

REPRINT

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# ANNUAL REVIEW

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## FINANCIAL REGULATION

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# SWITZERLAND

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**Q TO WHAT EXTENT DO YOU BELIEVE TODAY'S FINANCIAL INSTITUTIONS ARE OPERATING IN AN ENVIRONMENT OF INCREASING REGULATORY SCRUTINY AND ENFORCEMENT ACTIVITY?**

**WIBMER:** In the wake of the 2008 global financial crisis, international bodies revised the existing standards for financial service providers such as banks, asset managers, financial advisers and collective investment schemes, as well as their services and the financial market infrastructure, including stock exchanges, other trading facilities, central counterparties and central securities depositories. Swiss financial institutions likewise faced increased regulatory activities. These changes have affected all aspects of the Swiss financial sector ranging from cross-border private banking – in which Switzerland remains the world leader responsible for managing a quarter of global cross-border assets – to investment banking.

**Q COULD YOU OUTLINE SOME OF THE BROAD LEGAL AND REGULATORY CHANGES AFFECTING THE FINANCIAL SERVICES SECTOR?**

**WIBMER:** The Swiss Financial Market Supervisory Authority (FINMA) oversees the implementation of all new financial regulation by the financial sector in Switzerland. International principles are, however, usually adapted and amended by a 'Swiss Finish' – for example, Switzerland is not part of the EU and not subject to EU financial services legislation. A number of key financial regulations do apply to firms in Switzerland, however. The Swiss government imposed the Basel III Capital and Liquidity Requirements on Swiss banks as a failsafe. Banks also already need to report to FINMA their net stable funding ratio, whereby the respective Swiss legislation will be passed in early 2017. Banks important to the Swiss financial system, currently UBS, Credit Suisse, Zurich Cantonal Bank, Raiffeisen and the Swiss Postfinance, also have to comply with specific Swiss 'too big to fail' capitalisation regulations, which aim to enable them to absorb any shock. In addition, the new Swiss Financial Services Act (FinSA) serves primarily to improve client protection. When giving transaction-related investment advice, financial services providers need to assess the appropriateness thereof, as well as the suitability of portfolio-related investment management or advice and to act accordingly. Among many other new requirements, full transparency must exist for all remuneration, including retrocessions and brokerage fees. Also, the new Swiss



Financial Market Infrastructure Act (FinMIA) creates uniform regulation and supervision on financial market infrastructures and derivatives trading in line with market developments and international requirements. This will sustain and strengthen the stability and competitiveness of Switzerland's financial sector. Finally, the new Swiss Financial Institutions Act (FinIA) strengthens the supervisory regime for portfolio managers, managers of collective investment schemes, fund managers, and securities broker and dealers.

**Q WHAT ARE THE  
IMPLICATIONS OF THESE  
RECENT REGULATORY  
REQUIREMENTS FOR  
FINANCIAL INSTITUTIONS?**

**WIBMER:** The complexity and breadth of the new Swiss regulations resulted in equally time consuming and cumbersome implementation and compliance efforts of all financial services providers in Switzerland which have been achieved in most cases. For them, this is likely to have a number of consequences. The implementation of the new liquidity requirements for Swiss banks will lower their business risks and the resulting financial strength and stability will help the Swiss financial sector to grow sustainably. The conduct and product provisions of FinSA are attuned to the protection needs of the respective client segments – retail, professional, institutional, sophisticated – as well as dynamic, as clients may opt-in to or opt-out of certain protection levels. This will, along with the complete fee transparency imposed by FinSA, be valued by domestic and international clients alike. In addition, clients will further benefit from the efficient financial market regulation, supervision and enforcement by FINMA.

**Q IN YOUR EXPERIENCE,  
HOW ARE FINANCIAL  
INSTITUTIONS RESPONDING  
AND ADAPTING TO THESE  
REGULATORY CHANGES?  
HOW IMPORTANT IS IT**

**WIBMER:** Swiss banks enjoy the luxury of the exceptional financial, social and environmental stability provided in Switzerland. As a result, they have the financial means and resources to effectively implement regulatory changes – unlike institutions abroad who fail to do so and thus expose their clients to risks. The two major Swiss banks, UBS and Credit Suisse, for example, successfully endured all regulatory 'stress-tests' to which they



**TO ESTABLISH A STRONG  
INTERNAL GOVERNANCE  
FRAMEWORK TO MAINTAIN  
COMPLIANCE?**

were subjected in Switzerland, within the EU and the US. For all other Swiss financial institutions, FINMA likewise strictly enforces compliance with all applicable Swiss legislation in the financial services sector and even shuts down non-compliant institutions. This means that financial services providers have a strong economic interest to actively implement all new standards and redesign their business accordingly. Moreover, Swiss financial legislation generally allows for more flexibility than, for example, its European and US counterparts.

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**Q WHAT POLICY AND  
PROCESS CHANGES MIGHT  
FINANCIAL INSTITUTIONS  
NEED TO IMPLEMENT TO  
MAINTAIN COMPLIANCE  
WITH NEW REGULATIONS?**

**WIBMER:** Financial institutions will have to adapt their business model. Since most of the new regulation is to be implemented over a period of time, they will gradually adjust to the new requirements. FINMA has published a progressive plan which assigns different levels of supervision and authorisation requirements – as well as a timeline – for different types of institutions. It is also important to note that not all financial operations are affected equally; specifically, higher liquidity requirements are more relevant to investment banking operations than they are for the asset management sector. The heart and soul of Swiss banking, private asset management, is in an excellent position to successfully tackle the recent changes.

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**Q IN WHAT WAYS ARE DATA  
PROTECTION AND PRIVACY  
LAWS IMPACTING THE  
OPERATIONS OF FINANCIAL  
INSTITUTIONS? DOES  
MORE NEED TO BE DONE TO  
ADDRESS CYBER RISK AND  
RELATED LIABILITIES?**

**WIBMER:** Swiss financial institutions are confronted with two distinct privacy issues. On the one hand, in the face of cyber crime, financial institutions are forced to continually adapt their systems to guarantee privacy. Switzerland has a rich technological history and culture of innovation and financial institutions are well equipped to deal with privacy issues related to cyber crime and other unfriendly cyber attacks, for example by foreign states. On the other hand, Swiss banks are encountering increased pressure relating to the automatic exchange of information (AEOI) with foreign governments. This issue is incredibly complex and decisions are being made on an ongoing basis. Nevertheless, clients of Swiss financial institutions will continue to enjoy a high level of privacy for as long as such clients do not engage in criminal activities or money laundering.

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**“Swiss financial legislation generally allows for more flexibility than, for example, its European and US counterparts.”**

**Q COULD YOU PROVIDE AN INSIGHT INTO SOME OF THE CHALLENGES ASSOCIATED WITH ENSURING THAT COMPLIANCE POLICIES AND PROCEDURES ARE ADHERED TO ACROSS MULTIPLE JURISDICTIONS?**

**WIBMER:** Within Switzerland’s financial services landscape, the issue of multiple jurisdictions does not exist as both FINMA and the Swiss National Bank are central federal bodies which oversee and regulate the Swiss financial services sector. Despite Switzerland’s longstanding political tradition of neutrality and privacy, there is increased pressure from abroad for a free flow of information, as a result of which Swiss legislation had to make certain trade-offs regarding Automatic Exchange of Information (AEOI). Furthermore, Switzerland has a long tradition of efficiently cooperating with foreign jurisdictions in cases of money laundering or crime which, for example, were also recognised by the US Programme for Non-Prosecution and non-target letters in favour of Swiss banks which streamlined the relationship with the US. Thus, Switzerland offers unique financial services opportunities which all well informed individuals and businesses can enjoy, irrespective of changing Swiss regulations.

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