

foreign banks . in switzerland .

Eidgenössische Finanzmarktaufsicht FINMA
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Entwurf FINMA Rundschreiben Naturbezogene Finanzrisiken

Sehr geehrte Frau Feidt

Wir danken für die Einladung zur Stellungnahme zu titelvermerktem Rundschreibenentwurf.

Unser Verband steht dem Entwurf kritisch gegenüber. Die vorgegebenen Massnahmen sind aufgrund der aktuellen Datenlage schwer umsetzbar; die internationale Kompatibilität fehlt, was zu einer Schwächung des internationalen Finanzplatzes Schweiz führt; die national unterschiedlichen Standards erschweren die Umsetzbarkeit bei den Instituten und machen Vergleichbarkeit und Verständnis für Anleger unmöglich.

In der Anlage finden Sie die ausführliche Stellungnahme unseres Verbandes. Diese wurde im Rahmen von Arbeitsgruppen mit Experten ausgearbeitet. Auch hat der Verband bei der Ausarbeitung der Stellungnahme der Schweiz. Bankiervereinigung mitgearbeitet und unterstützt diese ebenso.

Freundliche Grüsse

VERBAND DER AUSLANDSBANKEN IN DER SCHWEIZ


Raoul Würzler
Geschäftsführer


Jonathan Deneys
Wissenschaftlicher Mitarbeiter

FINMA Circular Nature-related financial risks

AFBS organised meetings with experts to discuss the proposed draft circular on nature-related risks. AFBS would like to insist on points of particular interest for foreign banks in Switzerland. AFBS contributed to the drafting of comments by SBA and Swiss Sustainable Finance, which it fully endorses.

AFBS considers the proposed draft being very ambitious and far-reaching. It leads to imposing requirements upon financial intermediaries which are difficult to comply with. Data of reference is not easy to access and is based upon different frameworks; this poses challenges for measurement of progress and comparability.

AFBS would like to particularly insist on the following aspects.

Scope

The draft Circular establishes risks to be taken into account in a very extensive but vague and unclear manner. This can be understood as a consequence of the fact that it is effectively difficult to clearly circumscribe and identify nature related risks and their impact on the financial intermediary's business. Work for definition of such risks and for definition of criteria helping to identify such risks still is at its beginning, more needs to be done to offer clarity.

Requesting the financial intermediary to include into its assessment all potential (even hypothetical) risks of a non-exhaustive list goes too far as it imposes excessively burdensome processes whose outcome it is impossible to estimate.

It must be underlined that banks already have procedures in place which take into account the impact of nature risk on their business. This is the case in fields such as real estate lending, trade and project finance, among others.

Terminology

Scope of application relies on commonly understood and applicable terminology.

This is not yet available, even at international level, and the Circular does not provide clarity. On the contrary. When defining scope of regulation and concepts of reference the draft Circular remains in very vague terms. This makes it very difficult for banks to implement processes and procedures, to apply the regulation, and to perform measurement of progress.

Furthermore, there is no guidance for prioritisation of risks. At least some criteria for such purpose should be given.

Reporting Duties

It is extremely delicate to draft consistent regulation for reporting in the realm of ESG which can be complied with upon the existing frameworks of reference. The latter are weak and lack consistency. They refer to sets of data which is not universally available.

Introduction of reporting requirements should follow a step-by-step approach and take into account availability of data and sets of reference. It should avoid being overarching and excessively zealous as this bears the risk of failure to deliver what is being promised. It is preferable to adopt less extensive standards and make them become more restrictive over time and with more detailed data and frameworks of reference available.

In a first instance focus of reporting should be on transparent information on bank's processes and procedures as well as on measures adopted. This helps clients understand and measure the engagement of the bank towards ESG compatibility.

Double Materiality

The draft Circular is excessively comprehensive in introducing the obligation to include nature impact of investment decisions. In the way it has been proposed the requirement goes beyond international standards and would make Swiss regulation excessively complex to comply with. There would be no comparability. Nor would it be possible to effectively measure the consequences of strategies adopted as data is not available.

Such overarching requirements bear the risk of greenwashing as a clear framework of reference is missing. Thus, the risk of unwanted reputational damage is high.

The risk of unwanted reputational damage is further increased by the absence of a level playing field throughout the financial sector with firms other than banks and the latter's counterparties (investment advisors, securities dealers, etc.) being out of scope although acknowledged as being exposed to the same nature-related risks.

Client Interaction

Regulation on ESG principles introduces additional restrictions on the management of client assets. It must not be forgotten that the bank has a fiduciary duty towards its clients and cannot decide on their behalf. It may certainly issue recommendations, but the final decision resides with the client. Excessively restrictive guidance bears the risk of clients withdrawing from ESG alignment to preserve some flexibility for their investment decisions and/or because they feel overwhelmed by excessively complex regulatory standards.

International Compatibility

International alignment of regulation with cross-border impact, such as in the present case, is of utmost importance for different reasons: * impact can only be achieved through coordination across jurisdictions; * measurement of progress and comparison can only be meaningful if made a regional or global level; * implementation can only be efficient if made at international level. This is particularly true for regulation based upon rules from international standard setters which apply to firms servicing an international clientele.

It does not make sense to impose standalone measures as this makes implementation excessively complex and comparability of progress difficult if not impossible. The efforts undertaken on the Swiss financial centre can only be marketed internationally if they are understood, i.e. known, by peers.

For the above reasons foreign banks speak up against Swiss Finish and in favour of international alignment. They suggest a flexible approach which defines Swiss standards and recognises as compliant firms which apply international standards such as those of the EU.

Based upon the above considerations AFBS suggests reviewing the draft and revising wording under consideration of already existing regulation in Switzerland and of international standards. It further suggests considering introduction of a level playing field among institutions of the financial sector. Benefits of ESG compliant finance is dependent on international coordination, therefore alignment of national regulation with international developments is even more important. Standalone initiatives merely introduce regulatory arbitrage which bears the risk of negative impact on competitiveness.