KPMG

Ordinance on Banks and Savings Banks

(Banking Ordinance, BO)

SR 952.02
of 30 April 2014 (status as at 1 January 2025)

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FINANCIAL SERVICES

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The Swiss Federal Council,
based on the Swiss Federal Act on Banks and Savings Banks of 8 November 1934[1] *(BA),*
decrees:

Chapter 1: General provisions

ARTICLE 1[2] Subject

This Ordinance shall specifically govern:

a. for banks and persons as defined in Article 1b BA:

1. requirements for obtaining a license to operate,

2. 2. organizational requirements,

3. accounting requirements;

b. for banks:

1. deposit insurance scheme,

2. transfer and liquidation of dormant assets;

c. for systemically important banks: the contingency planning applicable and the improvement of their recovery and resolution.

ARTICLE 2 Banks

(Article 1(1) BA)

1 …[3]

2 The Swiss Financial Market Supervisory Authority (FINMA) shall classify banks into the categories as per Annex 3 based on the following criteria:[4]

a. total assets;

1 SR **952.0**
2 Version according to Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).
3 Repealed by Section I of the Ordinance of 30 November 2018, with effect from 1 January 2019 (AS **2018** 5229).
4 Version according to Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).

b. assets under management;

c. privileged deposits;

d. minimum capital requirements.ments.[5]

3 On the basis of Annex 3, a bank is assigned to the highest category, starting from category 5, in which it reaches at least three threshold values.[6]

4 Where justified in individual cases, FINMA may make classifications that deviate from the thresholds.[7]

5 In collaboration with FINMA, the Federal Department of Finance shall review the thresholds for the criteria under (2)(a-c) at least every five years. In doing so, it takes into account the longer-term development of the aggregate values of all banks in Switzerland in relation to the corresponding criterion and submits a proposal to the Federal Council for any adjustments to be made.[8]

ARTICLE 3 Non-banks

(Article 1(2) BA)

Corporations and institutions under public law as well as savings institutes for which such a corporation or institution is fully liable are not considered to be banks or persons as defined in Article 1b BA[9], even if they also accept deposits from the public on a commercial basis.

ARTICLE 3a[10] Significant group companies

(Article 2[bis] BA)

The functions of a group company are deemed to be essential for the activities subject to licensing if these are necessary for the continuation of important business processes, i.e. in the areas of liquidity management, treasury, risk management, management of master data and accounting, human resources, IT, trading and settlement as well as legal and compliance.

ARTICLE 4 Financial sector

(Articles 1a, 1b (1) and 3c (1) letter b BA)[11]

1 The following are deemed to be active in the financial sector:

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5 Inserted with Enclosure Section 1 of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

6 Version according to Section I of the Ordinance of 11 May 2016 (AS **2016** 1725). Version according to Section I of the ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

7 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

8 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

9 Expression according to Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229). This amendment has been taken into account throughout the entire enactment.

10 Inserted by Annex 1 Section 11 Financial Market Infrastructure Ordinance dated 25 November 2015, in force since 1 January 2016 (AS **2015** 5413).

11 Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

a.[12] those rendering financial services or those that broker these and especially those that operate the deposits and credit business, securities trading and the investment business for themselves or for third parties; or accepts crypto-based assets pursuant to Article 5a;

b. those that own qualifying participations in companies mainly active in the financial sector (holding companies); or

c.[13] is a significant group company in accordance with Article 3a.

2 Being active as an insurance company (insurance sector) shall be considered to be an activity equal to that of the financial sector, provided this Ordinance or the Capital Adequacy Ordinance of 1 June 2012[14] (CAO) does not provide for any deviating provisions for these companies.

ARTICLE 5 Deposits from the public

(Article 1(2) BA)

1 Deposits from the public shall be considered to be liabilities owed to clients, with the exception of the ones stated in (2) and (3).

2 The following are not considered to be deposits from the public:

a. deposits of domestic and foreign banks or other enterprises under state oversight;

b. deposits of shareholders or partners holding qualifying participations in the relevant debtor;

c. deposits of persons who are connected to those in (b), either economically or as relatives;

d. institutional investors with professional treasury departments;

e. active or retired employees who hold deposits with their employers; or

f. associations, foundations or co-operatives, provided these:

1. are not involved in the financial sector,

2. were created for the sustenance of an idealistic cause, and which strictly use the deposits garnered for this cause; and

3. for which the terms of the deposits last at least six months.

3 The following are not considered to be deposits:

[12] Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).
[13] Inserted by Section III of the Ordinance of 21 November 2018, in force since 1 January 2019 (AS **2018** 5241).
[14] SR **952.03**

a. funds provided in consideration of a contract for the transfer of property or of a service agreement or funds which are transferred as a security;

b.[15] bonds and other debt instruments that are standardized and issued en masse or non-certificated rights with a similar function (book-entry securities) if the creditors are informed of the following in one of the forms stated in Article 64(3) Financial Services Act of 15 June 2018[16] (FinSA) at the time of the offer:[17]

1. the name, the domicile and a brief description of the purpose of the issuer;

2. the interest rate, the issue price, subscription period, the date of payment, the time to maturity and redemption conditions;

3. the last annual financial statements and consolidated financial statements with the audit report and if the balance sheet date is older than 6 months, the interim financial statements, if available, of the issuer and the guarantor;

4. the collateral provided;

5. the representation of the bondholders, provided this is included in the investment requirements;

c.[18] Interest-free credit balances on customer accounts that are used solely for the processing of customer transactions:

1. of precious metal brokers, asset managers or similar companies, provided settlement takes place within 60 days, or

2. of securities firms or of distributed ledger technology (DLT trading facility) according to Article 73a of the Financial Market Infrastructure Act of 19 June 2015 [19] (FinMIA);

d. funds where the acceptance is inseparably linked to life insurance contracts, occupational benefit plans or other benefit plans governed by Article 82 of the Swiss federal law of 25 June 1982e 1982[20] on Occupational Old-age, Survivors' and Disability Benefit Plans;

e. funds that are added in small amounts to a means of payment or payment system and which only serve to settle future deliveries of goods or services and for which no interest is paid;

f. cash where the repayment and interest to be paid is guaranteed by a bank (default guarantee).

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15 Version according to Annex 11 Section 2 of the Financial Services Act of 6 November 2019 in force since 1 January 2020 (AS **2019** 4459).

16 SR **950.1**

17 Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

18 Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

19 SR **958.1**

20 SR **831.40**

ARTICLE 5a[21] Crypto-based assets as defined in Article 1b (1) BA

(Article 1b(1) BA)

1 Crypto-based assets as defined in Article 1b(1)(a) BA are assets pursuant to Article 16 (1)(b) BA (collectively held crypto-based assets), which are actually used or intended by the organizer or issuer to be used to a significant extent as a means of payment for the purchase of goods or services or the transfer of funds or value.

2 Crypto-based assets as defined in paragraph 1 do not include assets:

a. which are interest-free credit balances on customer account that are used solely for the processing of customer transactions:

1. of precious metal brokers, asset managers or similar companies, provided settlement takes place within 60 days, or

2. of securities firms or from DLT trading facility;

b. of domestic and foreign banks or other state-supervised companies;

c. of institutional investors with professional treasury departments.

ARTICLE 6[22] Acting on a commercial basis

1 Anyone acting on a commercial basis as defined by the BA:

a. permanently accepts more than 20 deposits from the public or collectively held crypto-based assets; or

b. publicly recommends itself to receive deposits from the public or crypto-based assets held in collective custody, even if fewer than 20 deposits from the public or crypto-based assets are subsequently received.eived.[23]

2 Anyone continuously accepting more than 20 deposits from the public or recommending itself to accept deposits from the public shall not be deemed to be acting in a commercial capacity, if they:[24]

a.[25] Accepts public deposits or collectively held crypto-based assets of no more than CHF 1 million in total;

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21 Inserted by Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August. 2021 (AS **2021** 400).

22 Version according to Section I of the Ordinance of 5 July 2017, in force since 1 August 2017 (AS **2017** 3823).

23 Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

24 Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

25 Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

b. Do not engage in the interest margin business; and

c. inform depositors, in writing or in another way that provides for a record in text form, prior to such depositors making the deposit, that:

1. they are not supervised by FINMA; and

2. the deposit is not covered by any depositor protection scheme.[26]

3 …[27]

4 If the threshold set forth in (2)(a) is exceeded, FINMA must be notified within 10 days and a license application in accordance with the BA shall be submitted within 30 days. FINMA may, if this is required for protective purposes in accordance with the Banking Act, forbid the applicant to accept any further deposits from the public until the decision on the license application has been taken.

ARTICLE 7[28] Advertising

(Articles 1(2) and 6a(3) BA)

Whoever is prohibited from accepting deposits from the public or collectively held crypto-based assets on a commercial basis may under no circumstances advertise to offer this service.

ARTICLE 7a[29] Duties of disclosure for persons as defined in Article 1b BA

(Article 1b BA)

1 Persons as defined in Article 1b BA shall inform their customers in writing or in another form that enables a paper trail of the information:

a. of their business model, their services and the risks related to the technologies used;

b.[30] that deposits from the public or collectively held crypto-based assets are not under a depositor protection scheme in accordance with Section XIII of the Banking Act.

2 Customers shall be informed in such a way that they have enough time to understand the information provided before signing the contract.

3 The information on the risks as per (1)(a) as well as the non-existence of a depositor protection scheme in accordance with (1)(b) may not be mentioned exclusively in the general terms and conditions.

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[26] Version according to Section I of the Ordinance of 30 November 2018 May 2018, in force since 1 April 2019 (AS **2018** 5229).
[27] Repealed by Section I of the Ordinance of 30 November 2018, with effect from 1 April 2019 (AS **2018** 5229).
[28] Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).
[29] Inserted by Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).
[30] Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

4 If information is provided electronically, persons as defined in Article 1b BA shall ensure that these can be queried, downloaded and recorded on a durable medium at all times.

5 A durable medium is deemed to be paper or any other medium that enables the storing and unaltered reproduction of information.

ARTICLE 7b[31] Representatives
(Article 2 BA)

The Representative of a foreign bank providing financial services under Article 3(c) FinSA[32] must:

a. comply with the provisions of the FinSA

b. register their client advisors in a register of advisors pursuant to Article 28 FinSA if they do not provide their services in Switzerland exclusively to professional or institutional clients as defined in Article 4 FinSA.

Chapter 2: Licensing

Section 1: Information required on persons and holders of participations in the license application and change of circumstances[33]

ARTICLE 8 Information required on persons and holders of participations
(Articles 1b and 3(2)(c) and (c^{bis}), (5) and (6) BA)[34]

1 An application for a license to incorporate a new bank or a person as defined in Article 1b BA shall provide in particular the following information and documents on the persons entrusted with its administration and management (Article 3(2)(c) BA) as well as its holders of qualifying participations (Article 3(2)(c^{bis}) BA):

a. for natural persons:

1. information on their nationality, domicile, qualifying participations in other companies and pending legal and administrative proceedings,

2. a curriculum vitae signed by the person in question,

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31 Inserted by Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August. 2021 (AS **2021** 400).

32 SR **950.1**

33 Version according to Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).

34 Version according to Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).

3. references,

4.[35] a private extract from the criminal records information system VOSTRA and an extract from the debt collection register or corresponding foreign confirmation if the applicant is domiciled abroad;

b. on companies;

1. The articles of incorporation;

2. an extract from the commercial register or an attestation to this effect,

3. a description of the business activities, the financial situation and, if applicable, the group's structure,

4. information on closed and pending legal and administrative proceedings.

2 Persons holding a qualifying participation must make a declaration to FINMA stating whether they hold the participation in question for their own account or on a fiduciary basis for a third party, and whether they have granted options or similar rights with respect to this participation.

ARTICLE 8a[36] Change of circumstances
(Article 1b and (1.2 and 3 BA)

1 Banks and persons as defined in Article 1b BA shall notify FINMA of any changes in circumstances on which the license is based.

2 If the changes are of high importance, FINMA's approval must be obtained before continuing the activity.

Section 2: Organization of banks[37]

ARTICLE 9 Business areas
(Article 3(2)(a) BA)

1 The bank must circumscribe in detail its business area(s) in its articles of incorporation, the partnership agreements or regulations. The description must remain objective and exactly define the geographical scope of its activities.[38]

2 Business area(s) and geographical scope shall correspond to the bank's financial capacities as well

[35] Version according to Annex 10 Section II 29 of the Criminal Records Ordinance dated 19 October 2022, in force since 23 January 2023 (AS **2022** 698).
[36] Inserted by Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).
[37] Version according to Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).
[38] Version according to Annex 1 Section 11 Financial Market Infrastructure Ordinance dated 25 November 2015, in force since 1 January 2016 (AS **2015** 5413).

as to its board and management organization.

ARTICLE 10 Bank's Management

(Article 3(2)(d) BA)

The bank shall be factually managed from Switzerland. General directives and decisions taken in regard to the group's supervision remain reserved, provided the bank is part of a group active in the financial sector, which is subject to adequate supervision by a foreign supervisory authority.

ARTICLE 11 Governing bodies

(Article 3(2)(a) BA)

1 Should the company's purpose or volume of business call for a special governing body for its guidance, supervision and control, this body shall consist of at least three members.

2 None of the members of the governing body for its guidance, supervision and control are allowed to be a member of the body entrusted with the management of the bank.

3 In specific cases, FINMA may grant a conditional exception to a bank.

ARTICLE 12 Segregation of functions and risk management

(Articles 3(2)(a), 3f and 3g BA)[39]

1 The bank shall implement an effective segregation between its credit business, trading desk, asset management and settlement within the bank. Depending on the case on hand and if justified, FINMA may either grant exceptions or demand a segregation of duties that goes further than described above.

2 The bank must provide a risk management framework as well as regulations or internal directives describing processes and responsibilities for risk-bearing business undertakings. Specifically, it must detect, mitigate and monitor market, credit, default, settlement, liquidity and reputational risks as well as operational and legal risks.

2bis The bank shall ensure both at the level of the single entity as well as the group that new agreements or amendments to existing agreements which are subject to foreign law or a foreign place of jurisdiction are only entered into if the counterparty recognizes a suspension of the termination of agreements as per Article 30a BA. Die FINMA kann regeln, für welche Arten von Verträgen ein solcher Aufschub erforderlich ist und für welche nicht.[40]

3 The bank's internal documentation of its resolutions and monitoring activities of its risk-bearing business activities must be designed in such a manner that the audit firm may form a reliable opinion on these.

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[39] Version according to reference in parentheses in Annex 1 Section 11 Financial Market Infrastructure Ordinance dated 25 November 2015, in force since 1 January 2016 (AS **2015** 5413).

[40] Inserted with Annex 1 Section 11 of the Financial Market Infrastructure Ordinance of 25 November 2015 (AS **2015** 5413). Version according to Section I of the ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

4 It shall be the bank's responsibility to implement an effective internal control system. Specifically, it shall provide an internal audit department that is segregated from management. If justified, FINMA may exempt the bank from having to implement an internal audit department.

5 FINMA prescribes the requirements for the disclosure of information on the organization and risks, in particular on risk management and remuneration.[41]

ARTICLE 13 Notification duty in regard to reporting significant equity holders

(Article 3(5) and (6) BA)

1 The Bank shall submit to FINMA the list of its qualifying holders of participations within 60 days of its annual closing.

2 Such a list shall state the holders' identity and the amount of each of these qualifying participations expressed as a percentage as at the closing of the books, as well as any changes in comparison to the previous year.

3 The information required as per Article 8 shall also be disclosed on any previously not identified qualifying holders of participations.

ARTICLE 14 Private banks

(Article 3(3) BA)

Private banks must include the required organizational provisions in their partnership agreement or in their regulations.

2a. Section:[42] Organization of persons as defined in Article 1b BA

ARTICLE 14a Legal form, domicile and factual management

(Articles 1b and 3(2)(d) BA)

1 A person pursuant to Article 1b BA shall hold one of the following legal forms:

a. Public limited company;

b. limited partnership;

c. limited liability company.

2 It shall have its domicile in Switzerland and be factually managed from Switzerland.

41 Inserted with Annex Section 2 of the Ordinance dated 29 November 2023, in force since 1 January 2025 (AS **2024** 13).
42 Inserted by Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).

ARTICLE 14b Business area

(Articles 1b(3)(a) and 3(2)(a) BA)

1 Persons as defined in Article 1b BA shall describe their business areas factually and geographically in their articles of incorporation or in a policy.

2 The business activity and its geographical scope shall correspond to the persons' financial capacities as well as to their board and management organization.

ARTICLE 14c Management

(Articles 1b(3)(d) and 3(2)(d) BA)

1 An entity pursuant to Article 1b BA shall factually be managed from Switzerland.

2 The persons entrusted with the business management shall reside in a place from where they can factually exercise such management.

ARTICLE 14d Governing bodies

(Articles 1b and 3(2)(a) BA)

1 Should the purpose or volume of business call for a special governing body for the guidance, supervision and control of a person pursuant to Article 1b BA, this body shall consist of at least three members.

2 At least a third of the members of the governing body for guidance, supervision and control shall be independent of Management.

3 Natural persons or legal entities that directly or indirectly hold investments in the person pursuant to Article 1b of at least 10 percent of the capital or voting rights or whose business activities are otherwise such that they may significantly influence the person (significant equity holders), shall guarantee that their influence will not have a negative impact on the person's prudent and robust business activity.

4 In special cases, FINMA may authorize exceptions to the provisions in (1) and (2), and may make these contingent on certain conditions.

ARTICLE 14e Compliance and risk management

(Articles 1b(3)(b) and 3(2)(a), 3f and 3g BA)

1 Persons pursuant to Article 1b BA shall make sure that they comply with legal and company-specific rules (compliance) and regulations and shall ensure an effective recognition, assessment, management and supervision of risks related to their business (risk management) as well as an effective internal control system.

2 It shall capture in internal documentations and directives how the requirements in (1) may be fulfilled.

3 Within the company, the department(s) in charge of compliance and risk management shall be

independent of the profit-oriented business within the company.

4 Persons pursuant to Article 1b BA may involve third parties to supervise the compliance and risk management departments, provided these have the necessary skills, knowledge and experience as well as the relevant licenses. They shall instruct the involved third parties carefully.

5 In individual cases, FINMA may alleviate the requirements of (3) made of persons as defined in Article 1b BA if these:

a. have a gross income of less than CHF 1.5 million;

b. demonstrate that they have a low-risk business model.

ARTICLE 14f Safekeeping deposits from the public and crypto-based assets[43]

(Article 1b(3)(b) BA)

1 Persons as defined in Article 1b BA shall do the following with deposits from the public and collective crypto-based assets:[44]

a. Keep these segregated from own funds; or

b. Enter these in their books in such a way that they can be disclosed separately from own funds at all times; in this case, they shall be subject to an ordinary audit pursuant to Article 727 CO.

2 Deposits from the public may be kept as:

a. demand deposits at a bank or a person pursuant to Article 1b BA;

b. Category 1 high quality liquid assets (HQLA) in accordance with Article 15a of the Liquidity Ordinance (LiqO) of 30 November 2012r 2012[45].

3 They shall be held in the currency of the customer's repayment claims. Crypto-based assets shall be held as follows:

a. in Switzerland;

b. in the form in which they where received.eived.[46]

4 Crypto-based assets shall be held as follows:

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43 Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

44 Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

45 SR **952.06**

46 Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

a. in Switzerland;

b. in the form in which they where received.eived.[45]

5 In justified individual cases, FINMA may grant exemptions under 4(a).[47]

ARTICLE 14g Conflicts of interest
(Article 1b BA)

1 Persons as defined in Article 1b BA shall undertake adequate organizational measures to prevent conflicts of interest that may arise from the provision of services or prevent the disadvantaging of customers through conflicts of interest.

2 If the disadvantaging of customers through conflicts of interest cannot be excluded with organizational measures, this shall be disclosed to them.

Section 3: Capital requirements

ARTICLE 15 Minimum capital at the establishment of a new bank
(Article 3(2)(b) BA)

1 The minimum capital shall amount to at least CHF 10 million. It must be fully paid in.

2 In case a company is incorporated with contributions in kind, an accredited audit firm must review the value of the assets and liabilities brought into the company.

ARTICLE 16 Minimum capital at conversion of a company into a bank
(Article 3(2)(b) BA)[48]

1 If an existing company is converted into a bank, the fully paid-in capital may amount to less than CHF 10 million, provided the Common Equity Tier 1 capital as per Article 21 CAO[49] reaches this amount after taking into account the adjustments stipulated in Articles 31–40 CAO. FINMA shall decide on such cases using a case-by-case approach.

2 Article 15(2) shall apply accordingly to contributions in kind.

ARTICLE 17 Exceptions to minimum capital requirements

In special cases, FINMA may grant exceptions from the minimum capital requirements as per Articles 15 and 16, particularly if:

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47 Inserted by Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August. 2021 (AS **2021** 400).

48 Version according to Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).

49 SR **952.03**

a. a bank is part of a central organization which guarantees its liabilities;

b. the central organization as per (a) and its affiliated banks meet the requirements set out in the provisions on capital adequacy and on risk diversification at a consolidated level; and

c. the management of the central organization as per (a) is authorized to issue binding directives to its affiliated banks.

ARTICLE 17a[50] Minimum capital for persons as defined in Article 1b BA

(Articles 1b(3)(c) and 3(2)(b) BA)

1 The minimum capital for persons as defined in Article 1b BA shall amount to 3% of the deposits received from the public and the collectively held crypto-based assets as per Article 5; however, at least CHF 300,000. It must be fully paid in and is to be held continuously. It may not be loaned to qualified participation holders or natural or legal persons close to them or invested qualifying participations controlled by these.[51]

2 FINMA shall regulate specifics and in certain cases, may require higher minimum capital requirements if this seems to be necessary in view of the risks associated with the transaction in question.

3 The provisions of the CAO[52] and the LiqO[53] shall not apply to person as defined in Article 1b BA.

Section 4: Cross-border aspects

ARTICLE 18 Additional licenses

(Article 3ter BA)

The data listed in Article 8 must be included in applications for additional licenses as a foreign controlled bank as per Article 3ter BO or person pursuant to Article 1b BA.

ARTICLE 19 Reciprocal rights in the case of foreign controlled institutions

(Article 3[bis](1)(a) BA)

1 Reciprocity rights shall be guaranteed in particular, if:

a. persons domiciled or residing in Switzerland may incorporate banks or persons as defined in Article 1b BA abroad, whether as legally independent companies, branch offices or agencies; and

b. banks or persons as defined in Article 1b BA incorporated abroad are not subject to significantly more restrictive provisions in the foreign country than foreign banks or persons defined in Article 1b of the BA in Switzerland.

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50 Inserted by Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).

51 Version according to Section I 5 of the Ordinance of 18 June 2021on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS **2021** 400).

52 SR **952.03**

53 SR **952.06**

2 With the designation of a permanent representative office of a foreign bank or as per Article 3bis(1) BA or persons pursuant to Article 1b BA, reciprocity is also given if Swiss banks can open permanent representative offices in that country with the same functions.

ARTICLE 20 Notification on the commencement of business activities abroad
(Article 3(7) BA)

1 The bank or person pursuant to Article 1b BA shall notify FINMA prior to taking up business activities abroad; this notification must include all information and documents needed to assess the activity, in particular:

a. a business plan that describes in particular the nature of the planned business activities and the organizational structure;

b. the address of the office abroad;

c. the names of the persons entrusted with Board and Management functions;

d. the audit firm;

e. the supervisory authority in the host country.

2 The bank or person pursuant to Article 1b BA shall also inform FINMA if it plans to close an office abroad or in case of significant changes in its business activities abroad, a change in audit firm or supervisory authority.

Chapter 3: Financial groups and financial conglomerates

ARTICLE 21 Economic units and compulsory support
(Article 3c(1)(c) BA)

1 Companies shall form an economic unit if one company directly or indirectly holds more than half of the votes or capital of the other company, or if it controls the other in another way.

2 Compulsory support may apply in particular based on:

a. personal or financial interconnection;

b. the common use of a particular company;

c. acting in the market as a single company; or

d. letters of comfort.

ARTICLE 22 Group companies

(Article 3c(1)(c) BA)

Group companies shall be enterprises linked by an economic unit or a mutual assistance obligation ("compulsory support").

ARTICLE 23 Scope of group and conglomerate supervision

(Article 3e BA)

1 FINMA's group supervision shall include all group companies active in the financial sector of a financial group as defined in Article 4(1). A conglomerate supervision shall also include group companies whose activity as insurance company as per Article 4(2) is treated as equivalent to activity in the financial sector.

2 In substantiated cases, FINMA may exempt certain group companies in the financial sector from the consolidated supervision or declare that the supervision applies only partially, namely if a group company is immaterial to the consolidated supervision.

3 It may also fully or partially include in the consolidated supervision companies active in the financial sector that are controlled by a FINMA-regulated financial group or by a financial conglomerate together with third parties.

ARTICLE 24 Content of consolidated supervision

(Article 3g BA)

1 In case of a consolidated supervision, FINMA in particular shall review whether the financial group:

a. is adequately organized;

b. has an adequate internal control system;

c. adequately records, mitigates and monitors risks in connection with its business activities;

d. is managed by persons who can guarantee proper business conduct;

e. adheres to the segregation of personnel between the body entrusted with Management and the governing body for the guidance, supervision and control pursuant to Article 11;

f. adheres to the capital adequacy and risk diversification regulations;

g. disposes of adequate liquidity;

h. applies the accounting regulations correctly;

i. employs a recognized, independent and competent auditor.

2 FINMA may deviate from (1) for the consolidated supervision of financial conglomerates in order to

account for the particularities of activities in the insurance sector.

ARTICLE 24a[54] Persons as defined in Article 1b BA

(Article 1b BA)

1 If several persons as defined in Article 1b BA form a group pursuant to Article 22, the threshold of CHF 100 million for deposits from the public as per Article 1b BA shall apply to the entire group.

2 FINMA may exclude specific persons as defined in Article 1b BA from its group view if they are obviously independent of other group companies.

3 Independence may be a given in the case of significantly different business models or business purposes.

Chapter 4: Accounting

Section 1: Single-Entity Financial Statements

ARTICLE 25 Financial statements

(Articles 6(1)(a), 6b(1) and (3) BA)

1 The bank shall prepare financial statements, in which it presents the bank's economic situation in such a manner that:

a. third parties can form a reliable opinion (statutory single-entity financial statements with reliable representation); or

b. it presents a true and fair view of the bank's situation (true and fair view statutory single-entity financial statements).

2 In the statutory true and fair view single-entity financial statements, the CO provisions[55] are not applicable for the following items:

a. carrying out additional depreciations and amortizations as well as waiving the release of depreciations and amortizations that are no longer needed (Article 960a(4) CO);

b. creating provisions for the renovation of tangible fixed assets and for ensuring the company's going concern (Article 960e (3)(2) and (4) CO);

c. releasing no longer justified provisions (Article 960e (4) CO).

3 The financial statements shall consist of balance sheet, income statement, statement of share-

[54] Inserted by Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).
[55] SR **220**

holders' equity, cash flow statement and notes. Banks that prepare statutory single-entity financial statements with reliable assessment shall be exempt from having to prepare a cash flow statement.

4 Article 962(1)(2) CO does not apply to cooperatives, provided:

a. the cooperative is part of a central organization which guarantees its liabilities;

b. the central organization as per (a) prepares and publishes consolidated financial statements in accordance with Articles 33-41 or in accordance with an international standard recognized by FINMA that integrates all cooperatives; and

c. no equity securities are listed.

5 The persons referred to in Article 962(2) CO may request financial statements prepared according to the true and fair view if the bank does not prepare consolidated financial statements in accordance with the provisions of Articles 33-41 or in accordance with an international reporting standard recognized by FINMA.

ARTICLE 26 Fundamentals and Principles

(Article 6(3), 6b(1) BA)

1 The fundamentals for the preparation of the annual financial statements are the going concern assumption (Article 958a CO[56]) and the distinction in terms of chronology and materiality (Article 958b (1) CO).

2 Specifically, the financial statements must observe the following principles:

a. proper recording of business transactions;

b. clarity and understandability;

c. completeness;

d. reliability;

e. materiality of information;

f. prudence;

g. consistency in presentation and valuation;

h. prohibition of netting assets with liabilities and expenses with income;

i. . substance over form.

[56] SR **220**

ARTICLE 27 Valuation and recording

(Article 6(3), 6b (1) and (3) BA)

1 As a rule, assets shall be reported at purchase value less amortizations or value adjustments, and liabilities are reported at their nominal value. FINMA shall determine which balance sheet items may be recognized using rules differing from this. Fluctuation reserves as per Article 960b(2)[57] CO are not permissible.

2 Assets, liabilities and off-balance-sheet transactions shall be valued individually, provided that they are substantial and not usually summarized in a group for valuation purposes based of their similarity. Participations, tangible fixed assets and intangible assets are always valued individually.

ARTICLE 28 Minimum structure

(Article 6(3), 6b(3) BA)

The structure of the annual financial statements shall be based on Annex 1.

ARTICLE 29 Management report

(Article 6(1)(b), 6b(1) BA)

The bank's management report shall be prepared in accordance with Article 961c CO[58].

ARTICLE 30 Content of the annual report

(Article 6b(1) BA)

The annual report in accordance with Article 6(1) BA shall include the short-form report by the statutory auditors.

ARTICLE 31 Interim financial statements

(Article 6(2), 6b(1) and (3) BA)

1 The bank shall prepare semi-annual interim financial statements, which consist of balance sheet and income statement. It must be prepared using the same principles as the annual financial statements.

2 Banks listing their shares or debt securities on an exchange must also provide a statement of shareholders' equity and condensed notes. FINMA shall specify the contents of the condensed notes in its implementing provisions.

ARTICLE 32 Publication

(Article 6a, 6b (1) and (3) BA)

1 The annual report shall be made available to the public within four months, and the interim financial statements within two months after the closing date. They shall be made available in printed form.

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[57] SR **220**
[58] SR **220**

2 The annual report and interim financial statements shall be submitted to FINMA. In its implementing provisions, FINMA shall specify in how many copies, in what form and by when the annual report and the interim financial statements must be submitted.

3 At the bank's request, FINMA may extend these deadlines.

4 Private bankers shall be exempt from having to publish these documents, provided they advertise only their activity as asset managers or securities dealers, without mentioning the deposit-taking business.

Section 2: Consolidated financial statements

ARTICLE 33 Consolidated financial statements

(Article 6(1)(c), 6b (1) BA)

1 The consolidated financial statements shall be prepared according to the true and fair view (Article 25(1)(b)); they shall consist of balance sheet, income statement, statement of shareholders' equity, cash flow statement and notes.

2 For the consolidated financial statements the fundamentals and principles of Article 26 shall apply. Moreover, it shall be prepared using the full consolidation method.

3 In the consolidated financial statements, assets and liabilities shall be recorded and valued in accordance with Article 27.

ARTICLE 34 Duty to prepare consolidated financial statements

(Article 6(1)(c), 6b(1) and (2) BA)

1 In addition to its annual financial statements, a bank shall prepare consolidated financial statements, if it:

a. controls one or more companies;

b. is able to influence a company's business activities in such a way as to be its primary beneficiary; or

c. is the main risk bearer for another company's business activities.

2 If a holding company is the parent of a financial group as per Article 3c BA, the holding company shall prepare the group's consolidated financial statements.

3 The bank or the holding company shall control a company if it:

a. directly or indirectly holds the majority in votes in the supreme management body;

b. directly or indirectly holds the right to appoint or remove the majority of the members of senior management or the board of directors; or

c. is able to exert a dominant influence as per (a) or (b) in another way.

4 The bank or the holding company does not have to consolidate a controlled company, if:

a. it does not financially or otherwise benefit from the success of the controlled company now or in the future, and bears no risks from this company's business activities;

b. the benefits of the controlled company's business activities will go to independent third parties and the risks are borne exclusively by these; and

c. the monetary or non-monetary remunerations from the relationship with such a controlled company is in line with market conditions and reflects its performance.

5 The preparation of consolidated financial statements shall not be delegated to a controlled entity.

ARTICLE 35 Exception from the obligation to prepare consolidated financial statements

(Article 6b(1)-(3) BA)

1 Consolidation is not required for:

a. participations in companies that are insignificant for the financial reporting or the risk situation;

b. substantial participations that were acquired without strategic intent and for which the bank can demonstrate that it will dispose of or liquidate again within 12 months.

2 Participations as per (1)(b) shall be disclosed in the notes to the consolidated financial statements. Not consolidating any of these must be justified.

3 A sub-group included in the consolidated financial statements of a parent company is not obliged to prepare its own consolidated financial statements if the parent company's consolidated financial statements:

a. are prepared and audited in accordance with this Ordinance or with a FINMA-recognized international standard; and

b. are made available to the public.

4 In justified cases, FINMA may request that an institution prepare and publish partially consolidated financial statements.

ARTICLE 36 Alleviations granted for the preparation of consolidated financial statements

(Article 6b(2) and (3) BA)

1 A bank shall be exempt from preparing a cash flow statement in the annual financial statements as well as the management report, if it:

a. prepares consolidated financial statements in accordance with the provisions of Articles 3341 or in accordance with a recognized international standard recognized by FINMA and publishes it together with the group's management report; or

b. is a consolidated entity as per Article 34 of a FINMA-supervised financial group that fulfills (a) above.

2 However, the exemption referred to in (1)(b) does not apply if the bank's equity shares are listed on a stock exchange.

3 In its implementing provisions, FINMA shall specify:

a. which information may be left out in the annual financial statements if consolidated financial statements are prepared;

b. the extent to which the disclosure of interim financial statements on a consolidated basis exempts an institution from disclosing single-entity interim financial statements.

4 The persons referred to in Article 961d(2) CO[59] may demand the following:

a. complete financial statements and a management report;

b. the publication of stand-alone interim financial statements.

ARTICLE 37 Minimum structure

In its implementing provisions, FINMA shall set out the particular structuring requirements in regard to consolidated financial statements. In so doing, it takes into account the specific characteristics of the banking business.

ARTICLE 38 Group management report

The group management report must be prepared in accordance with Article 961c CO[60].

ARTICLE 39 Content of the annual report

(Article 6b(1) and (3) BA)

1 In addition to the annual financial statements, the management report and the consolidated financial statements, the annual report shall contain the short-form reports by the statutory auditors.

2 If the parent company is a holding company, the publication of financial statements shall be optional.

[59] SR **220**
[60] SR **220**

ARTICLE 40 Interim financial statements
(Article 6(2), 6b(1) and (3) BA)

1 Banks and holding companies obliged to prepare consolidated financial statements shall also prepare semi-annual interim consolidated financial statements.

2 These are made up of the same components as the interim single-entity financial statements in accordance with Article 31, are based on the same data and use the same principles as the consolidated financial statements.

ARTICLE 41 Publication
(Article 6a(1)-(3) (a), 6b(1) and (3) BA)

The publication of the annual report and the interim financial statements shall be subject to Article 32.

Section 3: Implementing provisions on accounting

ARTICLE 42 (Article 6b(3) and (4) BA)

FINMA shall provide more details on the provisions of this Ordinance in regard to accounting principles, in particular on:

a. the composition and valuation of the positions in the annual financial statements and the consolidated financial statements;

b. the particularities of the consolidated financial statements;

c. the disclosure of information not foreseen by the FINMA-recognized international standard the bank uses, but which is necessary for a reliable assessment of the bank's financial situation.

4a. Chapter:[61] Priviledged deposits as well as privileged depositors

ARTICLE 42a Privileged Deposits
(Article 37(a)(1) and (7) BA)

1 The following claims of depositors under Article 42c shall be deemed privileged deposits:

a. Claims towards a bank that:

1. are posted as a balance on accounts with the Bank and are denominated in a national currency or a currency issued by a central bank; or

[61] Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

2. are denominated in gold, silver, platinum or palladium and for which the depositor has an exclusive or alternative claim to payment in a national currency or a currency issued by a central bank;

b. are cash bonds issued by the Bank and recorded as such in the Bank's balance sheet and deposited with the Bank in the name of the depositor;

c. payments instructed by the depositor in payment transactions that have not yet left the bank or its account at a clearing or correspondence office at the time of the ordering of a protective measure in accordance with Article 26(1)(e)-(h) BA or bank bankruptcy, even if they have already been debited from the depositor's account;

d. payments in payment transactions in favor of a depositor that have been received by a bank or on its account at a clearing or correspondence office prior to the ordering of a protective measure in accordance with Article 26 (1)(e)-(h) BA or the bank's bankruptcy, even if they have not yet been credited to the depositor's account.

2 Time and call deposits are also deemed to have been posted to accounts within the meaning of (1)(a)(1).

3 Not privileged deposits are in particular:

a. claims made out to the bearer;

b. cash bonds that are not deposited with the bank;

c. contractual and non-contractual claims for damages such as claims for compensation for non-existent deposit assets in accordance with Article 16 BA;

d. claims or substitute claims arising from derivatives;

e. dormant assets;

f. claims against the bank that do not originate from the banking business.

ARTICLE 42b Privileged amount

(Articles 37(1) and (7) and 7a(1) BA)

1 To determine the amount of privileged deposits in accordance with Article 37a (1) BA, the individual balances, including accrued interest in the depositor's favor, shall be added up.

2 Any mortgages, loans or overdrafts in other accounts as well as any unbooked interest and fees in the bank's favor may not be taken into account, regardless of whether they have accrued, matured or expired.

ARTICLE 42c Privileged depositors

(Article 37(7) BA)

1 Privileged depositors are deemed to be the contracting party entitled under the claim relationship with the bank or the depositor of the cash bond as they appear in the bank's ledgers at the time of the ordering of a protective measure in accordance with Article 26(1) (e)-(h) BA or of the bank's bankruptcy.

2 The following are not considered privileged depositors:

a. Financial intermediaries under the BA, the Financial Institutions Act of 15 June 2018 (FinIA)[62] and the Collective Investment Schemes Act of 23 June 2006[63];

b. insurance companies subject to the Insurance Supervision Act of 17 December 2004[64];

c. foreign entities subject to prudential supervision, such as the financial intermediaries or insurance undertakings referred to in (a) and (b);

d. central banks

e. bank foundations as employee benefit institutions pursuant to Article 82 of the Federal Law of 25 June 1982e 1982[65] on Occupational Retirement, Survivors' and Disability Pension Plans (Pillar 3a foundations) and vested benefit foundations as vested benefit institutions pursuant to the Vested Benefits Act of 17 December 1993[66] (vested benefit foundations);

f. customers of investment firms that do not themselves hold accounts in accordance with Article 44(1)(a) FinIA.

3 If a claim is attributable to a group of persons, the group of persons shall be deemed to be a separate depositor separate from the individual persons of the group of persons. The group of persons may claim the maximum amount specified in Article 37a(1) BA only once for the entire group of persons.

4 If a depositor holds privileged deposits with a foreign branch office of the bank, he or she shall be deemed to be his or her own independent depositor for these deposits.

ARTICLE 42d Privileged claims of pillar 3a and vested benefit foundations

(Article 37a(5) BA)

1 Banks holding investments of a pillar 3a or vested benefits foundation must obtain written confirmation from the foundation that it is documenting the distribution of the privileged deposits of the beneficiaries and insured persons if it has deposits with several banks.

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62 SR **954.1**
63 SR **951.31**
64 SR **961.01**
65 SR **831.40**
66 SR **831.42**

2 Benefit entitlements of the beneficiary towards different Pillar 3a and vested benefits foundations that have deposits with the same bank shall not be added up.

Chapter 5: Depositor protection scheme[67]

ARTICLE 42e[68] Affiliation with a self-regulatory organization

(Article 37h(1) BA)

The bank must submit the request for affiliation to the deposit guarantee institution at least three months before accepting privileged deposits.

ARTICLE 42f[69] Cash loans to the depositor protection scheme

(Article 37c(3)(c) BA)

Banks in categories 4 and 5 may grant cash loans to the depositor protection scheme to cover the contribution obligation.

ARTICLE 42g[70] Preparatory actions: General provisions

(Article 37h(3)(d) and (4) BA)

In the course of their ordinary business activities, banks must undertake the following preparations to ensure the drawing up of the payout plan, the contacting of depositors and the payout in accordance with the requirements of the BA:

a. Infrastructure: They shall ascertain that an IT system commensurate with the number of depositors is in place and that the necessary staff is on hand. It must be ensured that any service contracts within this framework are maintained.

b. Processes: They shall specify standardized procedures that particularly ensure that depositors can be contacted within the statutory deadlines, that their payment instructions can be obtained and that these can be processed.

c. Depositor list: They shall maintain a list of depositors (Article 42i(1)) that will allow the investigator or restructuring agent or the bankruptcy liquidator (agent) to determine the secured deposits per depositor within 72 hours of the ordering of a protective measure under Article 26(1) (e)-(h) BA or of the bank's bankruptcy.

d. Summarized inventory: They shall keep a summarized inventory of privileged deposits that are not part of the secured deposits (Article 42i (2)). Deposits at foreign branch offices are to be reported as the total balance of privileged deposits for the jurisdiction in question.

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67 Version according to Section I of the Ordinance of 30 November 2018, in force since 1 January 2019 (AS **2018** 5229).
68 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
69 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
70 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

ARTICLE 42h[71] Preparatory actions: Special provisions for systemically important banks and for small banks

1 Systemically important banks are not required to perform the preparatory actions set out in Article 42g(a) and (b). They are instead required to prepare a concept that sets out how they will be able to meet the requirements pursuant to Article 42g(a) and (b) if a recovery fails. In the context of a recovery, FINMA will determine for each bank, depending on the specific progress of the recovery, the point in time from which the bank must comply with the requirements laid down in the concept. In doing so, it takes into account the bank's business model and liquidity situation as well as the number of depositors affected.

2 Banks with fewer than 2,500 depositors are merely required to maintain a list of depositors and a summarized inventory.

ARTICLE 42i[72] Depositor list and summarized inventory

(Article 37h(4)(c) and (d) BO)

1 The list of depositors contains the holdings of all secured deposits of individual depositors at the bank's Swiss offices.

2 The summarized inventory includes the privileged deposits that are not part of the secured deposits; they include:

a. Deposits pursuant to Article 37a(1) BA, at a foreign branch of the bank;

b. Deposits pursuant to Article 37a(5) BA;

c. Deposits pursuant to Article 42a(1)(c) and (d).

3 The depositor protection scheme provider stipulates the format of the list of depositors.

ARTICLE 43[73] Payout plan

(Article 37j BA)

1 The representative appointed by FINMA is not required to verify the claims to be included in the payout plan on the basis of the list of depositors. Claims which are manifestly not entitled to payment shall not be included in the disbursement plan.

2 If there are any indications that the accounts have not been properly kept, the appointee may request depositors to submit proof of their claim.

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71 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
72 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
73 Version according to Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

ARTICLE 44[74] Payment of secured deposits
(Articles 37b(1) and 37j BA)

1 The appointee is to pay out the privileged deposits to the depositors on the basis of the payout plan.

2 If the available funds are not sufficient to satisfy all the claims included in the payout plan, the privileged deposits are to be paid out on a pro rata basis.

3 Deposits pledged or assigned as security to third parties or deposits in rental deposit accounts are to be paid out if the person whose claim is secured consents or if the payout is permissible by law or contract.

4 Pillar 3a and vested benefits foundations' claims are to be paid out to the foundations concerned.

ARTICLE 44a[75] Information of the depositor insurance scheme sponsor
(Article 37i BA)

1 Where possible, FINMA provides the depositor insurance scheme with the information as per Article 37i BA in advance.

2 The depositor insurance scheme must ensure the protection of confidentiality and regulate the handling of conflicts of interest.

Chapter 6: Dormant assets

Section 1: Definition

ARTICLE 45 (Article 37l(4) BA)

1 Assets shall be deemed to be dormant if the bank or persons pursuant to Article 1b BA has been unable to establish contact with the account holder, its rightful heirs (beneficiaries) or to a person authorized by them for 10 years after the last contact.

2 The most recent contact noted in file documents of the bank or the person pursuant to Article 1b BA shall be deemed the last contact.

3 Assets that are transferred to another bank in the course of a liquidation of a bank or a person pursuant to Article 1b BA shall be considered dormant even before the end of the 10-year period, if the transferring bank proves that it has taken all necessary steps to reestablish contact to the beneficiary.

74 Version according to Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
75 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

Section 2: Transfer

ARTICLE 46 Transfer contract

(Article 37l(2) BA)

1 A written agreement with which dormant assets are transferred from one bank or person pursuant to Article 1b BA to another bank or person pursuant to Article 1b BA (transfer contract) shall contain the following:

a. The name of the beneficiary or other information that allow the identification of this person; and

b. The list of assets allocated to this beneficiary that are to be transferred.

2 The transferring bank or person pursuant to Article 1b BA shall make available the following documents to the acquiring bank or person pursuant to Article 1b BA:

a. Supporting documents of the last recorded contact with the beneficiary;

b. The documents relating to the contractual relationship with the beneficiary.

3 Costs incurred in connection with the transfer of dormant assets cannot be charged to these assets.

ARTICLE 47 Obligations of the acquiring bank or person pursuant to Article 1b BA

(Articles 3(2)(a) and 37l(1) BA)

1 The acquiring bank or person pursuant to Article 1b BA shall:

a. have an appropriate organization in place for the safe custody and administration of dormant assets; and

b. be in a position to assign the dormant assets entrusted to it to the beneficiary at any time, to the extent that the information available allow for this.

2 If a bank or a person as defined in Article 1b BA acquire dormant accounts for the same beneficiary from different banks, the acquiring bank shall aggregate these.

3 A bank or a person pursuant to Article 1b BA acquiring dormant assets from another bank for the first time, shall report this to FINMA.

4 If the dormant assets are recorded in a central database for dormant accounts (database), the bank or person pursuant to Article 1b BA shall indicate the transfer and state its name as the acquirer.

ARTICLE 48 Obligations of the acquiring bank or person pursuant to Article 1b BA
(Article 37l(1) BA)

The transferring bank or person pursuant to Article 1b BA shall refer anyone submitting a claim to transferred assets to the acquiring bank or person pursuant to Article 1b BA or to the database.

Section 3: Publication

ARTICLE 49 Obligation and content
(Article 37m(1) and (4) BA)

1 The banks or persons as defined in Article 1b BA shall make a public announcement looking for any beneficiaries to register their claims to assets that have been dormant for the past 50 years within a year (claim submission period).

2 No publication is required for assets amounting to less than 500 Swiss francs.

3 As far as they are available and provided that they are not in conflict with the beneficiary's obvious interests in keeping the same confidential, the publication shall contain the following information:

a. the address where the claim needs to be submitted;

b. name, date of birth and nationality of the beneficiary or the company as well as the last known residence or registered office;

c. the number of the account or savings book, if the existing information seems to be inadequate to verify eligibility.

4 The publication must explicitly point out that:

a. the bank or person pursuant to Article 1b BA may invoice the costs incurred for verifying a claim to the person who submitted it, under the conditions set forth in Article 53(3);

b. any claims expire with the liquidation of the assets.

ARTICLE 50 Publication media
(Article 37m(1) and (4) BA)

1 The public announcement as per Article 49 shall be published in the Swiss Official Gazette of Commerce (SOGC).

2 Instead of publishing it in the SOGC, banks or persons as defined in Article 1b BA may publish the announcement on a central electronic platform they organize and manage themselves.

3 If, in a specific case, it seems necessary to publish the announcement in another appropriate publication media in order to find a beneficiary, the bank or person pursuant to Article 1b BA shall publish

the call also in this media.

4 It shall thereby take into account the last place of residence, domicile or place of business of the authorized person.

5 The publication may combine several dormant accounts.

ARTICLE 51 Re-publication
(Article 37m(1) and (4) BA)

If there are any new findings on beneficiaries before the liquidation (Article 57) has been concluded, the bank or person pursuant to Article 1b BA shall adjust the announcement and re-publish it. A re-publication shall restart the claim submission period of one year.

ARTICLE 52 Publication costs
(Article 37m(1) and (4) BA)

1 The publication costs shall be charged to the dormant assets concerned.

2 These costs must be in adequate proportion to the dormant assets.

ARTICLE 53 Review of submitted claims
(Article 37m(1) and (4) BA)

1 The bank or person pursuant to Article 1b BA shall verify reported claims to dormant assets in accordance with the statutory and contractual provisions applicable on a case-by-case basis.

2 If the bank determines that a claim is justified, the assets in question shall no longer be considered to be dormant.

3 If a claim is manifestly unfounded and the person who filed the claim is unable to establish a credible connection to the claimed asset, the bank or the person pursuant to Article 1b BA may require this person to reimburse the costs incurred by the bank for verifying the claim.

4 The bank or the person pursuant to Article 1b BA shall document its verification results in a manner that is comprehensible to a third party.

Section 4: Liquidation

ARTICLE 54 Procedures
(Article 37m(1) and (4) BA)

1 The bank or person pursuant to Article 1b BA shall liquidate dormant assets if:

a. no notifications have been received: no later than two years after the expiry of the deadline;

b. notifications have been received: no later than two years after it has been established that claims made are ineligible.

2 The bank or person pursuant to Article 1b BA shall offer dormant assets that are not usable or have no liquidation value to the Swiss Federal Government. Should the Swiss Federal Government reject these, the bank or person pursuant to Article 1b BA may destroy these.

ARTICLE 55 Record of the liquidation decision

(Article 37m(1) and (4) BA)

1 The bank or person pursuant to Article 1b BA shall maintain a record of their decision to liquidate dormant accounts.

2 The record shall include:

a. the documentation of the verifications as per Article 53;

b. a list of the assets to be liquidated;

c. details on the planned liquidation procedure.

ARTICLE 56 Record of the liquidation

(Article 37m(1) and (4) BA)

1 The bank or person pursuant to Article 1b BA shall record the liquidated dormant assets.

2 For each asset, the record in particular shall include the following:

a. the type of liquidation;

b. the liquidation proceeds;

c. the liquidation costs.

ARTICLE 57 Liquidation proceeds and closing of the liquidation

(Article 37m(2)–(4) BA)

1 Liquidation costs shall be pre-financed by the liquidation proceeds.

2 The bank or person pursuant to Article 1b BA shall transfer the net proceeds at least once a year to the Swiss Federal Finance Administration.

3 The liquidation shall be deemed to be finalized with this transfer.

4 Any claims of beneficiaries expire with the finalization of the liquidation. Any claims to non-usable dormant assets shall expire upon their transfer to the Swiss Federal Government or their destruction.

5 If a tentative beneficiary submits a claim to liquidated assets after the liquidation but before the transfer, the claim shall pertain to the liquidation proceeds only.

6 If dormant assets have been entered into a database, the bank or person pursuant to Article 1b BA shall note the finalization of the liquidation.

ARTICLE 58 Retention of records
(Article 37l and 37m(4) BA)

The bank or person pursuant to Article 1b BA liquidating dormant assets shall preserve the documents relating to their acquisition, liquidation and transfer to the Swiss Federal Government in application of the applicable statutory provisions.

ARTICLE 59 Liquidation without prior publication
(Article 37m(1) and (4) BA)

1 The provisions of Articles 54 to 57 shall also apply in case of liquidating dormant assets without prior publication as mentioned in the second sentence of Article 37m(1) BA.

2 The value of such assets shall be calculated based on the total value of the dormant assets allocated to the same beneficiary held, safeguarded or managed by a bank or person pursuant to Article 1b BA.

Chapter 7: Special provisions for systemically important banks

Section 1: Contingency planning

ARTICLE 60 Contingency plan
(Articles 8, 9(2)(d) and 10(2) BA)

1 A systemically important bank must ensure that its systemically important functions described in Article 8 BA continue to function independently of the rest of the bank in case of an impending insolvency. It shall take the necessary precautions for this.

2 It shall describe the necessary measures in a contingency plan in which it shows to FINMA that, to the best of its knowledge, it would be capable of performing its duties described in the first sentence of (1).

3 For systemically important banks not internationally active as per Article 124a CAO[76] the Swiss contingency plan has to be prepared in implementable form within three years after the SNB has determined their systemic importance. In justified cases, FINMA may extend this deadline. The measures of the emergency plan must be implemented in an anticipatory manner if this is necessary for the

[76] SR **952.03**

uninterrupted continuation of systemically important functions.[77]

4 Systemically important banks shall update their contingency plans every year by the end of the second quarter and submit these to FINMA. Updates must also be submitted if circumstances require a revision of this plan or if FINMA demands it.

ARTICLE 61 Review of the contingency plan

(Article 10(2) BA)

1 FINMA shall review the contingency plan measures to determine their effectiveness in case of the bank's impending insolvency. It shall take into consideration to what extent the measures described in Article 60(3) have been implemented. Specifically, it shall review:

a. whether the going concern of systemically important functions is ensured from both a technical and organizational point of view, taking into consideration the time available, the expenses, the legal obstacles and the required resources;

b. whether the legal and economic relationships within the financial group are designed in such a way that these -- especially intercompany guarantees and financing, as well as relationships to clients and third parties -- will not obstruct the continuation of the systemically important functions;

c. whether the capital and liquidity planning foresees sufficient capital and liquidity to carry on performing systemically important functions to implement the contingency plan;

d. whether the bank disposes of suitable processes, the necessary infrastructure as well as access to necessary resources to operate the systemically important functions at all times, and that these aspects are guaranteed regardless of the bank's non-systemically relevant parts;

e. whether the necessary human resources (including managerial staff and control functions) are available to continue to provide the systemically relevant services;

f. whether the agreements related to the continuation of systemically important functions held with divisions within the financial group, especially internal guarantees and financing, as well as contracts with clients and other third parties, have been recorded in a list that is complete and updated at regular intervals;

g. the contingency plan is compatible with foreign laws and regulatory requirements.

2 The global resolvability shall be part of the Swiss contingency plan review insofar as it is decisive for its implementation.[78]

[77] Version according to Enclosure Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
[78] Inserted with Enclosure Section 1 of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

ARTICLE 62 Remediation of deficiencies and the ordering of measures

(Article 10(2) BA)

1 Should a contingency plan be determined to be insufficient to meet the requirements to be able to continue systemically important functions in case the bank is threatened with insolvency, FINMA shall set an adequate deadline to remedy such deficiencies. In doing so, FINMA may order specific measures.

2 Should the bank not remedy the deficiencies within the defined deadline, FINMA shall define a grace period. If the deficiencies are not remedied within this grace period, FINMA may in particular order the following measures:

a. the creation of an independent legal entity in Switzerland to which it could transfer the systemically relevant functions;

b. the adjustment of the bank's legal and operational structure so that it could outsource the systemically important functions at short notice;

c. the outsourcing of the infrastructure and services necessary for the systemically important functions to a centrally managed company within the financial group or to an external entity.

ARTICLE 63 Triggers for the contingency plan

(Articles 25 and 26 BA)

1 Once the conditions set out in Article 25(1) BA are met, FINMA may, building on the contingency plan, order the protective and insolvency measures as per the eleventh Section of the BA that are important to ensure the systemically important functions.

2 A systemically important bank does not fulfill the capital adequacy requirements as per Article 25(1) BA, if:

a.[79] the eligible Common Equity Tier 1 capital falls below 5% of the risk-weighted positions; or

b.[80] if Article 42(4) CAO takes place.

ARICLE 63a[81] Hedging transactions in connection with bail-in bonds

(Article 30b(8) BA)

Liabilities from hedging transactions in connection with the issuance of bail-in bonds shall not be taken into account for the calculation of the 5% upper limit pursuant to Article 30b(8) BA.

[79] Version according to Enclosure Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
[80] Inserted with Annex Section 2 of the Ordinance dated 29 November 2023, in force since 1 January 2025 (AS **2024** 13).
[81] Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

Section 2: Recovery and resolution[82]

ARTICLE 64 Recovery and resolution plans

(Articles 9, 25 et seqq. BA)

1 A systemically important bank must prepare a recovery plan. In it, it shall present which measures would stabilize it sufficiently in case of a crisis so that it could continue its business activities without requiring governmental funds. Such a recovery plan shall be approved by FINMA.

2 The FINMA shall prepare a resolution plan in which it shows how a recovery or liquidation ordered by it could take place for systemically important banks. The bank must submit all data necessary for this purpose.

3 The recovery plan and the resolution plan must take into account the provisions of foreign supervisory authorities and central banks on recoveries, restructuring and liquidations.

4 Systemically important banks shall file the information necessary for their recovery and resolution plans annually by the end of the second quarter. These same documents must also be refiled if circumstances require a revision of this plan or if FINMA orders it.

5 An internationally active systemically important bank in accordance with Article 124a CAO[83] must document in its submission the measures it has planned or implemented to meet the domestic and foreign recovery and resolution criteria set out in Article 65a(2).[84]

ARTICLE 65[85] Maintaining the ability for recovery and resolution of internationally active systemically important banks in Switzerland and abroad

(Articles 9 and 25–37k BA)

An internationally active systemically important bank pursuant to Article 124a CAO[86] must maintain its ability for recovery and resolution both domestically and abroad.

ARTICLE 65a[87] Assessment of the ability for recovery and resolution of internationally active systemically important banks in Switzerland and abroad

(Articles 9 and 25–37k BA)

1 FINMA shall each year assess the ability for recovery and resolution of the internationally active systemically important bank in Switzerland and abroad on the basis of the submitted documentation.

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82 Version according to Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
83 SR **952.03**
84 Version according to Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
85 Version according to Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
86 SR **952.03**
87 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

2 FINMA shall base its assessment in particular on the following criteria:

a. The bank maintains an organizational structure that facilitates its recovery and resolution.

b. The bank has established procedures to offset losses incurred in the individual units of the financial group through recapitalization measures.

c. The bank is capable at all times of estimating liquidity needs in the event of recovery or resolution and analyzing the possibilities of meeting the corresponding needs, and it ensures the management of the collateral available in the financial group.

d. The bank maintains operational continuity in the event of a recovery.

e. The bank ensures access to financial market infrastructures in the event of a recovery.

f. The bank has established vertical intra-group financing at arms-length and does not maintain any material horizontal intra-group financing.

g. The bank maintains an ongoing ability to perform any necessary valuations and reporting on an immediate basis in the event of a recovery.

h. The bank ensures the operational prerequisites for recovery through a debt reduction or conversion of debt to equity with creditor participation.

i. The bank disposes of a strategy with different options to restructure the business model.

ARTICLE 65b[88] FINMA measures in the event of obstacles to the ability for recovery and resolution of internationally active systemically important banks

(Articles 9 and 25–37k BA)

1 In the event that FINMA identifies obstacles to the ability of an internationally active systemically important bank for recovery and resolution in Switzerland and abroad, it shall set a deadline within which the obstacles must be removed. Should the bank fail to remedy this within the set deadline, FINMA may determine the following for units pursuant to Article 124(3)(b)-(d) CAO[89]:

a. supplementary additional loss-absorbing funds in accordance with Article 133 CAO;

b. a surcharge pursuant to Article 25(1) LiqO[90] if the obstacle relates to the criterion pursuant to Article 65a(2)(c).

2 FINMA may also consult foreign supervisory and insolvency authorities and consider such authorities' assessment when evaluating the ability for recovery and resolution and when determining measures to be taken.

88 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
89 SR **952.03**
90 SR **952.06**

Section 3: Disclosure to the public[91]

ARTICLE 66[92]

Each year, FINMA publishes its assessment of the contingency planning and stabilization planning of systemically important banks and of the ability of internationally active systemically important banks for recovery and resolution in Switzerland and abroad, and provides information on the status of resolution planning. In doing so, it informs about the main findings.

Section 4:[93] Material group companies of systemically important banks domiciled in Switzerland

ARTICLE 66a Capital and liquidity

(Article 3g(3) and (4) BA)

1 The material group companies of a systemically important bank that are domiciled in Switzerland must be adequately provided with capital and liquidity.

2 FINMA sets the amount taking into account the expected duration of a recovery and with a view to the scope and nature of the essential services to be provided during the recovery.

ARTICLE 66b Organization

(Article 3g(3) and (4) BA)

The executive bodies of material group companies of a systemically important bank that are domiciled in Switzerland must be staffed so as to avoid conflicts of interest as far as possible and to safeguard the interests of the material group company should a conflict of interest arise within the financial group.

ARTICLE 66c Ensuring continuous provision of services

(Article 3g(3) and (4) BA)

Material group companies of a systemically important bank that are domiciled in Switzerland must be organized in a way that allows them to continue to provide their essential services to the benefit of the financial group in the event of a recovery or resolution. In particular, they must:

a. keep an inventory of these services in a service catalog;

b. structure contracts with external service providers related to the provision of these services in a way that is protected in the event of a recovery or resolution and ensure the transferability of the contracts;

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91 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
92 Version according to Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).
93 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

c. take appropriate measures to limit dependencies on internal and external service providers abroad.

Chapter 8: Final provisions

ARTICLE 67 Repeal of another ordinance

The Banking Ordinance of 17 May 1972[94] is hereby repealed.

ARTICLE 68 Amendments to other ordinances

The amendment of other enactments is set out in Annex 2.

ARTICLE 69 Transitional provisions

1 In the first two years after the entry into force of this Ordinance, banks may record the value adjustments globally in accordance with Article 27(1) as a negative position in the assets as a total or partial amount. FINMA shall regulate the details.

2 Individual valuations in accordance with Article 27(2) for participations, tangible fixed assets and intangible assets must be implemented by 1 January 2020. Unrealized losses not recorded must be disclosed in the notes to the annual financial statements.

3 Internationally active systemically important banks within the meaning of Article 124a CAO[95] shall implement the Swiss emergency plan pursuant to Article 60(3) in an anticipatory manner by 31 December 2019, if this is necessary for the uninterrupted continuation of systemically important functions. In justified cases, FINMA may extend this deadline.[96]

4 Banks shall be permitted to prepare and publish their interim financial statements for 2015 under the previous law. This does not apply to the provision as per Article 23b(1) of the previous law.

5 FINMA may provide the banks with adequate deadlines[97] to implement the measures as per Article 12(2bis), taking into consideration international standards.

ARTICLE 69a[98] Transitional provisions for the amendment of 23 November 2022

1 Banks must have complied with the obligation under Article 37h(3)(c) BA to deposit in the form of securities or in cash or to grant the cash loan within 11 months of the amendment of 23 November

94 [**1972** 821; **1989** 1772; **1995** 253; **1996** 45, 3094; **1997** 85 Art. 57 Ziff. 1; **1998** 16; **2003** 4077; **2004** 2777, 2875; **2005** 4849; **2006** 4307 Annex 7 Section 1; **2008** 1199, 5363 Annex Section 7; **2009** 5279; 2011 3931; **2012** 5435, 5441 Annex 6 Section 2, 7251 Article 32]

95 SR **952.03**

96 Version according to Enclosure Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

97 Inserted with Annex 1 Section 11 Financial Market Infrastructure Ordinance dated 25 November 2015, in force since 1 January 2016 (AS **2015** 5413).

98 Inserted by Section I of the Ordinance of 23 November 2022, in force since 1 January 2023 (AS **2022** 804).

2022 coming into force.

2 Internationally active systemically important banks must submit the documentation in accordance with Article 64(5) for the first time at the end of June 2024.

ARTICLE 70 Entry into force

1 This Ordinance shall enter into force on 1 January 2015.

2 FINMA may allow the early application of the new accounting rules as per Chapter 4 for the business year that begins before this Ordinance enters into force.

Annex 1 (Article 28)

Minimum structure of the annual financial statements

A. Balance sheet

1. Assets

The following assets must be disclosed separately in the balance sheet:

1.1 Liquid assets

1.2 Receivables from banks

1.3 Amounts due from securities financing transactions

1.4 Receivables from clients

1.5 Amounts due secured by mortgage

1.6 Trading operations

1.7 Positive replacement values of derivatives

1.8 Other financial instruments applying the fair-value principle

1.9 Financial assets

1.10 Accrued income and prepaid expenses

1.11 Participations

1.12 Tangible fixed assets

1.13 Intangible assets

1.14 Other assets

1.15 Outstanding share capital

1.16 Total assets

1.16.1 Total subordinated claims

1.16.1.1 of which subject to mandatory conversion and/or debt waiver

2 Liabilities and shareholders' equity

The following liabilities must be disclosed separately in the balance sheet:

2.1 Amounts due to banks

2.2 Liabilities from securities financing transactions

2.3 Liabilities from client deposits

2.4 Liabilities from trading operations

2.5 Negative replacement values of derivatives

2.6 Liabilities arising from other financial instruments with fair-value valuation

2.7 Medium-term notes

2.8 Bonds and loans by central mortgage bond institutions

2.9 Accrued expenses and deferred income

2.10 Other liabilities

2.11 Provisions

2.12 Reserves for general banking risks

2.13 Share capital

2.14 Statutory capital reserves

2.14.1 of which reserves from tax-exempt capital contributions

2.15 Statutory retained earnings

2.16 Voluntary retained earnings

2.17 Own capital shares (negative item)

2.18 Profits/losses brought forward

2.19 Profit/loss (for the period)

2.20 Total liabilities

2.20.1 Total subordinated liabilities

2.20.1.1 of which subject to mandatory conversion and/or debt waiver

3 Off-balance-sheet transactions

3.1 Contingent liabilities

3.2 Irrevocable commitments

3.3 Obligation to pay up shares and make further contributions

3.4 Commitment credits

Other line items material for a bank must also be disclosed in the balance sheet or in the notes.

Figures from the previous year must be disclosed in the balance sheet.

B. Income statement

The following items must be disclosed separately in the income statement in report form:

1 Results from interest activities

1.1 Interest and discount earned

1.2 Interest and dividend income from trading operations

1.3 Interest and dividend income from financial investments

1.4 Interest expenses

1.5 Gross results of interest operations (1.1 + 1.2 + 1.3 - 1.4)

1.6 Changes in value adjustments due to default risk as well as losses from interest operations

1.7 Subtotal net results of interest operations (1.5 -/+ 1.6)

2 Total results from commission and service fee activities

2.1 Commission income from securities trading and investment activities

2.2 Commission income from lending activities

2.3 Commission income from other services

2.4 Commission expenses

2.5 Subtotal results of commissions from business and services (2.1 + 2.2 + 2.3 - 2.4)

3	Result from trading business and the fair value option
4	Other ordinary results
4.1	Results from the sale of financial investments
4.2	Income from participations
4.3	Results from real estate
4.4	Other ordinary income
4.5	Other ordinary expenses
4.6	Subtotal results from other ordinary income (4.1 + 4.2 + 4.3 + 4.4 - 4.5)
5	Operating expenses
5.1	Personnel expenses
5.2	Other operating expenses
5.3	Subtotal operating expenses (5.1 .+ 5.2.)
6	Value adjustments on participations as well as depreciation and amortization of tangible fixed assets and intangible assets
7	Changes to provisions and other value adjustments, and losses
8	Operating result (1.7 + 2.5 + 3 + 4.6 - 5.3 – 6 –/+ 7)
9	Extraordinary income
10	Extraordinary expenses
11	Changes in reserves for general banking risks
12	Taxes
13	Profit/loss (for the period)

Other line items material for a bank must also be disclosed in the income statement or in the notes.

Figures for the previous year for the period concerned must be disclosed in the income statement.

C. Cash flow statement

The cash flow statement must present the reasons for changes in liquidity during the current year on the basis of the inflow and outflow of funds.

The cash flow statement shall include at least the following elements:

– Cash flow from operating activities;

– Cash flow from shareholder's equity transactions;

– Cash flow from transactions related to participations, tangible fixed assets and intangible assets;

– Cash flow from banking operations.

D. Statement of changes in equity

The statement of changes in equity shall present in a table format for the current period the opening and the closing balances, and a reconciliation between them, of each material category of equity; each movement that is material for the assessment of the economic position is to be presented separately.

E. Notes

The Notes must contain the following subsections:

a. The business name or name of the bank, and its legal form and domicile;

b. Accounting and valuation policies:

1. Type of financial statements and where applicable the type of international standards recognized by FINMA, and disclosure of the accounting and valuation policies for the individual balance sheet and off-balance-sheet items;

2. In the case of supplementary true and fair view single-entity financial statements being prepared for the first time: disclosure as to how the previous year's figures were determined or reference to the statutory single-entity financial statements of the previous year;

3. Reasons for changes in the accounting and valuation policies in the current year as well as disclosure and explanations of their effects, i.e. their impact on the hidden reserves;

4. Disclosures as to how transactions are recorded;

5. Disclosures concerning the treatment of past due interest;

6. Disclosures concerning the treatment of translation differences of foreign currencies, the method used for foreign currency translation, and the exchange rates of the most important foreign currencies;

7. Disclosures concerning the treatment of the refinancing of trading positions;

c. Explanations of risk management, in particular on the treatment of interest rate risk, other market risks and credit risks;

d. Explanation of the methods used for identifying default risks and determining the need for value adjustments;

e. Explanations of the valuation of collateral, in particular key criteria for the calculation of the current market value and the lending value;

f. Explanations of the bank's business policy regarding the use of derivative financial instruments, including explanations relating to the use of hedge accounting;

g. Significant events after the balance sheet date;

h. Reasons that led to the premature resignation of the auditors;

i. Information on the balance sheet:

1. Breakdown of securities financing transactions (assets and liabilities),

2. Presentation of collateral for loans / receivables and off-balance-sheet transactions, as well as impaired loans / receivables,

3. Breakdown of trading portfolios and other financial instruments at fair value (assets and liabilities),

4. Presentation of derivative financial instruments (assets and liabilities),

5. Breakdown of financial investments,

6. Presentation of participations (equity interest),

7. Disclosure of companies in which the bank holds permanent direct or indirect significant participations,

8. Presentation of tangible fixed assets,

9. Presentation of intangible assets,

10. Breakdown of other assets and other liabilities,

11. Disclosure of assets pledged or assigned to secure own commitments and of assets under reservation of ownership

12. Disclosure of liabilities relating to own pension schemes, and number and nature of equity

instruments of the bank held by own pension schemes,

13. Disclosures of the economic position of own pension schemes,

14. Presentation of issued structured products,

15. Presentation of bonds outstanding and mandatory convertible bonds,

16. Presentation of value adjustments and provisions, reserves for general banking risks, and changes therein during the current year,

17. Presentation of the bank's capital,

18. Number and value of equity securities or options on equity securities held by all executives and directors and by employees, and disclosures of any employee participation schemes,

19. Disclosure of amounts due from / to related parties,

20. Disclosure of significant holders of participations,

21. Disclosure of treasury shares and composition of equity capital,

22. Disclosures in accordance with the Ordinance against Excessive Compensation in Listed Stock Corporations of 20 November 2013[99] and Article 663c (3) CO[100] for banks whose equity securities are listed,

23. Presentation of the maturity structure of financial instruments,

24. Presentation of assets and liabilities by domestic and foreign origin in accordance with the domicile principle,

25. Breakdown of total assets by country or group of countries (domicile principle),

26. Breakdown of total assets by credit rating of country groups (risk domicile view),

27. Presentation of assets and liabilities broken down by the most significant currencies for the bank or financial group,

j. Information on off-balance sheet transactions:

28. Breakdown and explanations of contingent assets and liabilities,

29. Breakdown of credit commitments,

99 **SR 221.331**
100 **SR 220**

30. Breakdown of fiduciary transactions,

31. Breakdown of assets under management and presentation of their development;

k. Information on the income statement:

32. Breakdown of results from trading and the fair value option,

33. Disclosure of material refinancing income in the item Interest and discount income as well as material negative interests,

34. Breakdown of personnel expenses,

35. Breakdown of general and administrative expenses,

36. Explanations regarding material losses, extraordinary income and expenses, as well as material releases of hidden reserves, reserves for general banking risks, and value adjustments and provisions no longer required,

37. Disclosure of and reasons for revaluations of participations (equity interest) and tangible fixed assets up to acquisition cost at maximum,

38. Presentation of the operating result broken down according to domestic and foreign origin, according to the principle of permanent establishment,

39. Presentation of current and deferred taxes with indication of the tax rate;

40. Disclosures and explanations of the earnings per equity security in the case of banks whose equity securities are listed.

Annex 2: (Article 68)

Amendments of other enactments

The following Ordinances shall be amended as follows:

…[101]

Annex 3[102] (Article 2(2) and (3))

Categorization of Banks

	Criteria and thresholds in billion CHF				
Category	Total assets	Assets under management	Privileged deposits	Minimum capital	required
1	≥ 280	≥ 1625	≥ 32	≥ 20	
2	≥ 115	≥ 815	≥ 21,5	≥ 2	
3	≥ 17	≥ 32,5	≥ 0,53	≥ 0,25	
4	≥ 1,125	≥ 3,25	≥ 0,105	≥ 0,05	
5	< 1,125	< 3,25	< 0,105	< 0,05	

[101] The amendments may be consulted under AS **2014** 1269.

[102] Inserted with Enclosure Section 1 of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

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