

Press release

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FINMA launches consultation on FINMA Insolvency Ordinance

On 9 October 2024, the Swiss Financial Market Supervisory Authority FINMA is launching the consultation on the new Ordinance on Insolvency Proceedings at Financial Institutions, which will replace the FINMA Banking Insolvency Ordinance, the FINMA Insurance Bankruptcy Ordinance and the FINMA Collective Investment Schemes Bankruptcy Ordinance. The provisions of the new ordinance are largely based on these three predecessor ordinances, which are currently still in force. All existing regulations were reviewed, taking into account relevant findings from theory and practice, and adapted where necessary. In addition, the FINMA Insolvency Ordinance implements the amendments made necessary by the revisions to the Banking Act (BA) and the Insurance Supervision Act (ISA). The consultation will go on until 9 December 2024.

FINMA currently regulates insolvency proceedings for banks and other persons subject to banking insolvency law, insurance companies and collective investment schemes in three separate ordinances: the FINMA Banking Insolvency Ordinance of 30 August 2012 (BIO-FINMA), the FINMA Insurance Bankruptcy Ordinance of 17 October 2012 (IBO-FINMA) and the FINMA Collective Investment Schemes Bankruptcy Ordinance of 6 December 2012 (CISBO-FINMA).

Uniform regulation in one decree

The revisions to the BA (insolvency and deposit protection) of 17 December 2021, in force since 1 January 2023, and to the ISA of 18 March 2022, in force since 1 January 2024, concerned their insolvency law provisions, among other things, and thus also necessitate amendments to the BIO-FINMA and the IBO-FINMA. FINMA has taken this as an opportunity to create a new, consolidated FINMA Insolvency Ordinance (InsO-FINMA), which standardises the procedure for all financial market institutions subject to FINMA's restructuring and bankruptcy jurisdiction in a single decree, taking into account their specific characteristics.

The FINMA Insolvency Ordinance aims to standardise the procedural rules as far as possible. With this in mind, the special provisions for individual categories of institution have been kept to the bare minimum and the proven generic structure has been retained. The structure of the ordinance now

reflects the chronological sequence of restructuring and bankruptcy and their order in the law by also placing the restructuring provisions before the bankruptcy provisions at the level of the ordinance. Prior to the consultation, FINMA consulted both the relevant industry associations and recognised experts on the draft ordinance.