AFBS News February 2023

AFBS Get Together

19 June 2023, 16.00-21.00, Zürich: FINMA and MROS Annual Reports: Lawyers' Assessment and Practitioners' Panel Discussion. The formal part will be followed by opportunities for informal networking, sharing and discussing. The event will take place on the premises of Bär & Karrer, this year's gold event sponsor.

Legislation and Regulation: Switzerland

A working group of the federal administration has clarified the legal basis for the confiscation of frozen Russian assets. It concludes that the confiscation would undermine the Federal Constitution and the prevailing legal order. Therefore, the expropriation of private assets of lawful origin without compensation is not permissible with Swiss Law. **Info**: DE FR IT EN

FINMA informed that it had received 1,699 licence applications from portfolio managers and trustees. As of 31 December 2022, FINMA had granted licences to 670 institutions (642 portfolio managers, 22 trustees and six institutions acting as both). 1,060 institutions notified FINMA that they won't be submitting an application. Institutions which continue to operate without having filed application for authorisation or already were denied formal authorisation face financial penalties of up to CHF 250,000. **Info**: DE FR IT EN

The threshold for international group companies to qualify for reporting instead of anticipatory withholding on intra-group capital flows has been lowered from 20% to 10% of qualified ownership. Authorisation for reporting instead of withholding is valid for five years. Change of regulation entered into force on 1 January 2023.
Info: DE FR IT EN

Issuers on Swiss stock exchange are held to publish and to submit to SER SIX Exchange Regulation the annual report with audited accounts within four months from closure of the business year. Issuers incorporated in Switzerland are furthermore held to hold a general assembly within six months from closure of the business year.
Info: DE FR EN

SIX exchange implements several legislative changes regarding trading, transaction reporting, fees, that are becoming effective on 1 January 2023. **Info**: DE FR EN

AMAS informs having published updates of its self-regulation on transparency in collective assets. The FAQ has been updated and several new questions on the self-regulation have been included. **Info**: DE FR EN

On 9 February 2023 AMAS published a new model for the declaration in accordance with Art. 48f-48l Ordinance 2 on Old Age Provision for providers of discretionary asset management services to pension funds.
Info: DE FR EN

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Legislation and Regulation: International

EU Finance Ministers adopted the GloBE directive which requires member states to apply the EU-wide harmonised tax base to multinational enterprises MNE with revenue in excess of EUR 750m. Deadline for implementation by states is 31 December 2023. Small states with less than 12 MNE may delay transposition for up to six calendar years. Contrary to the OECD GloBE rules, the EU rules also apply to domestic groups of company. **Info**: LINK

Switzerland and Germany updated their consultative agreement on procedures regarding relief of German tax at source on dividends, interests, and royalties under the convention against double taxation. The agreement becomes effective per 1 December 2023. **Info**: DE

The US IRS published the updated QI Agreement. It is applicable from 1 January 2023. It introduces extended documentation and reporting duties on PTPs, updates documentation duties for withholding QIs, extends reporting duties of qualified derivatives dealers. **Info**: EY: LINK ; KPMG: LINK ; RSM: LINK

Federal Council on Digitalisation

The National Cyber Security Centre (NCSC) will become a federal office located in the Federal Department of Defence, Civil Protection and Sport (DDPS). The new structures shall be defined until end of March 2023. The new federal office will remain a civilian unit of the Federal Administration. **Info**: DE FR IT EN

The Federal Council submitted a dispatch to Parliament on mandatory reporting of cyberattacks on critical infrastructures, including banks. Reporting shall provide the NCSC with information on the cyberattacks and the modus operandi. A first reporting of a cyber-attack has to be made within 24 hours, as it is already the case for FINMA reporting. **Info**: DE FR IT EN

It further published an evaluation of the revision of Banking Act and the Banking Ordinance of 15 June 2018 aimed at lowering entry barriers for FinTechs. Exemptions from authorisation and reporting procedures shall be examined to understand whether the investor protection is sufficiently adhered to. Segregation of client and own assets could enhance investor protection. **Info**: DE FR IT

It also published a Dispatch to Parliament on the introduction of a platform for electronic communication among judiciary authorities of the confederation, cantons and tribunals. Cantons shall be entitled to use other platforms provided they use compatible standards. **Info**: DE FR IT

It welcomed the financial centre initiatives in the realm of open finance. It nevertheless asked for a report on possible measures to be taken in the event the financial sector does not sufficiently commit to open finance itself. **Info**: DE FR IT EN

The Federal Council's strategy on digitalisation in Switzerland intends to focus on three areas: * amending the legal framework in view of promoting digitalisation in various fields; * assuring Switzerland's sovereignty in the digital realm to be pondered against international connectivity; * promoting interoperability and transparency in the health sector. **Info**: DE FR IT and webpage Digital Switzerland: DE FR IT EN

Sustainable Finance

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The Federal Council adopted a report on measures intended to improve sustainability of the Swiss financial centre. The report lists 15 measures which include preparation of data by companies, adherence to international sets of transparency, action such as promotion of impact investing and issuance of green bonds, carbon pricing and off-setting. **Info**: DE FR IT EN

It further wants to prevent greenwashing and therefore adopted a position paper, which clarifies that financial products should only be declared as sustainable if they are compatible with at least one sustainability goal or contribute to achieving one of those. It has set up a working group with industry representatives aiming at drafting common standards. **Info**: DE FR IT EN

FINMA published a Guidance on developments with regards to the management of climate risks. It expects supervised financial entities to engage with the current guidance and recommendations issued by international bodies. **Info**: DE FR IT EN

Economiesuisse published six business guidelines for financial flows and a sustainable economy. **Info**: LINK

Internal

End of Membership: Banque Thaler SA

Application for Membership

AFBS Events

28 February 2023 by V/C: AFBS Conference: Implementation of SBA Self-Regulation on ESG: Hans-Ruedi Mosberger.

1 March 2023 in Zürich: AFBS Roundtable: Update on Freistellungsverfahren with BaFin.

7 March 2023: in Zürich: AFBS Group CIB to discuss implementation of FATF regulation regarding enhanced transparency on beneficial owners of legal entities and to identify other topics for future meetings.

10 March 2023 in Geneva: AFBS Group: Commodity Trade Finance, with introduction to various topics by Jean-Noêl Ardouin, Dominique Bruggmann, Ernst&Young Ltd.

10 March 2023 in Geneva: AFBS Group: Retail Banking to discuss hot topics on positive rate environment, new rules for work from home, transition from Maestro cards, platform banking, instant payments.

14 March 2023 in Lugano; 16 March 2023 in Geneva; 21 March 2023 in Zürich: AFBS Conference: Instant Payments: New Services New Opportunities New Challenges: Ivo Bieri, Bieri Ventures.

15 March 2023 in Zürich: update from the SBA Tax Commission; exchange of views among AFBS Members.

16 March 2023: by V/C: update from the SBA Legal Commission; exchange of views among AFBS Members.

22 March 2023 in Zürich; 27 March 2023 in Geneva: AFBS Roundtable: Cyber Security on the Swiss Financial Centre: Foreign Banks and the Financial Services Cyber Security Centre: Florian Schütz, National Cyber Security

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Centre; Matthew Rhodes, Citibank NA UK.

5 April 2023 in Geneva: AFBS Group HR to discuss foreign banks' involvement in offering apprenticeship in banking.

Last Minute

In their 2023 Global Digital Trust Insights survey, PwC published results reflecting the view of over 3,500 business security and IT leaders across the world. While there are progresses, a deep dive to the results from Switzerland show that the Swiss companies have been adapting and adopting slower than the rest of the world. **Info**: DE FR EN

WWF has launched two risk filter tools to assess biodiversity and water risks. **Info**: LINK

The Foreign Policy Report 2022 contains a focus chapter on the war in Ukraine: **Info**: DE FR IT

The report on the Foreign Economic Policy 2023 outlines resilience of Switzerland's production and supply chains as shown during the COVID19 pandemic. The country needs full integration in global markets.
Info: DE FR IT

This year's edition of the Point Zero Forum takes place from 26-28 June 2023 in Zürich. **Info**: LINK

AvenirSuisse on social mobility in Switzerland offering young people good opportunities. **Info**: DE FR

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