Market Infrastructure Act further necessitates amendments to subordinate regulations. An independent FINMA insolvency ordinance for financial market infrastructures is also being planned. Some current FINMA circulars, e.g. FINMA Circular 2008/11 "Reporting requirements for securities transactions" and 2008/4 "Securities journal", will also have to be amended to ensure FMIA-consistent regulation.

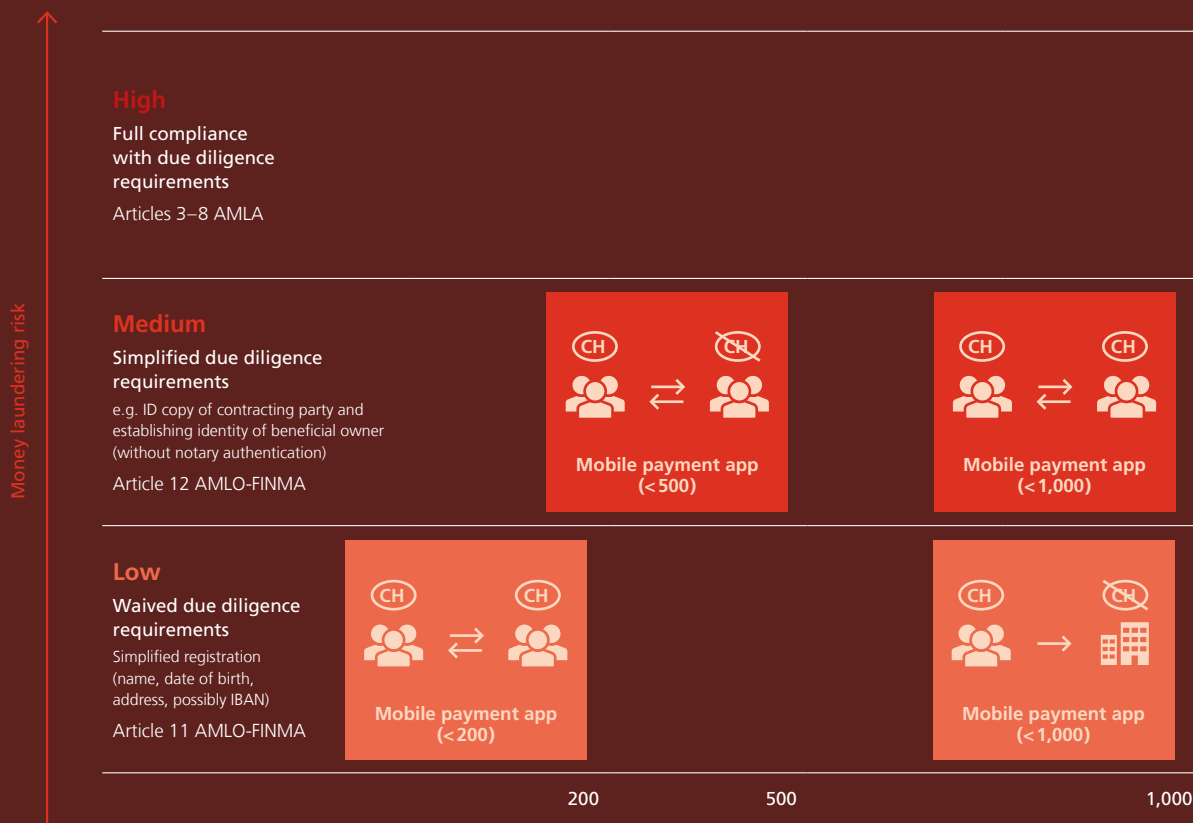
# At a glance: due diligence requirements for digital payment methods

The fully revised FINMA Anti-Money Laundering Ordinance, which came into effect on 1 January 2016, specifies the provisions of the revised Anti-Money Laundering Act and takes account of the amended FATF recommendations. FINMA also incorporated findings from its supervisory work and recent market developments in its revision of the ordinance, such as new payment methods for cashless transactions.

Providers of payment methods for cashless transactions, e.g. banks, credit card companies and FinTech start-ups, must adhere to the due diligence requirements in Articles 3 to 8 AMLA, which state that a provider of payment services must identify the contracting party on the basis of a document of evidentiary value when establishing business relationships. The provider must also obtain written confirmation of the beneficial owner's identity from the contracting party. However, in some cases the more lenient due dili-

gence requirements of Article 12 AMLO-FINMA can apply to cashless payments. By contrast, under Article 11 AMLO-FINMA some due diligence requirements do not apply at all in certain situations. In line with FINMA's risk-based approach, the revised ordinance determines how strict the due diligence requirements should be on the basis of the business model and associated money laundering risk. The new provisions therefore also take account of the rise in digital payment.

## Due diligence requirements for digital payment methods depending on money laundering risk



The chart maps a range of mobile payment products against their design depending on the money laundering risk. The risk analysis is based on the following criteria:

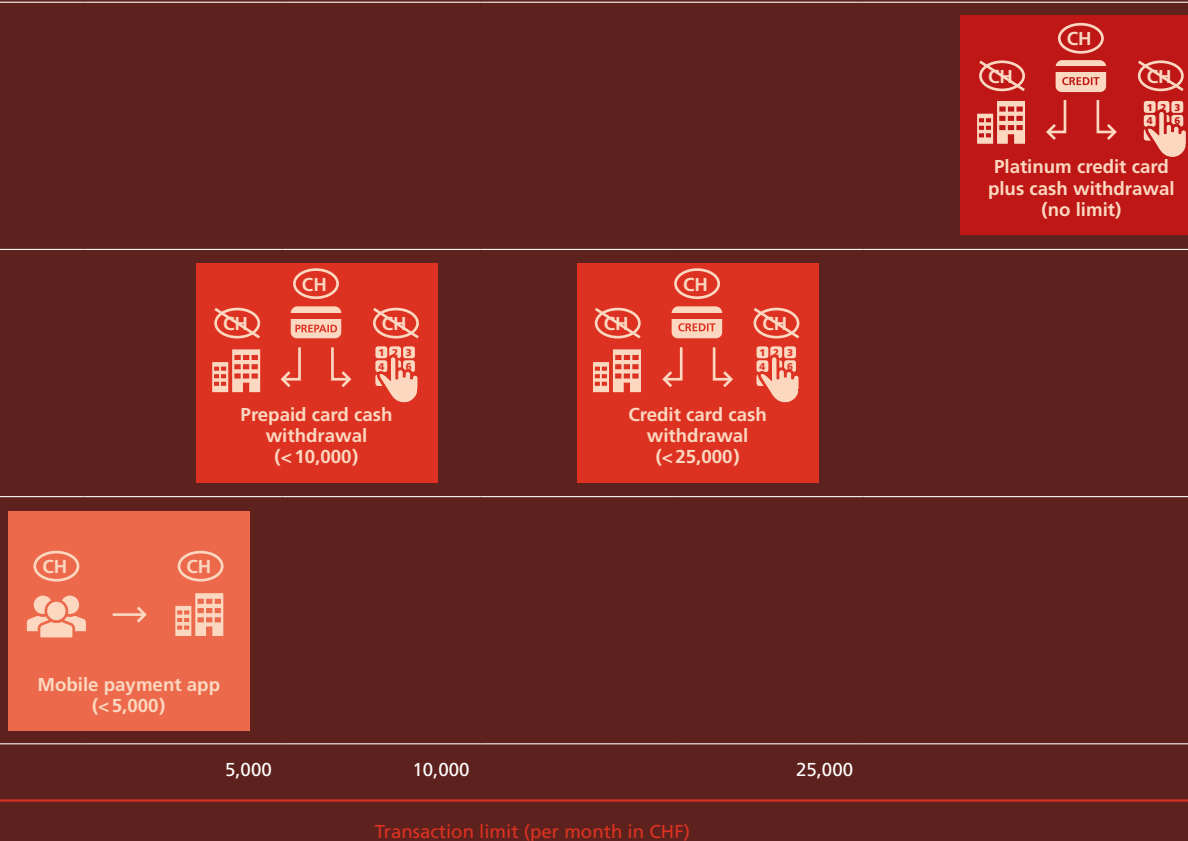
- purpose of the payment service
- type and channel of the financing source and transaction (for example whether cash withdrawals are allowed, whether credit and repayment by bank account is obligatory or optional)
- threshold value (per transaction, month and year)
- target clients (unrestricted or limited to a department store, for example)
- extent of transaction monitoring

- requirement for the payment service provider to establish a client profile for each contractual party
- geographic factors (e.g. payment only allowed within Switzerland or cross-border)

#### Contracting parties

Peer-to-peer: these are products used for money transfers between private users.

Private-to-business: products for cashless payment when buying goods and services from commercial traders and service providers.





The Asset Management division saw numerous changes in 2015. The transitional periods for the Collective Investment Schemes Act expired. Efforts were also made to improve market access, while foundations were laid for the authorisation of foreign asset management branch offices in Switzerland.

Market and regulatory changes impacted the asset management sector throughout 2015. The expiry of the transitional periods following the revision of the Collective Investment Schemes Act meant that companies which had been operating without a licence became subject to supervision by FINMA and had to apply for a licence.

New strategies for remaining competitive in a market environment characterised by low interest rates and higher costs were also much in demand. Some banks therefore hived off their asset management operations and founded independent asset management companies with the aim of raising the profile of asset management and launching a brand outside their banking operations. Other CIS managers joined forces to exploit economies of scale.

FINMA also noted a growing tendency among small and medium-sized companies to outsource certain operations, such as compliance or risk management. In fact, outsourcing is in evidence throughout the sector.

FINMA took the sector's challenges seriously and sought to address the market's needs and ensure investor protection by means of efficient action and risk-based decisions.

### Update on the transitional periods for the revised Collective Investment Schemes Act

The revision of CISA, effective from 1 March 2013, stipulated a licensing requirement for asset managers of foreign collective investment schemes, as well as representatives and distributors of foreign collective investment schemes distributed exclusively to qualified investors.<sup>110</sup> The transitional periods required those asset managers now subject to FINMA supervision to register within six months of the revision coming into force. They were granted a transitional period of two years to fulfil the applicable statutory requirements and submit a licence application to FINMA.

The expiry of the transitional period was marked by a substantial inflow of licence applications to FINMA. Nevertheless, thanks to FINMA's standardised submission arrangements and well-defined internal processes, they were processed efficiently and promptly.

As a result, most institutions managed to implement the required amendments on time. FINMA made contact with those institutions which had originally registered but had then failed to either submit a licence application or deregister. In most instances, satisfactory explanations were provided, such as cessation of the activity in question or not having exceeded

<sup>110</sup> Under Article 10 para. 3 CISA, qualified investors are supervised financial intermediaries and companies with professional treasury services. High-net-worth individuals can also state in writing that they wish to be considered as qualified investors; they must, however, meet the requirements set out in Article 6 CISO. Investors who have concluded a written discretionary management agreement in accordance with Article 3 para. 2 lets. b and c CISA also count as qualified investors unless they have issued a written statement to the contrary.

the stipulated minimum threshold for assets under management for requiring a licence. In the absence of adequate justification, FINMA initiated the necessary measures.

In future, any institution wishing to exercise an activity requiring a licence within the scope of the Collective Investment Schemes Act will need prior authorisation from FINMA in accordance with Article 13 CISA.

#### **Branches of foreign asset managers**

Foreign asset managers of collective investment schemes must be licensed by FINMA if they intend to establish a branch in Switzerland, specifically if they employ staff on a permanent basis and in a professional capacity to provide asset management services under CISA in or from Switzerland.

One licensing requirement is that there must be a memorandum of understanding for cooperation and exchange of information between FINMA and the relevant foreign supervisory authority. This ensures efficient cooperation between the supervisory authorities when licensing and monitoring these asset managers and their branches in both countries.

Foreign asset managers must also be adequately organised and subject to appropriate supervision at their registered headquarters, which also includes

branch offices. In terms of organisation, conduct and professional qualifications of their staff, branch offices in Switzerland must thus fulfil the requirements set out in the Collective Investment Schemes Act. At the end of 2015, FINMA issued its first licence to two foreign asset managers to establish a branch in Switzerland.

#### **Delegation of risk management and compliance to third parties**

Risk management and compliance require specific experience and professional qualifications due to their complexity and the need for these functions to be independent of the portfolio management function. When reviewing licence applications, it has repeatedly come to FINMA's attention that risk management and/or compliance duties are being delegated to third-party institutions. This is particularly the case for small and medium-sized companies, which opt not to perform these functions due to cost concerns or practical considerations. Full or partial delegation of these duties is allowed. The outsourcing can, for example, be restricted to monitoring adherence to regulatory provisions. The institutions tasked with performing these functions can be divided into three categories: group companies, audit firms and other specialised companies (law firms, fiduciaries and other companies in the financial sector).

### **Recommendation of AIFMD passport for Switzerland**

Swiss alternative investment fund managers are set to gain facilitated access to the European market. The EU Alternative Investment Fund Managers Directive (AIFMD) provides for (harmonised) access to the European market for the management and distribution of alternative investment funds from non-EU states through the AIFMD passport. FINMA had been in regular contact with the European Securities and Markets Authority (ESMA) since the end of 2014 regarding the conditions to be recommended by ESMA for the AIFMD passport and provided input on Swiss regulation and supervision. On 30 July 2015,

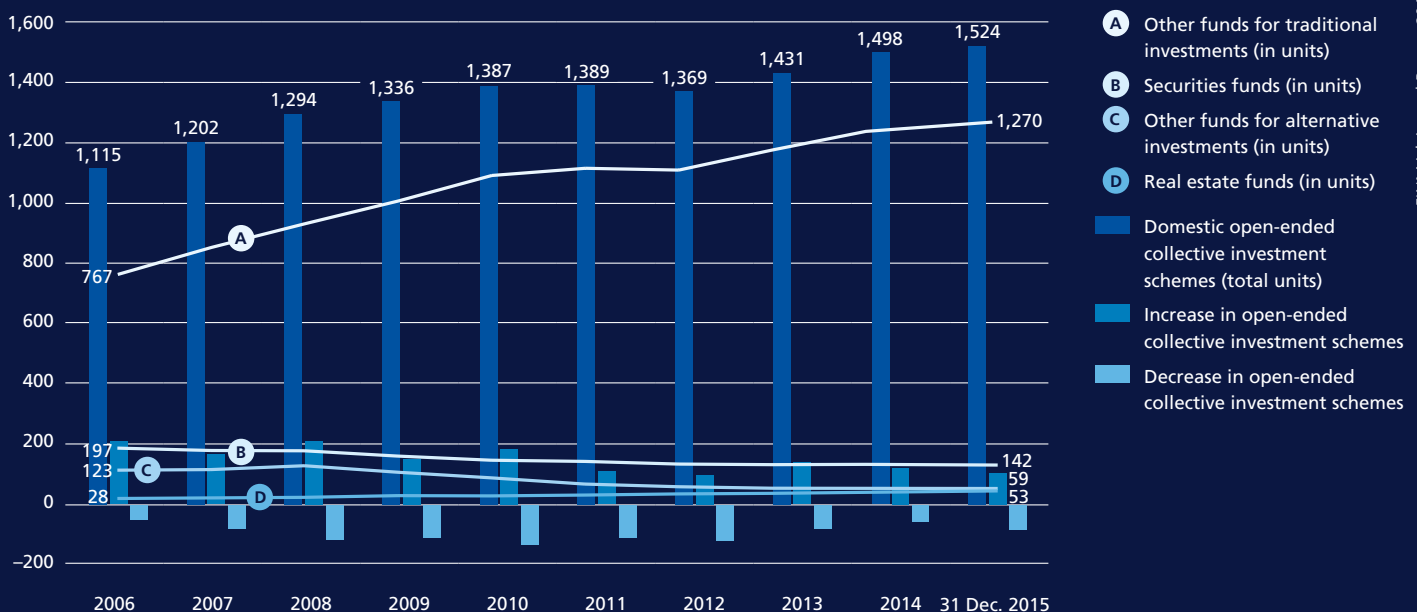
ESMA recommended to the European Commission that approval for the AIFMD passport be granted to Switzerland,<sup>111</sup> Guernsey and Jersey. The European Commission now has to come to a decision. On ESMA's recommendation, the Commission decided to wait for more third-party states to be recommended by ESMA and for the consequences and implementation of the passport to be analysed more closely before adopting a delegated act enabling implementation of the passport. The next steps in granting the AIFMD passport are likely to be established by the European institutions in the second half of 2016.

<sup>111</sup> ESMA made its recommendation contingent on the introduction of facilitated international cooperation at the legislative level. This happened with the revision of the Financial Market Supervision Act of 19 June 2015 (within the framework of the Financial Market Infrastructure Act). As a result, Article 42a FINMASA came into force on 1 January 2016.

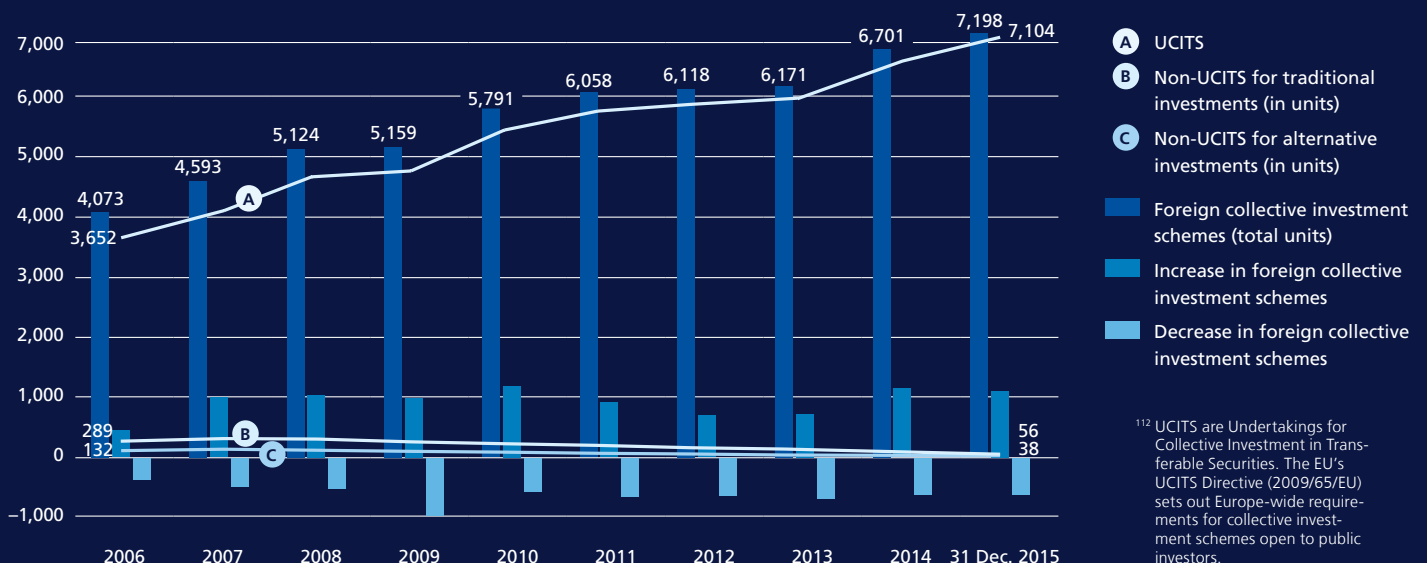
## Product trends

The Swiss fund market continued to grow in 2015. The number of approved Swiss collective investment schemes grew mainly in the “other funds for traditional investments” category. Foreign collective investment schemes authorised for distribution to non-qualified investors in Switzerland also grew, primarily due to new licences in UCITS funds.<sup>112</sup>

**Growth in the number of domestic open-ended collective investment schemes between 2006 and 2015 according to fund type**



**Growth in the number of foreign collective investment schemes between 2006 and 2015**



<sup>112</sup> UCITS are Undertakings for Collective Investment in Transferable Securities. The EU's UCITS Directive (2009/65/EU) sets out Europe-wide requirements for collective investment schemes open to public investors.

FINMA received positive feedback on its standardised approach to approvals for Swiss collective investment schemes implemented in 2014. The efficiency of the approval process has increased significantly.

The approval and supervision of collective investment schemes is a central task of the Asset Management division. The volume of Swiss investment funds totalled CHF 703 billion at the end of the third quarter in 2015. FINMA's standardised processes ensure that providers of collective investment schemes can launch new and innovative products and that investors are properly protected.

#### **Positive experiences with the new product-approval approach**

Since the revision of the Collective Investment Schemes Act and Collective Investment Schemes Ordinance, FINMA has only been monitoring the points in fund contracts for open-ended Swiss collective investment schemes which come under supervisory law. This is known as the fast-track approval process and it has increased the processing efficiency of applications for Swiss collective investment schemes in the "Securities funds" and "Other funds for traditional investments" categories. Prior to the introduction of the fast-track process, it took an average of 76 days to process an application in 2013 and 72 days in 2012. In 2015, FINMA approved 106 new funds, 68 of which were by the fast-track process. The new approach brought the average processing time for new licences down to 9 days in 2015.

This new efficient method of dealing with applications enables the applicants to react promptly to market requirements. It has also allowed them more certainty in planning the product launch.

#### **Approval of innovative fund products**

In 2015, FINMA approved a range of innovative fund products. For example, an open-ended fund in the "Other funds for alternative investments for qualified investors" category, which invests in another physically backed commodities category, was licensed on the basis of a previously approved precious metals fund.

Another new type of fund approved by FINMA in 2015 in the "Other funds for alternative investments for qualified investors" category invests in loans as a direct investment via senior-secured loans<sup>113</sup> and middle-market direct lending,<sup>114</sup> both of which are investments in the private debt segment.

When processing these applications, FINMA focused on the way in which the products work and ensured regulatory requirements were correctly applied. The matter of the investments' marketability, valuation, liquidity and risk profile was key to their being approved. In each case, investor protection is assured and regulatory requirements, for instance transparency, are upheld through specific measures.

Nevertheless, innovations always come with an element of uncertainty concerning their implementability and eligibility. FINMA therefore invites market participants to discuss their ideas for innovative collective investment scheme products prior to submitting their application.

<sup>113</sup> Senior-secured loans are typically granted to large companies by a consortium of banks and institutional lenders. The borrowers have a sub-investment grade credit rating.

<sup>114</sup> Middle-market direct lending refers to privately negotiated, individually structured loan contracts for small and medium-sized companies.



### **Valuation process for real estate funds**

Real estate funds are open-ended collective investment schemes which invest in real estate. The fund management company and SICAV have to commission independent valuation experts to value the properties in the portfolio. This commissioning is subject to FINMA approval. The valuation experts assess the market value of the properties and view them at least every three years. FINMA paid closer attention to the valuation of real estate investments in 2015 and examined the concrete implementation of the real estate valuations required by law. The valuation process and underlying principles came under close scrutiny and there were detailed discussions with valuation experts commissioned by the real estate funds. FINMA subsequently defined measures to ensure the complete independence of the valuations in accordance with the applicable legal provisions.

### **Change of domicile for Swiss funds**

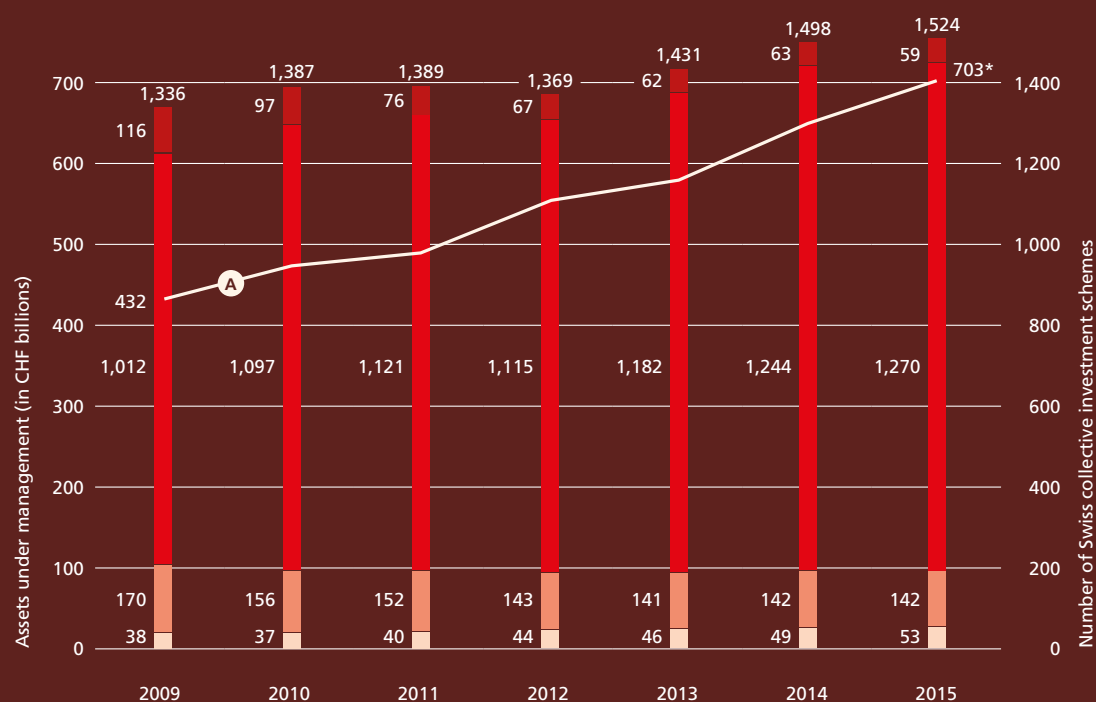
In 2015, FINMA received a number of applications for the relocation of Swiss investment funds to other countries (expatriation) and for foreign investment funds to move to Switzerland (repatriation). Repatriation and expatriation are in effect symmetrical as the legal requirements for changing a Swiss fund contract under Article 27 CISA apply to both processes.

FINMA consolidated its previous approach and communicated this to the applicants. The approach focuses on equal treatment and the investors' right to choose. Investors have to be allowed to decide whether to return their units in the case of expatriation, participate in the expatriation or have their share of the liquidation proceeds paid out. If investors do not express a clear preference, they automatically take part in the liquidation of the Swiss collective investment scheme and have their share of the liquidation proceeds paid out. The conversion of units as part of the expatriation process occurs before any steps are taken to liquidate the Swiss collective investment scheme.

# At a glance: the Swiss fund market

The Swiss fund market continued to grow in 2015 in terms of both managed products and assets, as did the number of asset managers authorised.

Number of Swiss open-ended collective investment schemes and assets under management



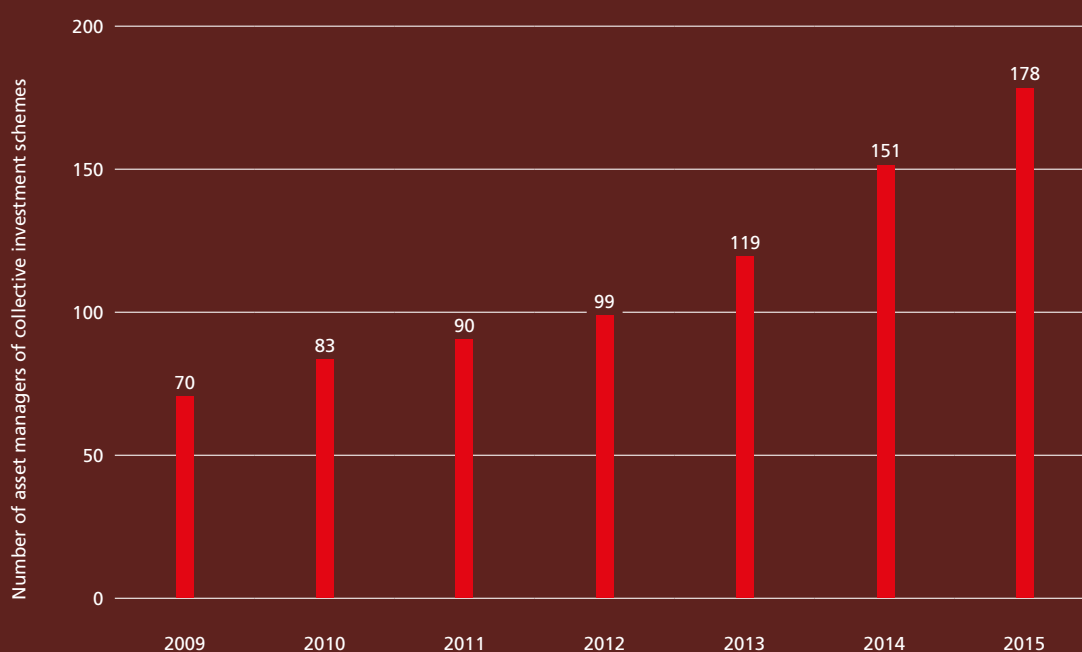
\* End Q3 2015

**A** Assets under management (CHF in billions)

- Other funds for alternative investments
- Other funds for traditional investments
- Securities funds
- Real estate funds

Assets under management in open-ended Swiss collective investment schemes continued to grow in 2015. The number of approved open-ended collective investment schemes also increased, mainly in other funds for traditional investments and real estate funds.

### Number of CIS managers based in Switzerland



■ Number of asset managers of collective investment schemes

The number of licensed CIS asset managers reached a new peak in 2015, not least due to the revision of the Collective Investment Schemes Act in 2013, which made all managers subject to supervision. On expiry of the transitional period at the end of February 2015, all CIS asset managers subject to supervision had, as far as FINMA is aware, either already acquired a licence or submitted a licence application to FINMA.

In 2015, the Enforcement division conducted numerous parallel investigations and many proceedings against companies and individuals. In many instances, the proceedings were complex and international in scope.

FINMA applies enforcement as a visible means of acting against breaches of supervisory law and to restore compliance with the law. Enforcement proceedings may involve licence holders and their employees, unauthorised financial services providers and participants in the Swiss securities market. Enforcement also covers any matters governed by takeover and disclosure legislation, the provision of cooperation to foreign supervisory authorities and the execution of insolvency proceedings in the financial market.

#### Focus on business conduct of licence holders

In 2015, licence holders' business conduct was again at the centre of FINMA's enforcement activities. The areas covered included market conduct,<sup>115</sup> anti-money laundering activities, due diligence requirements when dealing with external asset managers, and risk management for cross-border services. The corruption case of the Brazilian company Petrobras triggered a number of investigations involving banks and securities dealers. FINMA wanted to establish how any client relationships connected to the corruption case had been managed regarding compliance with anti-money laundering provisions. It also focused on how the institutions had fulfilled their reporting obligation to the Money Laundering Reporting Office Switzerland. There were no deficiencies at most of the institutions and any weaknesses that were discovered were minor enough to be addressed under FINMA's normal supervisory procedures. Enforcement proceedings were launched against three institutions where FINMA had identified serious deficiencies regarding compliance with anti-money laundering legislation.

FINMA also investigated a number of instances involving the appropriate handling of business relationships, which were managed at different group locations. Swiss financial intermediaries are obliged to identify, limit and monitor their overall

legal and reputational money laundering risks. Investigations by FINMA identified a number of weaknesses in this respect, mainly related to business relationships which were distinct from the institutions' core business; a lack of oversight regarding the risks inherent in these business relationships meant that possible criminal behaviour went unnoticed and, as a result, failed to provoke an appropriate response.

#### Proceedings against persons

In accordance with its enforcement policy,<sup>116</sup> FINMA takes targeted action, to the extent that it is empowered to do so, against individuals responsible for serious breaches of supervisory law. FINMA's more stringent enforcement approach, which it adopted in 2014, resulted in several separate proceedings against top management, owners and employees of licence holders, launched in response to those breaches. In most instances, measures imposed by FINMA included industry bans and/or professional disqualifications; it also ordered the disgorgement of unlawfully acquired profits and/or restored liability for unlawfully avoided losses.<sup>117</sup> As regards unauthorised financial services providers, FINMA has the option of issuing cease and desist orders, sometimes publishing its rulings as a measure against persons who committed breaches.<sup>118</sup>

Misconduct was apportioned to specific individuals, either because they had engaged in manipulative interventions or had failed to comply with their duty of due diligence and supervision. As a result, those in question were proved to be individually responsible for violating supervisory provisions. Procedural action is often taken against individuals subsequent to a serious breach of supervisory law having been discovered at an institution. These proceedings often prove to be rather laborious in practice as the individual responsibility and responsibilities within the

<sup>115</sup> See "Market manipulation", section on "Enforcement practice", p. 81.

<sup>116</sup> See FINMA Annual Report 2014, "Enforcement policy", p. 30 f. and FINMA website ([www.finma.ch/en/ll-enforcement.pdf](http://www.finma.ch/en/ll-enforcement.pdf)).

<sup>117</sup> Article 33 FINMASA, Article 35a SESTA, Article 35 FINMASA; see "Individual proceedings in the UBS foreign exchange and precious metals trading case", section on "Enforcement practice", p. 81.

<sup>118</sup> Article 34 FINMASA; see "At a glance: enforcement measures", p. 82 f.

institution have to be investigated in detail. Furthermore, the persons in question are usually rather reticent if there is a prospect of FINMA taking punitive action against them.

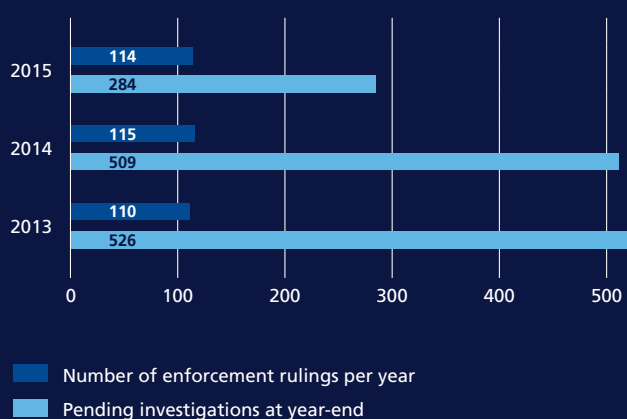
### Cooperating with criminal prosecution authorities

It is not unusual for FINMA and the criminal prosecution authorities to investigate the same cases if there has been a breach of both criminal and supervisory law. However, each authority has separate roles, duties and competencies. The criminal authorities are responsible for punishing those who break the law by imposing fines or custodial sentences. FINMA's focus, on the other hand, is more forward-looking: its primary purpose is to protect investors and ensure the proper functioning of the financial markets.

FINMA and the criminal authorities are legally<sup>119</sup> bound to share any information required to complete their respective investigations when they work together. Cooperation between the authorities is therefore standard practice. However, there are exceptions: FINMA can withhold information in specific cases if it has justified reasons for doing so, especially if sharing the information would be detrimental to the fulfilment of its supervisory duties. In 2015, FINMA published guidelines on mutual assistance<sup>120</sup> defining its principles and practice and outlining the nature of its cooperation with the criminal authorities and its position on withholding information. Under these guidelines, FINMA also concluded a Memorandum of Understanding<sup>121</sup> with the Office of the Attorney General of Switzerland, which will ensure efficient cooperation based on the applicable statutory provisions. Close cooperation is a priority, especially when taking action against instances of improper market conduct.

## Key enforcement figures

### Investigations and enforcement rulings



<sup>119</sup> Article 38 para. 1 FINMASA.

<sup>120</sup> See "Guidelines on mutual assistance provided to domestic prosecution authorities" dated 20 November 2015 ([www.finma.ch/en/ll-rechtshilfe.pdf](http://www.finma.ch/en/ll-rechtshilfe.pdf)).

<sup>121</sup> See "National and international memoranda of understanding", p. 102 f. in the Appendix.



### Approach to new technologies

FINMA also had to focus more on FinTech services as part of its enforcement remit, particularly in the areas of crowdfunding, virtual currencies and electronic payment services. Once it had grounds for suspecting that a business activity required a licence under current financial market legislation, FINMA proceeded to investigate the matter further on the basis of a clearly defined procedure. It communicated this procedure by answering a host of supervisory-related queries from FinTech companies. FINMA also published fact sheets<sup>122</sup> as a guide for market participants. In defining its approach to these new technologies, FINMA worked on the principle that, while it welcomes financial sector innovation on the one hand, it must also adopt a neutral stance to different business models in its capacity as a supervisory authority.<sup>123</sup> In the past, FINMA has managed to restore legal compliance through dialogue with FinTech companies, for example by amending the business model and thus bypassing the need for formal enforcement proceedings.

### Enforcement of disclosure and takeover law

FINMA mainly focused on regulation in its supervision of disclosure and takeover activities. Passed by Parliament in June 2015, the Financial Market Infrastructure Act (FMIA) required the revision and transfer of the implementing provisions of the FINMA Stock Exchange Ordinance into a new FINMA Financial Market Infrastructure Ordinance (FMIO-FINMA). This revision includes the implementation of a new, key provision in the FMIA whereby, in addition to those persons designated as beneficial owners of equity securities of companies listed in Switzerland, persons entitled to exercising voting rights related to such equity securities must also comply with reporting requirements. The FMIO-FINMA came into force on 1 January 2016.

The FINMA Takeover Committee also had to decide on an appeal against a ruling by the Takeover Board. It ruled that the opting-out clause in Sika AG's articles of association was valid regarding the planned acquisition of controlling shareholders' voting shares by Compagnie de Saint-Gobain.

### Consistently high volume of cooperation requests

The high influx of international cooperation requests from foreign financial market authorities relating to market supervision continued in 2015, mainly due to insider trading, market manipulation and breaches of reporting obligations. Cases which required a ruling were processed more rapidly than in previous years. On-site supervisory reviews conducted by foreign financial market authorities at licence holders in Switzerland have continued to increase. This underlines the trend, which has been in evidence for several years, of increased cross-border supervision of international institutions.

The new Financial Market Infrastructure Act includes some major changes to the governance of this cooperation. For example, legislation was introduced to enable licence holders, subject to certain conditions, to transfer information directly to foreign authorities without requiring prior authorisation in Switzerland. When transferring client information, FINMA can also disregard (as an exception) prior client information if it would frustrate the purpose of the cooperation and the effective fulfilment of the requesting authority's enquiries. This would apply, for instance, to the destruction of evidence or arrangements between collaborators. Situations such as these are commonplace in cases of suspected insider trading or market manipulation. The new cooperation provisions came into force on 1 January 2016.

<sup>122</sup> See FINMA fact sheets "Crowdfunding" of 1 December 2014 and "Bitcoins" of 25 June 2014 ([www.finma.ch/en/faktenblaetter](http://www.finma.ch/en/faktenblaetter)).

<sup>123</sup> See "Financial technology and digitalisation", p. 34 f.

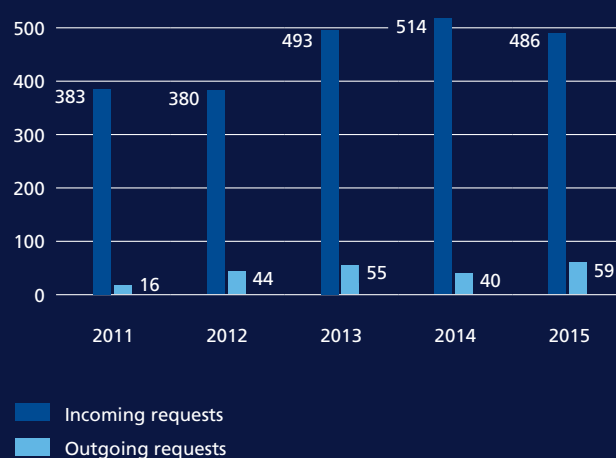
## International cooperation

### Progress in major bankruptcy proceedings

In 2015, progress was made in a number of bankruptcy proceedings involving banks. The schedule of claims<sup>124</sup> pertaining to the bankruptcy of Aston Bank SA has been available since April 2015 and there have been few appeals made against it. Concluded in the summer of 2015, a settlement relating to the bankruptcy of Banque Privée Espírito Santo SA led to a major inflow of funds. The schedule of claims is in progress; however, it has not yet been finalised due to the complexity of the claims involved.

FINMA also initiated bankruptcy proceedings against Bank Hottinger & Cie Ltd at the end of October, when it became aware that the bank did not meet the minimum capital requirement under regulatory law owing to sustained losses and unresolved litigation. Efforts to return the bank to a stable and sustainable position proved unsuccessful and there was no prospect of a restructuring. As the bank was in danger of becoming overly indebted, FINMA had no option but to initiate bankruptcy proceedings. The bankruptcy liquidators appointed by FINMA started by segregating custody accounts and refunding privileged deposits of up to CHF 100,000. Bank clients were also given the opportunity to transfer their custody accounts to another bank and have their privileged deposits paid into those accounts.

### Cooperation requests per year



<sup>124</sup> The schedule of claims stipulates whether, to what extent and in what order claims are recognised in a bankruptcy.

As in previous years, the Enforcement division concluded many investigations and proceedings involving both unauthorised and licensed activities. Good progress was made in a number of insolvency cases. Many cases also involved international cooperation. The number of appeals has remained high.

### Overview of key enforcement figures\*

	Outstanding on 1 Jan. 2015	Proceedings initiated	Proceedings concluded	Outstanding on 31 Dec. 2015
<b>Investigations</b>	<b>506</b>	<b>572</b>	<b>794</b>	<b>284</b>
– licence holders	60	102	120	42
– unauthorised activities	341	298	512	127
– inadmissible market conduct	88	115	110	93
– disclosure	17	57	52	22
<b>Enforcement proceedings</b>	<b>45</b>	<b>44</b>	<b>55</b>	<b>34</b>
– licence holders	11	15	16	10
– proceedings against employees/ licence holders' top management	23	14	24	13
– unauthorised activities	11	15	15	11
<b>Liquidations</b>	<b>38</b>	<b>7</b>	<b>8</b>	<b>37</b>
– licence holders	6	3	3	6
– unauthorised activities	32	4	5	31
<b>Bankruptcies</b>	<b>109</b>	<b>14</b>	<b>28</b>	<b>95</b>
– licence holders	12	1	0	13
– unauthorised activities	97	13	28	82
<b>Recognition process</b>	<b>20</b>	<b>1</b>	<b>3</b>	<b>18</b>
– licence holders	20	0	3	17
– unauthorised activities	0	1	0	1
<b>International cooperation</b>	<b>210</b>	<b>545</b>	<b>582</b>	<b>173</b>
– incoming requests (submitted to FINMA)	207	486	544	149
– outgoing requests (made by FINMA to foreign authorities)	3	59	38	24
<b>Appeal proceedings</b>	<b>38</b>	<b>61</b>	<b>49</b>	<b>50</b>
– Federal Administrative Court (FAC)	32	50	38	44
– Federal Supreme Court (FSC)	6	11	11	6

\*Constant updating of statistics may lead to some minor discrepancies between the statistics for 2015 and those published in the Annual Report 2014.

# Enforcement practice

## EXAMPLE

### Market manipulation

Market manipulation was again a focal point of FINMA's market supervision in 2015. In one instance, a securities trader issued a structured product designed to pay a coupon to investors provided all the underlying assets closed above a predefined trigger level on an annual observation date. Only one of the underlying assets was close to the trigger level on the observation date, while the others were significantly higher. In the closing auction on the observation date, the securities trader sold the underlying asset heavily so that its value fell below the trigger level and the investors did not qualify for payment of the coupon. The securities dealer, who justified his sales as hedging the structured product, made a trading profit of CHF 3.2 million. FINMA initiated enforcement proceedings and concluded that the securities trader had deliberately pushed the price of the underlying asset just below the trigger level to maximise his profit. This constituted manipulation of the closing price, known as marking the close under stock market law<sup>125</sup> and in FINMA Circular "Market conduct rules".<sup>126</sup> FINMA also reprimanded the trader for his inadequate risk management, as he had taken practically no precautions to prevent his own hedging transactions exceeding the trigger level in the closing auction. FINMA ordered the disgorgement of the unlawfully earned profit and an audit of the corrective measures to be conducted by a mandatary.

## EXAMPLE

### Individual proceedings in the UBS foreign exchange and precious metals trading case

In November 2014, FINMA began enforcement proceedings against eleven UBS managers and employees with the aim of clarifying their involvement in and knowledge of the misconduct in foreign exchange and precious metals trading at Opfikon in Zurich. In seven cases, it came to the conclusion that those concerned bore significant responsibility for the serious organisational shortcomings and improper conduct at UBS. Those concerned were the former responsible heads of global foreign exchange trading and global foreign exchange spot trading,<sup>127</sup> four former foreign exchange and precious metals traders who worked on the spot trading desk at Opfikon in Zurich and one further UBS employee. FINMA imposed industry bans on these persons ranging from six months to five years. Four other enforcement proceedings against UBS foreign exchange traders were discontinued in August 2015. Since there were indications that their behaviour had contributed to serious breaches of regulatory provisions, FINMA issued reprimands without taking further action against these individuals.

<sup>125</sup> Article 33 f. SESTA.

<sup>126</sup> See FINMA Circular 2013/8 "Market conduct rules" margin no. 26 ([www.finma.ch/en/rs-2013-08.pdf](http://www.finma.ch/en/rs-2013-08.pdf)).

<sup>127</sup> Spot trading refers to transactions in a foreign currency for immediate delivery.

# At a glance: enforcement measures

The Financial Market Supervision Act has granted FINMA greater enforcement powers than its predecessor authorities. The charts below show how FINMA uses these powers.

## Type and number of measures: licence holders

### Licence holders

#### Measures against licence holders

- A** Appointment of investigating agents (I)
- B** Declaratory rulings/reprimands
- C** Special conditions and restrictions (II)
- D** Implementation overseen by third parties (III)
- E** Suspension and removal of top management members (IV)
- F** Disgorgement of profits
- G** Licence withdrawals
- H** Liquidation/bankruptcy proceedings
- I** Ruling publications

#### Measures against top management, owners and employees

- A** Declaratory rulings/reprimands
- B** Suspension and removal (V)
- C** Industry and activity bans (VI)
- D** Disgorgement of profits

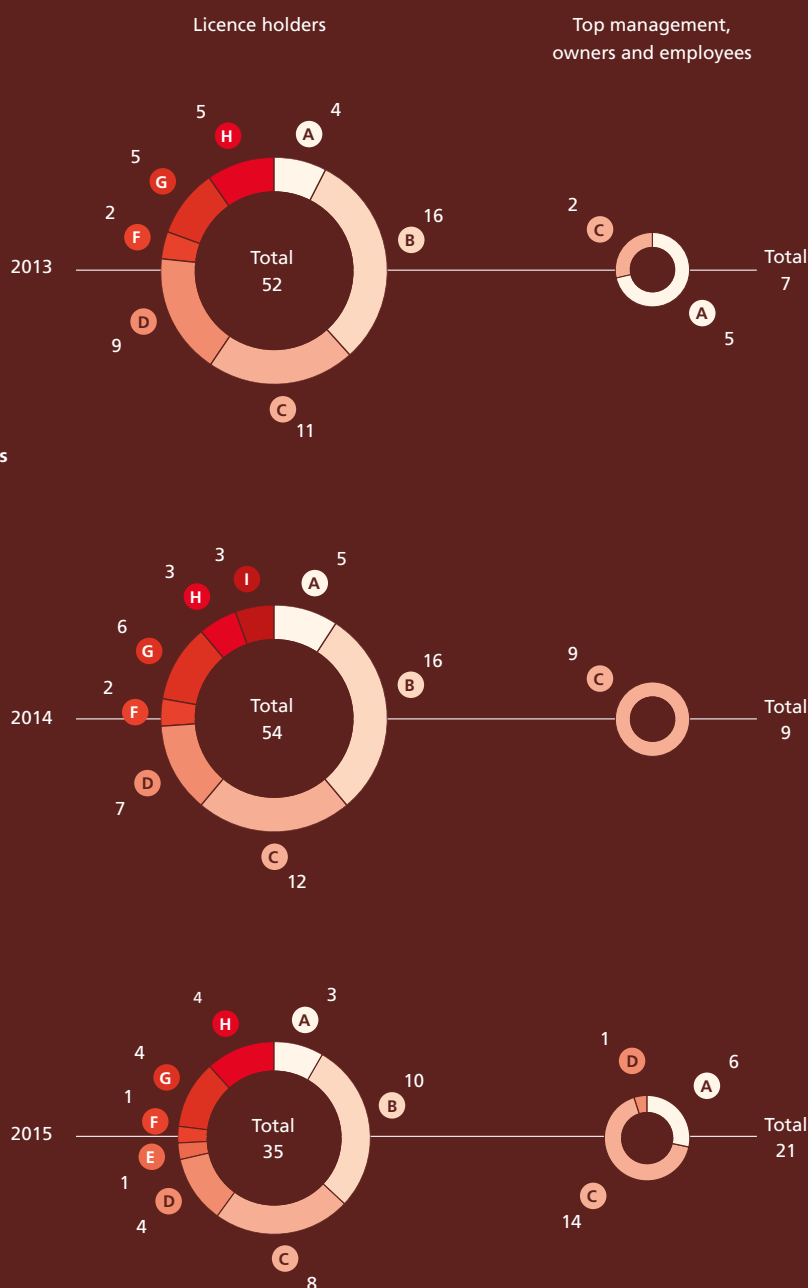
### Unauthorised activities

#### Measures against companies

- A** Appointment of investigating agents (I)
- B** Declaration of unauthorised activities
- C** Liquidation
- D** Bankruptcy proceedings (VII)

#### Measures against individuals

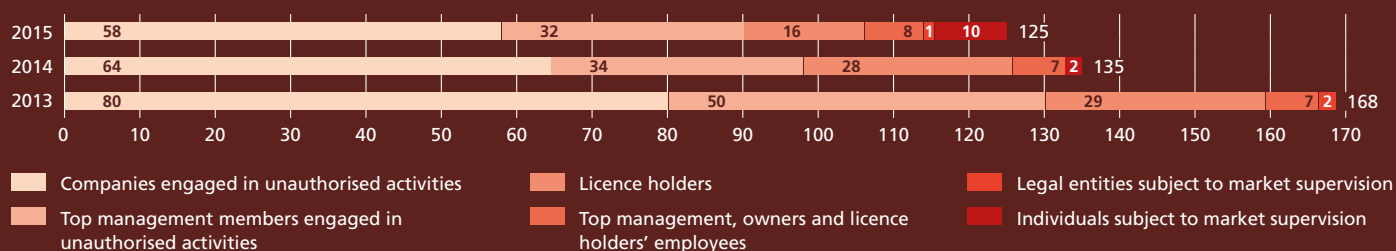
- A** Declaration of involvement in unauthorised activities
- B** Cease and desist orders
- C** Ruling publications (VIII)



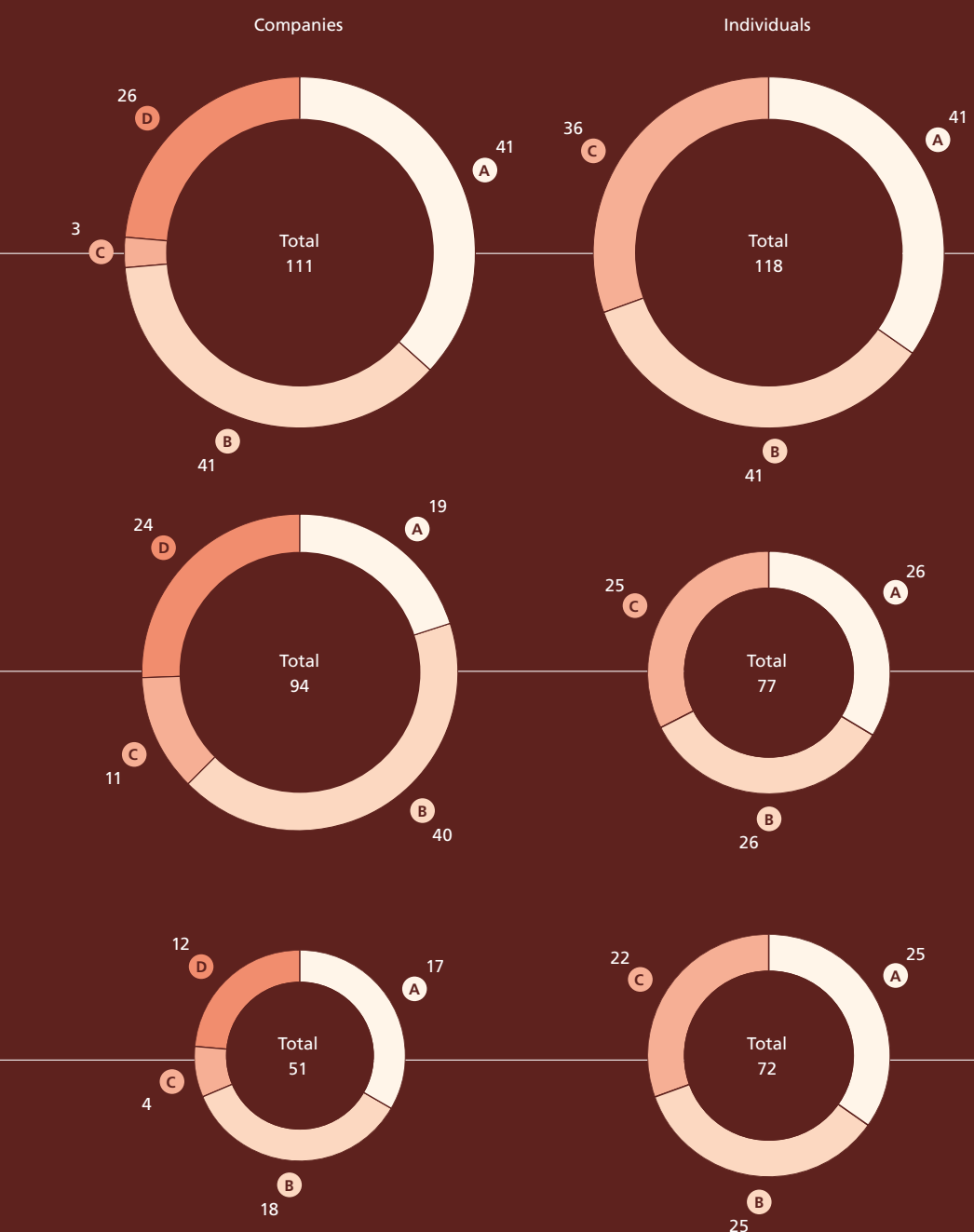


## Number of addressees of enforcement rulings according to sector and parties affected

In terms of authorised and unauthorised activities, FINMA issues enforcement rulings against companies and individuals that are subject to financial market supervision. This chart shows the category and number of addressees of enforcement rulings (without international cooperation) between 2013 and 2015.



## Type and number of measures: unauthorised activities



### Method of counting

The diagrams show the number of parties affected (and not the number of rulings). Where different measures were imposed cumulatively on an individual/entity, e.g. an organisational measure to restore compliance with the law under Article 31 FINMASA and an order to disgorge profits, these have been counted separately. However, when a number of similar measures were imposed on a single individual/entity, e.g. a number of measures to restore compliance with the law, these have been counted only once.

### Individual categories

- I Ordered as a precautionary measure during an investigation
- II Rulings based on Article 31 FINMASA
- III In a final ruling on adopting controls to implement special conditions
- IV Number of licence holders affected
- V Number of top management members affected
- VI Under Article 33 FINMASA and Article 35a SESTA
- VII If bankruptcy proceedings were initiated following a liquidation already ordered by FINMA, this was not counted again in this chart.
- VIII Generally cease and desist orders

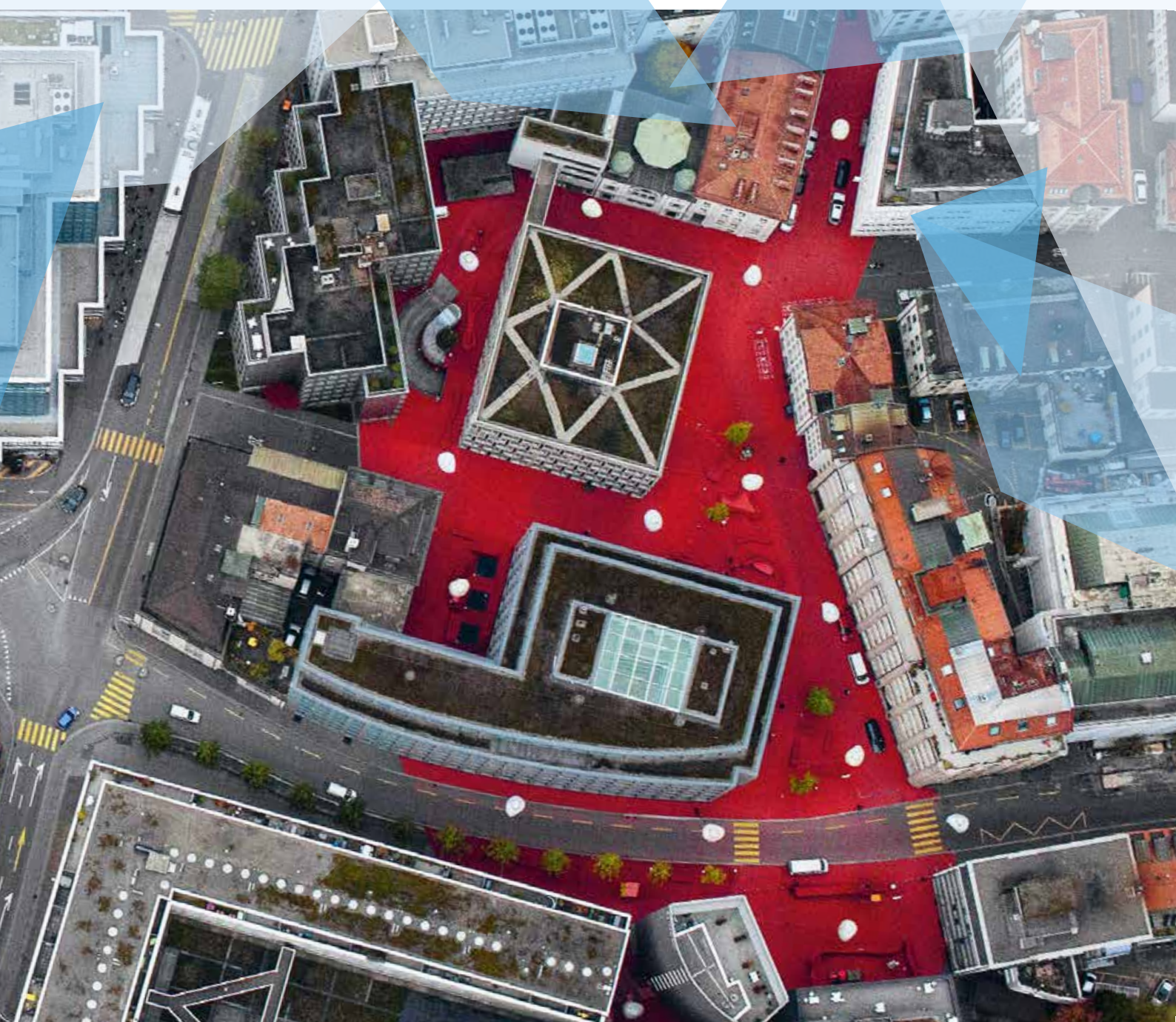




# Organisation and staff

**86** Board of Directors and Executive Board

**90** Staff



To ensure its institutional independence, FINMA was established as a public-law institution in its own right. It is led by the Board of Directors and the Executive Board. Important changes were made to the Board of Directors in 2015.

### **New appointments to FINMA's Board of Directors**

The Board of Directors is FINMA's strategic management body. It directs, supervises and controls FINMA's executive management. It decides on matters of substantial importance, issues ordinances and circulars and is responsible for FINMA's budget. The Board of Directors bears this responsibility as a collective body. Its decisions are taken by a majority of the votes of the members present.

### **Members of FINMA's Board of Directors (31 December 2015)**

Prof. Anne Héritier Lachat	Chair
Paul Müller	Vice-Chair
Dr Thomas Bauer	Member
Philippe Egger	Member
Bruno Frick	Member
Prof. Yvan Lengwiler	Member
Günter Pleines	Member
Franz Wipfli	Member

### **New appointments to FINMA's Board of Directors**

The Federal Council appoints FINMA's Board of Directors every four years. At its meeting on 1 July 2015, the Federal Council appointed FINMA's Board of Directors for the 2016–2019 term. Dr Thomas Bauer became chair on 1 January 2016, having originally joined the Board on 1 August 2015. The Federal Council also appointed three new members to the Board – Prof. Marlene Amstad, Bernard Keller and Dr Renate Schwob – who assumed their posts on 1 January 2016. Philippe Egger, Bruno Frick, Prof. Yvan Lengwiler, Günter Pleines and Franz Wipfli were reappointed for a further term of office. Prof. Anne Héritier Lachat, the previous chair of FINMA's Board of Directors, and Paul Müller, the previous vice-chair, had announced that they would be leaving the Board at the end of 2015. At its meeting on 11 November 2015, the Federal Council appointed Philippe Egger, a serving member of the Board, to the position of vice-chair with effect from 1 January 2016.

### Committees of the Board of Directors

The Board of Directors forms an Audit and Risk Committee, a Nomination Committee, a Regulation Committee and a Takeover Committee from among its members. The Board of Directors established the Regulation Committee in 2015 to facilitate its work in the regulatory process. This does not affect the Board's overall decision-making authority in regulatory issues.

The Takeover Committee is the body to which appeals against decisions of the Swiss Takeover Board may be filed. The other committees, unless otherwise stipulated, act in an advisory capacity and submit proposals to the Board of Directors. Each committee has a chair who liaises with the Board of Directors and the Executive Board. In addition to its standing committees, the Board of Directors may form ad hoc committees to prepare business or commission individual members to undertake special tasks.

### The standing committees of the Board of Directors and their members (31 December 2015)

	Audit and Risk Committee	Nomination Committee	Regulation Committee	Takeover Committee
Prof. Anne Héritier Lachat		chair	chair	
Paul Müller	X			
Philippe Egger		X	X	
Bruno Frick		X		chair
Prof. Yvan Lengwiler				X
Günter Pleines		X	X	
Franz Wipfli	chair			X





Board of Directors, from left to right: Günter Pleines, Franz Wipfli, Paul Müller, Prof. Anne Héritier Lachat, Bruno Frick, Philippe Egger, Dr Thomas Bauer, Prof. Yvan Lengwiler



Executive Board, from left to right: Andreas Zdrenyk, Rupert Schaefer, Léonard Bôle, Dr Peter Giger, Mark Branson, Dr Michael Loretan, Michael Schoch, Dr David Wyss



## The Executive Board

The Executive Board is FINMA's operational management body. It is responsible for supervising banks, insurance companies, exchanges, securities dealers and other financial intermediaries in accordance with the law and the strategy applied. It prepares the necessary files and materials for decisions on matters dealt with by the Board of Directors and is responsible for implementing the resolutions of the Board and its committees.

### Members of FINMA's Executive Board (31 December 2015)

Mark Branson	CEO
Dr Peter Giger	Deputy CEO and Head of Insurance division
Léonard Bôle	Head of Markets division
Dr Michael Loretan	Head of Asset Management division
Rupert Schaefer	Head of Strategic Services division
Michael Schoch	Head of Banks division
Dr David Wyss	Head of Enforcement division
Andreas Zdrenyk	Head of Operations division

Dr Nina Arquint, who had previously led the Strategic Services division, handed this role over to Rupert Schaefer with effect from 1 January 2015.

### Enforcement Committee

The Enforcement Committee (ENA) is a standing committee of the Executive Board responsible for making decisions on enforcement. It issues enforcement rulings and decides whether to initiate and/or discontinue proceedings, particularly against supervised institutions and individuals. If matters of substantial importance are involved, these decisions are reserved for the Board of Directors.

### Permanent members of the Enforcement Committee (31 December 2015)

Mark Branson	Chair
Rupert Schaefer	
Dr David Wyss	

Where a supervised institution is the subject of enforcement proceedings, the Executive Board member responsible for its supervision joins the Enforcement Committee for that specific case.

FINMA has enhanced its attractiveness as an employer by issuing a revised Personnel Ordinance and subordinate regulations. In addition, valuable information about job satisfaction was gathered in 2015 through an employee survey.

In 2015, the Human Resources department continued to develop the competency model and employee development programme which had been launched in 2014. Much of its focus, however, was on revising the FINMA Personnel Ordinance.

The old Personnel Ordinance was drafted at the time of FINMA's foundation and came into force on 1 January 2009. Revision of the Personnel Ordinance was driven by changes in the employment market and the need for a modern personnel policy.

The Federal Council approved the new FINMA Personnel Ordinance on 13 May 2015. It came into force on 1 July 2015 together with the revised personnel and working hours regulations. On 1 October 2015, the Executive Board also issued supplementary guidelines containing detailed regulations on the personnel directives. Finally, on 1 January 2016 the revised expenses policy came into force following approval by the cantonal tax authorities.

### Key features of FINMA's new personnel policy

The revised FINMA Personnel Ordinance abolishes the variable salary component in such a way that there is no impact on either budget or costs and integrates it into the annual salary on an individual basis.

In order to avoid conflicts of interest, FINMA employees with broader responsibility who monitor institutions in supervisory categories 1 and 2 must now observe a cooling-off period of up to 12 months<sup>128</sup>

before they can be employed by an institution which they have supervised.

### New function evaluation and salary system

Function evaluations have led to the development of four families of functions for the supervisory areas and one for cross-divisional and support functions. In future, annual salaries will be determined individually on the basis of these evaluations.

The number of salary bands has been reduced from six to five. The upper and lower limits for each salary band have been adjusted to allow the variable salary component to be integrated into the base salary.

### Modern regulations

Employees in the top two salary bands will continue to work under the trust-based working time model. All other employees will switch to an annual working time model.

The time frame within which each employee can work has been made as flexible as possible within the statutory limits. Mobile and home working options, for example, have now been defined in the working hours regulations.

These changes will strengthen FINMA's positioning as a modern employer and ensure that the organisation's approach to remuneration and recruitment consistently reflects the principle of equal opportunity, regardless of age or gender.

<sup>128</sup> In some cases the cooling-off period is paid; a maximum of five months is unpaid.

### **FINMA employee survey**

In the summer of 2015, FINMA conducted its first organisation-wide employee survey, which was completed by 89% of employees. The responses were used to compile an anonymous but highly detailed quantitative evaluation, while the approximately 700 comments gave a nuanced qualitative picture of FINMA as an employer. Although FINMA employees generally report a high level of job satisfaction and identify strongly with their employer, they also feel that staff development and the workplace situation need to be improved. Responses to the survey were analysed in workshops at all levels in the organisation and an action plan was formulated. The resulting measures are already being implemented.

### **Sustainable staff management**

Sustainable staff management has been a top priority for FINMA since its foundation. It promotes the personal development of its staff by supporting appropriate internal and external training and further education courses, as well as a variety of out-bound secondments in Switzerland and abroad. Each year it offers several work placements for Masters' graduates from a range of subject areas. FINMA also

seeks to ensure that women are properly represented in the workforce and that work can be successfully combined with family life; in 2015, 39% of FINMA employees were women. Overall, 24% of FINMA staff (55% women and 45% men) work part-time. Salaries are based on a gender-neutral function evaluation. Finally, the staff restaurant offers well-balanced meals as part of FINMA's efforts to promote occupational health.

### Key personnel figures

In 2015, the maximum headcount approved by the Board of Directors for permanent employment was 481 full-time equivalent positions, of which an average of 457 were filled (2014: 462). In 2015, FINMA had an average of 527 employees (2014: 509) across 494 full-time equivalent positions (2014: 483) in permanent and temporary employment. As in the previous year, 24% of staff worked part-time. The headcount approved by the Board of Directors for 2016 is unchanged.

The average age of employees in 2015 remained unchanged at 41. Approximately 71% of staff (2014: 74%) were aged between 30 and 49. Similar to the previous year, 20% were aged 50 and over, while 9% were young talents (2014: 6%). Executive and management positions were held by 261 employees or 50% (2014: 234/47%). This category at FINMA

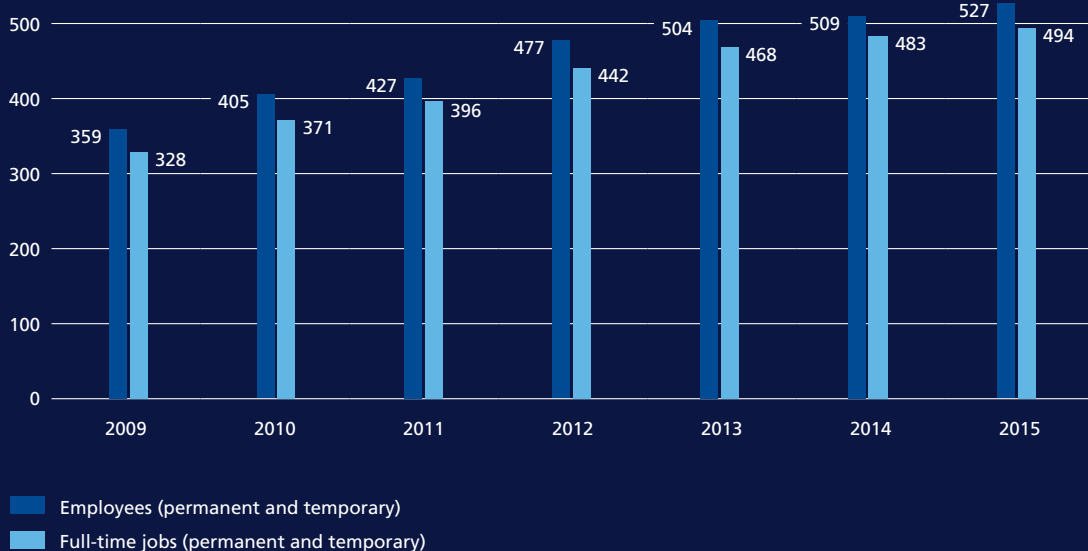
includes all line management and specialist functions in salary bands 1 to 3. Of those employees in managerial positions, 86 (33%) had a line management function (2014: 38%), with women accounting for around 20% of line managers unchanged from the previous year. In 2015, women accounted for 39% of the total workforce (2014: 37%). At the end of 2015, the number of non-Swiss employees was 72 (2014: 76).

At the end of December 2015, staff turnover (excluding retirement) had risen slightly to 11% (2014: 10%). Of FINMA's overall workforce, 17% have worked for the authority and/or its predecessor organisations for more than ten years.<sup>129</sup> Consistent implementation of the staff development programme meant that management positions were filled using internal candidates in 2015.

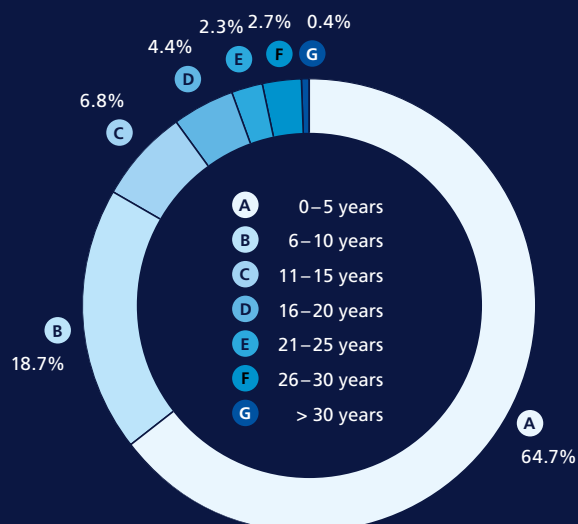
<sup>129</sup> See "Years of service" chart on p. 93.

# Key staff figures

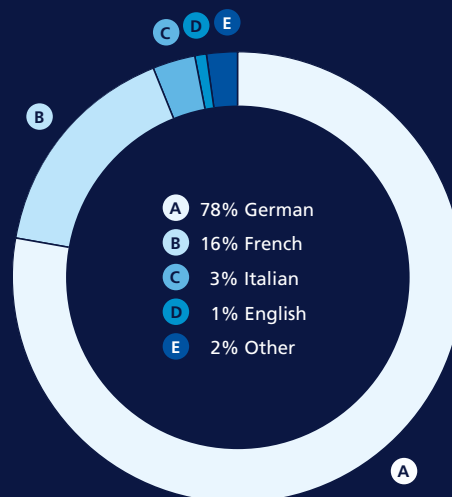
## Average headcount



## Years of service



## Breakdown by language









# Appendix

- 96** Supervisory categories
- 98** Statistics
- 102** National and international memoranda of understanding
- 104** Abbreviations



## Supervisory categories

Financial institutions supervised by FINMA are assigned to one of six categories depending on their potential risk impact on creditors, investors, policyholders and the Swiss financial centre. Each institution is also given a rating which indicates FINMA's assessment of its current status.

On the basis of the assigned category and rating, the supervisory approaches then determine the intensity of supervision, the supervisory tools to be used and the interplay between direct supervision by FINMA

and the appointment of audit firms for individual institutions. These measures ensure that risk orientation for supervisory activities is more systematic and that there is closer scrutiny of relevant institutions.

### Supervisory categories<sup>130</sup> for banks

The categories for banks are defined in FINMA Circular 2011/2.<sup>131</sup>

Category	Criteria (in CHF billions)			Number of institutions	
				2015	2014
1	Total assets	≥	250	2	2
	Assets under management	≥	1,000		
	Privileged deposits	≥	30		
	Capital requirements	≥	20		
2	Total assets	≥	100	3	3
	Assets under management	≥	500		
	Privileged deposits	≥	20		
	Capital requirements	≥	2		
3	Total assets	≥	15	31	26
	Assets under management	≥	20		
	Privileged deposits	≥	0.5		
	Capital requirements	≥	0.25		
4	Total assets	≥	1	64	65
	Assets under management	≥	2		
	Privileged deposits	≥	0.1		
	Capital requirements	≥	0.05		
5	Total assets	<	1	211	211
	Assets under management	<	2		
	Privileged deposits	<	0.1		
	Capital requirements	<	0.05		

<sup>130</sup> The sixth category consists of market participants which are not prudentially supervised by FINMA.

<sup>131</sup> See FINMA Circular 2011/2 "Capital buffer and capital planning – banks" ([www.finma.ch/en/irs-2011-02.pdf](http://www.finma.ch/en/irs-2011-02.pdf)).

#### Supervisory categories<sup>132</sup> for insurance companies

Category	Criteria (in CHF billions)	Number of institutions	
		2015	2014
1	–	–	–
2	Total assets > CHF 50bn or complexity	5	5
3	Total assets > CHF 1bn or complexity	37	39
4	Total assets > CHF 0.1bn or complexity	62	60
5	Total assets < CHF 0.1bn or complexity	110	115

<sup>132</sup> The sixth category consists of market participants which are not prudentially supervised by FINMA.



### Supervised<sup>133</sup> financial market participants

(31 December 2015)

#### Supervised banks

	2015	2014
Banks, of which	290	292
– under foreign control	98	99
– branches of foreign banks	31	29
– exiting the market	19	16
Raiffeisen banks	292	312
Representative offices of foreign banks	56	55

#### Supervised securities dealers

	2015	2014
Securities dealers, of which	56	58
– under foreign control	16	16
– branches of foreign securities dealers	13	12
– exiting the market	7	6
Representative offices of foreign securities dealers	38	42
Recognised foreign market participants	126	121

#### Supervised stock exchanges

	2015	2014
Swiss stock exchanges	3	3
Swiss organisations similar to stock exchanges	3	2
Recognised foreign stock exchanges	60	56
Recognised foreign organisations similar to stock exchanges	3	3

#### Supervised collective investment schemes

	2015	2014
<b>Swiss collective investment schemes</b>		
Total Swiss collective investment schemes, of which	1,542	1,515
– open-ended collective investment schemes (under Art. 8 CISA)		
– contractual investment funds and SICAVs	1,524	1,498
– of which intended for qualified investors only	852	716
– closed-ended collective investment schemes (under Art. 9 CISA)		
– limited partnerships and SICAFs	18	17
<b>Foreign collective investment schemes</b>		
Total foreign collective investment schemes, of which	7,198	6,701
– EU-compatible (UCITS)	7,104	6,577
– non-EU-compatible (non-UCITS <sup>134</sup> )	94	124

<sup>133</sup> “Supervised” does not necessarily imply prudential supervision.

<sup>134</sup> Non-UCITS schemes are collective investment schemes which are not subject to the EU’s UCITS Directive.

## Supervised fund management companies, asset managers, representatives and distributors under the Collective Investment Schemes Act

	2015	2014
Fund managers	43	44
Asset managers	178	151
Representatives of foreign collective investment schemes	94	88
Distributors under CISA	350	285

## Supervised insurance companies and general health insurance companies

	2015	2014
Life insurance companies, of which	20	21
– insurance companies domiciled in Switzerland	17	18
– branches of foreign insurance companies	3	3
Non-life insurers, of which	122	127
– insurance companies domiciled in Switzerland (incl. 22 supplementary health insurance providers [2014: 22])	76	79
– branches of foreign insurance companies (incl. 1 supplementary health insurance provider [2014: 1])	46	48
Reinsurers (total)	59	62
– Reinsurers	30	29
– Reinsurance captives	29	33
General health insurance companies offering supplementary health insurance	13	14
Total supervised insurance and general health insurance companies	214	224
Insurance groups (groups and conglomerates)	6	7

## Supervised financial intermediaries

	2015	2014
Total supervised SROs	12	12
Total directly subordinated financial intermediaries (DSFIs)	227	259
Total group companies subject to FINMA money laundering supervision	140	141
Total registered insurance intermediaries	15,322	14,900

## Authorised audit firms and recognised credit rating agencies

	2015	2014
Total recognised credit rating agencies	5	5



## Authorisations issued

(1 January 2015 to 31 December 2015)

### Banks

	2015	2014
Bank licences (Art. 3 BA)	2	3
Branches (Art. 4 FBO-FINMA)	4	0
Representative offices (Art. 14 FBO-FINMA)	5	5
Additional licences (Art. 3 <sup>ter</sup> BA)	4	2
Released from supervision	3	6

### Securities dealers

	2015	2014
Securities dealer licences (Art. 10 SESTA)	1	0
Branches (Art. 41 SESTO)	1	0
Representative offices (Art. 49 SESTO)	3	1
Additional licences (Art. 10 para. 6 SESTA and Art. 56 para. 3 SESTO)	0	0
Released from supervision	4	0
Recognition of foreign market participants	6	3

### Exchanges

	2015	2014
Recognition of foreign exchanges (incl. organisations similar to stock exchanges)	4	7

### Collective investment schemes

	2015	2014
Swiss collective investment schemes	106	125
Foreign collective investment schemes	1,102	1,140

### Supervised fund management companies, asset managers, representatives and distributors under the Collective Investment Schemes Act

	2015	2014
Fund managers	0	2
Asset managers	33	38
Representatives of foreign collective investment schemes	13	17
Distributors under CISA	84	34

**Insurance companies and general health insurance companies**

	2015	2014
Life insurance companies, of which	0	1
– insurance companies domiciled in Switzerland	0	1
– branches of foreign insurance companies	0	0
Non-life insurers, of which	1	4
– insurance companies domiciled in Switzerland	1	0
– branches of foreign insurance companies	0	4
Reinsurers	1	2
Reinsurance captives	1	0
General health insurance companies offering supplementary health insurance	0	0
Total	3	7
Insurance groups (groups and conglomerates)	0	0

**Financial intermediaries**

	2015	2014
Directly subordinated financial intermediaries	9	12
Group companies subject to FINMA money laundering supervision	13	9
Insurance intermediaries	842	920

**Credit rating agencies**

	2015	2014
Recognition of credit rating agencies	0	0

**Enforcement rulings**

	2015	2014
Enforcement rulings	114	115
Swiss Takeover Board rulings	2	2

**Other rulings issued by the Enforcement Committee**

	2015	2014
ENA rulings (e.g. data protection law, concession law, accountability, recusals)	6	2

**Appeals and criminal complaints filed**

	2015	2014
Appeals against enforcement rulings	50	29
Appeals settled	40	35
Complaints filed with criminal prosecution authorities	157	117

## National and international memoranda of understanding

---

FINMA cooperates with numerous authorities both in and outside Switzerland. A number of new agreements were signed in 2015.

### National memorandum of understanding

#### Memorandum of understanding between the Office of the Attorney General and FINMA

Under Article 38 para. 1 FINMASA, FINMA and the Office of the Attorney General are required to share any information necessary for them to fulfil their remit. They coordinate their investigations as far as possible and necessary. The basis for this cooperation was set out and implemented in a memorandum of understanding in 2015. The 2015 agreement between the Office of the Attorney General and FINMA defines the general principles under which the two institutions work together.

### International memoranda of understanding General

International agreements are non-binding administrative conventions relating to supervisory cooperation. The term “memorandum of understanding” is widely used for such agreements, as are the terms “cooperation agreement” and “coordination arrangement”. With due consideration for national legislation, the participating supervisory authorities agree to cooperate and define the arrangements for this cooperation. Since the agreements entered into by FINMA are not legally binding, they cannot be used by FINMA or the foreign partner authorities and/or third parties to establish any rights or obligations.

FINMA concluded bilateral agreements with the following supervisory authorities in 2015:

Country	Supervisory authority	Type	Area of application
Brazil	Banco Central do Brasil (BCB)	bilateral/ general	Cooperation agreement on banking supervision
European Union	European Securities and Markets Authority (ESMA)	bilateral/ general	Cooperation agreement on central counter-parties from Switzerland which are active in the EU
France	Autorité de contrôle prudentiel et de résolution (ACPR)	multilateral/ institution-specific	Agreement on supervisory cooperation regarding the AXA Group
France	Autorité de contrôle prudentiel et de résolution (ACPR)	multilateral/ institution-specific	Agreement on supervisory cooperation regarding the SCOR Group
Germany	Federal Financial Supervisory Authority (BaFin)	multilateral/ institution-specific	Agreement on supervisory cooperation regarding the DEVK Group
Germany	Federal Financial Supervisory Authority (BaFin)	multilateral/ institution-specific	Agreement on supervisory cooperation regarding the Signal Iduna Group
Ireland	Central Bank of Ireland (CBI)	bilateral/ general	Cooperation agreement on the supervision of branch offices of Swiss banks in Ireland
Ireland	Central Bank of Ireland (CBI)	multilateral/ institution-specific	Agreement on supervisory cooperation regarding the XL Group
Jersey	Jersey Financial Services Commission (JFSC)	bilateral/ general	Cooperation agreement on the supervision of branch offices of CIS asset managers from Jersey in Switzerland (Art. 18 para. 1 let. c CISA)
Norway	Finanstilsynet (financial supervisory authority) and Norges Bank (central bank)	bilateral/ institution-specific	Cooperation agreement regarding SIX x-clear
United Kingdom	Bank of England (BoE) and Prudential Regulation Authority (PRA)	multilateral/ institution-specific	Agreement on the crisis management of Credit Suisse Group (CS COAG)
United Kingdom	Bank of England (BoE) and Prudential Regulation Authority (PRA)	multilateral/ institution-specific	Agreement on the crisis management of UBS Group (UBS COAG)
United States of America	Board of Governors of the Federal Reserve System (FRB) and Federal Deposit Insurance Corporation (FDIC)	multilateral/ institution-specific	Agreement on the crisis management of Credit Suisse Group (CS COAG)
United States of America	Board of Governors of the Federal Reserve System (FRB) and Federal Deposit Insurance Corporation (FDIC)	multilateral/ institution-specific	Agreement on the crisis management of UBS Group (UBS COAG)

## Abbreviations

<b>ACPR</b> Autorité de contrôle prudentiel et de résolution (France)	<b>FBO-FINMA</b> Ordinance of 21 October 1996 of the Swiss Financial Market Supervisory Authority on Foreign Banks in Switzerland (1 January 2015) (FINMA Foreign Banks Ordinance; SR 952.111)
<b>AIE</b> Automatic information exchange	<b>FC</b> Federal Constitution of the Swiss Confederation of 18 April 1999 (1 January 2016) (SR 101)
<b>AIFMD</b> Alternative Investment Fund Managers Directive (EU)	<b>FCA</b> Financial Conduct Authority (UK)
<b>AMLA</b> Swiss Federal Act of 10 October 1997 on Combating Money Laundering and Terrorist Financing in the Financial Sector (1 January 2016) (Anti-Money Laundering Act; SR 955.0)	<b>FDF</b> Federal Department of Finance
<b>AMLO-FINMA</b> Ordinance of 3 June 2015 of the Swiss Financial Market Supervisory Authority on Combating Money Laundering and Terrorist Financing (1 January 2016) (Anti-Money Laundering Ordinance; SR 961.011.0)	<b>FDIC</b> Federal Deposit Insurance Corporation (US)
<b>AT1</b> Additional Tier 1 capital	<b>FinIA</b> Financial Institutions Act (planned legislation)
<b>BaFin</b> Federal Financial Supervisory Authority (Germany)	<b>FinSA</b> Financial Services Act (planned legislation)
<b>BA</b> Swiss Federal Act of 8 November 1934 on Banks and Savings Banks (1 January 2016) (Banking Act; SR 952.0)	<b>FMIA</b> Swiss Federal Act of 19 June 2015 on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (1 January 2016) (Financial Market Infrastructure Act; SR 958.1)
<b>BCB</b> Banco Central do Brasil (Brazil)	<b>FMIO</b> Swiss Federal Ordinance of 25 November 2015 on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (1 January 2016) (Financial Market Infrastructure Ordinance; SR 958.11)
<b>BCBS</b> Basel Committee on Banking Supervision	<b>FMIO-FINMA</b> FINMA Ordinance of 3 December 2015 on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (1 January 2016) (Financial Market Infrastructure Ordinance; SR 958.111)
<b>BIS</b> Bank for International Settlements	<b>FINMA</b> Swiss Financial Market Supervisory Authority
<b>BoE</b> Bank of England (United Kingdom)	<b>FINMASA</b> Swiss Federal Act of 22 June 2007 on the Swiss Financial Market Supervisory Authority (1 January 2016) (Financial Market Supervision Act; SR 956.1)
<b>CBI</b> Central Bank of Ireland (Republic of Ireland)	<b>FinTech</b> Financial technology
<b>CC-CS</b> Control Committee of the Council of States	<b>FMAO</b> Financial Market Auditing Ordinance of 5 November 2014 (1 January 2015) (SR 956.161)
<b>CCP</b> Central counterparty	<b>FRB</b> Board of Governors of the Federal Reserve System
<b>CDB</b> Swiss banks' code of conduct with regard to the exercise of due diligence	<b>FSAP</b> Financial Sector Assessment Program
<b>CEAT-N</b> Committees for Economic Affairs and Taxation of the National Council	<b>FSB</b> Financial Stability Board
<b>CET1</b> Common Equity Tier 1 capital	<b>FSC</b> Federal Supreme Court
<b>CFTC</b> U.S. Commodity Futures Trading Commission	<b>G-20</b> Group of the 20 leading industrialised and developing economies
<b>CHF</b> Swiss franc	<b>G-SIB</b> Global systemically important banks
<b>CIS</b> Collective Investment Scheme(s)	<b>G-SII</b> Global systemically important insurers
<b>CISA</b> Swiss Federal Act of 23 June 2006 on Collective Investment Schemes (1 January 2016) (Collective Investment Schemes Act; SR 951.31)	<b>HLA</b> Higher loss absorbency
<b>CISO</b> Swiss Federal Ordinance of 22 November 2006 on Collective Investment Schemes (1 January 2015) (Collective Investment Schemes Ordinance; SR 951.311)	<b>HT</b> High trigger
<b>COAG</b> Cooperation agreement	<b>IAIG</b> Internationally active insurance group
<b>CoCos</b> Contingent convertible bonds	<b>IAIS</b> International Association of Insurance Supervisors
<b>ComFrame</b> Common Framework	<b>IAS</b> International Accounting Standards
<b>CSD</b> Central Securities Depository	<b>IASB</b> International Accounting Standards Board
<b>DoJ</b> U.S. Department of Justice	<b>ICA</b> Swiss Federal Act of 2 April 1908 on the Insurance Contract Act (1 January 2011) (Insurance Contract Act; SR 221.229.1)
<b>DSFI</b> Directly subordinated financial intermediary	<b>ICS</b> Insurance capital standard[s] for insurance groups
<b>EAER</b> Federal Department of Economic Affairs, Education and Research	<b>IFRS</b> International Financial Reporting Standards
<b>ECB</b> European Central Bank	<b>IMF</b> International Monetary Fund
<b>ENA</b> FINMA Enforcement Committee	
<b>ESMA</b> European Securities and Markets Authority	
<b>EU</b> European Union	
<b>FAC</b> Federal Administrative Court	
<b>FAOA</b> Swiss Federal Audit Oversight Authority	
<b>FATF</b> Financial Action Task Force on Money Laundering	



**IOSCO** International Organization of Securities Commissions

**ISA** Swiss Federal Act of 17 December 2004 on the Supervision of Insurance Companies (1 July 2015) (Insurance Supervision Act; SR 961.01)

**ISO** Swiss Federal Ordinance of 9 November 2005 on the Supervision of Private Insurance Companies (1 January 2016) (Insurance Supervision Ordinance; SR 961.011)

**ISO-FINMA** Ordinance of 9 November 2005 of the Swiss Financial Market Supervisory Authority on the Supervision of Private Insurance Companies (15 December 2015) (FINMA Insurance Supervision Ordinance; SR 961.011.1)

**JFSC** Jersey Financial Services Commission (Jersey)

**LCR** Liquidity coverage ratio

**LIBOR** London Interbank Offered Rate

**LT** Low trigger

**MoU** Memorandum of Understanding

**MMoU** Multilateral Memorandum of Understanding

**MROS** Money Laundering Reporting Office Switzerland

**NPA** Non-Prosecution Agreement

**NSFR** Net stable funding ratio

**ORSA** Own Risk and Solvency Assessment

**OTC** Over the counter

**PRA** Prudential Regulation Authority (UK)

**RWA** Risk-weighted assets

**SBA** Swiss Bankers Association

**SESTA** Swiss Federal Act of 24 March 1995 on Stock Exchanges and Securities Trading (1 January 2016) (Stock Exchange Act; SR 954.1)

**SESTO** Swiss Federal Ordinance of 2 December 1996 on Stock Exchanges and Securities Trading (1 January 2016) (Stock Exchange Ordinance; SR 954.11)

**SFAMA** Swiss Funds & Asset Management Association

**SICAF** Investment company with fixed capital

**SICAV** Investment company with variable capital

**SIA** Swiss Insurance Association

**SIF** Swiss State Secretariat for International Financial Matters

**SME** Small and medium-sized enterprise

**SNB** Swiss National Bank

**SRO** Self-regulatory organisation

**SRO-SIA** Self-Regulatory Organisation of the Swiss Insurance Association

**SSH-CS** Committee for Social Security and Health of the Council of States

**SST** Swiss Solvency Test

**T1** Tier 1 capital

**T2** Tier 2 capital

**T2S** TARGET2-Securities (European platform for securities settlements)

**TBTF** Too big to fail

**TLAC** Total loss-absorbing capacity

**TOB** Swiss Takeover Board


**UCITS** Undertakings for Collective Investment in Transferable Securities

**US GAAP** United States Generally Accepted Accounting Principles

# Organisation chart

(31 December 2015)

 Divisions

 Sections and groups reporting directly to the division heads

 Internal Audit



## Board of Directors

**Anne Héritier Lachat**

Chair

## CEO

**Mark Branson**

Internal Audit

**Nicole  
Achermann**

## Markets

**Léonard Bôle**

Directly  
Subordinated  
Financial  
Intermediaries

**Achille Babbi**

Anti-Money  
Laundering and  
Financial Crime

**Dominik Witz**

Market  
Infrastructures  
and Derivatives

**Andreas Bail**

Accounting

**Stefan Rieder**

## Asset Management

**Michael Loretan**

Institutions and  
Products Bern

**Sandra Lathion**

Institutions and  
Products Zurich

**Philip Hinsén**

Supervision  
of Institutions  
and Products

**Daniel  
Bruggisser**

Distribution

**Daniel Schmid**

Legal Expertise

**Tobias Weingart**

## Enforcement

**David Wyss**

Investigations

**Patric Eymann**

Proceedings

**Regine  
Wolfensberger**

Insolvency

**Tatjana von  
Kameke**

## Strategic Services

Rupert Schaefer

Regulation  
**Noël Bieri**

Legal and  
Compliance  
**Renate  
Scherrer-Jost,  
Kathrin Tanner**

General  
Secretariat and  
Communications  
**Michael  
Waldburger**

International  
Affairs  
**Franziska Löw**

## Operations

Andreas Zdrenyk

Finance  
**Anita Koch**

Human Resources  
**Adrian  
Röthlisberger**

Information and  
Communication  
Technologies  
**Michèle Waeber**

Facility  
Management  
and Purchasing  
**Albert Gemperle**

Business Support  
Services  
**Sascha Rassi**

Enterprise Risk  
Management and  
Internal Control  
System  
**Patrick Tanner**

Procurement  
and Contract  
Management  
**Martin Portenier**

## FINMA's core values

---

### Systematic supervisory activity

FINMA is Switzerland's independent financial market regulator. It is charged with protecting creditors, investors and policyholders, and is responsible for ensuring that Switzerland's financial markets function effectively. Licensing, monitoring, enforcement and regulation are among its key tasks. FINMA adopts a risk-based approach to supervision that ensures continuity and predictability, fostering dialogue with supervised institutions, authorities, professional associations and other key institutions in and outside Switzerland.

### Independent decision-making

Institutionally, functionally and financially independent, FINMA exercises effective supervision and acts in the public interest. It operates in an environment characterised by the diverging interests of various stakeholders. Acting within its statutory remit, FINMA preserves its autonomy and reaches its decisions independently.

### Responsible staff

FINMA's staff combine responsibility, integrity and the ability to deliver results. Working independently and flexibly, they are skilled professionals capable of responding to challenging situations. They take account of changes in their operating environment and respond with concrete measures that are both timely and appropriate.

---

#### PUBLICATION DETAILS

**Published by:**

Swiss Financial Market Supervisory Authority  
FINMA  
Laupenstrasse 27  
3003 Bern  
Switzerland  
Tel. +41 (0)31 327 91 00  
Fax +41 (0)31 327 91 01  
info@finma.ch  
www.finma.ch

**Annual financial statements:**

The FINMA annual financial statements for 2015 are published separately.

**Photography:**

- Portraits and group photos on pages 2 and 88: Reto Andreoli, Bern.
- Cover and section photos on pages 6/7 (Geneva), 22/23 and 36/37 (Zurich), 84/85 (St. Gallen) and 94/95 (Lausanne): objective studios GmbH, Mollis.
- Photos on the inside front cover: Swiss Federal Chancellery and Parliamentary Services, 3003 Bern, Keystone, Getty Images, Prisma Bildagentur AG.

**Design:**

evoq communications AG, Zurich

**Printed by:**

Neidhart + Schön AG, Zurich



