



# Annual Report 2018



# 18

## FINMA's mandate

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The Swiss Financial Market Supervisory Authority FINMA is an independent, public law institution. Its legal mandate is to protect creditors, investors and policyholders and ensure the proper functioning of the financial markets. FINMA thus contributes to enhancing the reputation, competitiveness and future sustainability of the Swiss financial centre.

FINMA is mandated to protect individual financial-market clients against unfair business practices and unequal treatment of market participants and to ensure that the financial institutions it supervises remain solvent. By securing the way in which the financial markets function, FINMA safeguards and enhances the stability of the Swiss financial system which in turn contributes to the reputation, competitiveness and future sustainability of Switzerland's financial centre.

FINMA supervises banks, securities dealers, insurance companies, financial-market infrastructures and insurance intermediaries, in addition to products and institutions under the Collective Investment Schemes Act. It licenses companies operating in the sectors it supervises and monitors their permanent compliance with statutory regulations and licensing requirements. FINMA cooperates with foreign regulators; it is responsible for combating money laundering, taking enforcement measures and, where necessary, conducting restructuring and bankruptcy proceedings.

FINMA is also tasked with supervising the disclosure of shareholdings at listed companies, conducting enforcement proceedings, issuing rulings to restore compliance with the law and, where wrongdoing is suspected, filing criminal complaints with the competent criminal authorities. In addition, FINMA supervises public takeover bids under the Financial Market Infrastructure Act (FMIA) and is the body to which appeals against decisions of the Swiss Takeover Board (TOB) may be brought.

Finally, FINMA participates in the legislative process and, where it is authorised to do so, issues its own ordinances. It also publishes circulars detailing the interpretation and application of financial market law and is responsible for the recognition of self-regulatory standards.

# On-site supervisory reviews in figures

On-site supervisory reviews are one of FINMA's key supervisory tools. These reviews provide FINMA with a deeper insight into the institutions it supervises and also encourage an objective and open dialogue with licence holders. This ultimately helps FINMA to identify potential risks. By comparing the results of individual reviews and assessing quantitative and qualitative aspects, FINMA also gains a broader overview of the market as a whole.

FEB.

**p. 30**  
FINMA publishes guidelines on ICOs.

APR.

**p. 61**  
Insurers publicly report SST key figures for the first time.

JUNE

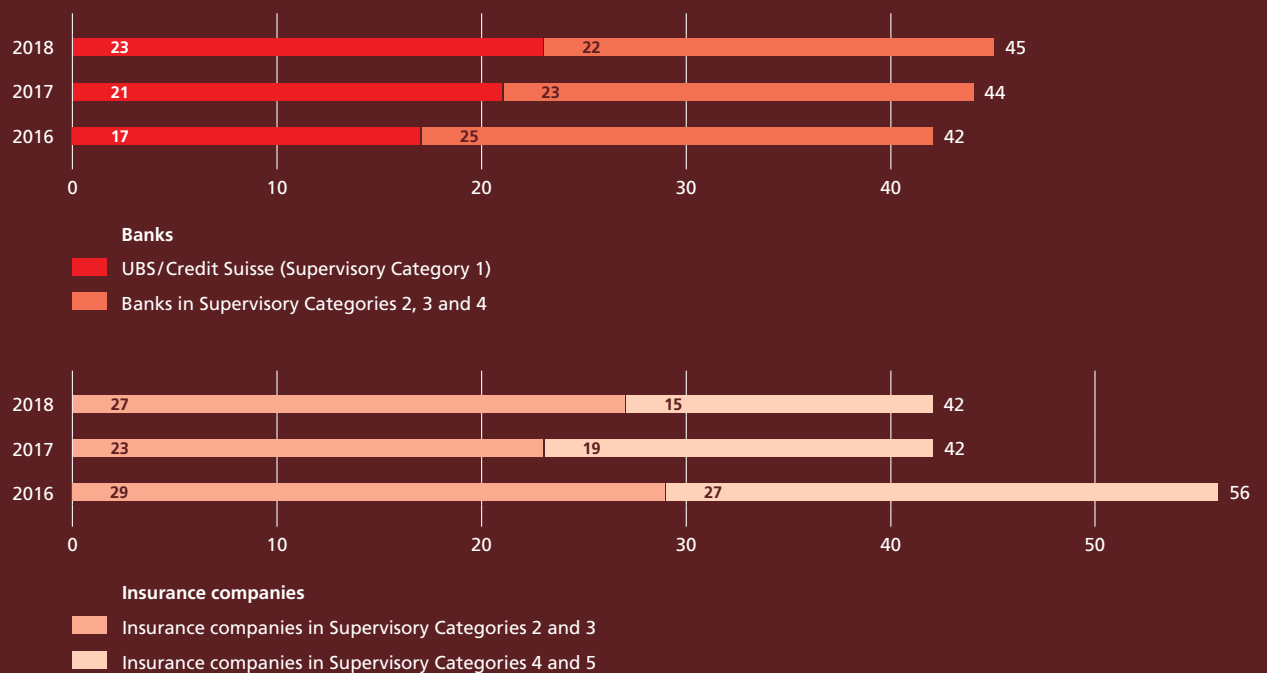


Parliament passes the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA).

**p. 15**  
FINMA takes action against serious shortcomings in corporate governance at Raiffeisen.

**p. 33**  
FINMA decides to strengthen the risk orientation of its regulatory auditing.

## On-site supervisory reviews: banks and insurance companies



In 2018, the Banks division concentrated its on-site supervisory reviews on lending (including mortgages), anti-money laundering, investment banking and operational risks. Supervisory Category 5 institutions were subjected to brief, but intensive, on-site deployments (deep dives), which provided a better overview of specific topics.

Topics targeted by the Insurance division in its on-site supervisory reviews were corporate governance, risk management, outsourcing, technical provisions and tied assets.

JULY

p. 92

FINMA concludes the last of a total of seven 1MDB proceedings.

p. 35

The small banks regime pilot project is launched with 68 institutions.

p. 94

FINMA initiates proceedings against ICO issuer envion AG.

AUG.

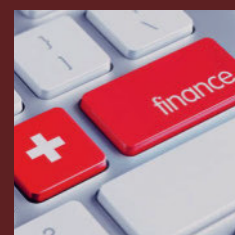
p. 40

A digital platform for efficiently gathering and evaluating external supervisory data is launched.

SEPT.

p. 31

New FinTech regulations enter into force.



At the end of September, Switzerland transmits information on financial accounts for the first time within the context of the automatic exchange of information (AEOI).

p. 17

FINMA identifies deficiencies in Credit Suisse AG's anti-money laundering processes.



## Board of Directors

**Thomas Bauer**  
Chair

Secretariat of the Board of Directors  
**Silvia Kiss**

Internal Audit  
**Nicole Achermann**

## CEO

**Mark Branson**

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**Martin Meier**

Legal Expertise  
**Tobias Weingart**

Supervision of  
Institutions and  
Products  
**Daniel  
Bruggisser**

Authorisation  
**Philip Hinsen**

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Sarah Bienz**

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**Philipp Lüscher**

Proceedings  
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Christoph  
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Division  
Operating Office  
**Marcel  
Walthert**

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Affairs and  
Policy Issues  
**Reto  
Schiltknecht**

Recovery  
and Resolution  
Planning  
**Johanna Preisig**

Restructuring  
and Insolvency  
**Rastko Vrbaski**

Operations  
and Insolvency  
Proceedings  
**Marcel Walthert**

## Robust yet focused supervision – FINMA’s approach to building a stronger financial system

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A decade ago the global financial crisis had a devastating impact on the economy and undermined confidence in the financial markets. Since then, recalibrated regulation and more stringent supervision have enhanced the stability of financial institutions worldwide. It is essential to safeguard these achievements to ensure the Swiss financial market remains secure, stable and competitive.

The financial crisis was an object lesson in the immense economic harm that can flow from unstable financial markets and distressed financial institutions. Over the past decade regulators and supervisory authorities around the world, together with the financial industry itself, have worked hard to make the financial system more stable.

### **Promoting stability and integrity**

The large Swiss financial institutions now have far more robust capital and liquidity buffers than before the crisis. Profitability is solid, even with ultra-low interest rates and new paradigms in cross-border wealth management. It is our mandate to protect this solidity and stability. Supervisors must remain

vigilant to the build-up of new risks, particularly as memories of the crisis gradually fade.

Switzerland has already made great strides towards its objective of mitigating the “too big to fail” problem. However, the large banks still have more work to do in the coming year to finalise credible emergency plans and thus further reduce the risk of taxpayers being called on in a crisis. Meanwhile in the insurance sector, the tried and tested Swiss SST solvency regime has set the right incentives and helped ensure that the insurers are solidly capitalised.

When it comes to combating financial crime, we are seeing signs of a change in attitudes. Banks, for ex-



ample, are increasingly reporting cases of suspected money laundering. Nonetheless, in 2018 we again carried out a number of enforcement actions in connection with global money-laundering scandals. These cases and other widely publicised corporate governance failures underline how misconduct damages the reputation not just of the institutions concerned, but of the financial centre as a whole. As an outside agency, a supervisory authority cannot directly prevent such misconduct at source. This is the responsibility of the institutions' own management. But by closely monitoring risks and control systems and rigorously sanctioning breaches of the regulations, FINMA plays a vital part in promoting compliant business conduct and thus protecting the reputation of the financial centre.

### **Identifying the key risks**

The current economic backdrop remains challenging for financial institutions. The low interest rate environment has been pressurising the profitability of retail banks and insurers for several years now. At the same time the risk of bubbles and market corrections has risen. We are keeping a close eye on the mortgage market, especially the residential buy-to-let market where rising prices in the face of falling rents and rising vacancy rates are a concern. Ongoing monitoring of how institutions are managing this risk is essential. Other areas of concern include technology-driven issues such as the threat of cyberattacks and the risks associated with outsourcing.

### **Ensuring supervision is both efficient and effective**

We gave careful thought last year to the question of how to avoid unnecessary regulatory complexity and how the rules can differentiate more between the risks posed by different institutions. In mid-2018 we launched a pilot scheme to test significant exemptions and regulatory reliefs for particularly solid small

banks. The aim is to cut compliance costs for these banks through less complex requirements without increasing the risks for customers. Meanwhile, the overall quantum of FINMA's regulation again remained virtually unchanged in 2018, as it has over the last four years.

We firmly believe that focused risk-based supervision can be both more effective and more efficient. With this in mind, we approved changes this year to sharpen the focus of regulatory audits on the key risks. FINMA is equally committed to its own internal efficiency. Costs and staff numbers have remained largely steady over the past six years.

### **Open to innovation**

The financial markets are being taken in new directions by digitalisation. One example of this are initial coin offerings (ICOs), which were the focus of much attention last year. By issuing guidelines that set out how ICOs will be treated under existing Swiss financial legislation, FINMA created legal clarity and thus facilitated innovation. Taking prompt action against fraudsters is equally important. Just as in the traditional financial sector, sustained growth will only be achievable in the emerging world of FinTech if everyone involved is committed to safeguarding market integrity through compliant and responsible behaviour.

For any financial market to remain competitive and sustainable in the long run, customers must have confidence in its safety and stability. That is why stringent, credible and independent supervision is critical to the success of a financial centre. The day-to-day commitment of our staff to robust supervision over the last ten years has been indispensable in maintaining a secure, stable and competitive Swiss financial centre.



Dr Thomas Bauer  
Chair



Mark Branson  
CEO

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## SUPERVISION, RESOLUTION, ENFORCEMENT AND REGULATION

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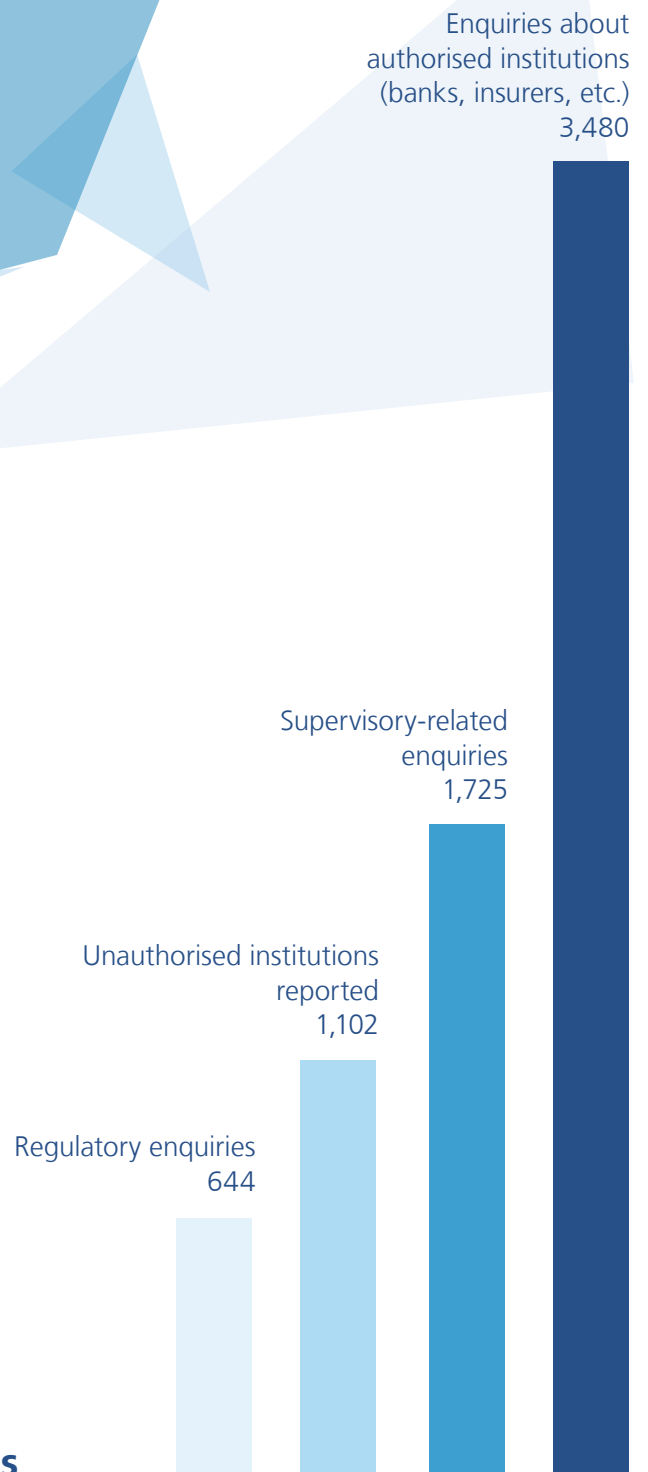
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# Continued wide public interest in FINMA's work

**6,951** enquiries



# FINMA: an overview

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Over 6,000 clients, investors, attorneys and other interested parties contact FINMA by phone or by email every year. The questions they ask are generally about their bank or insurance policies, unauthorised financial-market players, and licensing and regulatory issues. These contacts provide FINMA with valuable information for its supervisory activities and the action it takes against unauthorised providers.

## FINMA's core tasks: enforcement as a means of achieving supervisory goals

FINMA bases its actions on the relevant principles and employs a clearly defined range of tools when implementing financial-market laws. The primary aim is to achieve supervisory objectives and restore compliance with the law.

The first priority of financial-market supervision is to protect creditors, investors and insured persons as well as ensuring the proper functioning of the financial markets (Art. 4 FINMASA). However, supervision in itself does not always demonstrably ensure compliance with financial-market law. FINMA also needs effective tools for enforcement, especially in serious cases. It is vital that FINMA can resort rapidly to the required measures and can enforce these, particularly when investors' interests are affected. The supervisory authority's enforcement activity covers "all of FINMA's investigations, proceedings and measures in relation to violations of supervisory law."<sup>1</sup>

### FINMA's strategy

FINMA is allowed by law to exercise discretion in its enforcement. FINMA has described the key elements of this in the "FINMA enforcement policy".<sup>2</sup> Enforcement is a means of achieving supervisory objectives and – a cornerstone of enforcement – serves to remedy shortcomings, restore compliance with the law and act as a deterrent by imposing sanctions for illegal activities. In undertaking this work, FINMA places particular emphasis on conduct, particularly compliance with supervisory provisions to protect

market integrity and combat money laundering. Enforcement, in conjunction with supervision, thus makes an important contribution to achieving FINMA's strategic goal of having a sustainable positive impact on the conduct of supervised institutions.<sup>3</sup> As such, FINMA has executed many enforcement proceedings in recent years related to compliance with anti-money laundering due diligence requirements. Since 2016 FINMA has conducted seven enforcement proceedings against banks, solely in relation to the global money-laundering scandal connected to the Malaysian sovereign wealth fund 1MDB, the most recent being in 2018. FINMA has also initiated enforcement proceedings against a number of employees allegedly responsible for breaching regulations in relation to 1MDB. Furthermore, there have been proceedings related to the FIFA and Petrobras cases, which FINMA has concluded for the most part. Due in no small measure to these proceedings, FINMA has observed greater consistency among supervised institutions in their money-laundering reporting obligations.<sup>4</sup>

Another important aspect of enforcement at FINMA is targeted action against individuals who are respon-

<sup>1</sup> FINMA webpage under "Enforcement" (<https://www.finma.ch/en/enforcement/all-about-enforcement>).

<sup>2</sup> FINMA enforcement policy (<https://www.finma.ch/en/enforcement/all-about-enforcement/>).

<sup>3</sup> FINMA's strategic goals 2017 to 2020 (<https://www.finma.ch/en/finma/supervisory-objectives/strategy/>).

<sup>4</sup> See also pages 72-75.



sible for seriously violating supervisory law.<sup>5</sup> This has resulted in FINMA placing more industry bans on managers and employees of supervised institutions in recent years. Case law places high demands on enforcement proceedings against individuals. A number of court rulings in 2018 confirmed this.

FINMA's enforcement measures are an important deterrent. However, they are no more effective in directly suppressing or preventing future violations than proactive supervision. The individual institutions are responsible for ensuring correct conduct within their own organisations through their managers and employees.<sup>6</sup>

### **Criteria for opening proceedings**

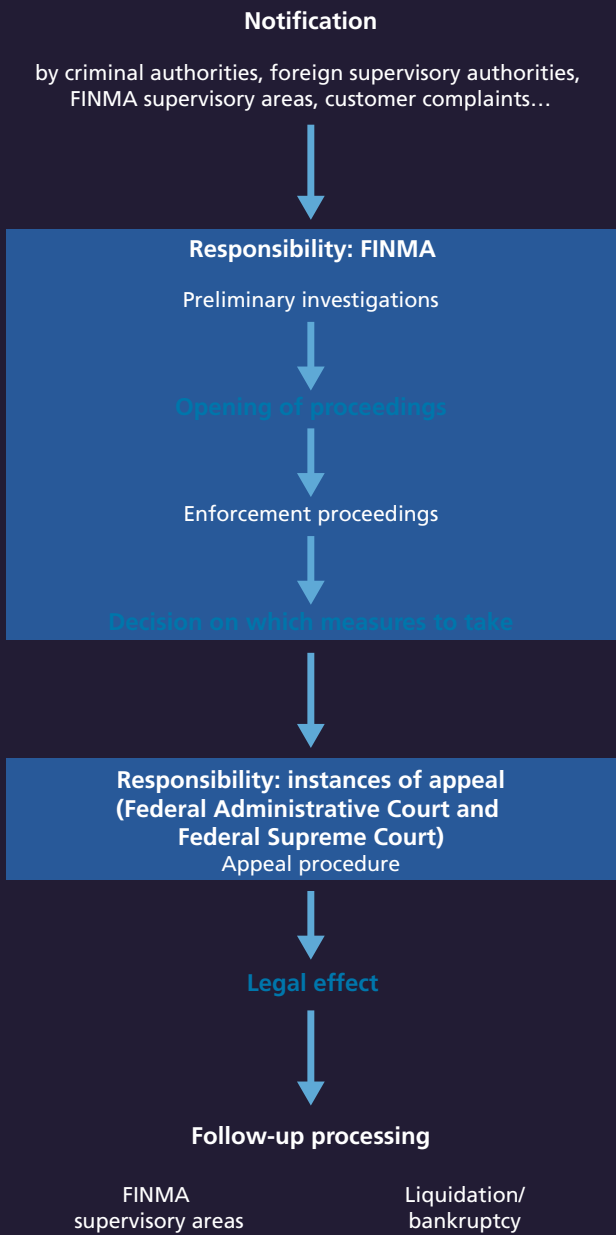
FINMA takes various set criteria into consideration when determining whether a specific matter is to form the basis for enforcement proceedings. The gravity of the identified violations is an important factor. The key to assessing the seriousness of the violation is whether it is systemic and thus indicative of a corresponding organisational failure. The duration of the violation is also relevant: a breach having endured for a number of years is naturally more se-

rious than an issue that was quickly recognised and rectified. The extent to which investors', creditors' and insured persons' interests are endangered is also fundamental. FINMA always assesses the threat from the perspective of general investor or creditor protection, as opposed to enforcement of individual legal claims. In addition, FINMA takes into account the range of hierarchical levels involved and the level of awareness and intentions of the acting (or omitting) persons regarding their illegal activity.

Finally, the question of whether the enforcement measure serves the supervisory interest is always a factor in deciding whether to initiate enforcement proceedings. The restoration of compliance with supervisory law is the priority. However, prudentially supervised institutions often restore legal compliance as part of ongoing supervisory dialogue without having to undergo an enforcement proceeding. As a result, violations of supervisory law identifiable as "serious" may be rectified without resorting to enforcement measures. FINMA also takes other criteria into account when deciding whether to engage in enforcement proceedings, in particular specific and general preventive considerations as well as the over-

<sup>5</sup> FINMA enforcement policy, fourth point.  
<sup>6</sup> See Editorial, pages 6-7.

# The course of enforcement proceedings



arching interests of the Swiss financial centre and the preservation of trust in its functioning capacity, reputation and systemic stability.

### Escalation levels in dealing with irregularities

Should FINMA discover possible breaches of financial-market law in the course of its supervisory activities, it investigates further. The initial contact and response to any potential issue is made by the responsible supervisory division to the supervised institutions. FINMA may involve specialists from other divisions before deciding whether to hand the case over to the Enforcement division for review by the Investigations section. If suspicion of a serious violation of supervisory law substantiates, formal proceedings are commenced by the Proceedings section.

While the preliminary investigations still count as informal administrative and supervisory action, the case is now treated under the Administrative Procedure Act with a ruling in the form of a decree sub-

ject to judicial review and appeal. FINMA decides whether to open and close a procedure through its management committees as opposed to its supervisory divisions. The Enforcement Committee (ENA), a committee of the FINMA Executive Board, is responsible for proceedings against supervised institutions. The Enforcement division also has a management committee to manage cases delegated to it by the ENA, for example the opening and closing of proceedings against financial-market players suspected of engaging in unauthorised activities.

### **The priority is the restoration of compliance with the law**

The mainly preventive objective of Enforcement lies in the catalogue of enforcement measures permitted by law. The main one is the imposition of measures to restore compliance with the law. In accordance with Art. 31 FINMASA, FINMA is obliged to take measures to restore legal compliance where it identifies irregularities or violations of the law involving

supervised institutions. FINMA regularly imposes such measures as part of its enforcement remit. In June 2018, for example, Raiffeisen Switzerland was obliged to implement a range of measures to improve its corporate governance and thus address the identified shortcomings.<sup>7</sup> To achieve its supervisory objectives, FINMA must be in a position to discover shortcomings, initiate specific and sustainable corrective measures and establish legal certainty quickly through its enforcement proceedings.

These measures and other tools available by law for enforcement, for example confiscation (Art. 35 FINMASA) or an industry ban (Art. 33 FINMASA) are purely of an administrative nature as opposed to a punitive measure. They can also entail severe consequences for the institutions or persons in question, however, that is not the primary motivation behind these measures. Enforcement proceedings follow the rules of administrative proceedings and not those of criminal proceedings.<sup>8</sup>

<sup>7</sup> Press release of 14 June 2018 "Raiffeisen: major corporate governance failings" (<https://www.finma.ch/en/news/2018/06/20180614-mm-raiffeisen/>).

<sup>8</sup> See Swiss Supreme Court ruling BGE 142 II 243 (in connection with the industry ban).

### First quarter

#### Publication of ICO guidelines

FINMA sets out how it applies financial-market legislation in handling enquiries from ICO (initial coin offering) organisers in its guidelines published on 16 February 2018. The guidelines also define the minimum information FINMA requires to deal with such enquiries and the principles upon which it will base its responses, thus creating clarity for market participants.

#### Panama Papers proceedings against Gazprombank (Switzerland) Ltd

FINMA identifies serious shortcomings in anti-money laundering processes regarding private clients at Gazprombank (Switzerland) Ltd. The bank failed to carry out adequate economic background clarifications into business relationships and transactions with increased money-laundering risks. FINMA temporarily bans Gazprombank from accepting new private clients.

### Second quarter

#### Continued development of risk-oriented insurance supervision

Organisational changes and adjusted resource allocation enable greater standardisation in monitoring comparable insurers. The capacity for future on-site supervisory reviews and intensive supervision are increased in particular while the overall level of dedicated resources remains unchanged.

#### Public reporting of SST key figures

Insurance companies publish a financial condition report for the first time. The report contains quantitative and qualitative information and, of particular interest, market-consistent solvency figures (Swiss Solvency Test [SST]).

#### Publication of partially revised circular on "Video and online identification"

FINMA amends the due diligence requirements for client onboarding via digital channels to take account of technological developments.

#### Publication of partially revised Anti-Money Laundering Ordinance

The changes are part of an overall package and include measures resulting from the FATF's mutual evaluation report on Switzerland. They also take account of feedback from those involved in the consultation phase and will enter into force on 1 January 2020.

#### Proceedings against Raiffeisen Switzerland

FINMA concluded enforcement proceedings against Raiffeisen Switzerland in mid-June 2018. The proceedings established that the bank had failed to deal adequately with conflicts of interest and its Board of Directors had neglected its duty to oversee the former CEO. FINMA identified a serious violation of supervisory law and decreed measures to improve corporate governance. In addition, FINMA appointed an independent audit agent with the mandate to monitor the implementation and effectiveness of the measures.

#### Strengthening of risk orientation in regulatory auditing

FINMA published the partially revised Auditing circular in June 2018. This strengthens its risk orientation and establishes the basis for improving the cost-benefit ratio for regulatory auditing. The new rules came into effect on 1 January 2019.

### Third quarter

#### Data collection starts via new central survey platform

In autumn 2018 FINMA started to operate a survey and application platform (EHP). The EHP allows data to be exchanged with supervised institutions and audit firms. The new platform is mainly to support the digital execution of supervisory surveys and processes and will increase efficiency at both the supervised institutions and the authority.

#### Conclusion of final 1MDB proceedings

Rothschild Bank AG and its subsidiary Rothschild Trust (Schweiz) AG were in serious breach of Swiss anti-money laundering rules. The violations were related to business relationships and transactions pertaining to the suspected corruption affair related to the Malaysian sovereign wealth fund 1MDB. FINMA thus brought to a close the last of seven enforcement proceedings involving institutions connected to 1MDB.

### **Proceedings against ICO issuers**

FINMA opened enforcement proceedings against envion AG at the end of July 2018. The proceedings focus in particular on possible breaches of banking law resulting from the potentially unauthorised acceptance of public deposits in connection with the ICO for the EVN token.

### **Launch of pilot regime for small banks**

The pilot regime for small banks started in mid-July 2018 with 68 institutions in Supervisory Categories 4 and 5 and is scheduled to last until at least mid-2019. Participants already benefited from extensive exemptions in the areas of liquidity, disclosure and auditing during the reporting year. Additional relaxations will be developed during the pilot phase.

### **Proceedings against Jungfraubahn Holding AG**

In September 2018 FINMA concluded enforcement proceedings against Jungfraubahn Holding AG. FINMA found that the company violated the ban on market manipulation.

### **Proceedings against Credit Suisse AG**

In September 2018 FINMA concluded two enforcement proceedings against Credit Suisse AG. In the first procedure, FINMA identified deficiencies in the bank's adherence to anti-money laundering due diligence obligations. The second procedure related to a significant business relationship between the bank and a politically exposed person (PEP). In this instance, FINMA also identified deficiencies in the anti-money laundering process and, in particular, in the bank's control system and risk management. FINMA imposed measures to further improve the anti-money laundering process and commissioned an independent third party to monitor the implementation and effectiveness of these measures.

## **Fourth quarter**

### **Circular 2018/4 "Pricing of occupational pension funds"**

FINMA revised and simplified its supervisory practice in relation to occupational pension fund pricing. Insurance companies are allowed more freedom in pricing. At the same time, steps have been taken to guarantee equal treatment for insured persons by ensuring that discounts and surcharges are justified on actuarial grounds. The circular entered into force on 1 December 2018; transitional arrangements apply to some changes.

### **Publication of guidance on the possible replacement of LIBOR**

FINMA considers inadequate preparations for the replacement of LIBOR as one of the principal operational risks facing the Swiss financial centre and the affected supervised institutions. A specific guidance document aims to raise awareness among market participants of the risks associated with replacing LIBOR. FINMA has identified three main risk areas within its supervisory remit in connection with the replacement of LIBOR: legal risks, valuation risks and risks in relation to operational readiness.

### **Guidance on the measure adopted by the Federal Council to protect the Swiss exchanges (Plan B)**

On 30 November 2018 the Federal Council passed a new ordinance. According to this ordinance, from 1 January 2019 foreign trading venues where Swiss securities are traded or that admit such securities to trading must first be recognised for supervisory purposes by FINMA. FINMA issued a press release and Guidance (02/2018) at the same time. FINMA has already recognised about 30 non-EU trading venues through a collective ruling with effect from 30 November 2018. Following the EU's decision to temporarily extend stock market equivalence for Swiss trading venues, FINMA published further Guidance (04/2018) and also recognised EU trading venues under the new provision.

Besides fulfilling its annual accountability obligation to the Federal Council, FINMA answered questions from the different parliamentary committees. FINMA reported on the latest developments and challenges in dealing with cryptocurrencies and initial coin offerings (ICOs) at an information event for members of the Federal Assembly.

The main subject of the exchanges with politicians in 2018, besides the duties and level of FINMA's integration in the political structure, was information and challenges relating to digitalisation.

### **Information event for cryptocurrencies and ICOs**

As in past years, FINMA held an information event on a current topic of financial-market supervision for members of the Federal Assembly. Members of the supervisory committees and the expert committees of both councils plus interested authority representatives were invited.

The theme of this year's event was blockchain technology and its applications for the financial market. FINMA experts reported on their activities in response to questions about the new financial-market technologies and findings from processing enquiries, investigations into suspected fraudulent activity and exchanges with authorities within and outside Switzerland. Updates were also provided on the latest market developments, including explanations about the workings of the different applications and their respective supervisory categories. The opportunities and risks of the new technologies were also touched on during the ensuing discussion.

### **Provision of information to parliamentary committees**

FINMA also reported to the parliamentary committees, including the Social Security and Health Committee on agents' commissions for supplementary health insurance; there was also a hearing with the Economic Affairs Committee and submissions were made to the National Council on the review of the Capital Adequacy Ordinance (CAO) in relation to gone concern capital requirements.

### **Annual accountability**

When the FINMA Annual Report is published, the Chairman of the Board of Directors and Chief Executive Officer meet the parliamentary supervisory committees, i.e. the Control Committees (CC) and the Finance Committees (FC) of the Federal Assembly, for a question and answer session.

The annual session with the Federal Council takes place every autumn as stipulated in the Financial Market Supervision Act (FINMASA). FINMA provides an update on its progress in achieving its strategic objectives as approved by the Federal Council; the discussion also covers the strategic direction of FINMA's supervisory activities and contemporary aspects of financial-market policy.

### Duties and political role of FINMA

In 2018 the Control Committee of the Council of States (CC-CS) paid particular attention to FINMA's regulatory role following a supervisory submission. The main allegation was that FINMA had failed to observe the principles of legality and proportionality.

The responsible FDF/EAER subcommittee of the CC-CS also listened to arguments presented by FINMA representatives and the committee subsequently ruled "that the conditions for further investigations by the CC-CS have not been met. The Control Committees of the National Council and Council of States only intervene in entities that are independent by law when there are qualified and concrete indications of the orderly functioning of such entities being under fundamental threat. The committee has come to the conclusion that there are no such indications in this instance: the suspected systematic contravention of the legality principle by FINMA can therefore not be substantiated." The committee added that "FINMA and the FDF have been made aware of the criticisms raised and will endeavour to find solutions".<sup>9</sup>

The Economic Affairs and Taxation Committee of the Council of States (EATC-S) also addressed three motions requesting clarification of FINMA's remit, in par-

ticular with regard to other federal authorities, and heard submissions from the Chair and CEO of FINMA (among others).

The committee subsequently delivered a majority ruling that there was "an unequivocal need for clarification. There is, however, no need for a legal amendment, the Federal Council must promptly resolve the open questions by means of ordinance." The Federal Council is prepared to do that and is in favour of accepting the Landolt motion, whereby the Federal Council must define measures to add clarity to the demarcation of financial-market supervisory roles between the administration and FINMA. The EATC-S recommended that its Council accept the Landolt motion (17.3317) and suspended the other two motions (EATC-N) [17.3976] and Ettlín [18.3612]).<sup>10</sup>

The Landolt motion was approved by the National Council in its 2017 winter session and subsequently by the Council of States in its 2018 winter session.

<sup>9</sup> See Parliament press release of 3 July 2018 "Observance of the principle of legality by FINMA", available at: <https://www.parlament.ch/press-releases/Pages/mm-gpk-s-2018-07-03-02.aspx?lang=1031>.

<sup>10</sup> See Parliament press release of 2 November 2018 "Detailed consultation on procurement completed", available at: <https://www.parlament.ch/press-releases/Pages/2018/mm-wak-s-2018-11-02.aspx?lang=1031>.

## Third parties commissioned by FINMA

FINMA receives support from third parties in all aspects of its supervisory work. It is committed to using these resources effectively and efficiently.

FINMA is a lean organisation by international standards, considering the size of the Swiss financial centre. This is partly due to the fact that FINMA commissions support from third parties in every aspect of its supervisory remit. FINMA appoints audit firms to extend its reach in its supervisory activities. It can also commission mandataries for specific cases relating to aspects of ongoing supervision, enforcement or restructuring and liquidation proceedings.

### **Auditors assume a key role**

The auditors issue an annual risk analysis and audit strategy for their assigned financial institution. FINMA can amend the audit strategy if necessary. There are exceptions in the insurance sector and for directly subordinated financial intermediaries (DSFIs). In both instances, FINMA defines the audit strategy and audit programme. Moreover, the auditor is not required to perform a risk analysis for DSFIs. Audit firms report their findings to FINMA. They must adopt a critical approach and guarantee an objective assessment. To this end, the auditor needs to comply with statutory requirements in terms of organisation and employee education and training, as well as independence. The Federal Audit Oversight Authority (FAOA) issues regulatory auditor authorisations.

The costs incurred by audit firms in conducting regulatory audits are covered directly by the supervised institutions. Audit firms report the fees they invoice to FINMA every year. The average hourly rate for a regulatory audit is CHF 229 and CHF 157 for a financial audit. Audit costs accounted for 46% of the total supervisory costs invoiced by FINMA and audit firms for the Swiss financial market. The extent to which audit firms are used in the Swiss financial market varies considerably from sector to sector. Audit fees account for 58% of banking supervision costs,

compared to 16% in the insurance sector, where FINMA performs most of the supervision. The costs incurred by audit firms in conducting regulatory audits in 2018 (2017 financial year) of CHF 111 million in total were lower than the previous year. The slight increase in the total regulatory audit costs for asset management is due to an increase in the number of audited institutions, including some large new institutions in Supervisory Category 4, which exercise a noticeable influence on the overall result. In the insurance sector, multi-year audit cycles can lead to fluctuations in the overall annual expenditure.

FINMA is committed to Switzerland's dual supervisory system, which comprises FINMA's supervisory work and the audits conducted by audit firms. Following the revision of the FINMA Auditing circular, approved by the Board of Directors in June 2018, regulatory audits now take greater account of risks and adopt a narrower focus. The stronger focus on areas posing heightened risks will reduce the costs of regular audits while maintaining the same level of security. Correspondingly lower costs are expected for regulatory banking audits in 2019 (see page 33).



## Fees charged by audit firms for regulatory audits

Annual fees per supervisory area (in CHF millions) <sup>11</sup>	2018	2017	2016	2015	2014
Asset management	13.2	12.6	12.7	11.8	12.0
Banks and securities dealers	88.0	94.5	93.7	89.8	95.8
Markets	2.1	2.4	1.7	1.9	2.0
Insurance companies	7.7	6.9	7.6	5.5	6.0
<b>Total</b>	<b>111.0</b>	<b>116.4</b>	<b>115.7</b>	<b>109.0</b>	<b>115.8</b>

### FINMA mandataries – an important instrument for specific supervisory and enforcement issues

Mandataries are an important supervisory instrument for FINMA and they can be deployed across the full range of FINMA's activities. As opposed to auditing, mandataries are not usually commissioned for a recurring audit with a predefined audit agenda; instead they are used for specific issues related to supervision and enforcement. FINMA's mandates are as varied as the areas they cover and thus require different types of specialisation. Their costs are borne by the supervised institutions. The following are the five types of mandatary and the areas they operate in:

- audit mandataries: authorised financial intermediaries
- investigating agents: authorised financial intermediaries
- investigating agents: unauthorised activities
- restructuring agents and crisis managers: authorised financial intermediaries
- bankruptcy and liquidation mandataries.

FINMA maintains a list of suitable mandataries whom it can deploy quickly in specific instances.<sup>12</sup> The mandataries listed must have knowledge and experience of similar mandates and have an adequate infrastructure. Where there is no suitable mandatary available, FINMA may commission an expert not on the list. The mandataries must be independent of the supervised institutions. There were 80 mandataries on the FINMA list at the end of the year. FINMA assigned 42 mandates during the reporting year. One mandatary received eight mandates in the form of eight bankruptcy proceedings involving one and the same matter. FINMA monitors the status and completion of mandates at all times and controls the proportionality of the costs borne by the supervised institutions in question. Each assignment given to a FINMA mandatary results in a ruling on the supervised institution or unauthorised financial intermediary. FINMA ensures transparency and the best performance possible of the mandate throughout its assignment process. Costs for FINMA mandataries commissioned in 2018 came to CHF 10.7 million.

<sup>11</sup> The figures for each year (year in which the audit was conducted) apply to audits conducted in the previous financial year. Regulatory audit costs include the basic audit and any additional audits.

<sup>12</sup> The list of mandataries for the various types of mandate is posted on FINMA's website: [www.finma.ch/en/finma/finma-mandataries/](http://www.finma.ch/en/finma/finma-mandataries/).

<sup>13</sup> Invoices received as of 15 February 2019.

<sup>14</sup> Correction to number of mandates granted in 2017.

<sup>15</sup> This exceptionally high fee total is due to several extensive and complex bankruptcy/liquidation proceedings.

### Costs for FINMA mandataries and number of mandates granted

	2018		2017		Total since 2014	
	Fee volume <sup>13</sup> in CHF m	Number of mandates granted	Fee volume in CHF m	Number of mandates granted	Fee volume in CHF m	Number of mandates granted
Auditing of authorised financial intermediaries	2.5	13	1.6	6	20.4	62
Investigations of authorised financial intermediaries	1.8	4	8.2	4 <sup>14</sup>	26	30
Investigations of unauthorised activities	0.6	10	0.4	7	4.3	52
Liquidation proceedings	0.3	2	0.6	0	3.5	25
Bankruptcy/liquidation proceedings	5.5	13	7.1	10	111.3 <sup>15</sup>	63
<b>Total</b>	<b>10.7</b>	<b>42</b>	<b>17.9</b>	<b>27</b>	<b>165.5</b>	<b>232</b>

FINMA interacts regularly with many national institutions and associations. In compliance with the legal framework, FINMA maintains an open and transparent information policy towards supervised institutions, other stakeholder groups and the public.

FINMA interacts with almost one hundred institutions and associations, including the umbrella associations of supervised institutions, supervisory and criminal authorities as well as other authorities and federal offices. Its contacts with business, professional and staff associations, consumer protection organisations and ombudspersons in various supervisory areas are equally important. FINMA actively cultivates dialogue with its stakeholder groups to improve their understanding of supervisory and regulatory issues.

### **Discussions with important stakeholder groups**

FINMA holds annual and semi-annual discussions with key associations of supervised institutions and encourages regular exchanges through theme-specific working groups. The main issues for the Swiss Bankers Association (SBA) were the national implementation of Basel III, the basic parameters of the small banks regime and developments in the real estate market. Discussions with the Swiss Insurance Association (SIA) centred on, for example, intensive debate on developing the SST models for life and health insurance, developing the SST “Market risks” standard model and the pending reform of the Insurance Supervision Act (ISA). Topics of interest for the Swiss Funds & Asset Management Association (SFAMA) covered the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA) plus the introduction of a fund not subject to approval, while there was

an intensive exchange with EXPERTsuisse, the Swiss Expert Association for Audit, Tax and Fiduciary, on the auditing review and small banks regime.

### **Expert panels**

Dialogue with the supervised institutions is encouraged, particularly through subject-specific expert panels comprising high-level representatives of the supervisory and private sectors. The panels enable a direct and open exchange between the parties responsible for making decisions at the supervisory and financial-market level. They discuss specific supervisory and regulatory issues as well as the current market situation. The expert panels have proved their worth in banking (asset management, retail banking, capital markets and private banking). Insurance has similar committees for non-life, life and health insurance. An expert panel was also established for small banks in 2018 due to these positive experiences and the “regime for small banks” project.

### **Symposia and roundtables with market participants**

FINMA also promotes broader-based exchanges on selected topics. For example, there was another symposium on combating money laundering during the reporting year. FINMA also hosted three roundtables on ICOs in cooperation with the non-profit industry association Crypto Valley Association. Interested participants in Zug, Geneva and Lugano raised questions

on the evaluation of ICOs; the discussion also covered token categorisation and the ways in which they are governed by financial-market law. These topical events provide a platform for dialogue on industry developments plus any matters of importance to FINMA and financial-market players. They invariably raise considerable interest.

#### **Dialogue with consumer protection organisations**

In 2018 FINMA again invited stakeholders engaged in consumer protection to a roundtable discussion. Consumer protection organisations, the Health Insurance Ombuds Office, the Private Insurance Ombuds Office, the Swiss accident insurer (Suva) and the price supervisor took part in the debate. Various subjects relating to supplementary health insurance were addressed, for example the 2019 tariff audits by FINMA, customer information concerning withdrawn products and the use of customers' vital data.

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### **Over 6,000 direct enquiries every year**

Every year, well over 6,000 financial-market clients, investors, lawyers and other interested parties contact FINMA. These numerous direct contacts with such a broad range of stakeholders provide FINMA with valuable information, which it applies to its supervisory role in a targeted way.

FINMA fielded 2,000 telephone enquiries and 4,900 written ones during the reporting year concerning licensed institutions, unauthorised financial-market players and queries of a regulatory nature. There were in excess of 3,300 customer enquiries concerning licensed institutions, mainly based on the usual recurring questions about or references to their bank or an insurance policy. In the region of 1,100 enquiries were about unauthorised financial-market players. Every year, these queries prompt FINMA to conduct several hundred in-depth investigations to ascertain whether financial-market players are illegitimately offering financial services that require a licence. Over 1,700 domestic and foreign financial-market players contacted FINMA with questions about authorisations for Switzerland, more than 800 of which were related to FinTech. 650 enquiries were about regulatory issues and were addressed as usual by lawyers or other experts.

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The international bodies were less active in 2018 in terms of standard setting compared to the period following the financial crisis. Nonetheless, international cooperation remains significant to the Swiss financial centre. FINMA therefore represented Swiss interests in many working groups.

FINMA represents Switzerland's interests on a number of international committees in consultation with the State Secretariat for International Financial Matters (SIF). These include the Basel Committee on Banking Supervision (BCBS), the International Association of Insurance Supervisors (IAIS), the International Organization of Securities Commissions (IOSCO) and some of the Financial Stability Board (FSB) groups. These bodies provide a valuable conduit for supervisory authorities to exchange experiences; they also serve to define minimum international standards for financial-market regulation and supervision. The standards underpin minimum international requirements, which promote global financial stability and ensure a level playing field in terms of competition. FINMA advocates proportional solutions permitting implementation appropriate to the Swiss financial sector in keeping with the financial centre strategy of the Federal Council.

### **Financial Stability Board (FSB)**

The FSB is responsible for monitoring global financial stability and coordinates the development of financial-market regulation between the individual standard-setting bodies as a connecting link to the G-20. FINMA works closely on FSB matters with the SIF and

the Swiss National Bank (SNB). The SNB and SIF represent Switzerland in the FSB Plenary – the FSB's decision-making body – and in other working groups. In autumn 2017 FINMA assumed the Chair in the Resolution Steering Group, the central international body for developing and observing the national implementation of effective approaches to the orderly resolution of systemically important financial institutions in a crisis. FINMA also represents Switzerland in the Standing Committee on Supervisory and Regulatory Cooperation and other groups.

In 2018 the FSB mainly dealt with systemic risks in cryptoassets, defining terms in cybersecurity and resilience, climate-related financial information, the effects of financial-market reform on infrastructure investments and non-bank financial intermediation (previously known as shadow banking). Monitoring the national implementation of the standards set following the financial crisis remained a focus of the FSB's activity during the year.

### **Basel Committee on Banking Supervision (BCBS)**

Switzerland is a founding member of the Basel Committee on Banking Supervision (BCBS), which aims

to reinforce the security and reliability of the international banking system. This goal is met by setting standards on banking supervision and regulation, prompt and consistent implementation and the regular exchange of experiences in banking supervision. Switzerland is represented on the main committee by FINMA and the SNB. FINMA is also involved in several subcommittees.

Following the finalisation of the Basel III reform agenda, the implementation of Basel III, assessment of the effectiveness of the reforms, promotion of effective banking supervision and the assessment of emerging risks in the financial area again gained in significance. The BCBS accordingly focused its work for 2018 and 2019 on those areas, which include cyber risks, cryptoassets, proportionality and a possible revision of the regulation of banking exposure to countries.

During the reporting year, FINMA also contributed to work on the regulation of straightforward, transparent and comparable securitisations, the effectiveness of the approved Basel III standards and the finalisation of the necessary amendments to the Basel III market risk rules. The country reviews on the pro-

gress made in implementing the Basel III minimum standards under the Regulatory Consistency Assessment Programme (RCAP) also continued.

#### **International Association of Insurance Supervisors (IAIS)**

The IAIS promotes the effective and internationally uniform supervision of insurance companies to protect insured parties and promote financial stability. FINMA represents Switzerland in various committees and working groups. After a one-and-a-half year break, FINMA regained its seat on the Executive Committee at the start of 2019. This positive development for Switzerland and FINMA as the domestic supervisory entity of large international insurance companies results from a change to the By-Laws in 2018, to which FINMA made a material contribution.

In 2018 the IAIS focused inter alia on financial stability. It again led the annual analysis to determine global systemically important insurers (G-SII). The FSB decided not to publish a new G-SII list in the reporting year. At the same time the IAIS started developing a holistic framework for systemic risk in the insurance sector. The objective is to reduce systemic risks through an activities-based approach (ABA) and

an entity-based approach (EBA). FINMA expressed its preference for an ABA to identify global systemic risks as early as 2016 and it advocates strengthening the corresponding aspects in the holistic framework in the relevant IAIS committees.

#### **International Organization of Securities Commissions (IOSCO)**

IOSCO is involved in investor protection, ensuring fair, efficient and transparent markets, preventing systemic risks, international cooperation and elaborating uniform stock market and securities registration standards. FINMA is a longstanding member of this organisation; as a Board member it made a targeted contribution to various technical tasks of the committee and developed important contacts with other supervisory authorities during the reporting year.

In February 2018 IOSCO published 17 recommendations on liquidity risk management for investment funds in asset management. They are primarily for the fund sector. IOSCO thus implemented a significant share of the FSB recommendations addressed to IOSCO at the start of 2017 regarding structural weaknesses in investment funds. In November 2018 IOSCO

also published the report "IOSCO seeks feedback on proposed framework for assessing leverage in investment funds" for consultation. These recommendations aim to apply certain measures to classify fund leverage in as uniform a way as possible, to better identify those products that pose a risk to financial stability.

IOSCO also began to examine the characteristics and potential risks posed by exchange-traded funds (ETF) in light of their rapid growth. The aim is to determine whether the "Principles for the Regulation of Exchange Traded Funds" published in 2013 needed to be adapted to the current situation.

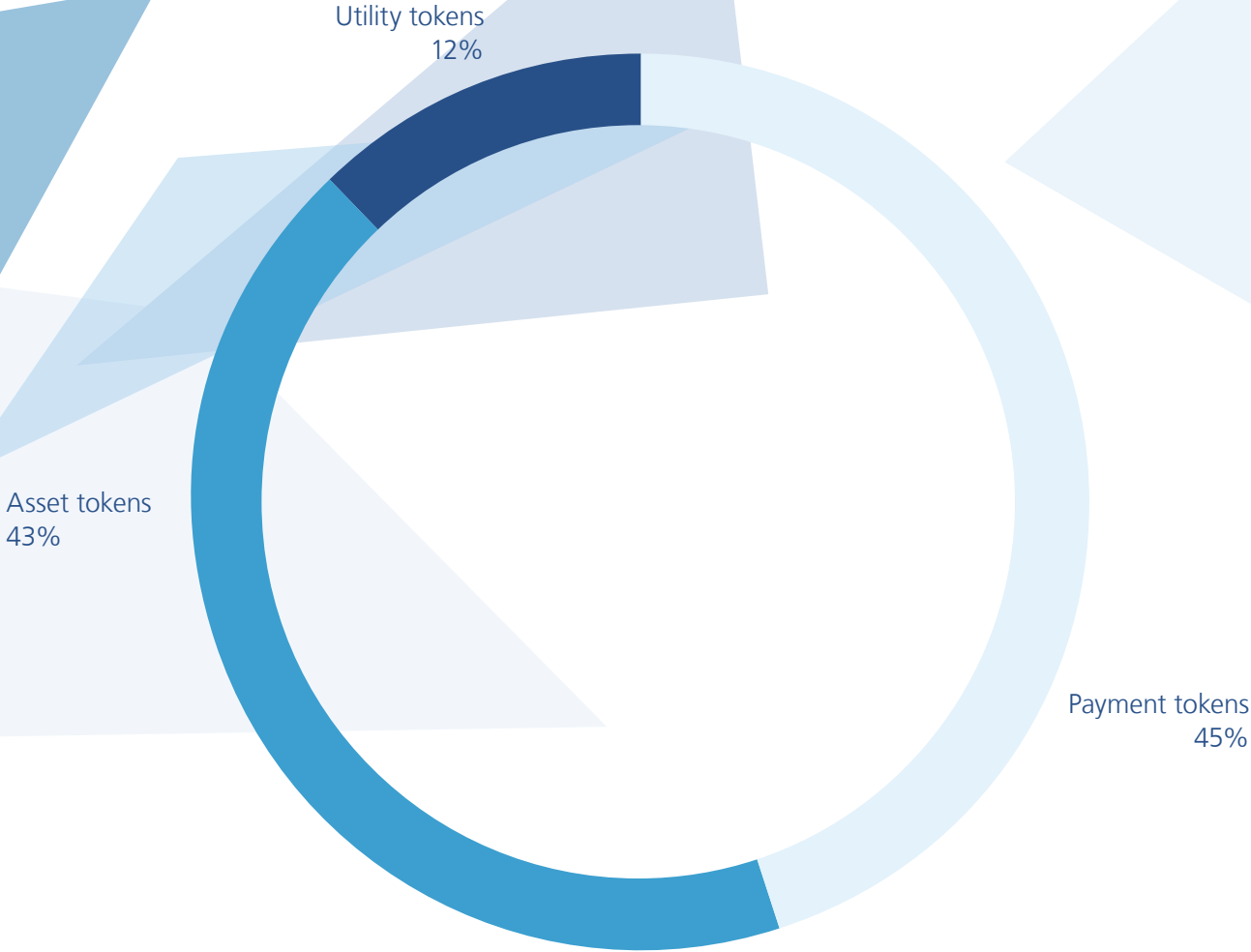
The work concerning the new financial technologies was another focal point and a FinTech network was initiated to enable the regular exchange of information and support IOSCO members. In addition, a "Support Framework on ICOs" was adopted and will be updated on a regular basis. There are also plans for additional work relating to cryptoassets and the cyber task force continued its work on cyberresilience.

### FINMA's international cooperation in figures

FINMA was represented in a total of 67 working groups during the reporting year.

	Number of working groups					
Standard-setting bodies	2018	2017	2016	2015	2014	2013
FSB	14	13	14	16	15	8
BCBS	24	26	27	30	29	24
IAIS	14	16	17	19	25	20
IOSCO	15	14	17	17	19	16
<b>Total</b>	<b>67</b>	<b>69</b>	<b>75</b>	<b>82</b>	<b>88</b>	<b>68</b>

# FINMA processes a large volume of enquiries relating to the regulatory framework for initial coin offerings



**155** queries on the ICO regulatory framework



# Main activities

- 30** Developments in FinTech
- 33** Efficiency and proportionality in banking supervision
- 36** Mortgage market measures
- 38** Digital exchange with FINMA

FINMA received a total of 155 ICO applications in 2018 to be assessed in accordance with the ICO guidelines published on 16 February 2018. In 45% of the cases assessed in the reporting year, FINMA identified a payment token; 43% of the tokens to be assessed were categorised by FINMA as asset tokens. Utility tokens were recognised in just 12% of cases. In addition, 31% of the tokens assessed were found to be hybrid tokens (combining asset and payment tokens).

FINMA received a large number of FinTech queries during the reporting year. The guidelines for initial coin offerings (ICOs) published on 16 February 2018 were very well received on a national and international level.

Blockchain was prominent in 2018. Questions about the issue of blockchain-based tokens, the primary market, dominated the first half of the year, while FINMA received more questions on the secondary trading of blockchain-based products in the second half-year. FINMA also responded to other FinTech queries.

### Questions on initial coin offerings

Switzerland has become a preferred location globally for holding ICOs. An ICO is when investors transfer funds (usually in cryptocurrency form) to the ICO organiser. In return, the investors receive blockchain-based coins or tokens, either created from a new blockchain or a smart contract based on a pre-existing blockchain where they are stored in a decentralised way. There are no specific regulatory requirements for ICOs, however, certain aspects of ICOs do fall under financial-market law. FINMA enables the use of innovative technologies through its interpretation of applicable financial-market law.

At the same time, FINMA makes investors aware of the risks involved in ICOs (see Guidance 04/2017 published on 29 September 2017). Tokens purchased during an ICO can experience high price volatility. Often, ICOs are conducted at an early stage, which results in a number of uncertainties regarding the projects to be funded. FINMA cannot rule out that ICO activities may be fraudulent. FINMA does not tolerate fraudulent or abusive practices or the circumvention of the regulatory framework and it will take action against such conduct where necessary.

As the structure of ICOs varies greatly, the applicable financial-market laws can change in each instance. FINMA defined its minimum information requirements for processing enquiries relating to ICO projects and the principles on which FINMA will respond to them in its guidelines published on

16 February 2018. FINMA organised roundtable discussions in Zug, Geneva and Lugano to present the guidelines to market participants. This created as much transparency as possible regarding the application of the law, enabling interested market participants to organise themselves in a rapid and straightforward manner and resolve most regulatory issues independently. At the request of a market participant, FINMA is prepared to adopt a position vis-à-vis a specific ICO project prior to its inception. FINMA had received a total of 155 (see page 28) detailed queries on the ICO regulatory framework by the end of 2018, most of which were addressed. As set out in its guidelines, FINMA defines three types of tokens: payment, utility and asset tokens:

- Payment tokens (for example cryptocurrencies) are tokens which are intended to be used, now or in the future, as a means of payment for acquiring goods or services or as a means of money or value transfer. The issue of payment tokens is subject to AMLA provisions as a rule.
- FINMA defines utility tokens as tokens intended to provide access digitally to an application or service by means of a blockchain-based infrastructure. The issue of utility tokens does not require supervisory approval if the digital access to an application or service is fully functional at the time the tokens are issued.
- Asset tokens represent assets, such as a debt or equity claim on the issuer. In terms of their economic function, therefore, these tokens are analogous to equities, bonds or derivatives. The self-issue of asset tokens that qualify as securities does not require FINMA approval, but is governed instead by the prospectus requirements of the Code of Obligations (CO).

Hybrid tokens are also possible: a token that simultaneously counts for utility and payment for example.

### Wallet services

Tokens or coins are managed and transferred in the blockchain environment using software applications (wallets). These wallets basically serve as a digital facility available to the user to store or transfer cryptoassets. Every transfer has to be signed using the token owner's private key. There are two types of wallet provider: custody wallet providers and non-custody wallet providers.

Custody wallet providers store and manage clients' private keys and have a direct power of disposal over third-party assets entrusted to them as the holder of the keys and thus provide a payment transaction service. The professional provision of a payment transaction service is governed by the Anti-Money Laundering Act (AMLA). There are also questions of banking law. FINMA's current position is that no banking licence is required if the virtual currencies are stored separately on the blockchain for each customer, and each deposit can be attributed to an individual customer at all times.

Clients of non-custody wallet providers have sole access to their private keys. Non-custody wallet providers thus have neither a legal nor actual power of disposal over the third-party assets. As a result, these providers are not subject to the AMLA as the law currently stands or under international standards.

### Trading platforms in the blockchain environment

If a trading platform aims to deal in asset tokens, in addition to payment and utility tokens, the asset tokens probably qualify as securities as defined in the Financial Market Infrastructure Act (FMIA). Platform securities trading is regulated by the FMIA. A number of current FinTech projects involve establishing

trading platforms enabling securities trading among several users (multilateral trading) without allowing any discretion for the trading venue operator to match supply and demand (non-discretionary trading). According to the FMIA, trading platforms require a licence to operate as an exchange or multilateral trading system to trade in securities in this way. Under the law, only regulated institutions, but not private persons, may be admitted to participate in an exchange or multilateral trading facility (MTF). Organised trading facilities (OTFs), on the other hand, allow discretionary bilateral or multilateral securities trading. OTFs may be operated by banks or securities dealers and, unlike exchanges and MTFs, may also admit private clients.

Supply of and demand for tokens come together on trading platforms, for example in an order book. Centralised trading platforms manage clients' cryptocurrency assets in their own wallets and have access to their private keys. They often hold client funds in a national currency or cryptocurrency over the long term. The funds taken (legal tender and cryptoassets) may, under certain circumstances, qualify as public deposits, which require a licence under the Banking Act (BA) according to supervisory law.

Decentralised trading platforms do not manage wallets for their clients. As a result, they only fall under banking law in certain aspects and only in specific instances, for example through smart contracts with a processing or repayment function. As long as they have power of disposal over the traded assets (for example by being able to release or stop transactions or orders), they are subject to AMLA.

### FinTech licence

On 15 June 2018 the Swiss Parliament approved provisions for the promotion of innovation in the BA

and created an extra licensing category (FinTech licence) for institutions which accept public deposits of up to CHF 100 million without actually engaging in any lending activities, i.e. without investing or paying interest on the deposits. The FinTech licensing conditions were specified by the Federal Council as part of a partial revision of the Banking Ordinance (BO). In contrast to the FinTech licence, the regulation-free space known as the sandbox has been in effect since August 2017. The sandbox exception allows public deposits of up to CHF 1 million without requiring a banking licence, whereby compliance with AMLA provisions and affiliation to a self-regulatory organisation are required.

The aim of the new licence is to facilitate innovative business models. It is therefore in the spirit of this innovative approach for licensing not to be based on a specific type of static business model. The new licence basically applies to all business models that accept public deposits (depending on the structure of the business model, for example payment services provider, depository of cryptocurrencies or crowdfunder), which corresponds to the principle-based Swiss regulatory approach. FINMA published guidelines on its website explaining the requirements of the corresponding licensing applications to speed up processing as much as possible.

## Efficiency and proportionality in banking supervision

FINMA's supervision and regulation have long been guided by the principles of efficiency and proportionality. In recent years it has systematically incorporated the principle of proportionality into its circulars and, particularly for smaller institutions, introduced various exceptions and relaxations.

FINMA is following this approach through the new small banks regime and its streamlined auditing. The aim is to consistently focus its supervisory activities and reduce complexity and expense for the institutions concerned.

### **New auditing orientation**

Regulatory auditing is an important tool in the ongoing monitoring of licence holders. FINMA established a basis for aligning its auditing more closely with the relevant risks and improving the cost-benefit ratio through its revision of the relevant circular.

FINMA is hereby strengthening the risk orientation of regulatory auditing by audit firms. As a result, regulatory audits will not be as extensive as before, focusing instead on detailed audits in higher-risk areas. This will make the audit more effective.

FINMA also stated in its strategic goals that it would keep its supervision costs stable and achieve further efficiency gains. This includes the targeted improvement of the regulatory audit cost-benefit ratio while maintaining the same protection level and with increased cost transparency.

Audit firms make an important contribution to supervising Switzerland's financial market through their work on behalf of FINMA. Even after the revision, the selection and mandating of the regulatory auditor will remain within the competence of the supervised institution.

The revised Circular 2013/3 "Auditing" came into force on 1 January 2019. The changes mainly affect audits of banks and securities dealers, institutions regulated by the Collective Investment Schemes Act (CISA) and financial-market infrastructures.

### **Significance of the risk analysis**

The risk analysis is an important element of the audit and it forms the starting point and basis for defining

the audit strategy. The audit firms continue to assess the inherent risk and control risk in the individual audit areas and fields.

### **Stronger influence on the audit strategy and audits of large supervised institutions**

FINMA is responsible for approving regulatory audit strategies. In future, FINMA will exercise stronger influence on the audit strategies for systemically important supervised institutions (banks in Supervisory Categories 1 and 2) and selected institutions under the CISA in Supervisory Category 4. They are defined through a two-way process between FINMA and the audit firm. The cost estimates for the planned audits submitted by the audit firms provide FINMA with additional information. FINMA influences the risk orientation of regulatory audits in this way.

### **Extending the audit cycles for the basic audit**

Basic audits conducted by audit firms cover individual audit areas and fields in predefined audit cycles. As a result of the audit review, the audit cycles were relaxed for each audit area and field, whereby the regular basic audit is no longer so extensive, favouring a more selective and focused approach instead. By way of example, an audit area or field representing a "medium" net risk will only be audited every six years, as opposed to the previous frequency of every three years. The focus is risk-based, i.e. cycles are lengthened for institutions in those areas where the risks are not regarded as very high.

### **Audits once every two or three years for small supervised institutions**

Audit firms have hitherto performed regulatory audits of supervised institutions annually. This was an undifferentiated standard approach and thus unaffected by the business model or risk situation of the supervised institution. By revising the auditing process, FINMA has enabled supervised institutions to exempt themselves from the annual audit. The re-

duced audit frequency means supervised institutions in Supervisory Category 4 will only undergo an audit once every two years and those in Category 5 once every three years. This applies solely to supervised institutions that are free of high risks and do not have major shortcomings. FINMA makes a decision on the reduction of the frequency on the basis of an application by the supervised institution's executive management.

By reducing the audit frequency, FINMA is observing the proportionality principle. Supervised institutions will benefit from the resulting synergies, as regulatory audits will be pooled and reporting will only take place every two or three years.

#### **Increased flexibility in reaching audit conclusions**

The regulatory audit principles remain lean even after the latest changes. At the same time, there is one major new feature: the increased flexibility regarding the concept of spot checks. This enables the audit firm to have an increased focus on the high-risk elements while performing a random check and still be able to give its verdict on that basis. FINMA also values the fact that the audit sector is further refining the auditing principles (Statement 70 EXPERTsuisse). One major aim is to determine a set of basic principles for establishing the spot check applicable to all audit firms conducting a regulatory audit.

#### **Increased reliance on internal audit**

While the audit firm conducts the regulatory audit, internal audit also conducts its own audit in the interests of adequate corporate governance. Both processes have been strictly separated thus far. By introducing these changes in the circular, FINMA is enabling the audit firm to benefit more from the work done by internal audit. This applies particularly to findings from the risk analysis, a coordination of the audit strategy and for specific actions within the defined audit areas and fields. The outcome will be a better and more efficient coordination between the audit firm and internal audit.

#### **Simplified reporting**

The annual reports submitted by the audit firms include detailed descriptions of processes and control functions for audit areas and fields. By adjusting its reporting requirements, FINMA has made audit firms focus more on irregularities and recommendations. Audit firms will also classify their findings according to clear criteria ("high", "medium", "low"). This allows FINMA to act in a targeted and risk-oriented way, draw conclusions and, where necessary, define supervisory measures.

Moreover, FINMA's new survey platform will enable it to receive supervisory information through digital channels in future. The platform will enable a leaner and more cost-efficient audit reporting process. The survey platform can also be used to submit risk analyses and audit strategies.

### **Small banks regime pilot phase**

The wealth of diversity in Switzerland's banking industry confers several advantages. The accessibility of sophisticated banking services, client proximity and knowledge of regional characteristics add significant value to Switzerland as a business location. Small banks stimulate competition in this environment. Their innovative potential contributes significantly to the further development of the business models. In autumn 2017 FINMA announced that it would reduce unnecessary complexity in its regulation of smaller institutions and relax the existing requirements for particularly healthy small banks. The planned changes are intended to increase the efficiency of regulation and supervision and prevent unnecessary administrative burdens, while at the same time maintaining the current level of stability and safety margins in the sector.

In the first half of 2018 the emphasis was on defining key values, known as the term sheet, in conjunction with the Swiss Bankers Association (SBA) and selected institutional representatives. The term sheet was completed at the end of June 2018 and includes the admittance criteria for participation and the intended simplifications. There is also a simplified leverage ratio in excess of 8%; an average liquidity coverage ratio of over 120% over the past 12 months; a refinancing rate of over 100% and no increased risks, especially for conduct and interest rate change risks. The plan is for small banks in the regime not to have to calculate risk-weighted assets

in future. There are also plans for additional relaxations and simplifications to qualitative requirements for the post-pilot phase.

The project started in mid-July 2018 with 68 institutions from Supervisory Categories 4 and 5 and is scheduled to last until the end of 2019. Participants in the scheme benefited from relaxations in the areas of liquidity, disclosure and auditing during the reporting year. Switzerland is one of the first nations worldwide to conduct such a pilot, which is based on a detailed concept. The transition from a pilot to a permanent regime for small banks requires specific adjustments to the CAO and FINMA circulars. Preparations are under way to make the required changes to the Federal Council's CAO under the direction of the Federal Department of Finance (FDF). The amended regulations are scheduled to come into force on 1 January 2020. FINMA is consistently focusing its supervisory activities and reducing complexity and expense for small banks through the new regime and its streamlined auditing.

The strong vacancy growth in residential investment properties and the sustained high level of construction have increased Swiss real estate market risks. Previous crises have shown that those institutions assuming risk at a late stage in the cycle are the most exposed to an economic downturn.

While the price increase of owner-occupied residential property appears set to stabilise at a high level, the strong market momentum in the investment property market continues unabated. Some regions of Switzerland are currently experiencing major excess supply in the market for rental apartments. By mid-2018 the number of vacancies published by the Federal Statistical Office had reached its highest level since 1999. Once more, the risk has increased over the previous year, due to the continued construction activity and persistent attractiveness of property as an investment. This market development is particularly significant for the banking sector. Insurers, pension funds and other loan providers outside the banking sector only account for a comparatively minor share<sup>16</sup> of the mortgage market (below 6%).

### Investment properties particularly exposed

The mortgage volume held by Swiss banks has doubled over the past 15 years and amounted to CHF 1,044.6 billion at the end of 2018. Institutions with significant mortgage exposure to the investment property sector (which has a higher loan-to-value ratio) would be directly affected by an abrupt fall in prices. The valuation of an investment property depends on the associated returns and the capitalisation rate. The latter moves in line with the interest rate. When the interest rate rises, the capitalisation rate has to be revised upwards, leading to lower property valuations. Vacancies also reduce the value of an investment property due to the lower rental income. A lower valuation increases the loan-to-value ratio of a property. Those properties that already have a relatively high loan-to-value ratio undergo the risk of the bank's internal loan-to-value ratio being fallen below or even the mortgage debt no longer being fully covered by the value of the mortgage. In this context, the development of loans

where credit was provided outside bank guidelines (exception to policy [ETP]) is an important element of risk assessment. The ETP criteria need to be carefully chosen and applied in a stable manner so that the bank's board of directors has a transparent view of the mortgage portfolio's risk exposure that is comparable over time. According to FINMA analyses, most of the ETP financing stems from exceeding bank affordability limits.<sup>17</sup>

Prudent institutions are responding to the heightened risk situation in the investment property segment and reviewing possible countermeasures, for example reducing the loan-to-value ratios,<sup>18</sup> a shorter repayment period, more frequent requests for the table of tenants or regional changes to capitalisation rates. The various risks have to be assessed by segment and region, especially for steering the mortgage portfolio or when critically reviewing estimated values. Affordability risks in the mortgage portfolio need to be closely monitored and the ETP criteria must be aligned to the institution's risk tolerance. Best practice requires that a bank is able to monitor the development of its ETP positions in new and established business for each segment in a standardised form.

### Mortgage risks for banks

FINMA has been paying close attention to developments on the mortgage market for a number of years. Regulatory audit firms periodically assess the mortgage risks held by banks and review lending procedures. Through supervisory on-site reviews, supplemented by occasional stress tests at specific institutions, FINMA has been able to form its own opinion about the practice in mortgage lending among the supervised institutions. In order to better assess the risk of banks in the mortgage-lending market, FINMA took additional steps during the

<sup>16</sup> Mortgage loans outside the banking sector on 31 December 2017: pension funds CHF 16.7bn (source: FSO, pension fund statistics); insurance companies: CHF 39.1bn (source: FINMA, Insurance market report 2017).

<sup>17</sup> Affordability for owner-occupied property is the relationship between the long-term expenditure for the property (and other necessary expenditure unrelated to the property) and long-term disposable income in percent. Affordability for investment properties is derived from the cash flow generated by the property (net rent minus the [ancillary] costs of the property plus financing and repayment costs).

<sup>18</sup> The loan-to-value ratio is a fixed percentage of a mortgage's loan value to determine the permitted loan amount.



reporting year. In particular, it conducted more on-site supervisory reviews lasting several days and shorter deep dives at over twelve banks. Institutions were requested, on the basis of these findings, to initiate improvements in relevant areas including internal directives, criteria for granting loans, regulation of competencies and risk management. Moreover, a survey of residential mortgages was conducted, which covered over 35 institutions. The results show that banks use the room for manoeuvre granted by the SBA<sup>19</sup> in its self-regulatory guidance on residential mortgages to a different extent. In particular regarding the affordability of loans a great variety of practices and criteria could be identified among banks. On the other hand, the more narrowly defined repayment criteria of the SBA guidance result in more standardised behaviour.

FINMA also created its internal technical capacity requirements in order to make standardised evaluations as regards developments in the granting of new mortgages by larger institutions. A further significant measure was a mortgage stress test conducted in the fourth quarter and involving 17 banks. The test was designed to acquire a better understanding of the banks' susceptibility and capacity to absorb increased losses from the mortgage business. The stress test was based on information provided by the banks on the loan-to-value ratios as well as the affordability and maturity profiles of their mortgage portfolios. This snapshot of many banks under the same stress test conditions provided FINMA with an informative and comparative analysis of the asset portfolios and served to identify outliers.<sup>20</sup>

FINMA may demand additional equity capital if it concludes that the minimum capital requirement and capital buffer do not provide adequate protec-

tion given an institution's risk profile. It has already used this measure in a number of instances and it will continue to monitor the situation at further banks. With all the supervisory tools at its disposal, FINMA is thus equipped to respond to entity-specific risk conditions. However, these targeted entity-specific measures are not suitable for mitigating heightened risks in the mortgage market as a whole, or even segments of it. That requires changes to the regulatory framework. Options include, for example, changes to banks' self-regulation, adopting more prudent criteria for residential lending or a revision of the equity capital requirements as set out in the Federal Council's Capital Adequacy Ordinance (CAO) in order to sufficiently account for the increased risk exposure of residential investment property financing. It has to be considered that, overall, the value adjustments for default risks have steadily fallen in recent years. At the end of 2017 the value adjustment ratio for mortgage receivables across banks was just 0.2%.

<sup>19</sup> Guideline for reviewing, assessing and processing mortgage-backed loans (SBA, July 2014).

<sup>20</sup> FINMA will continue to conduct mortgage stress tests for exposed banks as part of its supervisory role.

## Digital exchange with FINMA

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FINMA is digitalising its data exchanges with supervised institutions, audit firms and other supervisory authorities, in addition to its internal work processes. It has set itself the goal of establishing digital cooperation free of media disruptions.

FINMA designs its work processes efficiently and exploits its greater analytical capacity to ensure high data quality to underpin its supervisory activities. It promotes progressive digitalisation at the interface with external partners and supervised institutions as well as in its licensing and supervision or the secure exchange of documents electronically.

### Digital interfaces with FINMA

FINMA operates an information exchange system to process unstructured data in the form of digital documents and structured data through form-based surveys.

FINMA is increasingly using a central portal with associated software applications to exchange structured information with external partners and supervised institutions. The portal is now the central access point. The downstream applications therefore cover different types of information transmission. The portal's flexible architecture ensures FINMA is equipped for future challenges.

### Avoiding media disruptions

FINMA consistently advocates the digitalisation of the information flow. It therefore disseminates information received in digital form electronically in-house to avoid media disruptions. High data quality and comparability are achieved through uniform requirements regarding data content and format. This reduces the internal administrative volume and increases data quality for licensing and supervisory processes.

### Digitalisation within FINMA

FINMA's internal processes are being continuously digitalised. The automation of operational work processes reduces the administrative burden and prevents manual processing errors. Automation and standardisation make information comprehensive and available in mobile form in a consistent and comparable quality. This enables automated evaluation and facilitates decision-making based on solid data. Digital communication, for example video conferences or online meetings, is also conducive to mobile working methods.

### **A broader data basis for rating systems**

Internal systems support FINMA's supervisory areas in setting FINMA's own ratings on the risk situation of supervised institutions and for ongoing supervision. This includes precalculations of quantitative parameters or qualitative aspects, e.g. supervisory conduct. FINMA aims for a high degree of automation in these systems. Rating decisions are not automated and remain the responsibility of FINMA employees. Automation makes the data basis broader and more widely used, resulting in a corresponding rise in rating quality. This makes the data underlying final licensing or supervisory decisions even more reliable.

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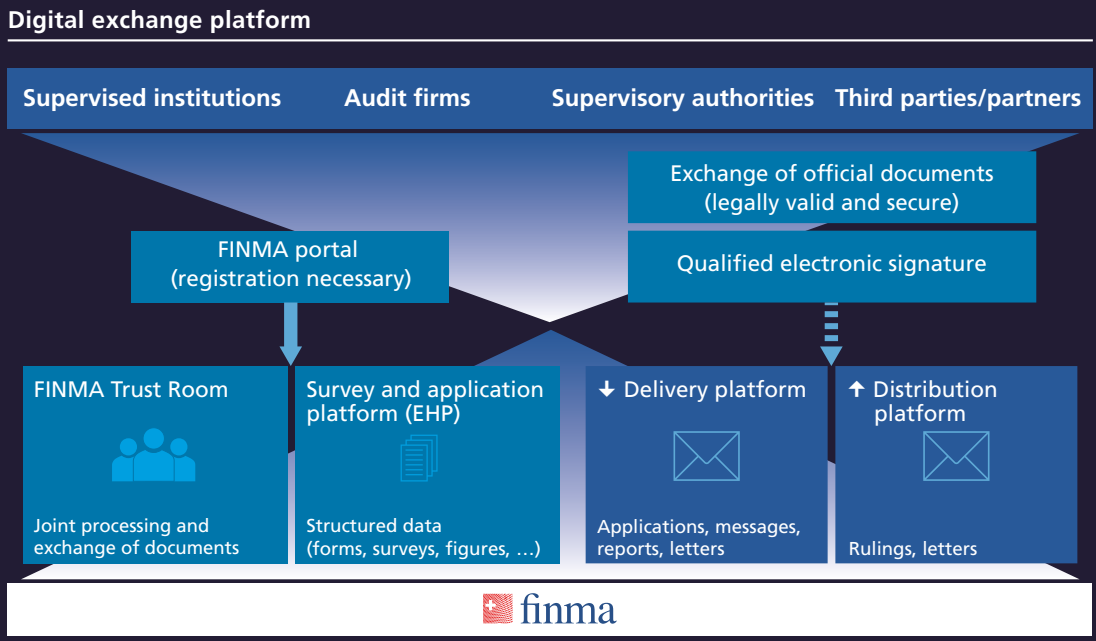
### **Cybersecurity**

To protect its data, FINMA attaches great importance to effective technical security measures and a high security awareness among its employees. All project stages during the development of the FINMA exchange platform were overseen by security experts. In particular, source code analyses and penetration tests were used to identify weaknesses and effectively limit risks right up to the go-live. FINMA supports its employees in their day-to-day work with targeted awareness measures such as training sessions, talks and phishing campaigns.

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# FINMA's digital exchange platform

The delivery and distribution platforms can be used to exchange unstructured data (digital documents) with FINMA and the survey platform to exchange structured data (data formats). The Trust Room provides FINMA, its supervised institutions and external partners with a secure area to distribute or process shared documents.



### Authentication via the FINMA portal

The FINMA portal is available to external users as a central authorisation and access platform. It is the gateway to FINMA software applications. The portal is also designed to administer other software applications.

### Survey and application platform (EHP)

The EHP is designed as an integrated solution to replace all the other data-gathering tools used by FINMA. This enables significant efficiency gains when gathering and evaluating supervisory data, benefiting external partners and supervised institutions as well as FINMA. The EHP will support data gathering for licensing and supervisory purposes following its implementation in the course of 2019.

### Working together in the FINMA Trust Room

The "FINMA Trust Room" collaboration platform is an additional component of the digital cooperation with other supervisory authorities and external partners. Users must log in via a central, protected system to work in the FINMA portal. Once in the portal, they can create, amend and exchange documents with other authorised users.

### **Exchanging documents via the delivery and distribution platforms**

FINMA started operating its delivery platform in 2016 and the distribution platform in 2017. Both platforms enable external partners and supervised institutions to exchange documents with FINMA electronically. The sender needs a qualified electronic signature to send electronic documents that need to be signed. FINMA prefers electronic exchange via these two platforms, although it can also receive and send documents via more conventional channels (post, email).

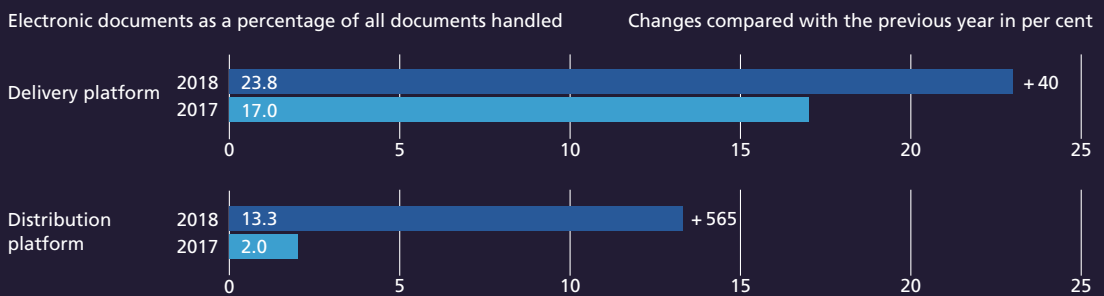
Official documents sent to FINMA normally require a signature. Informal documents, on the other hand, such as data or documents that are too large for email, do not necessarily require a qualified electronic signature.

# Development of user numbers for the FINMA delivery and distribution platforms

Use of the delivery and distribution platforms is subject to seasonal fluctuations. It has become apparent in the case of the distribution platform that the digital process is not yet suitable for bulk communications. And thus FINMA will only be able to make full use of the potential of its exchange platform in the years to come.

Whereas FINMA received around 17.0% of documents in electronic format in 2017, this figure had already risen to 23.8% in the reporting year. The picture is similar for the distribution platform, which was not introduced until autumn 2017: 2% of documents were sent out in electronic format by the end of 2017; this figure went up to 13.3% in 2018. In total, over 8,500 documents reached FINMA in the reporting year, and it sent out almost 12,800 documents.

## Development of the delivery and distribution platforms





# Uninterrupted mortgage market growth





# Supervision, resolution, enforcement and regulation

- 46** Banks and securities dealers
- 58** Insurance companies
- 70** Markets
- 82** Asset management
- 92** Enforcement
- 100** Recovery and resolution

In 2017 the mortgage volume amounted to over a thousand billion for the first time ever. Outstanding mortgage loans continued to grow at this high level in the reporting year. With growth of 3.6%, the volume increased even more rapidly than in the previous three years.

Source: Swiss National Bank

## Overview of banks and securities dealers

The low interest rate policy maintained by the leading central banks once again dominated the banking environment. FINMA is watching the mortgage market very closely, particularly in the residential investment property segment, and taking entity-specific measures in cases with an increased exposure to risk.

At the same time, non-economic risks – for example conduct risks, cyberrisks or shortcomings in supervised institutions' corporate governance – also remain areas of interest. Furthermore, there was progress in the pilot phase of the small banks regime and in the operationalisation of the revised auditing practice.

### **Solid capital adequacy and earnings in a challenging environment**

The capital adequacy of Swiss banks has been at a high level for some years and is central to protecting financial-market clients and the financial system. The margin pressure on interest business for domestically-focused banks endures as interest rates remain low. While results remain stable for now, they often depend on banks releasing provisions, continually expanding their balance sheets or assuming greater risks in their loan business or interest rate risk management. Nonetheless, profitability in retail and, in particular, cantonal banking has remained solid overall. Earnings are tight among the smaller wealth management banks, mainly due to lower provisions and the drop in transaction volumes.

Switzerland's classic locational advantages are no longer enough for profitable long-term growth in wealth management. All Swiss banks will probably need to focus on process optimisation and restructuring

their value chain in an effort to improve their profitability.

### **Combating money laundering and conduct supervision**

The Swiss financial centre has been very exposed because of international corruption scandals in recent years (Petrobras, Odebrecht, 1MDB, Panama Papers, FIFA and PDVSA). As a result, FINMA supervision and enforcement has focused on exercising a sustainably positive influence on the conduct of those institutions that are most affected by such events.

FINMA supervision in 2018 continued to focus on AMLA reporting through a number of on-site supervisory reviews. FINMA also focused its supervision on AMLA risk management, i.e. determining whether institutions are aware of the money-laundering risks to which they are exposed and whether they have adopted suitable measures to address higher-risk business relationships and transactions. In addition, FINMA conducted individual on-site supervisory reviews of Swiss institutions' foreign-based subsidiaries or branches. The main focus was on the Group-wide management of money-laundering risks. FINMA prohibited one bank from conducting private client business following a proceeding stemming from the Panama Papers (see pages 70-75 and 92-99).

The increase in international and foreign sanctions is increasing legal and reputational risks. FINMA will conduct on-site supervisory reviews on this theme in 2019 to determine whether institutions are sufficiently identifying, limiting and controlling these risks.

On-site supervisory reviews were also held to assess compliance with rules of conduct towards clients. One finding resulting from those reviews was that client segmentation is still not implemented consistently across the board based on the financial service offered (wealth management, investment advice and pure transaction execution). In 2019 FINMA will review whether institutions are equipped for the Financial Services Act (FinSA), which will come into force on 1 January 2020.

#### **Implementation of new auditing approach**

One of FINMA's strategic goals is to keep the costs of supervision stable and achieve further efficiency gains. That includes improving the cost-benefit ratio of the regulatory audits. A number of changes have been made to that end (see "Efficiency and proportionality in banking supervision", pages 33-35). The revised Circular 2013/3 "Auditing" came into force on 1 January 2019. Following the completion of the regulatory process in mid-2018, FINMA progressed further with the details and execution in the form of an implementation project in consultation with the

audit firms and supervised institutions. The main new auditing feature for smaller banks is a reduced audit frequency, subject to approval by FINMA in response to an application by the supervised institution's board of directors and provided certain conditions are met. Under the new regime, regulatory on-site audits will only take place every two or three years, enabling those institutions to achieve additional efficiency gains besides those resulting from the small banks regime.

#### **A more focused approach to risk-oriented supervision**

In the second half of 2018, the conditions were also put in place to align supervision more closely with the relevant risks. From 1 January 2019 the new supervisory regime has been applied to banks and securities dealers in Supervisory Category 5 (the smallest institutions). As a result, targeted data analysis and comprehensive supervision will take place centrally for all Supervisory Category 5 banks. Moreover, a data analysis team was added to the supervisory function to evaluate the financial data and information provided by the audit firms on a case-by-case basis for each individual institution. The central supervisory team analyses the data to identify any outliers warranting further attention. This supervisory team also provides the contact persons for Supervisory Category 5 banks and securities deal-

ers. In addition, experts will process and intensively monitor special cases when further investigations reveal a need for additional action. The increased use of data-based tools will make FINMA more efficient and focus resources more on larger or higher-risk institutions in Supervisory Categories 1 to 3, where the emphasis will be on slightly expanding capacity for on-site reviews and adding professionalism through specialist teams. This more closely reflects the regulatory principle of proportionality within FINMA's supervisory role.

# Market developments among banks and securities dealers

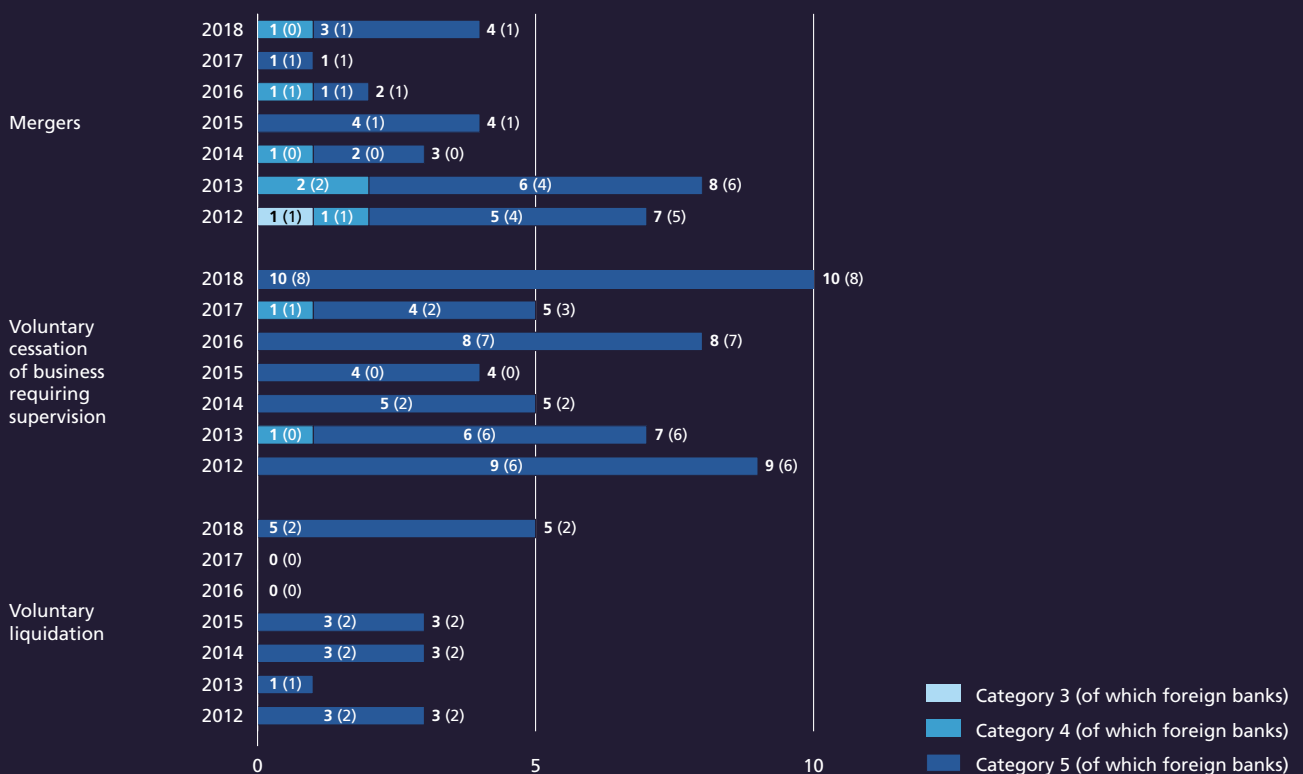
The number of new licences granted to banks and securities dealers, including branches of foreign institutions, remained low.

Cryptocurrencies and blockchain-based technologies brought some movement to the market. Two applications for a banking or securities dealers' licence were submitted in each of these areas, with further projects announced. The number of institutions released from supervision remained high.

## New licences granted since 2012



## Market exits since 2012



## Negative interest rates and interest rate risks

FINMA's view of the high interest rate risks and difficult framework conditions on the money and capital markets is unchanged. It is therefore continuing to pay particular attention to these risks.

The ongoing expansionary monetary policy continued to prevent monetary normalisation, as the interest rate differential to the euro zone is the key instrument to reducing the value of the Swiss franc. While the probability of an additional expansionary monetary policy push remained low, the persistent low interest rate environment caused the prices of capital goods to rise again and affected long-term investment models based on interest rate tools. Nevertheless, political events and inflation trends can lead to future unexpected interest rate increases or reductions with major consequences.

During the reporting year it became apparent that certain banks failed, either partially or entirely, to hedge against interest rate risks on the basis of their expected market interest trend and higher hedging costs. In the event of lasting changes in the interest rate environment, interest risks would materialise and hedging costs would increase further.

### Interest income

The current extremely flat yield curve has three consequences for interest income. The first is negative margins in savings business.<sup>21</sup> Secondly, investing short-term funds in longer-term investments (asset-liability mismatching) is risky due to the possibility of an interest rate rise, which could result in the margin being reduced or turning negative. Finally, the asset

margin for client loans,<sup>22</sup> in addition to fees and commission, is the central source of earnings for traditional banking. Sustained and extremely low interest rates thus reduce the interest income for supervised institutions over the long term and competition in this segment can put pressure on prices.

### Negative interest rates

FINMA has observed that banks are increasingly passing negative interest rates on to institutional and, to a lesser extent, commercial clients. However, they are still less inclined to do so with private clients, although some institutions have reduced the exemption thresholds for high-net-worth individuals. The sustained low interest rate environment could cause banks to pass on negative rates to further client segments – with unknown consequences for client conduct, as client behaviour modelled on a low interest rate environment could alter radically if rates were to change. Moreover, FINMA has observed that banks have further increased the modelled holding period of deposits, thus increasing their exposure to a higher model risk in the event of rapid interest rate increases.

The strong Swiss franc and low interest rates can also trigger the overvaluation of the creditworthiness of small and medium-sized enterprises and hide the full extent of those debtor risks that are not yet evident.

<sup>21</sup> Difference between the customer interest rate and the interest rate for comparable financing on the money and capital markets.

<sup>22</sup> Difference between the customer interest rate and the interest rate for comparable investment on the money and capital markets.

The earnings power and balance sheet quality of banks are thus under pressure from two sides due to the sustained low interest rate environment.

### **Serious consequences**

The consequences for individual banks with a high exposure in their interest rate business combined with relatively poor capitalisation could thus be serious in the event of a change in client conduct. This danger may also extend to larger institutions, entailing systemic consequences for the Swiss financial centre. Market realities, such as the sustained low interest rate environment, may well continue to stand in the way of an increase in interest margins. At the same time, the growing competition within the sector, including from new FinTech companies, places limits on the compensating effect of growth in commission business and services.

### **Adjusted rules for interest rate risks**

In 2016 the Basel Committee conducted a thorough revision of the regulatory standards for banks regarding interest rate risks in the banking book in order to better quantify the long-term consequences of the internationally extraordinary interest rate situation on the earnings position of banks and the risks posed by unexpected market interest rate changes. FINMA adopted these requirements during the reporting year and they came into force at the start of 2019.

They notably include the increased requirements for interest rate risk management by banks, which will enable them to measure and control their interest risks in a more structured way with six instead of two scenarios to determine balance sheet risks, the simulation of changes in interest income and expanded qualitative and quantitative disclosure requirements. The revisions to the regulatory standards and the additional scenarios, together with the revised interest rate risk report, will enable FINMA to make a differentiated valuation of the effects stemming from the most varied interest rate developments.

The Swiss banking industry's risk situation remains multilayered and presents challenges in terms of supervision. FINMA meets these challenges through focused monitoring, extended stress tests and increased on-site supervisory reviews at larger institutions. These activities will continue in 2019.

### **Systematic monitoring of interest rate risk**

As a result of the extensive revision in 2019 of the regulatory requirements for banks regarding interest rate risks in the banking book, interest rate risk management at banks is now governed by extended and new requirements. There are now six instead of two scenarios to determine balance sheet risks and the simulation of changes in interest income. FINMA will continually monitor equity capital sensitivity to interest rate changes. Targeted supervisory consultations with institutions that have attracted FINMA's attention as well as a joint assessment of the risk situation will help to either reduce the current risk profile or implement increased capital requirements to reflect the risk level.

### **Monitoring the mortgage market**

In view of the growing risks in the Swiss real estate market, especially residential investment properties, FINMA is stepping up its supervision of domestically oriented banks with particular exposure in this area. As in the past, FINMA will conduct targeted on-site supervisory reviews, focusing particularly on the development of loans for investment properties. It will also continue to hold stress tests at larger banks. For particularly exposed banks, FINMA will order measures to reduce risks or require an appropriate capital add-on to hedge heightened risk.

### **Money-laundering prevention and conduct supervision**

Preventing money laundering remains a key supervision area. In 2019 FINMA will conduct on-site supervisory reviews, as in 2018, based on the themes of "AML risk management" and "consolidated supervision by Swiss banks of their foreign-based subsidiaries and branches". Other conduct themes of interest include handling legal and reputational risks from international sanctions and preparing institutions for FinSA. There will also be increased emphasis on monitoring the potential danger of circumventing the im-

plementation of the automatic exchange of information relating to taxation.

### **Continued focus on IT security and outsourcing**

IT security, especially dealing with cyber risks, remains a priority for banks and for FINMA's supervisory activities. Supervision in 2019 will centre on the continuation of on-site supervisory reviews as part of direct supervision. FINMA will also look at the planning and execution of scenario analyses to review how banks manage crises caused by cyber threats. Moreover, FINMA will exchange information with other national and international bodies on these issues. The increase in banks' outsourcing operations will be a supervisory focal point in 2019. FINMA will concentrate in particular on on-site supervisory reviews of banks and key service providers, including notably cloud computing.

### **Replacement of LIBOR**

FINMA considers inadequate preparations for the replacement of LIBOR<sup>23</sup> as one of the principal operational risks facing the Swiss financial centre and the affected supervised institutions. A specific guidance document will raise awareness among market participants of the risks associated with replacing LIBOR.

FINMA has identified three main risk areas within its supervisory remit in connection with the replacement of LIBOR: legal risks, valuation risks and risks in relation to operational readiness. Legal risks stem particularly from any necessary amendments to contracts extending beyond the date until which LIBOR is supported. Valuation risks principally comprise the switch from LIBOR to alternative interest rates combined with high derivative and credit volumes. Operational readiness must also be ensured, i.e. systems and processes being ready to guarantee the entire value-added process for all products at alternative reference interest rates.

<sup>23</sup> LIBOR includes all LIBOR interest rates in all currencies and maturities.



FINMA expects supervised institutions to promptly identify, limit and monitor all the risks associated with a potential discontinuation of LIBOR. Furthermore, FINMA will have a stronger risk orientation and will deal with supervised institutions individually from January 2019 to assess the adequacy of these measures.

#### **Risks connected to Brexit**

FINMA sees a no-deal or almost no-deal exit by the United Kingdom from the European Union as posing major risks extending to sections of the local supervised community. The main difficulties would apply to contract continuity, cross-border data transfer and storage, access to central counterparties and capital procurement. FINMA has been following Brexit very closely for some time. Those banks affected by Brexit have already been asked to identify the associated risks for their business plus corresponding risk-minimising measures. FINMA has critically evaluated these contingency plans and it will evaluate the necessity of additional supervisory measures where there is doubt regarding their effectiveness and likelihood of timely implementation.

#### **Corporate governance**

Corporate governance is in need of improvement at some of the larger banks. The main deficiencies identified were in the overall composition of the board of directors and the distribution of powers between the executive management and individual office holders. This raises questions about the organisation required for a bank. FINMA has thus decided to play a more active and systemic role in accompanying the development of management structures at the larger banks in future. Entity-specific supervisory measures will be taken in future to rectify any deficits where necessary.

## Changes in the regulation of banks and securities dealers

The amendments to the FINMA circulars mainly stemmed from the implementation of international standards on banking regulation in the Federal Council's Capital Adequacy Ordinance and the Banking Ordinance.

Adjustments to circulars	Type	Content/subject matter	Aim/reasons	Changes	In force from
<b>FINMA circulars</b>					
2013/3 "Auditing"	Partial revision	Implementing provisions for regulatory audits in accordance with the FINMA Auditing Ordinance.	Improvement of cost-benefit ratio in the regulatory auditing of banks, securities dealers, financial-market infrastructures and supervised institutions under the CISA.	Greater possibility for FINMA to influence the audit strategies for systemically important banks and increased risk orientation for the audit areas to be covered.	1 Jan. 2019
2011/2 "Capital buffer and capital planning – banks"	Partial revision	Adjustment of intervention level concept for reduced capital buffer under the CAO and detailed rules for the extended anti-cyclical buffer as per Art. 44a.	Adjustments to the CAO and BO in the area of banking categories and extent of capital buffer.	Reductions (categorisation and associated capital buffer), amended intervention level concept and detailed rules for the international anti-cyclical buffer.	1 Jan. 2019
2013/1 "Eligible capital – banks"	Partial revision	Adjustment of current regulatory filter to accounting changes.	Changes to the value adjustment methodology as per international accounting standards (IFRS and US GAAP).	Regulatory treatment of value adjustments for expected credit risk losses.	1 Jan. 2019

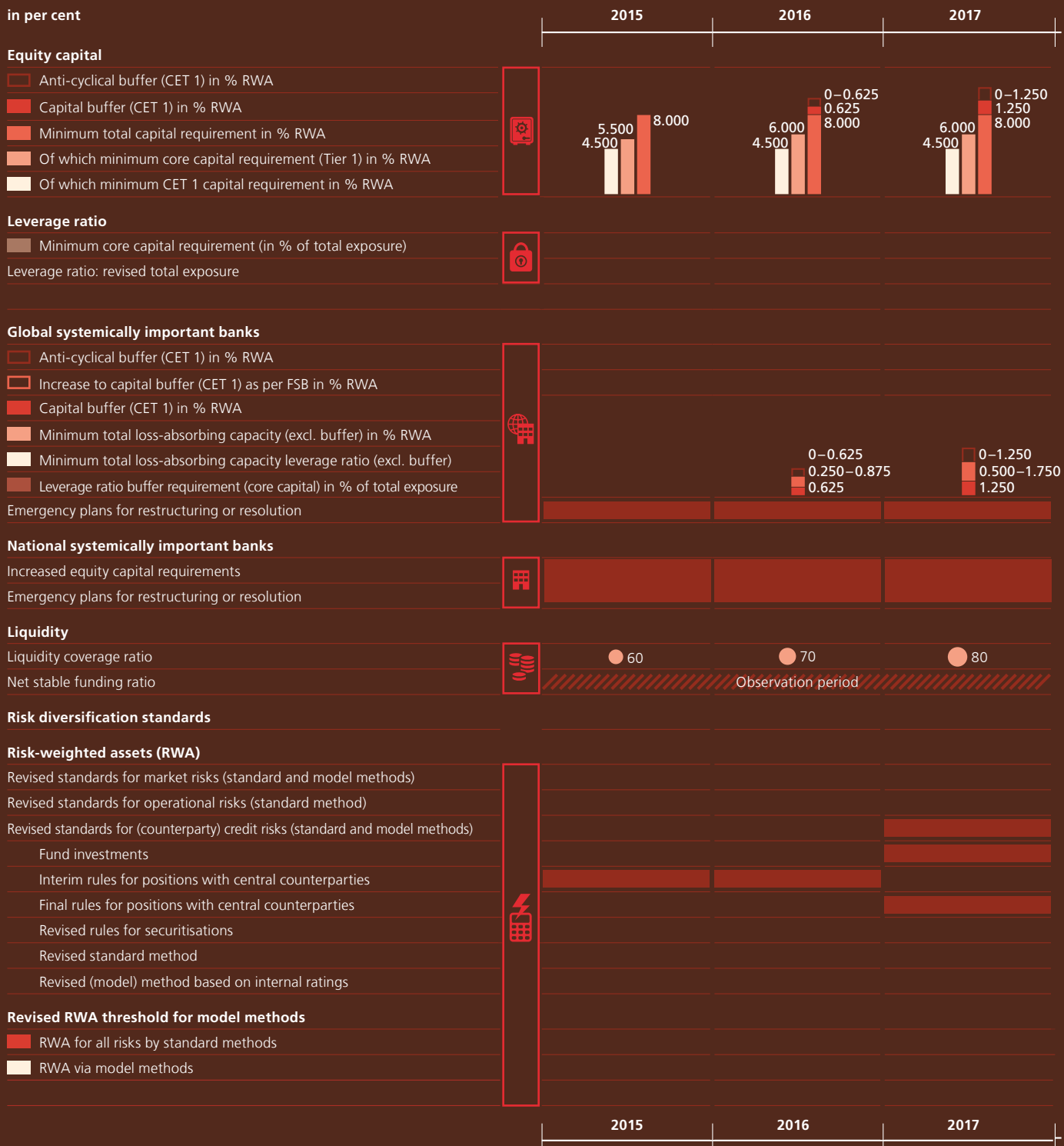
Adjustments to circulars	Type	Content/subject matter	Aim/reasons	Changes	In force from
<b>FINMA circulars</b>					
2015/3 "Leverage ratio – banks"	Partial revision	Alternative method to measure exposure to derivatives in the leverage ratio.	Method to make derivative exposure quantifiable for the leverage ratio, capital ratio and risk distribution with a harmonised method.	Option for banks to apply the standard approach for derivatives (standardised approach for measuring counterparty credit risk exposures [SA-CCR]) including as part of the leverage ratio.	30 June 2018
2016/1 "Disclosure – banks"	Partial revision	Revision of disclosure of eligible capital, required capital, liquidity and interest rate risks.	Adjustment of disclosure requirements to comply with changed regulatory standards, including standardisation for improved comparability.	New disclosures particularly for interest rate risks. Reduction in systematic disclosure requirements according to significance.	1 Jan. 2019 (from reference date 31 Dec. 2018 or 30 June 2019 for interest rate risks)
2017/7 "Credit risks – banks"	Partial revision	New rules for calculating capital adequacy requirements for transactions involving credit risk.	Adjustments to CAO with regard to derivatives and fund investments. Updated Basel III standards for securitisations.	Capital requirement for derivatives/refinement of simplified approach for fund investments/diverse clarifications.	30 June 2018 (derivatives) otherwise 1 Jan. 2019
2019/2 "Interest rate risks – banks"	Full revision	More progressive measurement methods for interest rate risk.	Improvements to interest rate risk management in the banking book.	Modernised interest rate risk management standards under Basel III with simplifications for small banks and <i>de minimis</i> rules for Category 3 institutions.	1 Jan. 2019

## Outlook

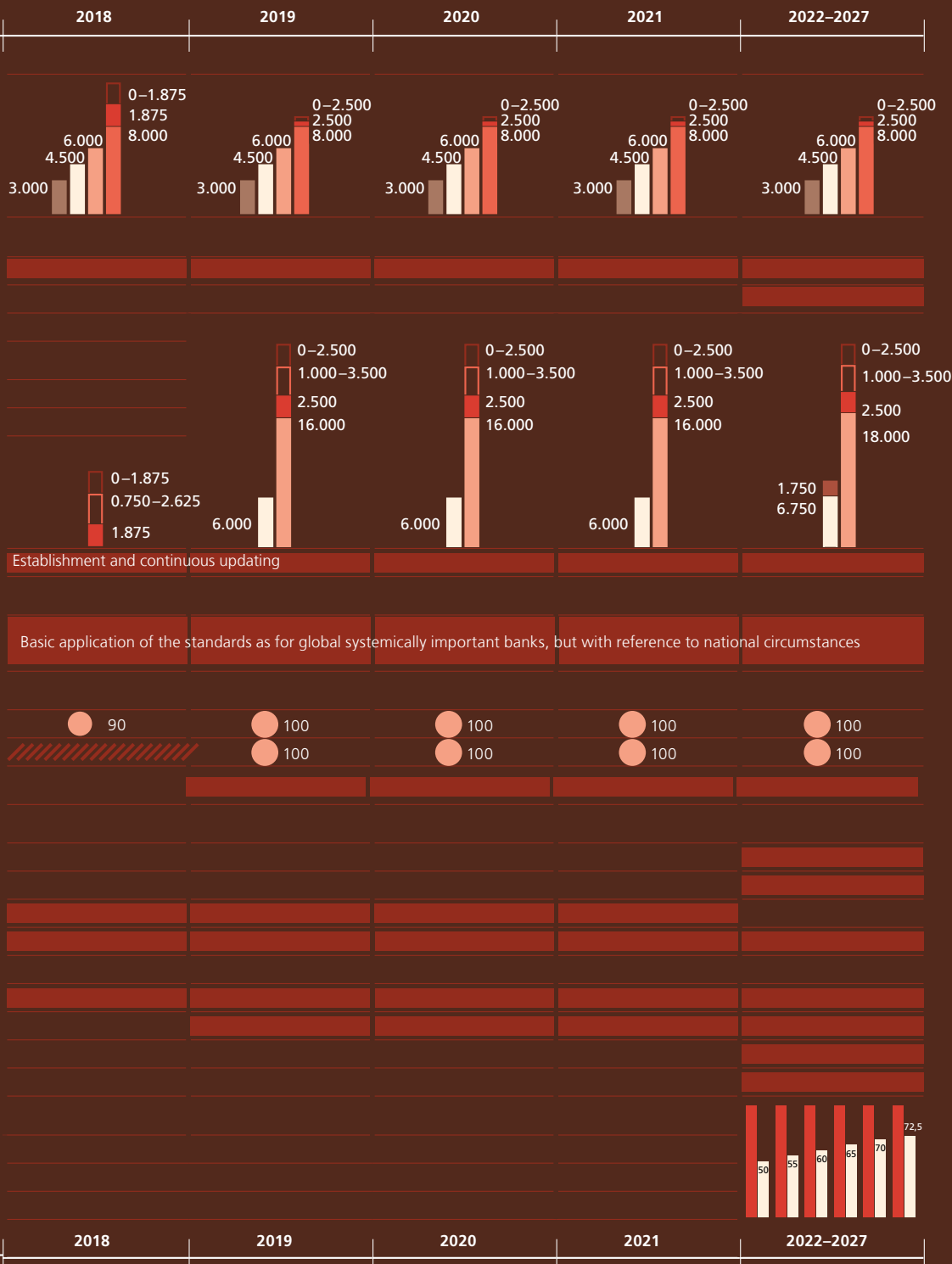
The Basel III reform agenda was completed at the end of 2017. The national implementation of the outstanding Basel III reforms will be led by the FDF and will require changes to the CAO. This will also entail changes to FINMA regulations over the next few years, especially with regard to market, credit and operational risks.

# At a glance: finalisation of the Basel III reform agenda

The Basel III reform agenda was brought to a successful conclusion with the publication of the revised market risk standard at the start of 2019. The Federal Department of Finance (FDF) will lead the last national implementation stage of Basel III, with assistance from FINMA and the SNB plus the institutions themselves.



Following the financial crisis, the Basel Committee published its Basel III framework concept at the end of 2010 with new minimum equity capital and liquidity requirements. The new capital standards came into effect in 2013 with transitional periods spanning several years. There are also stricter requirements for the liquidity standards in the form of a short-term liquidity coverage ratio (LCR), which came into force at the start of 2015, and net stable funding ratio (NSFR), which should have come into effect in 2018 as per the Basel III timetable, but which was delayed due to international developments. The Basel Committee has published more revised standards in recent years: risk diversification in 2014, credit and operational risks at the end of 2017 and finally market risks at the end of 2018. The chart below provides information on the Pillar 1 requirements and when they come into force in agreement with the Basel Committee.



<sup>24</sup> The rules on equity capital, liquidity and risk diversification mainly come under Pillar 1 of Basel III. The supervisory review process comes under Pillar 2; it includes interest rate risks as one of many elements not covered under Pillar 1. Pillar 3 covers banking disclosure rules for important key figures and risk variables.

<sup>25</sup> The LCR shows the volume of highly liquid assets (e.g. highly rated government bonds) relative to the net cash outflow in a predefined stress scenario over 30 days. The LCR must be at least 100%. The NSFR has a one-year time horizon and is designed to achieve a viable maturity structure for assets and liabilities. This promotes resilience among banks over a longer time horizon. It also creates additional incentives for banks to sustainably finance their lending transactions from more stable refinancing sources. The NSFR must be at least 100%.

## Overview of insurance companies

The insurance industry generally relies on very solid solvency ratios, which have improved further over the past two years. At the same time, it continues to struggle with rising healthcare costs, low interest rates and an increasingly difficult market environment.

Fewer products are being offered in the life insurance sector, which has caused a decline in the number of persons with full coverage. Non-life insurers and reinsurers, on the other hand, are facing growing challenges in a partially difficult market environment. Finally, solvency figures as a whole remain stable at a very solid level.

### Higher healthcare costs affect supplementary health insurance

The steady, ongoing rise in healthcare costs from 2% to 4% continued, while the number of supplementary health insurers declined further. Two small providers disappeared from the market after having been acquired by larger health insurers in previous years.

Several new supplementary insurance products no longer offer free choice of doctor and hospital. This is because insurers are looking to use transparency as a means for negotiating with service providers and thereby curbing the trend of rising costs. Several insurers discontinued their supplementary health insurance products in the course of 2018, which means they no longer actively sell them. FINMA is monitoring these situations to ensure that all the affected policyholders are able to switch to an insurance plan that is as similar as possible.

One focus of supervision is monitoring the level of reserves necessary to enable insurance companies to meet their benefit obligations in the long term. The continuing low interest rate environment combined

with rising healthcare costs have put the spotlight on the ageing reserves of supplementary health insurers, some of which will be forced to substantially strengthen their additional reserves to meet their obligations.

Rate audits in supplementary health insurance aim to protect policyholders from harmful practices, such as unequal treatment, excessive profit margins for insurance companies, or illegal cross-subsidies. In the interests of policyholders, FINMA also intervened in various products during the reporting year.

### Persistent low interest rates increase pressure on life insurers

The transparency report on occupational pensions, which FINMA publishes annually in September, contains important information for supervised institutions in the group life insurance sector. It shows a weaker result for 2017 than for the previous year, mainly due to low investment income. The risk result in 2017 remained stable at an attractive level.

In the occupational pensions sector, insurers must have the tariffs underlying their premiums approved. Rate audits and on-site supervisory reviews, however, have identified irregularities in how these rates were applied. For example, FINMA noticed that by using simplifications insurers effectively ignored basic statistical principles recognised in supervision. The revised "Pricing of occupational pension funds" circular, which came into effect on 1 December 2018, lays out the established practice for approving the rates used in occupational pensions. From now on, rate-

based premiums may only be derived from actuarial calculations, and FINMA has become very restrictive in approving any premiums that are statistically unsubstantiated or that cannot be justified.

In individual life insurance, the continuing low interest rates have greatly reduced the practice of offering long-term guarantees with high interest rates. In the market, this means a shift towards capital-light products. This change is taking place rather slowly, both in terms of new product development and sales.

#### **Non-life insurers under greater cost pressure**

Swiss non-life insurers continued to generate stable earnings in 2018. Despite stronger competitive pressure and market saturation, it was possible to increase the premium volume once again, mainly driven by economic growth. As a result of fewer natural hazard events, claims expenditure remained consistent with the long-term average. Swiss non-life insurers again posted high solvency figures.

Increasingly intense competition with lower premium rates, combined with changes in insured risks that were driven by technical changes, have put noticeable cost pressure on non-life insurers during the reporting year. Swiss non-life insurers are therefore looking for different strategies to improve productivity. Some companies have launched extensive cost-cutting programmes, which in some cases are linked to substantial job cuts. Furthermore, the outsourcing of key functions and processes to external service providers is gaining importance throughout

the market, while robotics are now used in isolated cases to automate reporting and administrative processes. In some areas, initial attempts are being made to increase efficiency by means of blockchain technology. While FINMA monitored these developments as part of its ordinary supervisory activities, and in some cases even supported them during the authorisation processes, it did not identify any significant problems relating to compliance with supervisory requirements or to safeguarding policyholders' interests.

#### **Reinsurers in Switzerland feeling the effects of the challenging global market environment**

The extent of insured natural catastrophes increased significantly in the course of 2017 to around USD 140 billion, twice the amount compared with 2016. Most of these losses were caused by a series of hurricanes (Harvey, Irma and Maria) in the USA and the Caribbean in the third quarter of 2017 and led to some improvements in the treaty conditions for reinsurers in 2018, but not to the extent that had been expected. Although these events did not jeopardise the solvency of any reinsurer domiciled in Switzerland, they caused the solvency figures of some companies to fall short of their own targets. In these cases, the companies quickly restored their capital adequacy levels through capital transactions.

Insured losses due to natural disasters amounted to approx. USD 70 billion in 2018, according to preliminary estimates. This is a sharp drop compared with

the record-high values reported in the previous year, but still above the average for the last ten years.

The global reinsurance and wholesale market remains under strong pressure, while consolidation continues. On the one hand, takeovers are intended to generate synergies; on the other hand, reinsurers are striving to improve their own cost base. These developments affect many companies in Switzerland.

The portfolio structure of reinsurers in Switzerland was more volatile in 2018. In addition, changes in the taxation of intra-group reinsurance cover in the wake of tax reforms in the USA caused the premium volume of companies in Switzerland to decline in 2018.

#### **International cooperation intensified in group supervision**

As in 2017, six insurance groups were under FINMA's supervision in 2018: a national one, four international ones and an international insurance conglomerate. On-site supervisory reviews are routinely used in the supervision of groups. For the first time, FINMA also

worked with several foreign supervisory authorities to conduct on-site reviews of Swiss groups. This is in addition to the regular exchange of information with foreign supervisory authorities through supervisory colleges. At FINMA's initiative, four foreign supervisory authorities took part in these on-site supervisory reviews, which lasted several days. Through these on-site reviews, they had the opportunity to take part in the dialogue with supervised institutions in Switzerland. Such joint on-site supervisory reviews conducted under the direction of FINMA help all participants to gain a better understanding of how groups interact with their local entities abroad. Both FINMA and the foreign supervisory authorities consider this type of cooperation to be effective for their supervisory work.

#### **Market-wide field test of the SST model in 2019**

The new market risk model for the Swiss Solvency Test (SST), which had been developed in the previous year for the occupational pension sector, was developed further under the working title "SST Model 2019". It now applies to all other insurance sectors



(except captives). In addition to this, a new standard aggregation model was also developed.

On completion of extensive development work, these new and enhanced standard models were field-tested throughout the market in May 2018. FINMA invited all market participants with the exception of captives to participate in this field test. Of the 114 insurance companies that were invited, 52 took part. The results of the field test met expectations, and the feedback on the calculation tool was mostly positive. These results allowed FINMA to release these new standard models to be used from 2019 onwards.

At the same time and in cooperation with the insurance industry, FINMA developed a new standard

model for health insurance. The primary aim of this development was to obtain a standard model for estimating the long-term liabilities and their associated risks. FINMA tested this model by means of a specific shadow calculation as well as in the field test mentioned above. The latter allowed FINMA to also test the integration of this model into the “SST Model 2019”. The results identified only a minor need for adjustments, and the model could therefore be introduced for the SST 2019.

#### SST figures by insurance sector

In 2018, the required target capital remained relatively stable compared with the previous year, while risk-bearing capital rose slightly in almost all sectors. This positive development was mainly due to favourable market trends in 2017.

#### SST figures by insurance sector

Insurance company	SST 2018		SST 2017	
	SST ratio	Number of insurers with SST ratio below 100%	SST ratio	Number of insurers with SST ratio below 100%
Life insurers	175%	1 (16)	160%	1 (16)
Health insurers	266%	0 (19)	250%	0 (20)
Non-life insurers	221%	2 (53)	225%	0 (53)
Reinsurers	220%	0 (26)	220%	0 (28)
Reinsurance captives	259%	1 (27)	296%	1 (26)
<b>Total</b>	<b>206%</b>	<b>4 (141)</b>	<b>202%</b>	<b>2 (143)</b>

Note: Unlike in previous annual reports, “Reinsurance captives” now includes all captives, regardless of the model used. The number before the brackets refers to the number of companies with an SST ratio below 100%, while the number in brackets refers to the total number of companies. Example: “1 (16)” means that 1 of 16 companies has an SST ratio below 100%.

### **First public disclosure of financial condition**

In 2018, the insurance companies and groups (insurers) released the report on their financial condition for 2017 for the first time. The reports for the 2016 reporting year had to be submitted to FINMA, but they have not yet been published.

In the report, the insurers disclose comparable, consistent and relevant information to the public. In particular, the report now also discloses the solvency

ratios for the current and previous year. In preparing this report, most insurers took into account FINMA's comments on the previous year's report. There were, however, significant differences in the quality of the reports, and some had to be revised and corrected before publication.

## On-site supervisory reviews and intensive supervision

FINMA is boosting its capacity for on-site investigations and interventions at insurance companies and now has a specialised team to ensure that it can respond quickly and professionally.

Risk-based supervision calls for the use of a range of instruments, depending on the insurance company's situation. This requires a high degree of flexibility in the supervisory processes and the ability to act accordingly. On-site supervisory reviews and intensive supervision are essential in this respect.

### Increased capacity for on-site supervisory reviews and intensive supervision

Since April 2018 FINMA has had two specialised supervisory teams that perform on-site reviews and exercise intensive supervision of insurance companies. These interdisciplinary teams consist of auditors, actuaries and insurance specialists with expertise in fields such as information technology, governance and asset management. The aim is an increased flexibility that enables an appropriate response to specific situations as a component of the risk-based supervision process. A standardised procedure ensures that investigations and interventions at insurance companies are managed professionally and uniformly during the on-site review. Such a review usually lasts several days, focuses on particular issues and examines compliance with regulatory requirements. The process involves inspecting documents, conducting interviews and applying the latest auditing techniques for data analysis and random sampling.

### Regular and case-based on-site supervisory reviews for in-depth enquiries

A regular on-site supervisory review aims to investigate thoroughly certain issues. It may be carried out specifically at one insurance company or at various institutions in relation to a particular topic. On-site supervisory reviews involving several insurers have so far focused on issues such as "compliance organisation", "pricing of occupational pension funds", "real estate valuation" and "passive reinsurance". If investigations of particular circumstances are needed, a specific case-based on-site supervisory review is con-

ducted. This kind of supervisory review is carried out at the expense of the insurance company concerned.

### Analysis of the causes as an essential element of case-based on-site supervisory reviews

Case-based on-site supervisory reviews may be triggered by information from annual supervisory reporting, ad hoc notifications from insurance companies, indications from auditors or information originating from regular on-site supervisory reviews. Occasionally, violations of regulatory requirements are merely symptoms of more fundamental problems in how an insurance company is organised. An analysis of the causes is therefore an essential part of any case-based on-site supervisory review. If it detects systematic weaknesses in the insurer's governance or processes, FINMA will consider placing the insurer under intensive supervision.

### Intensive supervision, a tool for restoring compliance

In cases where an increased risk situation or violations of supervisory law could have wide-ranging effects on the operations of an insurance company, FINMA will usually place it under intensive supervision. The company is closely monitored in order to restore compliance. Cases involving intensive supervision or an on-site supervisory review may be escalated to the Enforcement or the Recovery and Resolution divisions.

### Following up on measures taken and inclusion in rating

If the on-site supervisory review or intensive supervision identifies weaknesses or violations, the insurance companies must present appropriate measures and a corresponding implementation plan. FINMA then follows a standardised process to monitor implementation of the measures.

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## Examples of intensive supervision

The following examples illustrate application areas for intensive supervision:

### Tied assets shortfall

A primary insurer repeatedly reports insufficient tied assets within a year due to non-compliance with FINMA Circular 2016/5 “Investment guidelines – insurers”. The subsequent case-based on-site supervisory review detects significant weaknesses in the way the tied assets are managed. In addition, FINMA identifies an inadequate governance structure, an ineffective compliance organisation and a lack of control over the functions the company has outsourced. The organisation must therefore submit a detailed plan of measures it intends to take. The implementation of these measures is then monitored closely over a period of several months through intensive supervision. The company submits monthly reports on its tied assets to FINMA until all measures have been fully implemented.

Aim of intervention: to restore sufficient tied assets and adjust governance and compliance structures in order to prevent deficient coverage in the future.

### Run-off plan not complied with

An insurance company with an insurance portfolio in run-off must follow the run-off plan that FINMA has approved. Because of a change in reinsurance cover that is not part of the run-off plan, the company no longer meets the SST solvency requirements. It is therefore put under intensive supervision until compliance with regulations has been restored and the run-off plan is again being followed.

Aim of intervention: to ensure that the solvency requirements are met throughout the entire duration of the run-off.

### Deficiencies in corporate governance and risk management

FINMA discovers that an insurance company’s statutory capital has fallen below the minimum. The subsequent on-site supervisory review identifies considerable weaknesses in the company’s corporate governance, risk management and financial management. The company is therefore put under intensive supervision, which means it must submit a detailed plan of measures to remedy the situation and file monthly status reports to FINMA.

Aim of intervention: to eliminate the weaknesses in corporate governance and risk management.

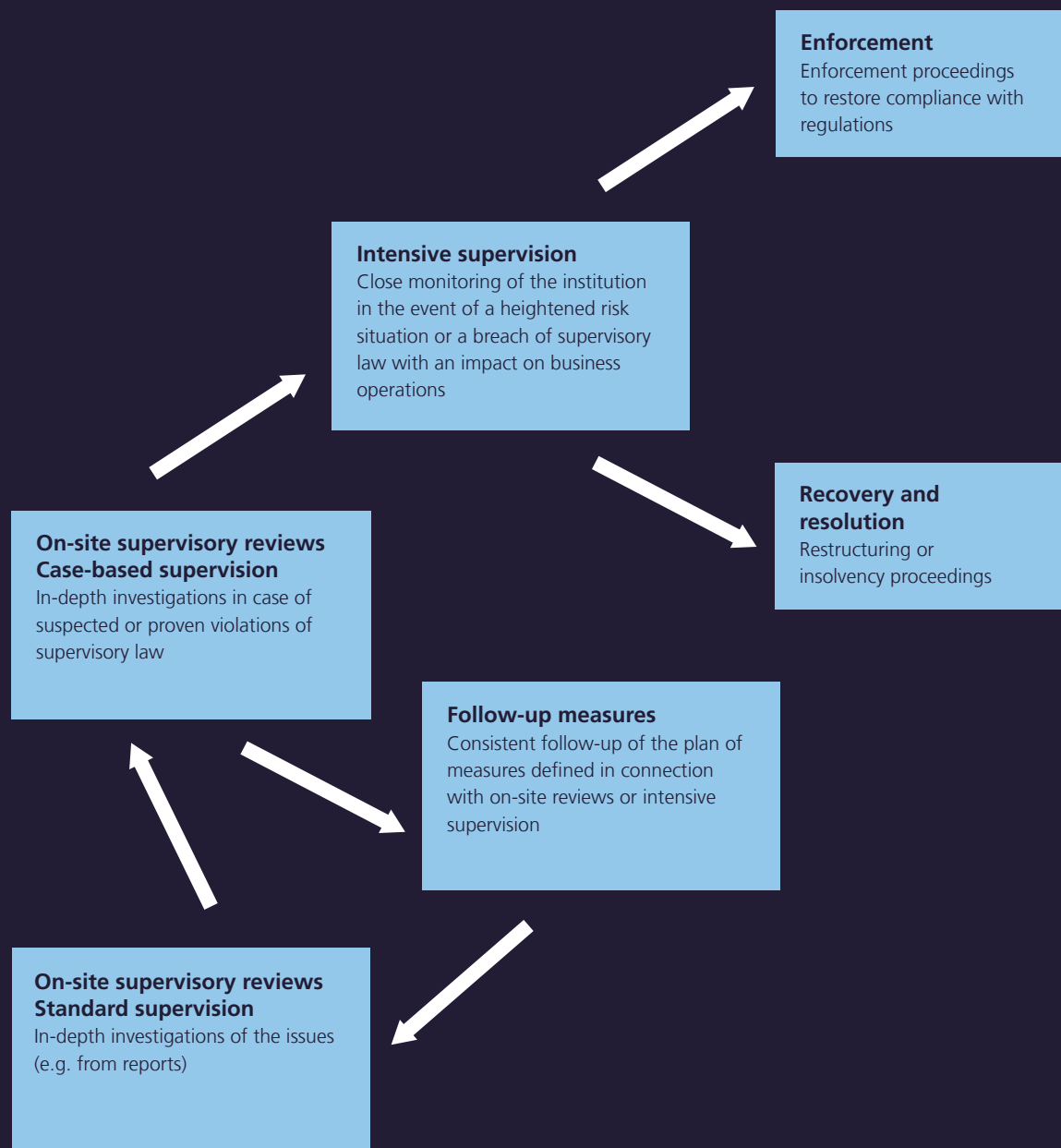
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The findings from on-site supervisory reviews or intensive supervision are incorporated into the FINMA rating of the insurance company, a key parameter of risk-based supervision that determines, among other things, the intensity with which supervisory instruments are to be applied in future.

# Escalation during risk-based supervision using the example of on-site reviews and intensive supervision

The need for supervisory tools can become apparent in the course of regular supervision, for example, or during on-site supervisory reviews. The measures range from intensive supervision, enforcement and resolution proceedings through to the liquidation or bankruptcy of an insurance company. Continual monitoring of the ordered measures is also key.

**Escalation during risk-based supervision using the example of on-site reviews and intensive supervision** (schematic representation)



In 2019 insurance supervision will pursue objectives in the area of operational risks and full implementation of the SST standard models. Another important aspect will be the focus on consistently proportional and risk-oriented supervision.

Supervisory activities must be consistently proportional and risk-oriented and will continue to focus on the SST and the full implementation of FINMA's new and revised standard models. Material reviews of internal models that have undergone a summary review will also be a priority, and there will be an increasing number of on-site supervisory reviews, with a strong focus on how reserves and operational risks are managed and an especially close look at cyber-risks.

**Full implementation of new standard models**

In recent years and in the context of the SST, FINMA focused on developing new standard models and revising existing ones. New standard models were developed for life insurance, market risks and aggregation, while the standard model for health insurers was revised. FINMA also introduced the new authorisation process for the use of internal models, and it will continue to work on fully implementing the standard models in 2019. The new standard models largely dispense with scenarios, i.e. hypothetical events that occur within the space of a year and that could negatively affect the insurance company. To partially compensate for the discontinuation of the scenarios, FINMA plans to develop a concept for stress tests. It will also carry out on-site material reviews of the internal models it has approved for use during the summary review.

**On-site supervisory reviews with stronger emphasis on operational risks**

FINMA successfully set up two teams for managing on-site reviews and intensive supervision. It will focus more strongly on increased operational risks in the future. In this context, FINMA is analysing the risks of a hard Brexit for the affected insurance companies. It will also pay close attention to cyberrisks and the replacement of LIBOR. At the same time and with the help of the new organisational structure, it will introduce instruments and processes to ensure a more consistent, proportional and risk-oriented approach to supervision.

## Changes in insurance regulation

In life insurance, FINMA streamlined the contents of two circulars, edited them based on the relevant principles and combined them in its “Pricing of occupational pension funds” circular. The main changes concern the restrictions on experience-based pricing and the use of discounts.

Adjustments to circulars	Type	Content/subject matter	Aim/reasons	Changes	In force from
<b>FINMA circulars</b>					
2018/4 “Pricing of occupational pension funds”	Two existing circulars merged into a new one.	Pricing of occupational pensions.	The contents of the previous Circulars 2008/12 “Revolving door principle – occupational pension funds” and 2008/13 “Pricing risk insurance – occupational pension funds” were streamlined, reduced to the essential elements and consistently edited based on the respective principles and risks. The supervisory practice has been revised and simplified. Since the previous circulars concern the same subjects, they have been merged into the new Circular 2018/4 “Pricing of occupational pension funds”.	The main changes concern firstly the removal of restrictions, i.e. the relationship between the highest and lowest premiums in experience-based pricing. Secondly, discounts should be applied only if they are actuarially justified. This means taking a similar approach as in supplementary health insurance, which is based on the same regulatory principles. The changes affect the technical premium, which is characterised solely by features that are actuarially justified. Moreover, the overall scope of the options for pricing was significantly expanded.	1 Dec. 2018

### Outlook

On 14 November 2018 the Federal Council initiated the consultation on a partial revision of the Insurance Supervision Act (ISA) with a deadline of 28 February 2019. FINMA contributed its expertise to working groups as part of the preparations. The matter is the responsibility of the State Secretariat for International Financial Matters (SIF) within the FDF.

The Insurance Contract Act (ICA) is undergoing a partial revision. Under the direction of the FDF, a working group made up of industry representatives and representatives of the Foundation for Consumer Protection, the Swiss Insurance Association, the Federal Office of Justice and FINMA worked on the draft of the revised law. FINMA drew attention particularly to the importance of protecting insured persons. The partially revised ICA has been the subject of parliamentary debate since the first quarter of 2018. It could come into effect in 2020.

## At a glance: standard models as the first choice for determining solvency

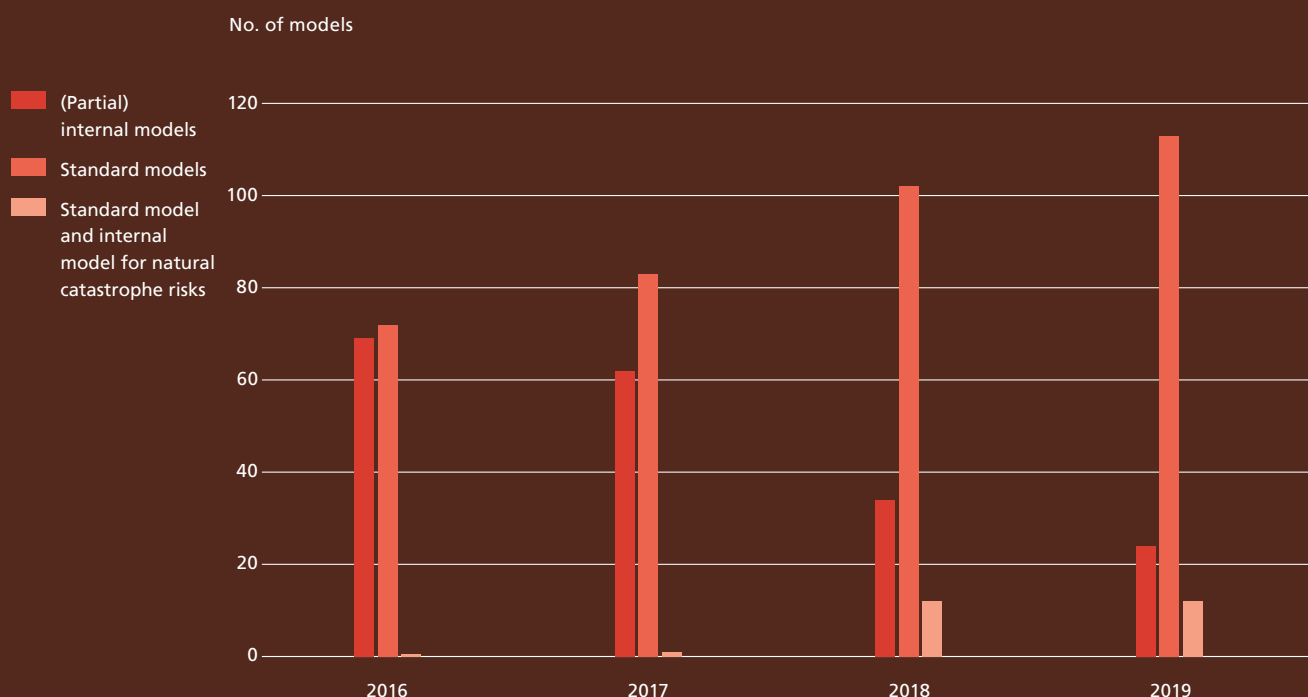
Following the Insurance Supervision Ordinance (ISO) revision of 2015, internal models for determining solvency can be used only if none of FINMA’s standard models sufficiently reflects the insurance company’s risk situation.

FINMA has revised and newly documented the existing standard models and developed new ones for some sectors. Furthermore, it has redesigned the approval process for internal models. Most insurance companies have already completed the process of clarifying whether a standard model or an internal model is to be used.

### Switching from internal model to standard model

As a rule, an internal model is suitable only for insurers that underwrite international business or have to map complex dependencies within a group. This is mostly the case with larger, international reinsurers. In particular, FINMA does not provide a standard model for claims arising from natural catastrophes that are not covered by the Swiss natural disasters pool. An insurance company seeking to apply an internal model must first demonstrate that there is a need for this. Insurers made particular use of this step in the approval process (proof of need) in 2016 and 2017. Of the 41 cases submitted so far in which insurers demonstrated a need, 32 have been confirmed by FINMA.

### Internal models vs. standard models, 2016-2019

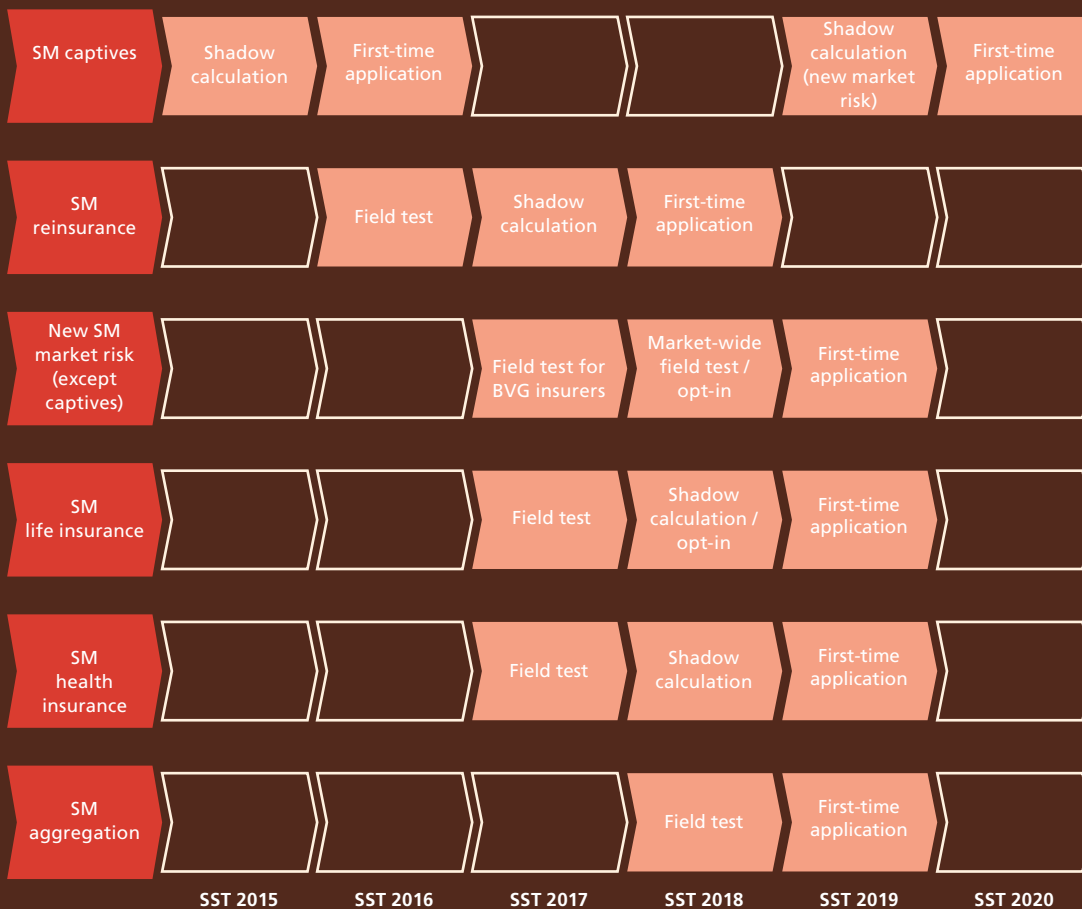




### Introduction of new standard models or revision of existing ones

The introduction of a new standard model is preceded by extensive preparatory work. It usually takes around three years to analyse and evaluate the results of a field test, test a fully specified version of the model by means of a shadow calculation and finally apply the standard model for the first time during the SST.

### Introduction of new standard models ("SM") or revision of existing ones between the years 2015 and 2020



FINMA's market supervisory activities in 2018 focused on the cost transparency of structured products, continued work on forming value adjustments for default risks and the introduction of the derivatives clearing requirement for certain standardised over-the-counter (OTC) interest-rate derivatives. Furthermore, an international evaluation confirmed the quality of the Swiss supervisory system via its financial market infrastructures.

FINMA's supervisory remit extends to financial-market infrastructures (FMIs), directly supervised financial intermediaries (DSFIs) in the parabanking sector and self-regulatory organisations (SROs) established under the Anti-Money Laundering Act (AMLA). FINMA has set up central centres of competence for combating money laundering, observing rules of conduct vis-à-vis investment clients (suitability), derivatives trading and trading facilities, rating agencies, auditing and financial accounting. These centres of competence coordinate supervision across the different supervisory areas.

In performing on-site supervisory reviews, FINMA is focusing increasingly on comparing the results of subject-based reviews carried out at multiple institutions. One of the main issues addressed when performing suitability reviews at banks and securities dealers was the cost transparency of structured products. There is a risk with this asset class that the product will incur costs that are not disclosed transparently to end investors. A high level of transparency is required for actively managed certificates (AMCs), in particular. In accordance with the product specifications, the underlying assets are managed at the complete discretion of the asset manager and it is often the case that recurring fees are charged in addition to the one-off product issuance fees. Furthermore, AMCs frequently involve third parties (e.g. independent asset managers or other banks), which are responsible for activities such as the discretionary management of the underlying assets. In order to examine this issue, FINMA collected data from certain securities dealers and banks before carrying out on-site reviews at a number of institutions. These reviews determined that the cost components for most products were set out transparently and clearly defined in the simplified prospectus. However, FINMA also identified potential for improvement at certain institutions. Furthermore, the simplified prospectuses were at times complex, long and full of extensive

disclaimers, which had a negative impact on clarity. The institutions in question were informed about any deviations identified from the applicable self-regulatory regime or the benchmark.

#### **Value adjustments for default risks in banking**

After the financial crisis, both the International Accounting Standards Board (IASB) and the Financial Accounting Standards Board (FASB) in the United States fundamentally changed their approach to forming value adjustments for default risks. They introduced an approach based on expected losses, with the new IFRS provisions entering into force on 1 January 2018. Alongside the fundamental weaknesses of the current system, these international developments were one of the reasons why FINMA launched a project to revise the provisions governing the formation of value adjustments for default risks, which involved an in-depth exchange of views with the sector. FINMA ultimately opted for a proportional new approach to the formation of value adjustments for default risks, which is based on the categorisation of banks. Especially with regard to complexity, this approach is not comparable to the approaches set out in the international standards, but has instead been straightforwardly adjusted in line with the situation in Switzerland. In a first step, this solution will at least reduce certain weaknesses in the current system with the minimum effort required on the part of the banks concerned, while strengthening the resilience of the banking system as a whole. The new approach to the formation of value adjustments for default risks will be integrated into the planned new FINMA accounting ordinance, for which a consultation is scheduled for 2019.

#### **Introduction of clearing requirement for derivatives**

In the Financial Market Infrastructure Act (FMIA), the Swiss legislator stipulated an obligation to clear certain OTC derivatives categories as defined by FINMA

via a central counterparty (CCP). This CCP acts as a contracting party between the buyer and seller of a derivative and thus guarantees fulfilment of the obligations entered into by buyer and seller. This eliminates the default risk for the counterparty or transfers it to the CCP and thus contributes to financial-market stability.

FINMA specified the derivatives categories covered by the clearing obligation. In line with the FMIA, FINMA based its decisions on European legislation, as the majority of derivative trades carried out by Swiss market participants are cross-border transactions, in particular with market participants domiciled in the EU. The derivatives categories include certain standardised OTC interest-rate derivatives and OTC credit derivatives which are already subject to clearing obligations in the EU.

The corresponding partial revision of the FMIO-FINMA entered into force on 1 September 2018. The initial clearing deadlines for the market participants concerned, graduated according to classification, have been running since this date. The deadlines are stipulated in the Federal Council's Financial Market Infrastructure Ordinance (FMIO) and are 6, 12 and 18 months.

#### **International confirmation of the quality of the Swiss supervisory system via its financial-market infrastructures**

Between June 2017 and mid-2018 the Committee on Payments and Market Infrastructures (CPMI) and IOSCO audited the Swiss legal framework and supervision for FMIs with regard to their compatibility with the Principles for Financial Market Infrastructures (PFMI). This involved examining all supervisory law applicable to FMIs in the post-trading area, including non-legislative provisions and administrative standards as well as the supervisory structures established for this purpose. In cooperation with the SNB, FINMA

presented to the evaluators the Swiss regulatory and supervisory systems. The results of the evaluation are expected to be published in Q1 2019. Switzerland received good ratings in the areas of central counterparties, central securities depositories, securities settlement systems and payment systems. With just a few exceptions, the implementation of the PFMI was judged to have been "consistent" (top rating) or "broadly consistent" regarding the regulatory requirements for the FMI and regarding the supervisory structure. With regard to trade repositories for the reporting of derivatives transactions, the result was not clear cut, as transaction registers – as per the applicable Swiss legislative decision – cannot be defined as systemically important, which is in contradiction to the PFMI.

## Progress in combating money laundering

In recent years, banks and asset managers have been involved in numerous money laundering affairs in relation to major corruption scandals. With regard to combating money laundering, FINMA therefore focused its supervisory activities on how institutions deal with international money-laundering cases.

As part of its ongoing supervisory activities, FINMA examines whether institutions have learned from cases such as Petrobras, Odebrecht, 1MDB, Panama Papers, FIFA or PDVSA (see page 92). It also aims to harmonise the supervision by SROs.

In its supervisory work, FINMA has come across numerous examples of good conduct. This shows that many institutions have recently improved their money-laundering prevention processes significantly. However, FINMA still encounters negative cases. If necessary, FINMA takes enforcement measures.

### Examples of good practice

- ✓ After conducting an enquiry in response to media reports into clients suspected of being involved in an international money-laundering case, a financial intermediary subsequently investigates whether the criteria for high-risk business relationships and transactions helped identify the suspicious relationships and transactions adequately or whether the criteria can be improved.
- ✓ After receiving a disclosure request from the Swiss Public Prosecutor's Office, a financial intermediary checks which other business relationships are connected to the relationship covered by the request. If the relevant conditions are fulfilled, they notify the Money Laundering Reporting Office Switzerland (MROS).
- ✓ A bank opens business accounts for a foreign group of companies and private accounts for its senior management staff. Neither the group nor the individuals have any connection to Switzerland. The authorised signatories of the operating companies make bonus payments directly to their private accounts. The bank looks into this structure and carries out an in-depth enquiry.
- ✓ A bank regularly carries out spot checks to determine whether the automated processes used for compliance work properly. In doing so, it identifies that due to an IT problem, certain updates to an external database have not been reconciled with its client base and it resolves the issue.

- ✓ The risk analysis carried out by a financial intermediary addresses the risks of terrorist financing.

#### **Examples of bad practice**

- ✗ A large financial intermediary has set up an automated system for checking against an external database in such a way that hits are only generated for identical names. A new client is entered into the bank's system with a double-barrelled name, while he is listed in the external database without a double-barrelled name. Because no hits are returned, the bank fails to identify that this person is a politically exposed person (PEP).
- ✗ A financial intermediary increases the required minimum assets so that a foreign PEP is managed as a client of the institution. Instead of parting ways with the PEPs with fewer assets, employees assume that numerous PEPs are no longer politically active and therefore the relationships no longer have to be managed as PEP relationships, and that for other relationships the PEP classification was unnecessary from the start. The PEP reclassifications are not scrutinised by supervisors.

- ✗ A client of a Swiss bank is a securities dealer from a Caribbean nation. The bank does not identify the beneficial owner, i.e. the client of the securities dealer, because its own client is subject to prudential supervision. Following a suspected case of insider trading, the bank is unable to provide the Swiss criminal authorities with the name of the beneficial owner.
- ✗ A bank has signed the Agreement on the Swiss Banks' Code of Conduct with regard to the Exercise of Due Diligence (CDB) and is thus subject to the corresponding private-law sanctions regime. Even in cases of serious breaches of the CBD, the bank fails to make an application by means of self-indictment.

#### **Clear case law for reporting systems**

The AMLA reporting system is of strategic importance for the reputation of Switzerland's financial centre. If criminals expect suspicious assets in Switzerland to be reported to the authorities, they are less likely to deposit assets resulting from criminal acts in the Swiss financial system. In a series of recent judgments, the Federal Administrative Court, the Federal

Criminal Court and the Federal Supreme Court clarified when a financial intermediary has to file a report. The most recent judgement by the Federal Supreme Court of 21 March 2018 (1B\_433/2017, E. 4.9) concluded the following: "If a suspicion cannot be dispelled by carrying out background clarifications in accordance with Art. 6, para. 2 AMLA, it is to be regarded as reasonable."

According to the figures published by MROS in its 2017 annual report, the number of reports from financial-market intermediaries is rising continuously. There were twice as many reports in 2017 as in 2015. The high number of reports is not a result of minor cases: the average reported amount in 2017 was CHF 3.5 million. The high proportion of reports forwarded to the criminal authorities is also a sign that the quality of the reports is high. The most frequently reported predicate offence is bribery, followed by fraud. The first offence highlights how exposed the Swiss asset management centre is to money resulting from corruption abroad. The sharp rise in MROS reports points to a gradual cultural change in banks' reporting processes. Other financial-market areas are still reluctant to file reports. In 2017 for example, only four MROS reports were filed by lawyers in all of Switzerland.

### **Harmonisation of SRO supervision approaches**

As part of its fourth country evaluation of Switzerland, the Financial Action Task Force (FATF) criticised the SROs' approach to supervision. In particular, the points criticised related to the differences between the supervisory approaches of the individual SROs as well as their sometimes insufficient or complete lack of focus on financial intermediary risks. Criticism was levelled, for example, at the disparate risk assessments of the various AMLA-relevant business activities in the parabanking sector and the lack of specific inherent risk criteria within a certain business activity (industry-specific criteria) in the supervisory approaches.

In light of this, FINMA is aiming to improve and harmonise the supervisory approaches of the individual SROs. After communicating the milestones and expectations in this regard to the SROs in 2017, the focus of work in 2018 was on materially revising and finalising the SROs' supervisory approaches. In some cases, FINMA monitored the individual SROs extremely closely throughout this process.

### **Focus of SRO supervision**

This year, FINMA's focus in the area of SRO supervision was on SROs' resources for performing their core tasks with regard to onboarding new members, supervision as well as sanction measures and proceedings against members. In this respect, FINMA's on-site reviews in 2018 involved evaluating which resources the SROs dedicate to these core tasks.

The second focal point for FINMA was reporting. The reviews carried out focused on breaches of SRO members' obligation to clarify certain issues and the question of whether they led the SRO to investigate a potential breach of reporting requirements.

The focus in the area of trading surveillance is on combating market misconduct. In addition, financial-market infrastructures will have to further strengthen their resilience against cyberrisks. Preparatory work is being carried out with regard to cooperation between FINMA and the SROs in the ongoing supervision of trustees and managers of individuals' assets as stipulated in FinIA. Another focal area is licences and the supervision of FinTech companies.

### **Trading surveillance**

In 2018 Swiss trading venue participants had to implement the new disclosure requirements for securities transactions in accordance with FINMA Circular 2018/2. FINMA provided support for the trading venues and securities dealers in their efforts to do so. Following the implementation of the disclosure requirements at a technical level, the focus in 2019 will be on the trading venues actually making use of and including them in the expanded pool of data on an ongoing basis as part of their trade-monitoring activities. In particular, being able to identify beneficial owners at a transaction level will open up new possibilities for uncovering insider trading, market manipulation and front running. In future, analyses will be able to incorporate data on transactions at various trading venues in Switzerland and abroad as well as OTC transactions, while the data on the actual beneficial owners make it possible to identify instances of illegal conduct. A further focal point will be combating incorrect or improper conduct in connection with ad hoc publicity.

### **IT security**

As was the case last year, in 2019 the focus will be on strengthening the resilience of Switzerland's financial-market infrastructure against cyberattacks. A review based on the CPMI-IOSCO Guidance on cyberresilience for FMIs revealed in which areas there is still potential for improvement. Within FINMA, this issue is being addressed across the entire organisation so as to allow comparisons to be made between all the entities subject to supervision by FINMA.

### **Recognition obligation for foreign trading venues**

Due to the uncertainty surrounding the extension of stock market equivalence on the part of the EU, on 30 November 2018 the Federal Council adopted a measure to protect the Swiss stock market infrastructure: from 1 January 2019, foreign trading venues where Swiss equity securities are traded must first be recognised by FINMA. According to the ordinance issued by the Federal Council, foreign trading venues can only be recognised if they are domiciled in a jurisdiction that is not included on the FDF list. FINMA recognised a total of 52 trading venues under the new provision at the end of 2018 and published them in a list. It informed the market in two sets of guidance.<sup>26</sup> A foreign trading venue's recognition is forfeited by law, however, as soon as it has its registered office in one of the jurisdictions included (again) in the relevant FDF list following recognition. In view of the fact that the equivalence ruling benefiting Swiss trading venues is restricted to a period of six months, the situation remains uncertain and will be a focus of supervisory activity.

With regard to the United Kingdom's exit from the EU, FINMA will monitor the preparations being made by Swiss financial-market infrastructures, in particular in the post-trading area.

In terms of the existing interoperability at clearing level between SIX x-clear, EuroCCP and LCH Ltd UK, there may be repercussions with regard to the form of any future cooperation between the three central

<sup>26</sup> FINMA Guidance 02/2018 and 04/2018.



counterparties. The affected CCPs as well as the responsible supervisory authorities are analysing and discussing these effects. Developments must be observed further during the one-year transitional period announced by the EU in relation to the recognition of equivalence for British CCPs after Brexit.

### **Supervisory organisations (SOs)**

In light of the entry into force of FinIA at the start of 2020, FINMA is already preparing the licence for the new SOs as well as the processes for future cooperation with them. The SOs are set to receive a licence in the first six months after the entry into force of FinIA. They will be responsible for the supervision of trustees and managers of individuals' assets and will coordinate their work closely with FINMA.

### **FinTech licence**

The new Article 1b of the Banking Act entered into force in January 2019. It aims to promote innovation by introducing a new licensing category (FinTech licence) for institutions which accept public deposits of up to CHF 100 million without actually engaging in any lending activities, i.e. they do not invest or pay any interest on the deposits. FINMA is responsible for the corresponding licensing process and will supervise institutions with a FinTech licence.

### **Implementation of harmonised supervisory approaches for SROs**

FINMA will continue to focus on the implementation of the SROs' supervisory approaches. Supervisory activities will increasingly concentrate on the risks pre-

sented by SROs. In addition, supervisory measures based on the findings from this year's on-site reviews at SROs will be derived and put into place. FINMA's supervisory work will also focus more on aspects of the SROs' independence.

## Changes in market regulation

The Auditing circular (2013/3), which was revised as part of the reorientation of regulations on auditing (see pages 33-35), also applies in the area of markets. Various FINMA circulars relating to due diligence were revised on the basis of practical experience, technological developments and changes in superordinate law.

Adjustments to circulars	Type	Content/subject matter	Aim/reasons	Changes	In force from
<b>FINMA circulars</b>					
Circular 2013/3 "Auditing"	Partial revision	Implementing provisions for regulatory audits in accordance with FINMA Auditing Ordinance.	Improvement of cost-benefit ratio in the regulatory auditing of banks, securities dealers, FMs and supervised entities under the CISA.	Greater possibility for FINMA to influence the audit strategies for systemically important banks and increased risk orientation for the audit areas to be covered.	1 Jan. 2019
Circular 2016/7 "Video and online identification"	Partial revision	Defines the due diligence requirements for client onboarding via digital channels.	Changes to take account of practical experience and technological developments and facilitate application.	Specification regarding the verification of security features on identity documents. The bank transfer required as part of the online identification process no longer has to be made from a Swiss bank.	Optional since 17 July 2018, mandatory from 1 Jan. 2020

Adjustments to circulars	Type	Content/subject matter	Aim/reasons	Changes	In force from
<b>FINMA circulars</b>					
FINMA Anti-Money Laundering Ordinance (AMLO-FINMA)	Partial revision	In fulfilment of Art. 17 AMLA, it specifies the due diligence obligations of those financial intermediaries subject to supervision by FINMA.	The changes form part of an overall package coordinated by the Federal Council and include measures resulting from the FATF country report for Switzerland.	Further details are provided on the risk management measures required if domiciliary companies or complex structures are used or if there are any links to high-risk countries. More specific information is provided on the requirements relating to the global monitoring of AMLA risks in financial groups.	1 Jan. 2020
FINMA Anti-Money Laundering Ordinance (AMLO-FINMA)	Partial revision	More specific information is provided on compliance with due diligence obligations for institutions with a FinTech licence.	Change resulting from the creation of a new form of licence in the Banking Act.	The due diligence obligations for institutions with a FinTech licence are structured on the basis of the due diligence obligations for DSFIs.	1 Jan. 2019
FINMA Financial Market Infrastructure Ordinance (FMIO-FINMA)	Partial revision	Definition of the derivatives categories to be cleared via a central counterparty.	Compliance with the statutory requirement for FINMA to define which derivatives must be cleared via a central counterparty (Art. 101 para. 1 FMIA).	Amendment to Appendix 1 of FMIO-FINMA.	1 Sept. 2018 (start of the run of staggered adoption deadlines)

## Outlook

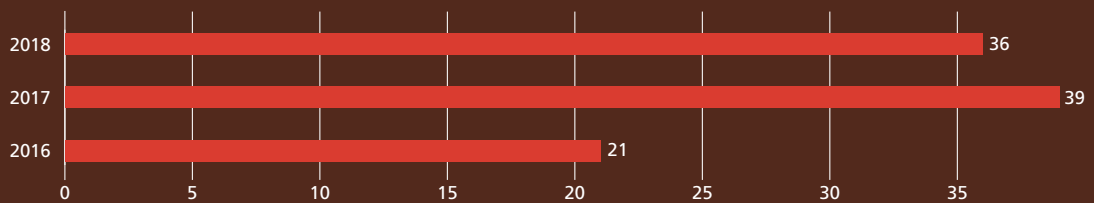
FINMA will transfer the financial reporting standards for banks, securities dealers, financial groups and conglomerates (FINMA Circular 2015/1) to a FINMA ordinance. In the area of auditing, FINMA Circular 2013/3 will be updated to include the specific provisions for auditing FinTech companies (persons under Art. 1b BA). Furthermore, provisions will be established on the requirement to trade certain derivatives on a trading venue pursuant to Section 5 of the FMIA.

# At a glance: intensive money-laundering supervision

FINMA's strategic aim is to have a long-term positive influence on institutions' conduct in preventing money laundering. It therefore makes concerted efforts in the areas of supervision and enforcement to prevent money laundering.

### On-site supervisory reviews aimed at preventing money laundering

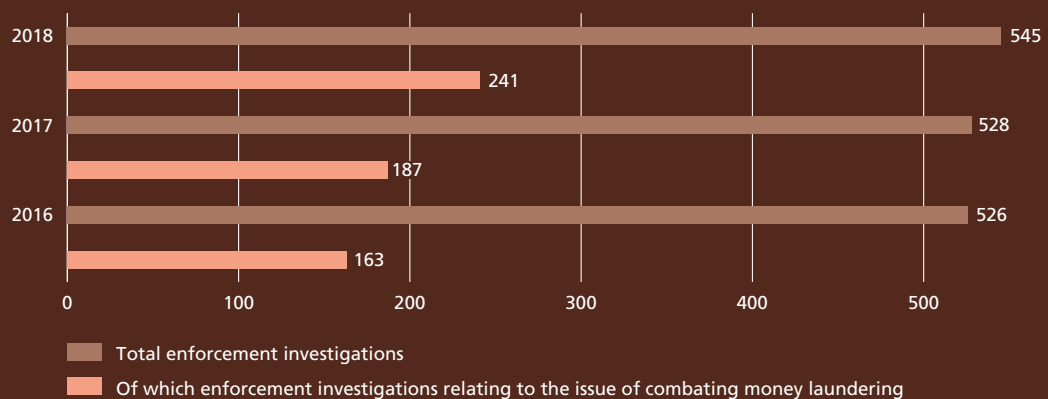
Each year, FINMA performs more than 30 on-site reviews on the issue of preventing money laundering. These on-site reviews comprise longer supervisory reviews as well as shorter, selective engagements, also known as "deep dives".



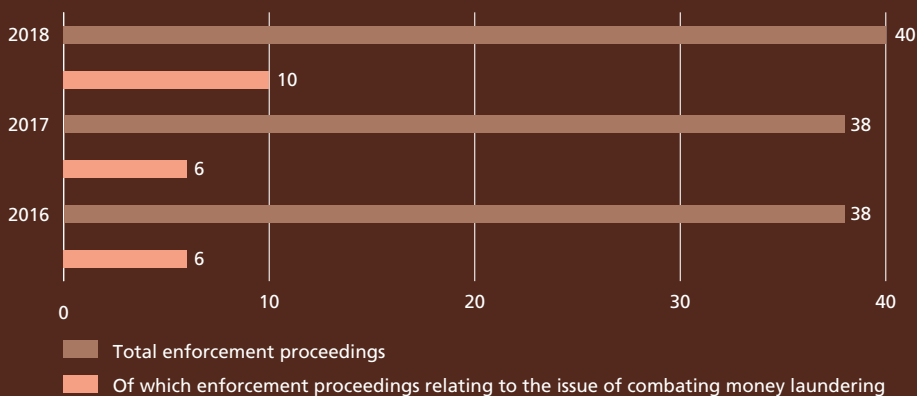
### Enforcement investigations and proceedings

A major part of FINMA's enforcement activities relates to the issue of combating money laundering. When FINMA has reason to believe there has been a breach of supervisory law, it may conduct an enforcement investigation. If FINMA considers that supervisory law has been breached and there is no other way to restore a normal state of affairs, it must initiate enforcement proceedings.

### Enforcement investigations



### Enforcement proceedings



### Criminal charges based on contravention of the AMLA

In the event of criminal breaches of supervisory law (in particular, breaches of reporting obligations under Art. 9 AMLA or activities being carried out without the required licence), FINMA will bring charges.

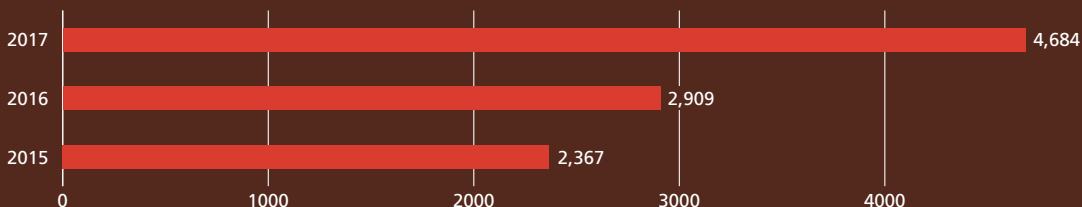
### Criminal charges based on contravention of the AMLA



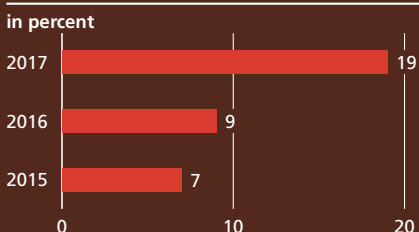
### Progress in combating money laundering

In recent years, Swiss financial intermediaries have identified an increasing number of suspicious clients, which they have reported to the MROS. Financial intermediaries have also been able to report more clients on account of their own transaction monitoring processes (source for following figures: MROS). Under the regulations, financial intermediaries have a certain scope to structure their own transaction monitoring systems; however, these have to be effective.

### Reports filed with MROS



### Proportion of reports resulting from transaction monitoring



## Overview of asset management

FINMA also focuses its supervisory activities closely on business conduct in the area of asset management. It has therefore dedicated additional resources to supervising digital communication channels and is using new methods to monitor the liquidity risks of Swiss collective investment schemes. In addition, it has begun to prepare for the new tasks it will assume in connection with the FinSA and the FinIA.

Investors' quest for higher returns is increasingly pushing collective investment scheme providers into less liquid investments. In view of the considerable pressure on margins, fund providers are also looking for innovative alternatives, such as cryptofunds and other new product types. Digitalisation is a driving force within FINMA as well as in connection with institutions and products that are subject to the Collective Investment Schemes Act (CISA).

### **Analysis of key liquidity figures based on investment fund statistics of the SNB**

In view of current market trends and the further development of international standards, it has become all the more important to accurately assess the liquidity of assets held in collective investment schemes. To ensure an efficient and needs-based approach in collecting such data, the SNB has developed an additional form, which has been used in its quarterly data collection since March 2018. These data enable FINMA to calculate key figures on the liquidity level and credit situation, on maturity transformation, and on leverage.

### **Licensing of institutions that manage and distribute cryptofunds**

FINMA has received numerous applications for business models that are based on virtual currencies as a potential asset class of collective investment schemes. In 2018 FINMA authorised institutions that distribute collective investment schemes with a focus on cryptocurrencies in Switzerland. Furthermore, it granted a licence to one institution that manages cryptofunds.

### **Digital communication channels and applications using the survey platform**

As described in "Digital exchange with FINMA" (see page 38), FINMA introduced a digital survey platform. The procedural improvements resulting from the implementation of the EHP considerably facilitate the submission and processing of the numerous applications relating to collective investment schemes. The EHP enables the applicant to submit documents to FINMA securely and from anywhere. It also provides an application status overview and enables interactive communication with FINMA and third parties. The forms used in the EHP always reflect the current status of the data and applications already approved, thus bypassing any redundant data collection.

The application was tested from mid-November 2018 as a pilot with participants from the area of collective investment schemes and the first applications were submitted at the end of the year. A gradual roll-out for all product applications is already taking place during the first few months of 2019.

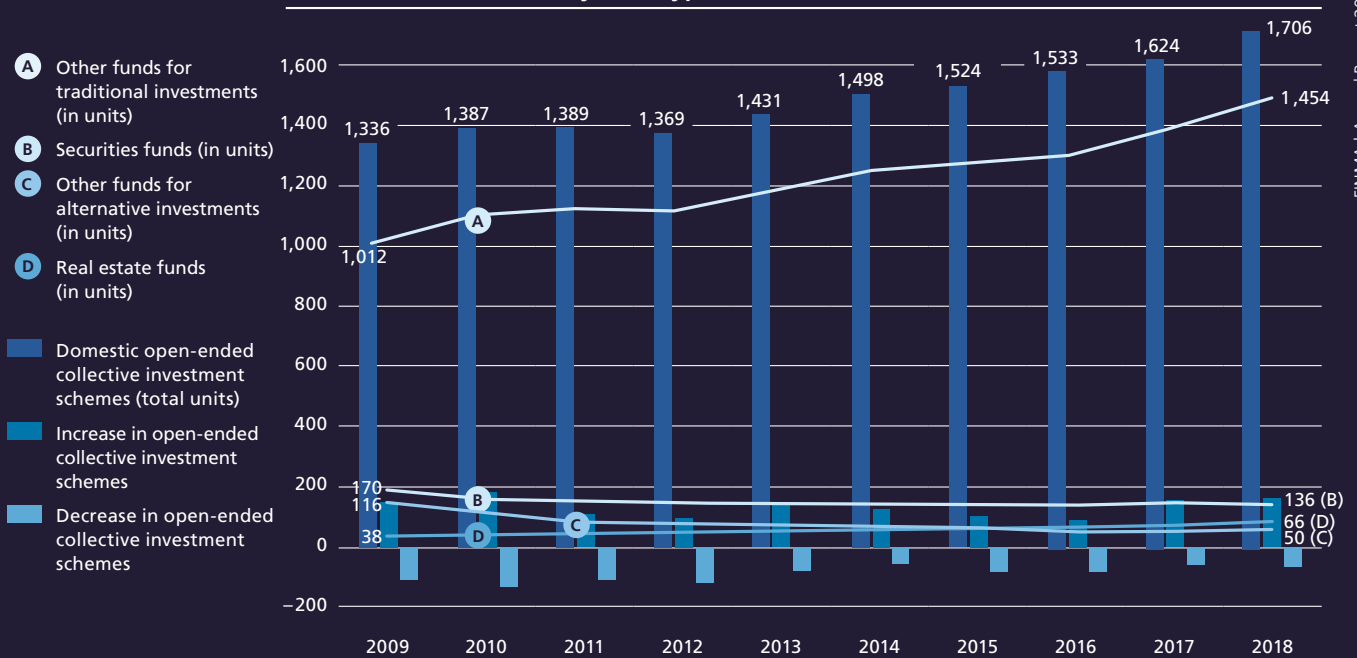
### **Implementation of FinSA/FinIA**

On 15 June 2018 the Federal Assembly passed the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA). While the FinSA contains code-of-conduct provisions and due diligence requirements with which financial-service providers must comply vis-à-vis the end customer, the FinIA stipulates that asset managers of individual client portfolios ("independent portfolio managers") as well as trustees, precious metal trade assayers and pension fund managers must have a FINMA licence from now

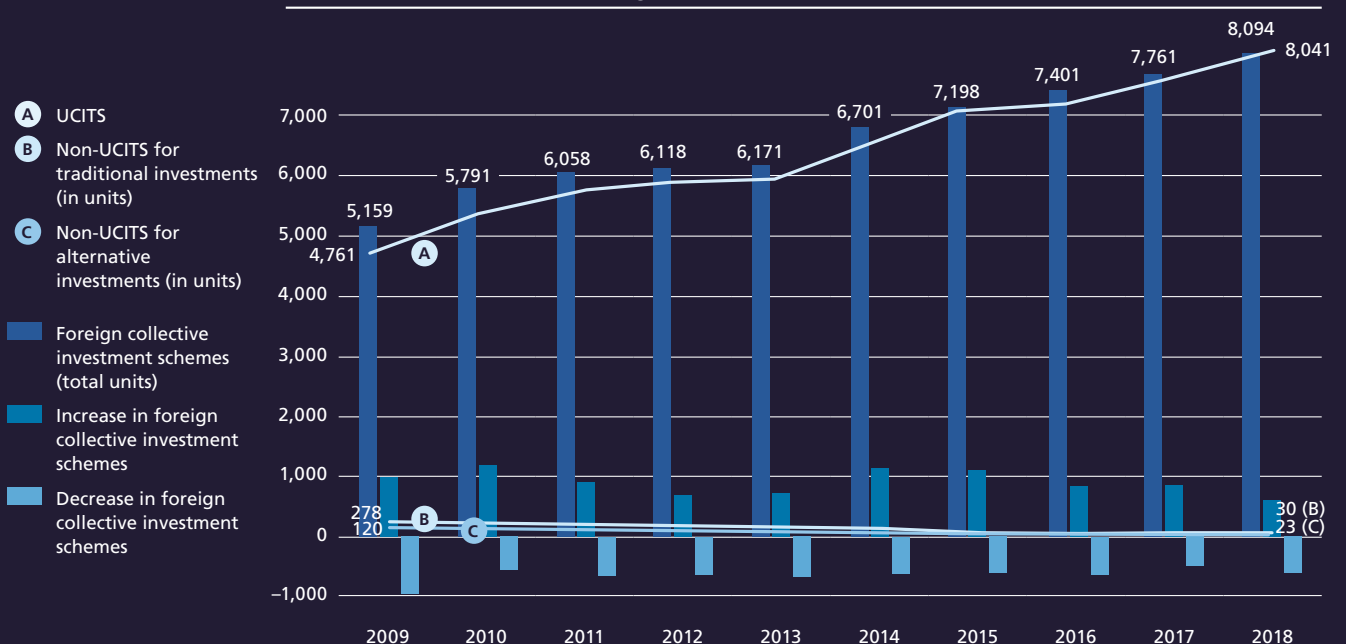
# Product trends

The number of approved Swiss collective investment schemes and foreign collective investment schemes approved for distribution in Switzerland grew further and reached new highs.

**Growth in the number of domestic open-ended collective investment schemes between 2009 and 2018 by fund type**



**Growth in the number of foreign collective investment schemes between 2009 and 2018**



on. FINMA will assume ongoing supervision only for pension fund managers. Ongoing supervision of portfolio managers, trustees and precious metal trade assayers falls within the remit of the supervisory organisations, which FINMA licenses and prudentially supervises. FINMA retains the powers for intensive supervision and enforcement over portfolio managers, trustees and precious metal trade assayers. The SOs themselves do not have any power to impose sanctions.

The implementation of the FinSA's provisions also requires a body to review the prospectuses of financial instruments and a body to maintain a register in which client advisors not working for a supervised institution as well as foreign client advisors must be entered. While both of these bodies must have a FINMA licence, they are not subject to prudential supervision.

Through its participation in national working groups, FINMA contributed at the technical level to the drafting of implementing legislation.

In connection with FinSA and FinIA, the legislator will assign various new tasks to FINMA, which must then plan and implement the operational steps. It is anticipated that around 2,500 portfolio managers will seek a licence. To enable it to process this large number of applications within a reasonable period, FINMA began preparatory work already in July 2017 by focusing primarily on identifying the main areas where action is needed and on procedures relating to licensing, authorisation and supervision. In addition, FINMA's IT systems must be prepared so that the licensing procedures can be managed electronically as a standardised process to the greatest extent possible and with efficient use of resources.

FINMA will make the necessary preparations so that it can assume its new tasks when the laws enter into force on 1 January 2020.

#### **Streamlining the procedure for release from supervision**

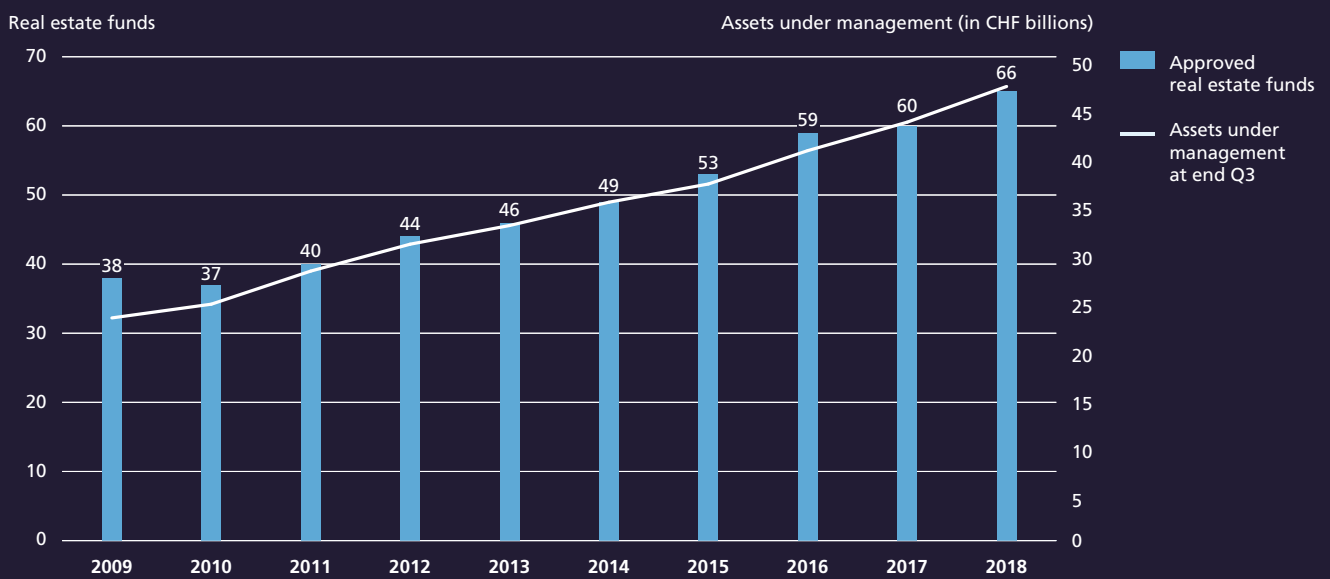
In recent years, around a dozen fund management companies, asset managers and representatives of foreign collective investment schemes sought to be released from supervision under the CISA. FINMA has therefore streamlined this process for institutions that agree to voluntarily give up their licence. Under the CISA, licence holders are released from supervision once they have ceased to engage in the respective activities. During the release procedure, FINMA ensures that the activities requiring a licence are terminated correctly and completely, and it then sets the date for the release from supervision at an early stage. FINMA subsequently releases the institution from its supervision as of that date, and the auditor then monitors termination of the activities requiring a licence. FINMA reserves the right to apply additional measures as needed.



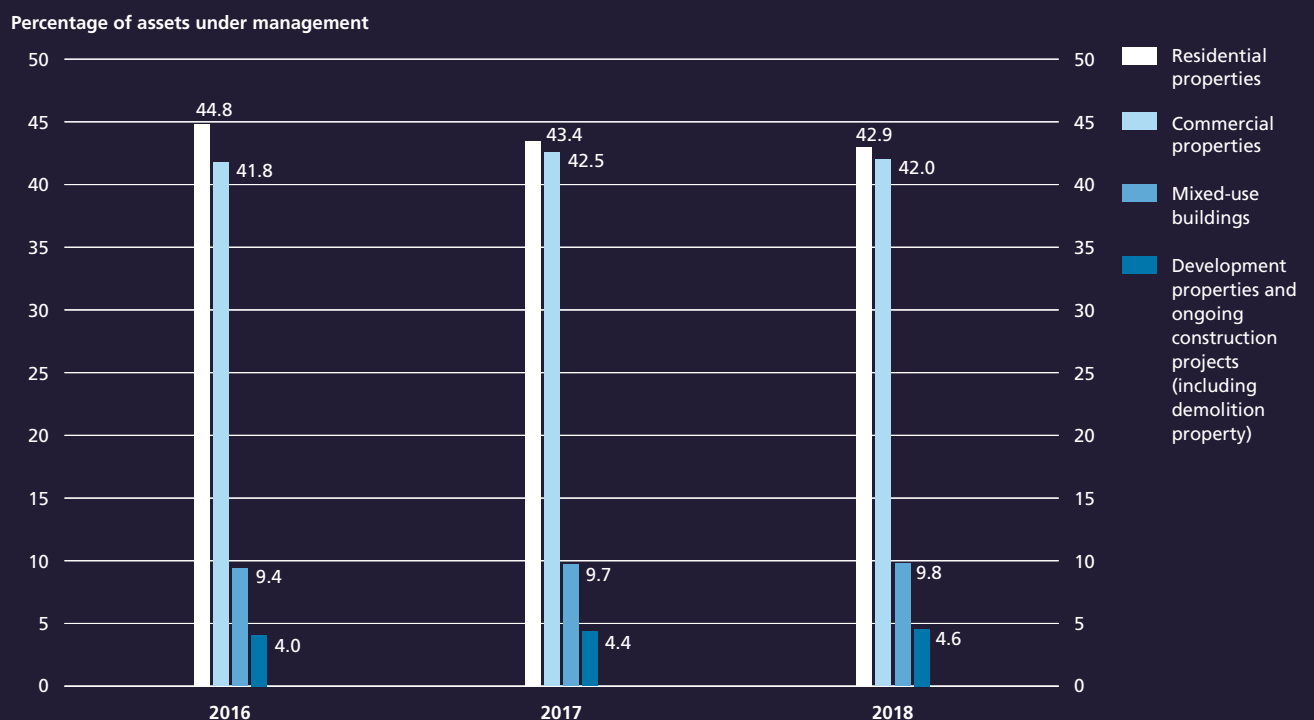
# Trends in real estate funds in Switzerland

Both the assets under management and the number of open-ended Swiss real estate funds experienced a further substantial increase, highlighting the enduring popularity of this category of fund. Despite these increases, the distribution of investments among the various types of real estate remains largely unchanged.

## Trends in open-ended real estate funds



## Swiss real estate fund investments



FINMA processed a number of requests for new products involving private equity funds in 2018. In addition, it approved new ways of splitting Swiss funds and changing their legal status. In product supervision, FINMA paid particularly close attention to real estate funds.

The licensing of collective investment schemes, including those with new investment concepts, is a central task for the Asset Management division. With regard to the licensing of funds, there was strong demand for venture capital funds with which to finance start-ups.

#### **Fund solution for promoting Swiss start-ups**

In 2018 FINMA handled a number of projects involving funds used for financing start-up companies. Risk capital refers to capital made available to new or unlisted companies when they are founded, for their growth or in times of crisis, and when they change owners.

In this context, private equity investments are a viable option as they generally have lengthy investment terms of several years, and closed-end funds are therefore a good solution. In Switzerland, limited partnerships for collective investments are a particularly suitable way of investing in start-ups because they are transparent in terms of taxation. Furthermore, being modelled on the Anglo-Saxon “limited partnerships” concept they offer equal opportunities to Swiss promoters.

Permissible investments include not only risk capital but also construction, infrastructure and real estate projects. At present, slightly more than half of such partnerships invest in risk capital.

#### **New ways of converting and splitting Swiss funds**

The conversion and splitting of open-ended Swiss funds are further new developments in the fund market that were approved in 2018. A conversion of a contractual investment fund into a SICAV is sought because the legal form of the SICAV grants investors and promoters more extensive rights of supervision and control. In the case of a split, however, the returns and risks of a collective investment scheme’s subportfolio can be transparently disclosed to investors in separate funds, which in turn simplifies the underlying operational processes.

FINMA approved for the first time the conversion of a contractual investment fund into a SICAV subfund managed by a third party. During this process, the collective investment scheme’s legal form changes from a contractual to a corporate status. At the time of the conversion, the investors receive new SICAV shares in place of their current units and the fund contract is replaced by the investment regulations. The SICAV is subsequently licensed from the date of the conversion.

FINMA also approved for the first time the splitting of a collective investment scheme into two separate ones. It is important to distinguish between spinning off and splitting up a fund. In the case of a spin-off, the transferring fund passes on some of its assets to another

fund and continues to exist. In the case of a split-up, however, all the assets of the transferring fund are divided up and allocated to other funds, and the transferring fund is then shut down without liquidation. The split must serve the interests of the investors, make economic sense, be technically and operationally feasible for the fund management company and may not jeopardise the equal treatment of investors.

The CISA does not contain any corresponding provisions for splitting and converting fund assets, which is why the provisions of Art. 114 f. of the Collective Investment Schemes Ordinance (CISO) must be applied to best serve the situation after the change is carried out. The main aim of these provisions is to ensure that the fund remains with the existing fund management company and that the fund documents specify how a conversion or split is to be executed. Moreover, neither the funds nor the investors may incur any costs as a result of these changes.

### **Supervision of real estate funds**

In view of the developments and risks in the real estate market (see “Mortgage market measures”, page 36), FINMA continues to focus on real estate funds in its supervision of the asset management sector, as in previous years.

FINMA periodically analyses the external indebtedness of real estate funds based on the reports that

fund management companies submit to the SNB (collective investment scheme statistics). To increase the significance of the relevant analyses, the data from these fund management companies was reviewed carefully and in close cooperation with the SNB, which subsequently called on the respective fund management companies to take corrective measures regarding the data to be submitted as needed.

FINMA also reviewed the valuation clauses in contracts concerning real estate funds for development properties and ongoing construction projects and found that not all fund management companies had adjusted their contracts within the transitional period as required in 2014 because of the changes to the FINMA Collective Investment Schemes Ordinance (CISO-FINMA). FINMA has therefore taken the necessary measures and demanded that these changes be made to the fund contracts in question.

FINMA carried out three on-site supervisory reviews of real estate fund management companies in 2018, which focused on risk management (including risk control and conducting stress tests) and on monitoring external property managers. It identified room for improvement especially with respect to independent risk control and the execution of stress tests.

FINMA will pay close attention to market risks and operational risks in asset management during 2019.

**Market risks**

Corrections in the financial markets, especially those triggered by higher interest rates, could negatively affect real estate valuations and cause the number of redemptions of real estate funds to rise, threatening the continuation of the funds. FINMA will therefore continue to monitor real estate funds especially closely in 2019.

**Risks arising from business conduct**

FINMA believes that business conduct is particularly prone to cross-border and market integrity risks and will therefore conduct on-site and desk reviews to address these issues during the 2019 supervisory year. The on-site reviews will also focus closely on commissions, costs and best execution practices.

**Liquidity risks**

FINMA believes that the increase in fund assets that are channelled into illiquid investments is a risk. The liquidity mismatch between the investments and the

fund's contractually-guaranteed redemption option will therefore be of special interest during licensing and supervision rounds in 2019. When approving fund contracts, FINMA will examine whether liquidity management tools are being adequately applied to the contracts and whether a fund's liquidity is proportionate with its redemption period. In addition, supervision will focus on quantitatively monitoring the fund's liquidity risks and on taking the measures that seem appropriate to protect investors' interests.

**Operational risks**

FINMA believes that fund management companies and collective investment schemes will face challenges not only in the form of IT and cyberrisks but also from the rising trend towards outsourcing data and services to cloud providers. This topic is currently being analysed by means of a survey of these market players.

## Changes in asset management regulation

The Auditing circular (2013/3), which was revised as part of the reorientation of regulations on auditing (see pages 33-35), also applies in the area of asset management.

Adjustments to circulars	Type	Content/subject matter	Aim/reasons	Changes	In force from
<b>FINMA circulars</b>					
2013/3 "Auditing"	Partial revision	Implementing provisions for regulatory audits in accordance with FINMA Auditing Ordinance.	Improvement of cost-benefit ratio in the regulatory auditing of banks, securities dealers, FMI and supervised entities under the CISA.	Greater possibility for FINMA to influence the audit strategies for CISA institutions in Supervisory Category 4 and risk-oriented extension of the audit cycles under the standard audit strategy.	1 Jan. 2019

### Outlook

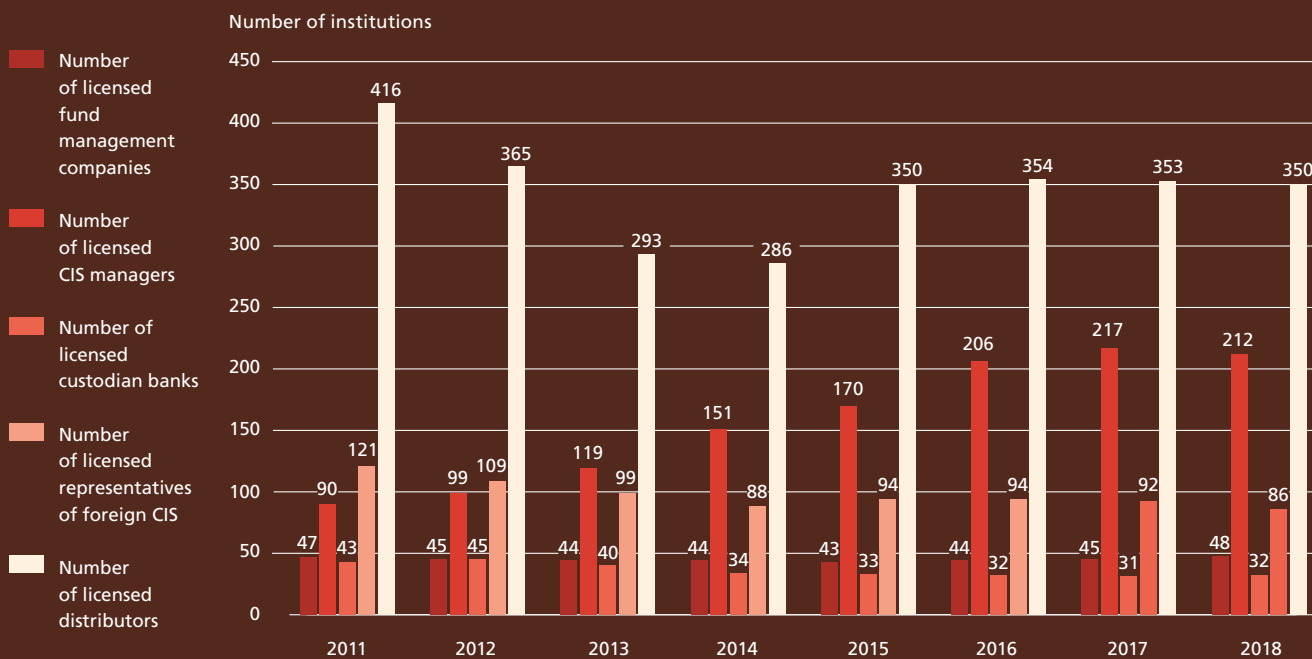
Upon the scheduled entry into force of FinIA and FinSA on 1 January 2020, the corresponding Federal Council ordinances will also enter into force. Work on this is being led by the FDF. Depending on any regulatory delegations contained in the law and the ordinances, corresponding amendments will be required in certain areas at the level of FINMA's own regulations, specifically the CISO-FINMA. In addition, some FINMA circulars will need to be adapted or repealed. In the next step, any amendments will need to be made to the recognised self-regulatory standards.

The Federal Council also set the FDF the task of preparing a draft revision of the CISA by mid-2019, so as to create the conditions for a fund not subject to approval for qualified investors (L-QIF). The Federal Council hopes this will increase the attractiveness of Switzerland as a fund location and facilitate the introduction of innovative products in the market.

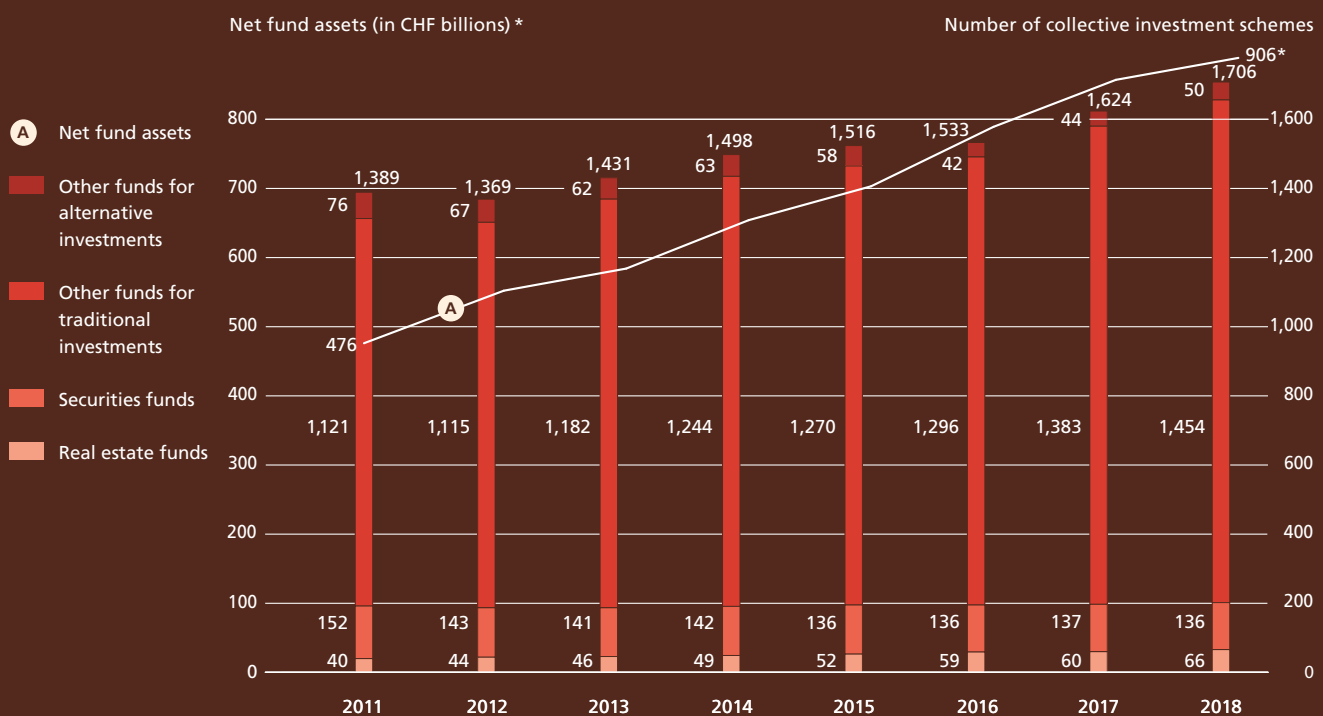
# At a glance: the Swiss fund market

Despite a more difficult financial-market environment, the number and amount of assets managed by Swiss collective investment schemes increased further in 2018. The number of niche funds remained low.

## Number and growth of institutions based in Switzerland under CISA



## Number of open-ended Swiss collective investment schemes and assets under management

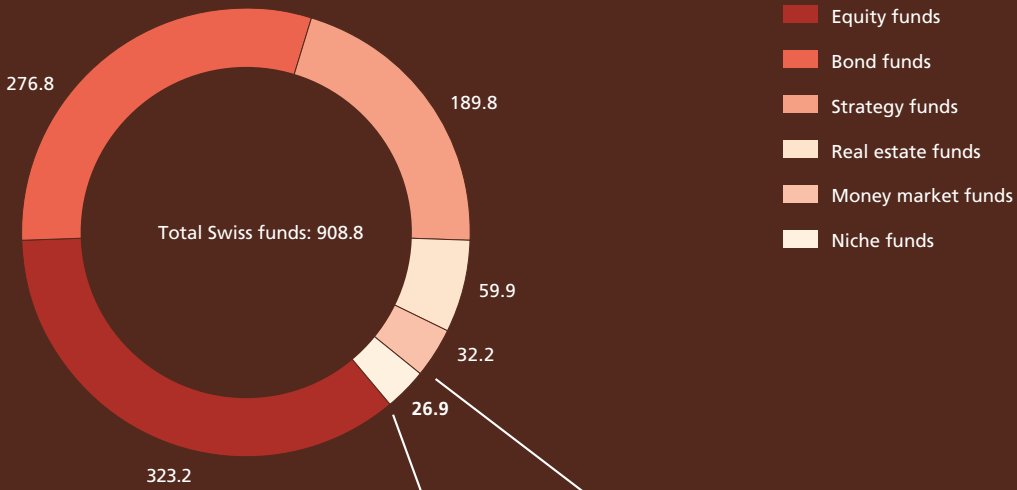


### Niche funds in the Swiss fund market landscape

In the Swiss fund market landscape, funds with investments in commodities, infrastructure investments, private equity and other non-traditional investments, as well as hedge funds, are still a niche market despite growing interest.

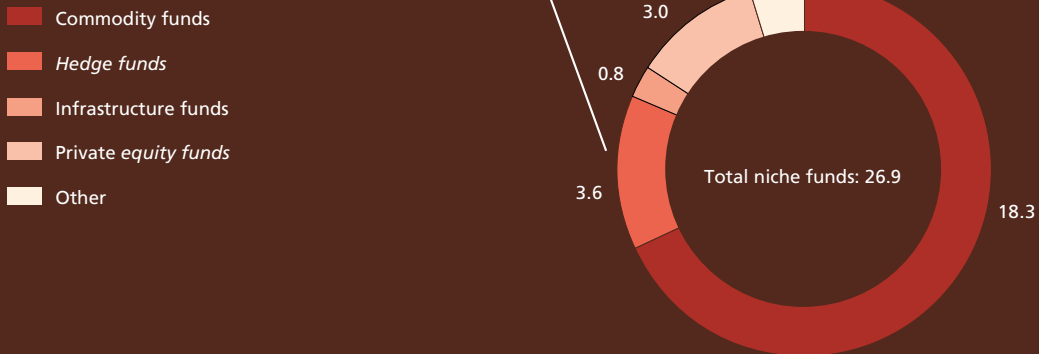
#### Breakdown of Swiss funds by asset class

in CHF billions\*



#### Breakdown of niche funds by asset class

in CHF billions\*



\*As of 30 September 2018.

In 2018 FINMA conducted numerous investigations and many proceedings against companies and individuals. In many instances, the proceedings were complex and international in scope.

FINMA applies enforcement as a visible means of acting against breaches of supervisory law and to restore compliance with the law. Enforcement proceedings may be conducted against licence holders and their employees, unauthorised financial services providers and participants in the Swiss securities market. The Enforcement division also covers any matters governed by takeover and disclosure law, and the provision of administrative and/or legal assistance to foreign supervisory authorities and domestic criminal authorities.

Since 2015 FINMA has published a separate annual report on its enforcement activities during the previous year. It contains anonymised case summaries and the annual statistics of FINMA's enforcement investigations and proceedings.

### **Addressing global money-laundering scandals**

In 2018 FINMA concluded its investigations and proceedings against institutions involved in recent global corruption and money-laundering scandals (Malaysian sovereign wealth fund 1MDB, FIFA, Petrobras). In these cases, FINMA petitioned a total of 46 Swiss banks to provide detailed information and investigated the accusations by deploying mandated auditors and investigating agents as necessary. Ultimately, 16 enforcement proceedings were opened against institutions and to date, 9 proceedings against individuals, some of which are still ongoing. In carrying out its investigations and proceedings, FINMA focused on verifying compliance with general AMLA due diligence obligations as well as AMLA reporting obligations. On identifying a breach of the AMLA reporting obligations, FINMA consistently reported this

to the Federal Department of Finance, which is responsible for prosecuting such cases under administrative criminal law. As part of its proceedings and investigations, FINMA also verified whether selected institutions correctly fulfilled their obligations as regards the global monitoring of legal and reputational risks in the area of money laundering. Over the last three to four years, all banks had taken measures to make improvements in this regard, some of which were still being developed. In carrying out its investigations and proceedings, FINMA was able to benefit from effective cooperation with foreign supervisory authorities as well as the Office of the Attorney General of Switzerland.

### **The "Raiffeisen" case: focus on corporate governance**

In June 2018 FINMA concluded its proceedings against Raiffeisen Switzerland. FINMA found there to be major corporate governance failings at the bank and ordered that the relevant measures be taken.

The proceedings focused on the role of the former CEO, in particular with regard to the acquisition of a shareholding belonging to the bank. Due to a concentration of roles, the CEO was faced with major conflicts of interest, which he failed to adequately disclose. FINMA also found there to be deficiencies at the bank with regard to the granting of loans to the former CEO and individuals with close links to him, as well as in relation to the consultancy fees paid.

The enforcement proceedings identified that the board of directors of Raiffeisen Switzerland failed to



# Key enforcement indicators

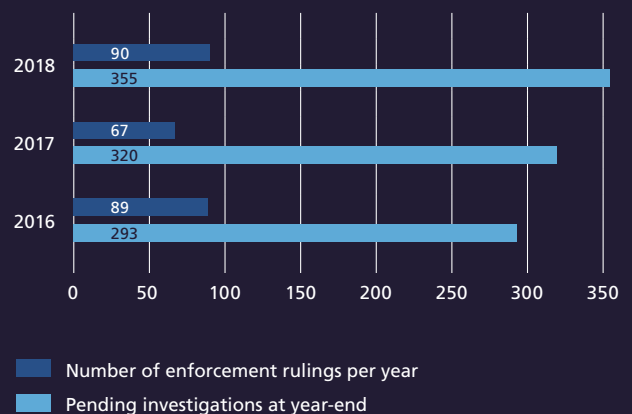
adequately perform its function as the body with overall responsibility for managing, supervising and controlling the bank. Specifically, the board neglected its duty to oversee the CEO by failing to enforce compliance with internal regulations. There was, for example, no disclosure or monitoring of the CEO's conflicts of interest. In connection with the granting of loans, insufficient compliance with internal regulations caused the bank to take risky financial positions.

FINMA imposed a variety of measures to resolve these failings and to improve corporate governance at the bank. It decided, for example, that the board of directors of Raiffeisen Switzerland needed fresh blood and had to strengthen its professional expertise. The board must have members with experience of the banking sector, compliance, audit and risk management in keeping with the size of the institution. Raiffeisen Switzerland was also required to examine in detail the pros and cons of converting Raiffeisen Switzerland into a limited company, since a company's legal form and group structure have a significant impact on corporate governance requirements.

## Initial coin offerings: investigations and proceedings

Alongside the FinTech Desk, the Enforcement division also looks closely at initial coin offerings (ICOs). ICOs are a digital blockchain-based form of public fundraising for entrepreneurial purposes (see "Developments in FinTech", pages 30-32). FINMA expressly recognises the innovative potential of blockchain technology. At the same time, existing laws

## Investigations and enforcement rulings



must be respected, while investors and the integrity of the financial system must be protected.

In light of this, FINMA has been closely monitoring events in the ICO market for unauthorised activities. FINMA has also issued express warnings to investors of fraudulent activity and high price volatility when acquiring tokens as part of an ICO.<sup>27</sup> These risks still exist. By the end of December 2018 FINMA had opened investigative dossiers in around 78 cases based on external evidence or as a result of its own “proactive searches” (see the information box “FINMA proactively investigated ICO market”, page 96). These investigations resulted in entries being made on FINMA’s warning list and a number of proceedings being opened, including against envion AG on suspicion of it having carried out activities that require a banking licence. As part of its investigations, FINMA also supported several ICO organisers in ensuring legal compliance<sup>28</sup> and, in a number of cases, submitted criminal complaints to the FDF.<sup>29</sup> In total, FINMA concluded around 45 investigative dossiers. Investigations that were discontinued usually related to the issuance of utility and/or asset tokens which did not give rise to any licensing obligations under applicable law for the ICO organiser.<sup>30</sup>

### Takeover law

FINMA dealt with two appeals against rulings of the Swiss Takeover Board concerning SHL Telemedicine Ltd. (SHL), which is listed on SIX Swiss Exchange. In its ruling 672/01 dated 26 January 2018, the TOB classified the SHL shareholders Mengke Cai, Kun Shen, Xiang Xu, Himalaya (Cayman Islands) TMT Fund and Himalaya Asset Management Ltd. as a group acting in concert and obligated it to make a public offer for all SHL listed shares (Art. 135 FMIA).<sup>31</sup> However, the TOB rejected the suspension of the above-mentioned group’s voting rights, which the SHL shareholders Nehama & Yoram Alroy Investment Ltd. and Elon Shalev had requested. While the ruling was not contested by the parties obligated to make the public offer, Nehama & Yoram Alroy Investment Ltd. and Elon Shalev submitted an appeal to FINMA against the TOB’s decision to reject the suspension of voting rights. Given that the respondent to the appeal had accepted the obligation to make an offer imposed on it by the TOB and had shown willingness during the appeals process to meet this obligation, FINMA ruled that there was not sufficient evidence that the obligation to make an offer was not being met. Accordingly, FINMA’s Takeover and State Liability Committee rejected the appeal from Nehama & Yoram Alroy Investment Ltd. and Elon Shalev in its ruling dated 27 March 2018.<sup>32</sup>

<sup>27</sup> See Guidance 04/2017 and the ICO guidelines dated 16 February 2018.

<sup>28</sup> For example, compliance/non-compliance with AMLA due diligence obligations when issuing a payment token.

<sup>29</sup> For example, due to unauthorised use of the term “bank”.

<sup>30</sup> Individuals or legal entities which either commercially trade asset tokens or commercially hold payment tokens for third parties may, under certain circumstances, require a securities dealer’s or banking licence.

<sup>31</sup> Ruling 672/01 of the Swiss Takeover Board dated 26 January 2018 (available at <http://www.takeover.ch/transactions/detail/nr/0672/lang/en>).

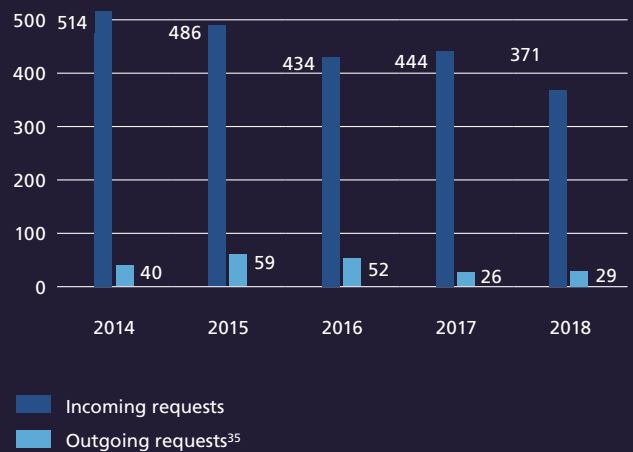
<sup>32</sup> Ruling of FINMA’s Takeover and State Liability Committee dated 27 March 2018 (available at <http://www.takeover.ch/transactions/detail/nr/0672/lang/en> and <https://www.finma.ch/en/news/2018/03/20180328-verbuegung-uesa/>).

<sup>33</sup> Ruling 672/04 of the Swiss Takeover Board dated 1 September 2018 (available at <http://www.takeover.ch/transactions/detail/nr/0672/lang/en>).

## International administrative assistance

The TOB subsequently granted the parties two extensions to the deadline for submitting the mandatory offer. However, the TOB rejected the third application for a deadline extension in its ruling 672/04 dated 1 September 2018 and, at the same time, ruled that the voting rights of the above-mentioned parties be suspended.<sup>34</sup> The parties obligated to make the public offer then submitted an appeal to FINMA against this ruling. In its ruling dated 23 November 2018, FINMA's Takeover and State Liability Committee rejected this appeal. FINMA believed that a mandatory offer could not plausibly be submitted in due time and that the difficulties in financing the offer cited by the appellants in this case did not justify a further extension to the deadline. With regard to the suspension of voting rights, FINMA affirmed that the requirements for ordering the suspension had been met and that such a suspension can be ordered even if the obligation to make an offer has been declared as legally binding. The parties obligated to make the offer have submitted an appeal against this ruling to the Federal Administrative Court.

Requests for administrative assistance per year



<sup>34</sup> Ruling of FINMA's Takeover and State Liability Committee dated 23 November 2018 (available at <http://www.takeover.ch/transactions/detail/nr/0672/en> and <https://www.finma.ch/en/news/2018/11/20181124-aktuell-shl-telemedizine-ltd/>).

<sup>35</sup> The statistics include only outgoing FINMA requests linked with its own enforcement proceedings.

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## FINMA proactively investigated ICO market

FINMA normally opens investigations into unauthorised activities based on substantiated evidence from third parties. Given the sharp rise in ICOs planned or executed in Switzerland, FINMA also proactively investigated the ICO market at the end of 2017 and start of 2018. As part of this proactive search, FINMA's attention was drawn to around 30 ICOs. In 15 of these cases, it opened an investigation. Having been contacted by FINMA, some ICO organisers changed the terms of the ICO, decided against carrying out the ICO, or considered obtaining the relevant licence or SRO affiliation prior to performing the ICO.<sup>36</sup>

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## First enforcement proceedings against an institution not subject to supervision for market manipulation

FINMA concluded enforcement proceedings against Jungfraubahn Holding AG and found that the company violated market conduct rules. Between 2014 and 2016 the company improperly influenced the year-end price of its own shares on an annual basis. This is the first time FINMA has brought enforcement proceedings in the area of market manipulation against an issuer not simultaneously subject to oversight by FINMA. FINMA's responsibility for general market supervision has been enshrined in the Stock Exchange Act since 2013, with proceedings having already been concluded against a number of other off-fending securities dealers and individuals.

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<sup>36</sup> FINMA's proactive approach also received international recognition (Securities and Markets Stakeholder Group, ADVICE TO ESMA - Own Initiative Report on Initial Coin Offerings and Crypto-Assets, 19 October 2018, ESMA22-106-1338, margin no. 25, available at [www.esma.europa.eu/sites/default/files/library/esma22-106-1338\\_smsg\\_advice\\_-\\_report\\_on\\_icos\\_and\\_crypto-assets.pdf](http://www.esma.europa.eu/sites/default/files/library/esma22-106-1338_smsg_advice_-_report_on_icos_and_crypto-assets.pdf)).

## Enforcement statistics

As in previous years, FINMA concluded many proceedings involving both authorised and unauthorised activities. The number of cases involving international administrative assistance fell compared with the previous year, while there was an increase in the number of appeal proceedings.

### Overview of key enforcement figures<sup>37</sup>

	Pending on 1 January 2018	Proceedings initiated	Proceedings concluded	Pending on 31 December 2018
<b>Investigations</b>	<b>312</b>	<b>746</b>	<b>703</b>	<b>355</b>
– licence holders	48	96	103	41
– unauthorised activities	155	337	343	149
– inadmissible market conduct	79	124	99	104
– disclosure	30	189	158	61
<b>Enforcement proceedings</b>	<b>45</b>	<b>31</b>	<b>44</b>	<b>32</b>
– licence holders	21	11	21	11
– proceedings against individuals	15	11	15	11
– unauthorised activities	9	9	8	10
<b>International administrative assistance</b>	<b>123</b>	<b>400</b>	<b>360</b>	<b>163</b>
– incoming requests (submitted to FINMA)	113	371	340	144
– outgoing requests (made by FINMA to foreign authorities)	10	29	20	19
<b>Appeal proceedings</b>	<b>64</b>	<b>37</b>	<b>44</b>	<b>57</b>
– Federal Administrative Court (FAC)	54	30	32	52
– Federal Supreme Court (FSC)	10	7	12	5

<sup>37</sup>Continuous updating of the database may result in some minor discrepancies between the statistics for 2018 and those published in last year's report.

# At a glance: enforcement measures

The FINMASA has granted FINMA greater enforcement powers than its predecessor authorities. The charts below show how FINMA uses these powers.

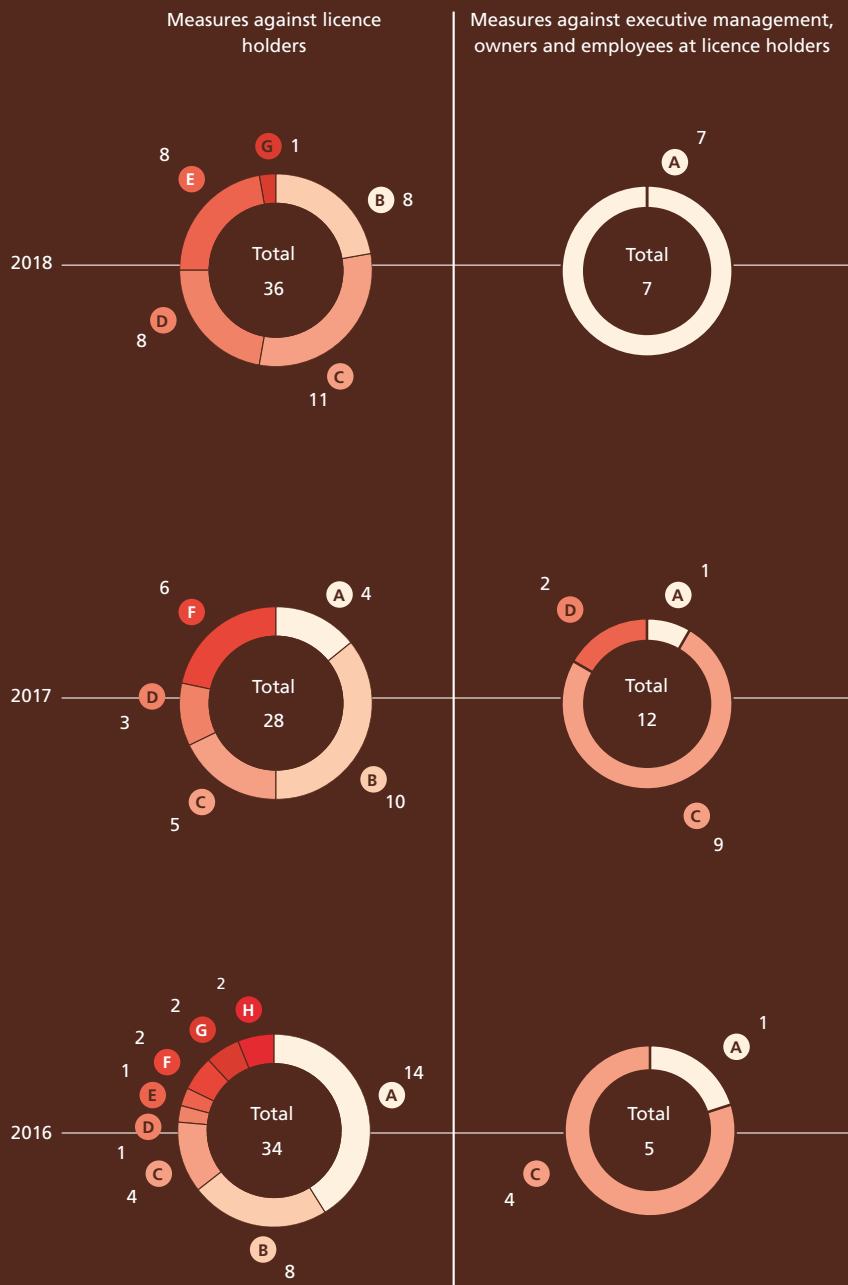
## Measures: licence holders (including market supervision)

### Measures against licence holders

- A** Appointment of investigating agents (precautionary measures ordered during the investigation)
- B** Declaratory rulings/reprimands
- C** Special conditions and restrictions (rulings based on Art. 31 FINMASA)
- D** Implementation overseen by third parties (in a final ruling on adopting controls to implement special conditions)
- E** Suspension and removal of top management officials (number of licence holders affected)
- F** Disgorgement of profits
- G** Licence withdrawals
- H** Liquidation/bankruptcy proceedings

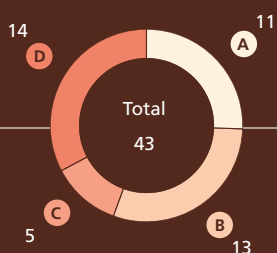
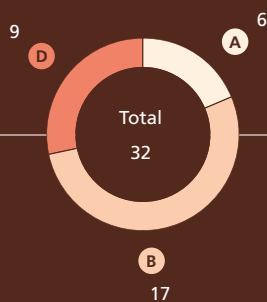
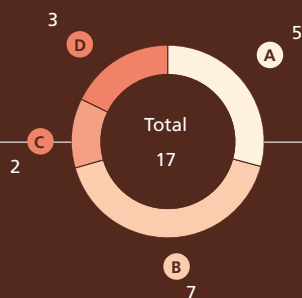
### Measures against executive management, owners and employees

- A** Declaratory rulings/reprimands
- B** Suspension and removal (number of licence managers)
- C** Industry and activity bans (under Art. 33 FINMASA and Art. 35a SESTA)
- D** Disgorgement of profits

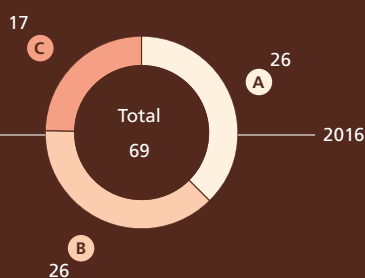
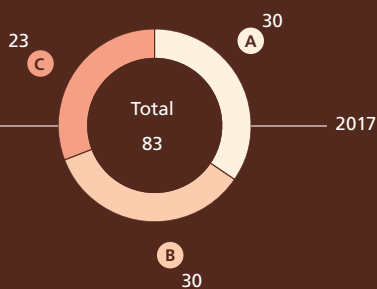
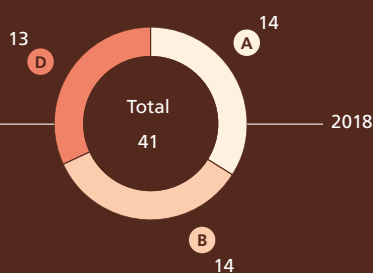


## Measures: unauthorised activities

Measures against companies



Measures against individuals



### Measures against companies

- A** Appointment of investigating agents (precautionary measures ordered during the investigation)
- B** Declaration of unauthorised activities
- C** Liquidation
- D** Bankruptcy proceedings (bankruptcy proceedings initiated following a liquidation ordered by FINMA were not counted in this chart)

### Measures against individuals

- A** Declaration of involvement in unauthorised activities
- B** Cease-and-desist orders
- C** Ruling publications (mainly cease-and-desist orders)

### Method of counting

The diagrams show the number of parties affected (and not the number of rulings). Where a number of different measures were imposed on an individual/entity at the same time (e.g. an organisational measure to restore compliance with the law under Art. 31 FINMASA and an order to disgorge profits), these have been counted separately. However, when a number of similar measures were imposed on an individual/entity (e.g. a number of measures to restore compliance with the law), these have been counted only once.

Cases from the Recovery and Resolution division are not included in these statistics.

### The ongoing work of the systemically important banks on their recovery and emergency plans was the main focus at FINMA in 2018.

The Recovery and Resolution division concentrated on monitoring systemically important banks as they drew up recovery and emergency plans and assessed these plans. The division also gave its first assessment of the recovery plans of the systemically important financial-market infrastructures (FMIs). In addition, FINMA continues to monitor a large number of liquidation and bankruptcy proceedings.

#### Large banks' parent companies strengthened

In 2017 FINMA ordered on the basis of Art. 4 para. 3 of the Banking Act that holdings in subsidiaries at the parent companies of the two large banks would in future be counted on a risk-weighted basis when determining the requirements for going concern capital. The relevant amendments to the Capital Adequacy Ordinance (CAO) entered into force on 1 January 2019.

#### FSB Resolvability Assessment 2018 and capital rebate review

FINMA carried out the annual resolvability assessment process (RAP) in 2018 in line with the recommendations of the Financial Stability Board (FSB). It informed the FSB of progress made in ensuring the resolvability of the two major banks as at the end of 2017 and the remaining obstacles to resolution. Both the assessment of the crisis management colleges and the FSB's international comparison paint a positive picture of the progress that has been made. FINMA also reviewed the resolvability of the two financial groups against the criteria in the Banking Ordinance for granting rebates on additional loss-absorbing funds (gone concern capital). FINMA granted the two banks an additional rebate, primarily for implementing a global service company structure sep-

arate from their banking business. Both of the large banks have thus in total received 40% of the maximum rebate as at the end of 2018. The two banks will implement further improvements in their resolvability in the coming years and FINMA will review annually whether or not to give additional rebates.

#### Emergency planning for systemically important banks

The two large banks further enhanced and operationalised various aspects of their emergency plans in 2018. Nonetheless, both banks still have a considerable amount of work to do to meet the deadline of the end of 2019 for the completion of a realisable emergency plan, particularly with regard to reducing financial interdependencies within the group and closing liquidity gaps in the event of a crisis.

For the three domestic systemically important banks the main obstacles are the failure of the emergency plans to take account of the requirements for gone concern funds which came into force on 1 January 2019 and the lack of feasible resolution strategies based on these. FINMA was therefore forced to extend the deadline for submitting an implementable emergency plan for all three banks.

#### Recovery and resolution for FMIs

Systemically important FMIs supervised by FINMA are subject to the provisions of the Financial Market Infrastructure Act (FMIA) on recovery and resolution planning. This concerns in particular the central counterparty SIX x-clear and the central custodian SIX SIS.

FINMA carried out a high-level assessment based on the 2017 recovery plans at the beginning of 2018 and



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## Significant insolvencies

FINMA's policy is to use external liquidators and bankruptcy administrators to conduct liquidation and insolvency proceedings. Progress was made in a number of important insolvency cases in the reporting year.

### **Banque Privée Espírito Santo**

In the bankruptcy proceedings of Banque Privée Espírito Santo (BPES) the claims of first- and second-class creditors are fully covered. A first instalment of CHF 19.4 million was paid to third-class creditors. This represents a dividend of 2.8% on the claims admitted in the schedule of claims.

The bankruptcy liquidator offered to cede the liability claims against the bank's former executive bodies to the creditors. Various creditors requested the cession of the claims and are coordinating the next steps. The bankruptcy administrator for his part is conducting a number of court actions, e.g. to establish the ranking and priority of claims, obtain payment from third parties and challenge transactions made by the executive bodies prior to the insolvency. Progress in and completion of these proceedings depends on the courts. Overall, the liquidation of BPES is now at an advanced stage.

### **Hottinger & Cie AG in Liquidation**

After the publication of the schedule of claims, further progress was made in resolving court actions related to the schedule of claims in the year under review. Four out of six claims to contest the schedule of claims have been resolved. Two cases are still pending before the courts (as at December 2018). The proceeds from the ongoing realisation of the assets were distributed to creditors in the autumn of 2018 in a second instalment payment of 8% of the admitted claims. Since the beginning of the bankruptcy proceedings, 100% of the claims of privileged first- and second-class creditors and around 38% of the claims of unsecured and non-privileged third-class creditors have been met. A total of around CHF 308 million of assets have been released or repaid to date.

### **Lehman Brothers Finance AG in Liquidation**

Some 300 claims amounting to over CHF 70 billion were registered in the bankruptcy proceedings against Lehman Brothers Finance AG. By the end of the year under review, 12 of the 14 objections raised against the schedule of claims published in 2013 had been resolved. Two cases are still pending before the courts. By October 2018 instalments totalling 62.08% of the admitted claims had been paid to creditors. A further CHF 34.3 million of creditors' claims have therefore been met compared with the situation at the time of FINMA's last annual report.

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set out its expectations in this regard. Whether they are ready for approval will be evaluated for the first time on the basis of the revised 2018 recovery plans.

FINMA has established a crisis management group (CMG) for SIX x-clear<sup>38</sup> in accordance with international standards and successfully conducted the first meeting. A total of 14 Swiss and foreign supervisors are taking part in the CMG.

### **International cooperation in recovery and resolution**

As the home supervisor of two global systemically important banks, FINMA is responsible for coordinating the cross-border recovery or resolution of these banks with the foreign supervisory authorities in the CMG in the event of a crisis. The prime objective is to avoid an adverse impact on the domestic and global financial system and the economies concerned without having recourse to government support. FINMA organises three meetings annually – two col-

<sup>38</sup> BCBS / CPMI / FSB / IOSCO, Chairs' Report on the Implementation of the Joint Workplan for Strengthening the Resilience, Recovery and Resolvability of Central Counterparties, 5 July 2017, <http://www.fsb.org/wp-content/uploads/P050717-3.pdf>.

leges and a workshop – to lay the groundwork with the foreign supervisory authorities for ensuring international cooperation in the event of a crisis.

#### **On-site reviews carried out at mandataries' business premises**

In the area of liquidation and bankruptcy proceedings, the Recovery and Resolution division is increasingly granting mandates to external mandataries. To take account of this, FINMA has increased its range of tools for monitoring the orderly fulfilment of mandates in the year under review. In addition to standard mandate monitoring, FINMA has started to carry out regular on-site reviews at the mandataries' business premises for selected mandates. The review methods used and areas to be assessed are selected on a risk basis. The aim is to obtain a broader picture of mandate fulfilment, so that undesirable developments can be prevented or counteracted more quickly. The first on-site reviews were carried out successfully in the reporting year.

#### **Changes in regulation**

In the reporting year, the Federal Council adopted various amendments to the Capital Adequacy Ordinance (CAO), which entered into force on 1 January 2019. New gone concern capital requirements, which have previously only applied to the two major banks, were also introduced for the three domestic systemically important banks. The new requirements reflect the already applicable going concern capital requirements, which guarantee the continuation of business activities in the event of major losses. Unlike for the major banks, however, only 40% of the going concern capital is required. A further amendment to the CAO concerns the treatment of systemically important banks' shareholdings in their subsidiaries. A deduction will no longer be made from the capital, with a risk weighting of the investment book value being

carried out instead. Finally, group companies which provide services critical for a bank to continue its business will now be under consolidated supervision by FINMA.

The revision of the legislation on banking resolution and insolvency remains in progress. As discussed in the 2017 annual report, the intention is to revise the banking insolvency legislation with a view to incorporating topics that are currently governed at ordinance level (FINMA Banking Insolvency Ordinance, BIO-FINMA) into federal law (Banking Act, BA). The primary aim of the revision is to provide legal certainty when restructuring measures are being implemented. To achieve this, detailed provisions on the conversion of debt into equity (i.e. a bail-in) are required in federal law.

The original proposal had been to amend the Banking Act in parallel with the introduction of the Financial Services Act (FinSA) and Financial Institutions Act (FinIA), but the changes were taken out of the draft legislation following the passage of the Federal Council's dispatch. Now the proposed amendments are expected to be put out for consultation in the first half of 2019 along with the revisions to the legislation on depositor protection and book-entry securities (segregation).

## “Too big to fail” – the long road to the orderly resolvability of major banks worldwide

A systemically important bank fulfils one or more key functions in the economy whose failure or unavailability would cause serious disruption to the financial system and have a knock-on impact on the real economy. The “too big to fail” regime is designed to prevent any interruption to these systemically important functions.

Following the financial crisis of 2007 to 2008 legislators around the world brought in rules to ensure that systemically important banks could in future be restructured or wound down in an orderly fashion without resorting to state support (“too big to fail”). The large international Swiss banks, together with the supervisory authorities in Switzerland and abroad, have made great strides in ensuring they could meet this aim in the event of another crisis. Much has been achieved, but there is still more work to do. The FSB, which has been a pioneer on the issue of resolution, has provided the main impetus for the Swiss banks in addressing these challenges. This impetus resulted in amendments being made to ordinances and laws in Switzerland.

### **Continuity of systemically important functions**

A systemically important bank fulfils at least one function in the economy whose unavailability would cause serious disruption to the financial system. Systemically important banks therefore have to demonstrate by means of an emergency plan that functions of systemic importance for the Swiss financial centre would continue to operate even in a severe crisis. The banks must also be organised in such a way that the rest of their business in Switzerland and abroad could be wound down without having a destabilising impact on the financial centre and economy. The SNB identified five Swiss banks, including the two major banks, as being systemically important. The FSB categorised the two internationally active Swiss major banks as global systemically important banks (also referred to as G-SIBs). The other three banks are domestic systemically important banks (also referred to as D-SIBs).

### **Recoverability and resolvability**

The main elements needed to ensure the resolvability of a global systemically important bank, such as

the two large Swiss banks, are as follows: adequate capital buffers to absorb losses (going concern capital), a viable resolution strategy with realisable recovery and resolution plans, adequate capital to recapitalise the bank (gone concern capital), adequate liquidity buffers (“funding in resolution”, including for the restructuring phase) and a structure of the group or entity that facilitates resolution and maintains the continuity of systemically important functions. To ensure that the authorities have the up-to-date information they need in the event of a crisis, reliable processes and systems are needed to collect data on capital and liquidity at both group and local level and to value assets and liabilities. Systemically important banks must also have plans in place to ensure that the services required to operate their main functions are available without interruption. This includes maintaining access to key financial-market infrastructures.

### **Strengthening the structure of the two large banks**

While the main focus immediately after the 2008 crisis was on introducing what was a novel statutory framework for Switzerland, since 2015 the emphasis has increasingly shifted to implementing the rules in practice. The two Swiss G-SIBs have achieved meaningful progress since the financial crisis. Both banks have significantly bolstered their capital reserves and fundamentally reorganised their structure in Switzerland and abroad with a view to facilitating resolvability. One of the large banks set up a non-operating group holding company to separate funding and operating liabilities. Both large banks have established Swiss bank subsidiaries to house their systemically important functions and have also set up separate service companies. At the same time some of their US activities have been placed in subholdings.

### Peer comparison of the two large banks

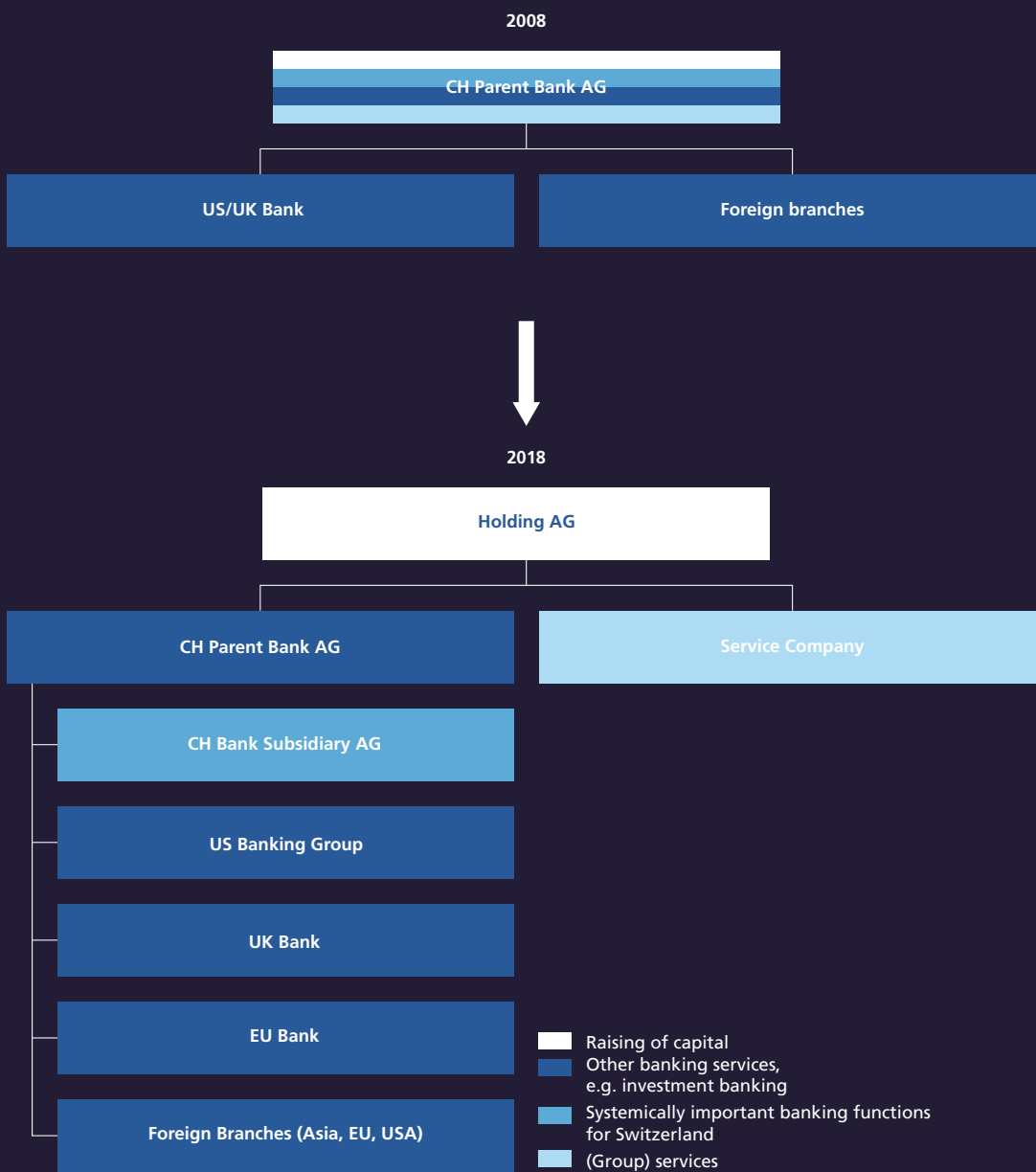
The FSB has set a target date of 2019 for the implementation of most measures. As a result of this, the non-Swiss G-SIBs have certainly not been idle as far as recovery and resolution planning is concerned. Many have achieved significant progress in improving resolvability. Because the USA requires the (partial) disclosure of resolution planning, it is known that the Federal Reserve Board and the Federal Deposit Insurance Corporation (FDIC) have found no further serious shortcomings in the resolution planning of the eight G-SIBs in the USA. The US authorities therefore judged the resolution planning to be credible. However, a number of correctable shortcomings were identified, particularly in the areas of capital and liquidity, and are to be addressed. A peer comparison of progress with other G-SIBs is only possible to a limited extent, since no other country requires the disclosure of resolution planning or a public assessment of the progress made in achieving resolvability. Some comparative information can be gleaned, however, from the assessments of the members of the Swiss G-SIBs crisis management group in the annual resolvability assessment process (RAP). The RAP measures progress in implementing the FSB recommendations. Both major Swiss banks perform well in the RAP relative to their peers, most notably those from the USA and UK. In particular, they are among the first banks that are already fully compliant with the FSB total loss-absorbing capacity (TLAC) standards, which enter into force on 1 January 2022. These are critical to implementing the bail-in strategy that applies to G-SIBs.

### Outlook

The going concern requirements for the parent banks of Swiss G-SIBs were redefined when the revised Capital Adequacy Ordinance entered into force on 1 January 2019. However, the gone concern requirements for the parent banks of Swiss G-SIBs and their Swiss subsidiaries still need to be defined or reviewed. It must therefore be taken into account that – due to increased outflows of liquidity – liquidity gaps will arise in the event of resolution that need to be closed by taking appropriate measures.

# Structural changes in the large banks with an impact on resolvability

Structural changes in the large banks with an impact on resolvability (schematic illustration)



Besides operationalising the resolution strategy for large banks, ensuring all the systemically important banks make progress in their emergency planning and the review of these plans by FINMA will be among the focal points in the coming year.

**Funding in resolution**

One crucial element in the successful restructuring of a large bank via a bail-in is the availability of sufficient liquidity during preparations for and in the phase immediately after the bail-in (writing off creditors' claims and conversion into equity capital), to ensure that systemically important functions can be maintained without interruption until the necessary market confidence has been fully restored. Taking account of international standards, FINMA, working closely with the SNB, will continue assessing the two large banks' liquidity requirements in possible crisis scenarios and comparing them with the currently available liquidity reserves.

**Implementation of internal loss-absorbing capacity**

FINMA will continue to work together with the established crisis management colleges to implement the recommendations of the FSB on internal loss-absorbing capacity, the Guiding Principles on the Internal Total Loss-Absorbing Capacity of G-SIBs (Internal TLAC). These are designed to ensure that material subgroups of G-SIBs have sufficient loss-absorbing capital for recapitalisation in a crisis, thus preventing foreign regulators from adopting unilateral measures that would be at odds with a sustainable, group-wide resolution strategy.

### **Review of the two large banks' emergency plans**

The deadline set by the legislature for the completion of a credible and realisable emergency plan expires at the end of 2019 for both large banks. At the end of 2018 FINMA gave detailed feedback on the basis of all relevant criteria and disclosed to the banks the areas where further improvements are necessary. Considerable efforts by the banks are required to demonstrate that systemically important functions can be maintained without interruption. This is particularly true with regard to measures to bridge liquidity shortfalls in a crisis and reduce financial dependency on other subgroups. FINMA will closely monitor the banks in their work and will review their emergency plans again in the second half of the year.

### **Operationalising the resolution strategy for domestic systemically important banks**

In regard to the gone concern requirements in force since 1 January 2019 for the three domestic systemically important banks, FINMA will review whether these banks' resolution strategies are suitable for maintaining systemically important functions without interruption in the event of impending insolvency. The definition and operationalisation of a credible and realisable resolution strategy by the three domestic systemically important banks in an emergency plan that can be authorised by FINMA will take a lot of work. FINMA will closely monitor the institutions in this work.

## Resolution statistics

A number of bankruptcies and liquidations of both authorised and unauthorised institutions were completed in 2018. No new proceedings were initiated in the authorised segment in the reporting year, unlike in the unauthorised segment, where several proceedings were opened.

### 108 Case numbers

	Pending on 1 January 2018	Proceedings initiated	Proceedings concluded	Pending on 31 December 2018
<b>Liquidations</b>				
– licence holders	3	0	2	1
– unauthorised activities	25	2	11	16
<b>Bankruptcies</b>				
– licence holders	12	0	1	11
– unauthorised activities	84	13	18	79
<b>Recognition proceedings</b>				
– licence holders	15	2	1	16
– unauthorised activities	1	0	0	1
<b>Total proceedings</b>	<b>140</b>	<b>17</b>	<b>33</b>	<b>124</b>

### Breakdown of proceedings pending as of 31 December 2018 by supervisory area

	Bankruptcies	Liquidations	Recognitions	Total
Banks/securities dealers	84	14	16	114
Insurance companies	1	0	0	1
CISA collective investment schemes	5	3	1	9
Directly subordinated financial intermediaries (DSFIs)	0	0	0	0
<b>Total proceedings</b>	<b>90</b>	<b>17</b>	<b>17</b>	<b>124</b>



**Age of pending proceedings as of 31 December 2018 in months (median)**

	Licence holders	Unauthorised activities
Liquidations	160 <sup>39</sup>	57
Bankruptcies	74	44
Recognition proceedings	49.5	52

**Breakdown of pending proceedings as of 31 December 2018 (internal and external)**

	Internal proceedings	External proceedings
Liquidations	0	17
Bankruptcies	17	73
Recognition proceedings	16	1

<sup>39</sup> The value specified here is based on the duration of the only liquidation proceeding in the authorised segment outstanding on 31 December 2018. It was initiated in August 2005.

# At a glance: FINMA's insolvency activities in 2018

FINMA's insolvency-related work includes imposing, monitoring and conducting bankruptcy and liquidation proceedings in its area of responsibility and recognising foreign insolvency measures.

## Regional breakdown of bankruptcies and liquidations

More than half of the bankruptcy and liquidation proceedings pending at the end of the year related to companies based in the cantons of Zurich, Zug, Ticino and Nidwalden.

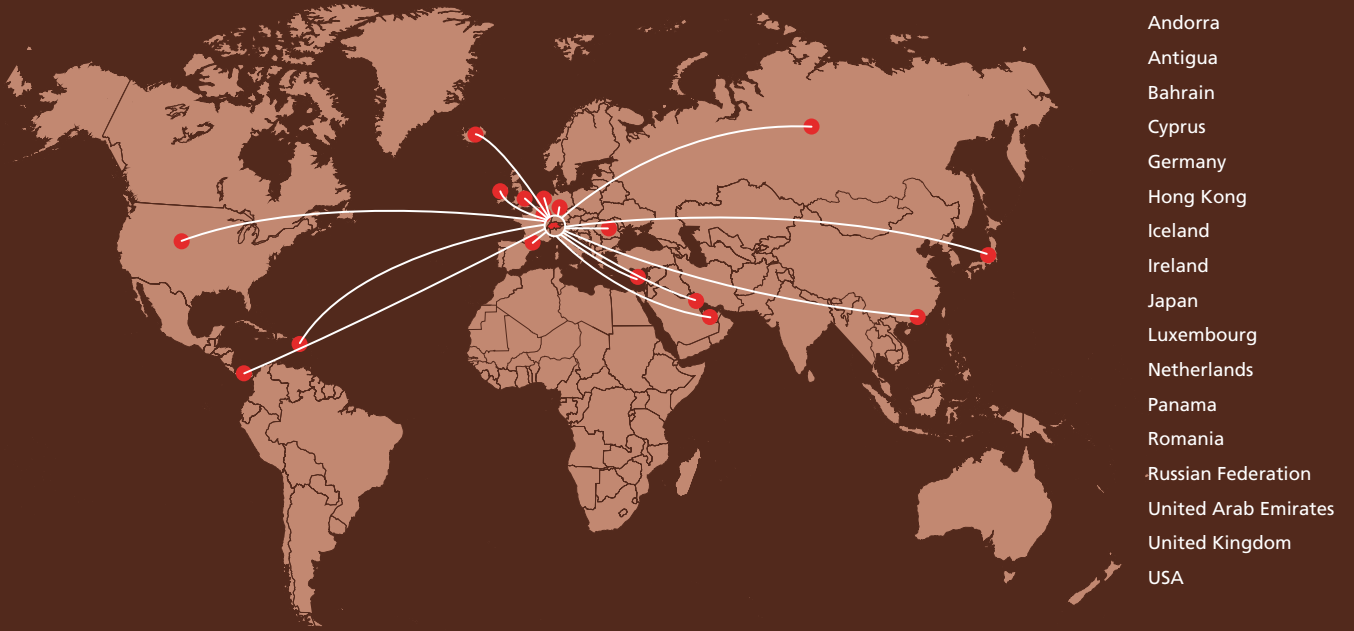
AG:	4
AR:	2
BE:	1
BL:	3
BS:	1
GE:	9
JU:	1
LU:	2
NW:	11
OW:	1
SH:	1
SG:	3
SZ:	6
TG:	4
TI:	11
VD:	3
ZG:	16
ZH:	28



Image source: Federal Office of Topography.

## International breakdown of recognition proceedings handled

Around half of the proceedings to recognise foreign insolvency measures relate to other countries in Europe, but they also include the Middle East, Asia, the Russian Federation, the USA and Central America.

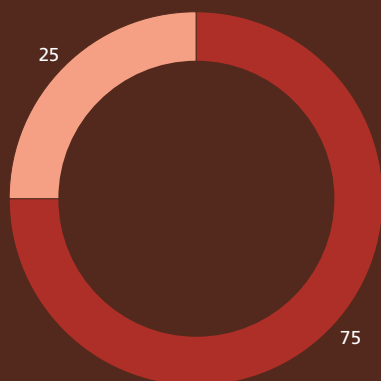


## Results of bankruptcy proceedings

Of the bankruptcy proceedings concluded in the reporting year, 25% were discontinued owing to lack of assets, while 75% were completed with the insolvent company's remaining assets being distributed to creditors. Creditors with pledged claims received full settlement in the proceedings concluded in 2018. The remaining creditors only received partial settlement.

### Settlement of proceedings

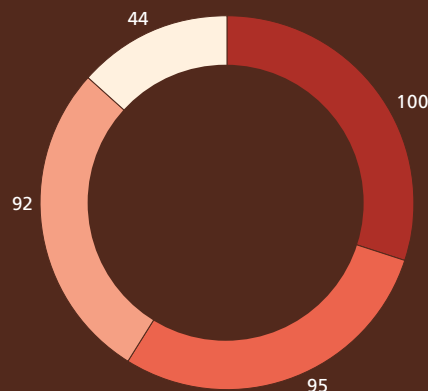
in %



Orderly conclusions in 2018  
Discontinued in 2018 due to lack of assets

### Distribution of bankruptcy dividends to the various creditor groups

in %



Pledged claims  
First class  
Second class  
Third class

FINMA's platforms for exchanging documents and data meet with a positive response from its partners

Delivery platform –  
proportion of all post delivered



**23.8%**

Distribution platform –  
proportion of all post distributed



**13.3%**

# Organisation and staff

- 114** Board of Directors and Executive Board
- 118** Staff
- 122** Operations

Besides its internal workflows, FINMA is also increasingly digitalising the exchange of data and documents with supervised institutions, audit firms and other supervisory authorities. Since its launch two years ago, user numbers for the delivery platform have grown continuously. User numbers for the distribution platform, which only became operational in 2018, are also on the rise.

## Board of Directors and Executive Board

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FINMA is a public law institution in its own right. It is governed by a Board of Directors and an Executive Board.

### The Board of Directors

The Board of Directors is FINMA's strategic management body. It directs, supervises and controls FINMA's executive management. It decides on matters of substantial importance, issues ordinances and circulars and is responsible for FINMA's budget. The Board of Directors acts as a collective body. Its decisions are taken by a majority of the votes of the members present.

#### Members of the Board of Directors (31 December 2018)

Dr Thomas Bauer	Chair
Prof. Marlene Amstad	Vice-Chair
Bernard Keller	Member
Prof. Yvan Lengwiler	Member
Martin Suter	Member
Günter Pleines	Member
Dr Renate Schwob	Member
Franz Wipfli	Member

Vice-Chair Philippe Egger resigned his FINMA mandate at the end of January 2018. In his place, the Federal Council has appointed Marlene Amstad to the position of Vice-Chair. It has also appointed Martin Suter to FINMA's Board of Directors. With his appointment on 1 January 2018 the Board of Directors has gained a recognised insurance expert.

### Committees of the Board of Directors

The Board of Directors has three committees, formed from among its members: the Audit and Risk Committee, the Appointments Committee and the Takeover and State Liability Committee. The Takeover and State Liability Committee is the complaints body with which appeals against rulings by the Swiss Takeover Board may be lodged. It also rules on claims seeking to establish state liability under the Government Liability Act. The other two committees act in an advisory capacity by submitting proposals to the Board of Directors. Each committee has a chairperson who liaises with the Board of Directors and the Executive Board. In addition to its standing committees, the Board of Directors may form ad hoc committees to prepare business or authorise individual members to undertake extraordinary tasks.



Dr Thomas Bauer



Prof. Marlene Amstad



Bernard Keller



Prof. Yvan Lengwiler



Martin Suter



Günter Pleines



Dr Renate Schwob



Franz Wipfli

Members of the Board of Directors (31 December 2018)

**The standing committees of the Board of Directors and their members (31 December 2018)**

	Audit and Risk Committee	Appointments Committee	Takeover and State Liability Committee
Dr Thomas Bauer		Chair	
Prof. Marlene Amstad			X
Bernard Keller	X		
Prof. Yvan Lengwiler		X	X
Martin Suter	X		
Günter Pleines		X	
Dr Renate Schwob			Chair
Franz Wipfli	Chair		

### The Executive Board

The Executive Board is FINMA's operational management body. It is charged with supervising banks, insurance companies, exchanges, securities dealers and other financial intermediaries in line with statutory regulations and FINMA's strategy. It prepares the necessary files and materials on matters dealt with by the Board of Directors and is responsible for implementing the resolutions of the Board of Directors and its committees.

### Members of the Executive Board (31 December 2018)

Mark Branson	CEO
Dr Michael Loretan*	Deputy CEO and Head of Asset Management division
Jan Blöchliger	Head of Banks division
Léonard Bôle	Head of Markets division
Patric Eymann	Head of Enforcement division
Alexandra Karg	Head of Operations division
Birgit Rutishauser Hernandez	Head of Insurance division
Rupert Schaefer	Head of Strategic Services division
Dr David Wyss	Head of Recovery and Resolution division

In the reporting year Michael Schoch, Head of Banks division, and Peter Giger, Head of Insurance division, left FINMA to seek new professional challenges. FINMA was able to fill both of these posts with internal candidates.

Jan Blöchliger, a commercial lawyer, joined FINMA in 2011 and acted as its Secretary General from 2013 to 2015. Before the Board of Directors appointed him Head of Banks division and a member of the Executive Board on 16 July 2018, Jan Blöchliger was responsible for the supervision of Credit Suisse Group.

Birgit Rutishauser Hernandez, a mathematician and actuary, had managed the Risk Management section in the Insurance division since June 2016. The Board of Directors appointed her as the new Head of Insurance division and a member of the Executive Board with effect from 17 September 2018.

On 27 September 2018, the Board of Directors also appointed Michael Loretan as Deputy CEO of FINMA with immediate effect.

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On 22 January 2019 Michael Loretan died after a long illness. He held a doctorate in law and joined FINMA in 2011, initially as Head of Supervision of CS Group. He was appointed a member of the Executive Board in 2014 and became Head of Asset Management division. The Board of Directors named him as Deputy CEO of FINMA from October 2018. Michael Loretan was held in extremely high regard by employees, colleagues and in the finance industry. He will be remembered with great esteem and affection at FINMA.

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Mark Branson



Jan Blöchliger



Léonard Bôle



Patric Eymann



Alexandra Karg



Dr Michael Loretan<sup>†</sup>



Birgit Rutishauser Hernandez



Rupert Schaefer



Dr David Wyss

Members of the Executive Board (31 December 2018)

### Enforcement Committee

The Enforcement Committee (ENA) is a standing committee of the Executive Board responsible for making decisions on enforcement. It issues enforcement rulings and decides whether to initiate and/or discontinue proceedings, particularly against supervised institutions and individuals. Where matters of substantial importance are involved, these decisions are reserved for the Board of Directors.

### Permanent members of the ENA (31 December 2018)

Mark Branson                      Chair  
Rupert Schaefer  
Patric Eymann

Division heads handling a particular case also join the Enforcement Committee as voting members on a case-by-case basis.

FINMA is committed to a sustainable personnel policy with an emphasis on efficiency and transparency over the long term. The key focus in 2018 was on proposed changes to FINMA's pension fund. FINMA's headcount has remained largely stable in recent years.

FINMA has its own pension fund which is affiliated to PUBLICA, the Swiss Federal Pension Fund. With effect from 1 January 2019 PUBLICA will change the calculation basis for all its pension funds and reduce the conversion rate for future pensions. Following this decision, the joint body of the FINMA pension fund decided to take mitigating action and initiated a number of changes.

### Changes to FINMA's pension fund

Without mitigating measures, the planned cut in the conversion rate from 5.65% to 5.09% would result in a 10% reduction in benefits for future recipients of FINMA pensions. The joint body therefore decided on a raft of financial measures to cushion this impact. The most important of these are:

- proportional one-off contributions to the savings capital of employees aged between 45 and 55 to guarantee approx. 95% of previous benefits,
- additional proportional one-off contributions to the savings capital of employees aged between 56 and 60 to guarantee 95% to 97% of previous benefits,
- one-off contributions to the savings capital of employees aged 60 and above to guarantee 97% to 100% of previous benefits (in accordance with mandatory requirements defined by PUBLICA),
- enhanced options for voluntary savings contributions and for the possibilities of voluntary purchase into the pension fund.

At the same time, following a market survey, changes to the pension fund were initiated with the aim of

ensuring that FINMA's pension solution remains competitive. The key aspects of this package of measures are:

- an adjustment to the savings plan so that the financial burden on younger employees is reduced and FINMA assumes 62% of employer contributions in all age groups (previously approx. 59%),
- an increase in employer savings contributions based on savings from falling risk premiums,
- improvements in the pension fund's risk benefits in the event of disability and death. In an initial step the lump-sum death benefit will be increased.

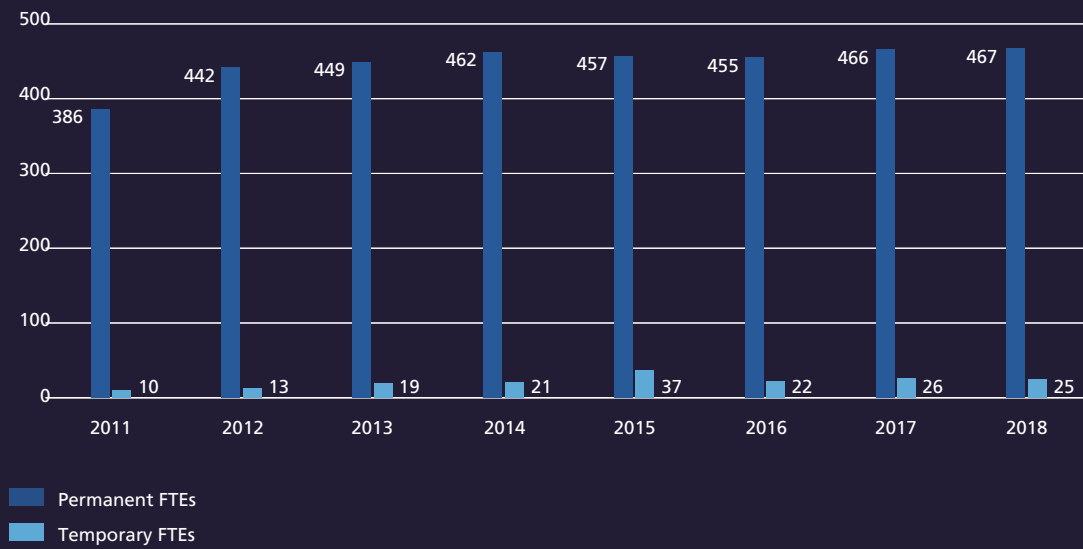
Thanks to these measures, approximately 95% of the previous benefits level will be maintained for all FINMA employees. These measures will be funded through existing provisions in the pension fund, savings relating to the risk premium and the liquidation of existing ring-fenced employer contribution reserves. The changes to the savings plan will result in additional staff costs of approximately 0.2% per annum. The Federal Council approved the changes to FINMA's pension fund in the spring of 2018.

### Equal pay audit

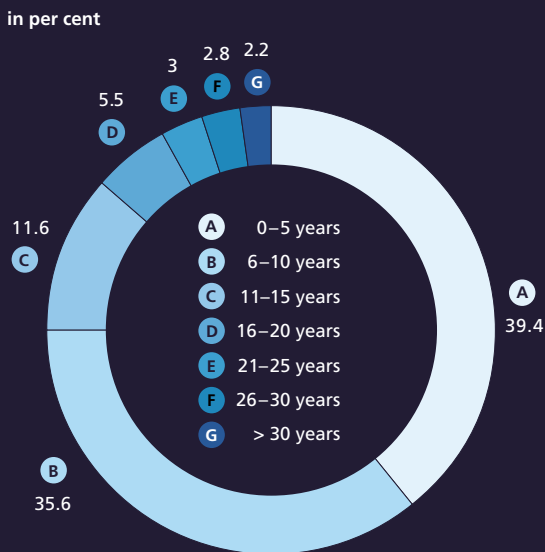
In 2016 independent experts from the Swiss Association for Quality and Management Systems (SQS) awarded FINMA's remuneration system the "Good Practice in Fair Compensation" certificate, confirming that FINMA has a fair and balanced remuneration system. Annual maintenance audits have been carried out in the interim.

# Key personnel indicators

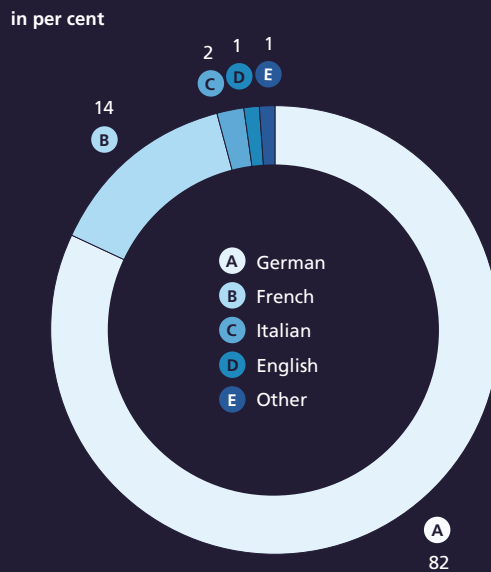
## Average full-time equivalents (FTEs)



## Years of service



## Breakdown by language



The wage differential between men and women as measured by Logib, the Swiss government's pay equality tool, is 3.1%, unchanged from 2017.

### Key personnel figures

The number of full-time equivalent positions has hardly changed since 2012. This is a conscious decision taken annually by the Board of Directors. In the reporting year, the maximum headcount approved by the Board of Directors for permanent employment was 481 full-time equivalent positions, of which an average of 468 were filled (2017: 466). In 2018 FINMA had an average of 537 employees (2017: 534) across 492 full-time equivalent positions (2017: 492) in permanent and temporary employment. Some 34% of employees worked part-time (2017: 32%).

Each year the Board of Directors defines a strategic headcount limit which is used as a basis for resource planning. This limit quantifies the resources which FINMA will need to fulfil its mandate in the medium term; its definition is unrelated to the annual budget process. The upper limit has remained largely stable since 2012. Given the additional responsibilities which FINMA will be obliged to assume in the context of FinSA and FinIA, FINMA will have no option

but to employ additional staff. The Board of Directors has therefore raised the headcount limit to 517.6 full-time equivalents. This specifically includes all of the personnel resources which will be required in coming years to meet FINMA's new responsibilities. Most of these resources will be deployed in the authorisation, supervision and enforcement of trustees and independent portfolio managers of individual customer assets as well as specific trade assayers as defined in the Precious Metals Control Act and their supervisory organisations, all of which will now be subject to supervision by FINMA. Given the implementation timeline for FinSA and FinIA, the additional resources will only become necessary in the medium term and the actual headcount will therefore rise gradually towards the upper limit. The positions which are created as a consequence of FinSA and FinIA regulation will be financed for the most part by the newly supervised institutions in the form of supervisory fees and levies.

The average age of employees in 2018 was 42 (2017: 42). Approximately 65% of the workforce (2017: 66%) were aged between 30 and 49. 26% of employees (2017: 24%) were aged 50 and over, while around 9% (2017: 10%) were young talents. Senior

management positions (2017: 284) were held by 273 employees or 51% (2017: 52%). This category at FINMA includes all line management and specialist functions in Salary Bands 1 to 3. 95 employees (2017: 94), or around 35% (2017: 33%), had a line management function, with women making up around 24% (2017: 24%). In 2018 women accounted for 40% of the total workforce (2017: 40%). At the end of 2018 the number of non-Swiss nationals working for FINMA was 77 (2017: 81).

As at the end of December 2018 staff turnover (excluding retirement) was over 7% (2017: 5%). Of FINMA's overall workforce, some 25% (2017: 18%) have worked for FINMA or one of its predecessor organisations for more than ten years.

## Operations

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As well as keeping its energy consumption to a minimum, FINMA also takes an environmentally sensitive approach to natural resources. Under the terms of a target agreement with the canton, FINMA is obliged to become more energy-efficient. FINMA's operating costs were lower than in the previous year.

Under the terms of a cantonal target agreement for large-scale energy consumers, FINMA is obliged to increase its energy efficiency from 100% to 109% between 2017 and 2026. Relevant measures include the optimisation of ventilation and lighting systems. The efficiency gains schedule shows that FINMA has met its predefined targets for 2018.

### **Energy consumption: buildings**

Power consumption at FINMA's headquarters in Bern fell once again compared with the previous year. The Zurich offices also used less power. FINMA covers most of its energy needs with electricity generated by Swiss hydroelectric power stations. At the same time, some 35.2% of its total energy needs are met by green electricity from certified hydroelectric power stations. The premises in Bern are heated exclusively using district heating. FINMA has reduced its greenhouse gas emissions continuously since 2015.

### **Paper**

FINMA staff have been using photocopiers less frequently in recent years, leading to a reduction in paper consumption. Paper consumption in the reporting year was around 21.9 kg per FTE, a reduction of more than 17% compared with last year. This positive development is a direct result of FINMA's digitalisation strategy which aims to make a contribution towards environmental protection by moving away from hardcopy to electronic document formats.

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## FINMA's costs have fallen

FINMA's operating costs have remained largely stable since 2012 and were below the figure for the previous year in the reporting year. FINMA's annual financial statements show that its operating costs were around CHF 2 million lower than in the previous year at CHF 119 million (2017: 121). Together with the reserves required by law, this amounts to CHF 131 million (2017: 133). These expenses are covered by income from supervisory fees and levies. The result confirms the cost discipline which FINMA has been committed to for several years. The annual financial statements for 2018 will be published separately and explain FINMA's annual results in detail.

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# Key environmental indicators

FINMA's total energy needs fell by around 14.4% compared with last year. At the same time, the proportion of renewable energies used fell slightly to 53.1%. FINMA's digitalisation strategy, which prioritises the electronic processing of documents, has led to a reduction in paper consumption. This figure fell by 17% compared with the previous year.

## Environmental indicators



# FINMA consistently takes action against unauthorised activity in the FinTech sector

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investigations concluded  
into unauthorised activity  
in the FinTech sector

12

entries on the warning list

2

enforcement proceedings  
concerning unauthorised  
activity



# Appendix

- 126** Supervisory categories
- 128** Statistics
- 132** Agreements signed by FINMA with other supervisory authorities
- 134** Abbreviations

Switzerland is an attractive location for FinTech companies and as a result also attracts market players with dishonest intentions. As part of its enforcement activities, FINMA is increasingly taking action against such players. It enforces the licensing requirements for companies in the FinTech sector consistently and in a technology-neutral way in order to protect investors and customers and rid the market of unscrupulous players. Of the 327 closed files concerning unauthorised activity in the Swiss financial market, 75 involved FinTech companies, 12 of which were entered on the warning list, while 2 FinTech investigations led to enforcement proceedings.

## Supervisory categories

FINMA-supervised institutions are assigned to one of six categories depending on their potential risk impact on creditors, investors, policyholders and the Swiss financial centre as a whole. FINMA also gives each institution a rating which reflects its assessment of the institution's current status.

Based on category and rating criteria, the supervisory approaches adopted by FINMA for each institution determine the intensity of supervision, the supervisory tools used and the interaction between the use of audit firms and FINMA's direct super-

vision. These measures enable FINMA to apply risk-based supervisory approaches and to monitor institutions with a high risk exposure more intensely.

### Supervisory categories – banks<sup>40</sup>

Banks are categorised in line with the rules set out in FINMA Circular 2011/2.<sup>41</sup>

Category	Criteria (in CHF billions)	Number of institutions	
		2018	2017
1	Total assets	≥ 250	2
	Assets under management	≥ 1,000	
	Privileged deposits	≥ 30	
	Capital requirements	≥ 20	
2	Total assets	≥ 100	3
	Assets under management	≥ 500	
	Privileged deposits	≥ 20	
	Capital requirements	≥ 2	
3	Total assets	≥ 15	26
	Assets under management	≥ 20	
	Privileged deposits	≥ 0.5	
	Capital requirements	≥ 0.25	
4	Total assets	≥ 1	60
	Assets under management	≥ 2	
	Privileged deposits	≥ 0.1	
	Capital requirements	≥ 0.05	
5	Total assets	< 1	178
	Assets under management	< 2	
	Privileged deposits	< 0.1	
	Capital requirements	< 0.05	

<sup>40</sup> Market participants not subject to prudential supervision are in Category 6.

<sup>41</sup> Circular 2011/2 "Capital buffer and capital planning – banks", ([www.finma.ch/en/~media/finma/dokumente/dokumentencenter/myfinma/rundschreiben/finma-rs-2011-02.pdf?la=en](http://www.finma.ch/en/~media/finma/dokumente/dokumentencenter/myfinma/rundschreiben/finma-rs-2011-02.pdf?la=en)).

## Supervisory categories – insurance companies<sup>42</sup>

Category	Criteria	Number of institutions	
		2018	2017
1	–	–	–
2	Total assets > CHF 50bn or complexity	5	5
3	Total assets > CHF 1bn or complexity	37	38
4	Total assets > CHF 0.1bn or complexity	57	56
5	Total assets < CHF 0.1bn or complexity	100	105

## Supervisory categories – asset management

Category	Criteria	Number of institutions	
		2017	2018
1	–	–	–
2	–	–	–
3	–	–	–
4	Assets under management <sup>43</sup> ≥ CHF 30bn	15	14
5	Assets under management <sup>43</sup> < CHF 30bn	396	398

## Supervisory categories – markets

	Globally important	Systemically important	Nationally important	Important for reputation	Category
SIX SIS AG	x	x	x	x	1
SIX x-clear AG	x	x	x	x	1
SIX Swiss Exchange AG			x	x	2
BX Berne Exchange AG					4
SIX Repo AG					4
SIX Trade Repository AG					4

Directly supervised financial intermediaries (DSFIs) are assigned to Category 6 and are not subject to prudential supervision.

<sup>42</sup> Market participants not subject to prudential supervision are in Category 6.

<sup>43</sup> The assets under management are the total net fund assets of all managed or administered funds and all individual portfolio management assets.

### Supervised financial-market participants<sup>44</sup>

(31 December 2018)

#### Supervised banks

	2018	2017
Banks, of which	259	272
– under foreign control	80	86
– branches of foreign banks	26	29
– exiting the market	7	16
Raiffeisen banks	246	261
Representative offices of foreign banks	49	53

#### Supervised securities dealers

	2018	2017
Securities dealers, of which	46	52
– under foreign control	9	14
– branches of foreign securities dealers	13	11
– exiting the market	1	6
Representative offices of foreign securities dealers	36	40
Recognised foreign remote participants	102	126

#### Supervised financial-market infrastructures

	2018	2017
Swiss stock exchanges	2	3
Swiss multilateral trading facilities	2	2
Recognised foreign trading venues pursuant to Art. 41 FMIA	72	61
Recognised foreign trading venues pursuant to the Federal Council Ordinance of 30 November 2018 <sup>45</sup>	52	–
Recognised foreign central counterparties	12	4
Swiss central counterparties	1	0
Swiss central securities depositories	1	1
Swiss trade repositories	1	1
Recognised foreign trade repositories	2	1

#### Supervised collective investment schemes

	2018	2017
<b>Swiss collective investment schemes</b>		
Total Swiss collective investment schemes, of which	1,725	1,642
– domestic open-ended collective investment schemes (Art. 8 CISA)		
– contractual investment funds and SICAVs	1,706	1,624
– of which intended for qualified investors only	750	698
– closed-ended Swiss collective investment schemes (Art. 9 CISA)		
– limited partnerships for collective investment schemes and SICAFs	19	18
<b>Foreign collective investment schemes</b>		
Total foreign collective investment schemes, of which	8,094	7,761
– EU compatible (UCITS)	8,041	7,685
– non-EU compatible (non-UCITS <sup>46</sup> )	53	76

<sup>44</sup> “Supervised” does not necessarily mean that an institution is subject to prudential supervision.

<sup>45</sup> Federal Council Ordinance of 30 November 2018 on the recognition of foreign trading venues for trading in securities of companies domiciled in Switzerland.

<sup>46</sup> Non-UCITS schemes are collective investment schemes not subject to the EU UCITS Directive.

### Supervised fund management companies, asset managers, custodian banks, representatives and distributors under CIS

	2018	2017
Fund management companies	48	45
Asset managers	212	217
Representatives of foreign collective investment schemes	86	92
Distributors under CISA	350	353
Custodian banks	32	31

### Supervised insurers and general health insurers

	2018	2017
Life insurers, of which	19	19
– insurers domiciled in Switzerland	16	16
– branches of foreign insurers	3	3
Non-life insurers, of which	114	118
– insurers domiciled in Switzerland (incl. 19 supplementary health insurers [2016: 21])	70	73
– branches of foreign insurers (incl. 2 supplementary health insurers [2016: 2])	44	45
Total reinsurers	54	55
– reinsurers	27	28
– reinsurance captives	27	27
General health insurers offering supplementary health insurance	12	12
Total supervised insurers and health insurers	199	204
Insurance groups (groups and conglomerates)	6	6

### Supervised financial intermediaries

	2018	2017
Total supervised self-regulatory organisations	11	12
Total directly supervised financial intermediaries	134	163
Total group companies subject to FINMA money-laundering supervision	139	134
Total registered insurance brokers	16,567	15,997

### Recognised credit rating agencies

	2018	2017
Total recognised credit rating agencies	6	5

## Authorisations issued (1 January to 31 December 2018)

### Banks

	2018	2017
Bank licences (Art. 3 BA)	1	1
Branches (Art. 4 FBO-FINMA)	1	3
Representative offices (Art. 14 FBO-FINMA)	2	2
Additional licences (Art. 3 <sup>ter</sup> BA)	7	3
Released from supervision	16	6

### Securities dealers

	2018	2017
Securities dealers' licences (Art. 10 SESTA)	2	2
Branches (Art. 41 SESTO)	2	2
Representative offices (Art. 49 SESTO)	2	1
Additional licences (Art. 10 para. 6 SESTA and Art. 56 para. 3 SESTO)	2	1
Released from supervision	5	4
Recognition of foreign stock exchange participants	22	10

### Financial-market infrastructures

	2018	2017 <sup>47</sup>
Authorisation of Swiss stock exchanges	0	2
Authorisation of Swiss multilateral trading facilities	0	2
Recognition of foreign trading venues pursuant to Art. 41 FMIA	13	42
Recognition of foreign trading venues pursuant to the Federal Council Ordinance of 30 November 2018 <sup>48</sup>	52	–
Recognition of foreign central counterparties	8	3
Authorisation of Swiss central counterparties	1	0
Authorisation of Swiss central depositories	0	1
Authorisation of Swiss trade repositories	0	1
Authorisation of foreign trade repositories	1	1

### Collective investment schemes

	2018	2017
Swiss collective investment schemes	160	166
Foreign collective investment schemes	935	873

### Fund management companies, asset managers, custodian banks, representatives and distributors under CISA

	2018	2017
Fund management companies	3	1
Asset managers	8	24
Representatives of foreign collective investment schemes	3	6
Distributors under CISA	27	27
Custodian banks	2	1

<sup>47</sup> Re-authorisations under FMIA are included.

<sup>48</sup> Federal Council Ordinance of 30 November 2018 on the recognition of foreign trading venues for trading in securities of companies domiciled in Switzerland.

## Insurers and general health insurers

	2018	2017
Life insurers, of which	1	0
– insurers domiciled in Switzerland	0	0
– branches of foreign insurers	1	0
Non-life insurers, of which	1	2
– insurers domiciled in Switzerland	0	1
– branches of foreign insurers	1	1
Reinsurers	0	2
Reinsurance captives	1	2
General health insurers offering supplementary health insurance	1	0
Total	4	6
Insurance groups (groups and conglomerates)	0	0

## Financial intermediaries

	2018	2017
Directly supervised financial intermediaries	0	2
Money-laundering supervision under FINMA group supervision	11	6
Registered insurance brokers	1,054	897

## Credit rating agencies

	2018	2017
Recognised credit rating agencies	1	0

## Agreements signed by FINMA with other supervisory authorities

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FINMA cooperates with numerous international authorities. In 2018, it signed a number of agreements to strengthen this cooperation.

International agreements are non-binding administrative conventions relating to supervisory cooperation. The term “memorandum of understanding” (MoU) is widely used for such agreements, as are the terms “cooperation agreement” (COAG) and “coordination arrangement”. In these agreements, the participating supervisory authorities agree to cooperate within the scope of their national law and define the relevant arrangements. International agreements cannot be used by FINMA or the foreign partner authorities and/or third parties to establish any rights or obligations.

At the end of October FINMA signed a MoU with the European Central Bank (ECB) relating to banking supervision. The agreement is based on the customary standards for international cooperation. This enabled FINMA to lay the foundations for closer cooperation with the EU’s central authority in the area of banking supervision, something which is of increasing importance to FINMA, in particular because of Brexit.

In 2018 FINMA concluded further cooperation agreements to promote cooperation relating to FinTech in the Asian region, one with the Hong Kong Monetary Authority (HKMA) and the Securities and Futures Commission (SFC) and the other with the Japanese

Financial Service Agency (JFSA). With a view to intensifying cooperation, the Bank of Israel (BOI) acceded to the cooperation agreement concluded last year on FinTech with the Israeli supervisory authorities Capital Markets Insurance and Savings Authority (CMISA) and the Israel Securities Authority (ISA). Further agreements were entered into with the Brazilian Comissão de Valores Mobiliários (CVM) and the United Arab Emirates Abu Dhabi ADGM Financial Services Regulatory Authority (FSRA). These agreements enable FinTech companies from these countries and Switzerland to expand their business in the other country’s market. In addition, innovative FinTech companies in both countries can quickly establish contact with the authorities in each other’s country to identify the type of authorisation they require. This will eliminate regulatory uncertainties and ultimately reduce the time to the commencement of business. The agreements also provide a basis for exchanging FinTech-specific information.



In 2018 FINMA concluded the following agreements:

Country	Supervisory authority	Type	Area of application
Brazil	Comissão de Valores Mobiliários (CVM)	bilateral/general	Promoting supervisory cooperation in the area of FinTech
European Union	European Central Bank (ECB)	bilateral/general	Promoting general cooperation
Hong Kong	Hong Kong Monetary Authority (HKMA) and Securities and Futures Commission (SFC)	bilateral/general	Promoting supervisory cooperation in the area of FinTech
Israel	Bank of Israel (BOI), Israel Securities Authority (ISA) and Ministry of Finance – Capital Markets, Insurance and Savings Division (CMISA)	bilateral/general	Promoting supervisory cooperation in the area of FinTech
Japan	Financial Service Agency (JFSA)	bilateral/general	Promoting supervisory cooperation in the area of FinTech
Serbia	National Bank of Serbia (home authority), college members (host authorities)	multilateral/institution-specific	Cooperation on supervision of the UNIQA Group
United Arab Emirates Abu Dhabi	ADGM Financial Services Regulatory Authority (FSRA)	bilateral/general	Promoting supervisory cooperation in the area of FinTech
United Kingdom	Bank of England (home authority), college members (host authorities)	multilateral/institution-specific	Cooperation agreement on crisis management of ICE Clear Europe Ltd

## Abbreviations

<b>ABA</b> Activities-based approach	<b>D-SIB</b> Domestic systemically important bank
<b>AMC</b> Actively managed certificates	<b>DSFI</b> Directly subordinated financial intermediary
<b>AMLA</b> Swiss Federal Act of 10 October 1997 on Combating Money Laundering and Terrorist Financing in the Financial Sector (Anti-Money Laundering Act; SR 955.0)	<b>EAER</b> Federal Department of Economic Affairs, Education and Research
<b>AMLO-FINMA</b> Ordinance of 3 June 2015 of the Swiss Financial Market Supervisory Authority on Combating Money Laundering and Terrorist Financing (FINMA Anti-Money Laundering Ordinance; SR 961.011.0)	<b>EATC-S</b> Economic Affairs and Taxation Committee of the Council of States
<b>Art.</b> Article	<b>EBA</b> Entity-based approach
<b>BA</b> Swiss Federal Act of 8 November 1934 on Banks and Savings Banks (Banking Act; SR 952.0)	<b>ECB</b> European Central Bank
<b>BCBS</b> Basel Committee on Banking Supervision	<b>EHP</b> FINMA data collection application
<b>BIO-FINMA</b> Ordinance of 30 August 2012 of the Swiss Financial Market Supervisory Authority on the Insolvency of Banks and Securities Dealers (FINMA Banking Insolvency Ordinance; SR 952.05)	<b>ENA</b> FINMA Enforcement Committee
<b>BO</b> Swiss Federal Ordinance of 8 November 1934 on Banks and Savings Banks (Banking Ordinance; SR 952.02)	<b>ETF</b> Exchange-traded funds
<b>BOI</b> Bank of Israel	<b>ETP</b> Exceptions to policy (loans granted outside internal banking regulations)
<b>BPES</b> Banque Privée Espírito Santo	<b>EXPERTsuisse</b> Swiss Expert Association for Audit, Tax and Fiduciary
<b>BVG</b> Federal Act of 25 June 1982 on Occupational Old-Age, Survivors' and Invalidity Pension Provision of 25 June 1982 (SR 831.40)	<b>FAC</b> Federal Administrative Court
<b>CAO</b> Swiss Federal Ordinance of 1 June 2012 on Capital Adequacy and Risk Diversification for Banks and Securities Dealers (Capital Adequacy Ordinance; SR 952.03)	<b>FASB</b> Financial Accounting Standards Board
<b>CC-CS</b> Control Committee of the Council of States	<b>FATF</b> Financial Action Task Force on Money Laundering
<b>CCP</b> Central counterparty	<b>FBO-FINMA</b> Ordinance of 21 October 1996 of the Swiss Financial Market Supervisory Authority on Foreign Banks in Switzerland (FINMA Foreign Banks Ordinance; SR 952.111)
<b>CC</b> Control Committees of the Federal Assembly	<b>FC</b> Finance Committees of the Federal Assembly
<b>CDB</b> Swiss Banks' Code of Conduct with Regard to the Exercise of Due Diligence	<b>FDf</b> Federal Department of Finance
<b>CET1</b> Common Equity Tier 1	<b>FDIC</b> Federal Deposit Insurance Corporation (US)
<b>CISA</b> Swiss Federal Act of 23 June 2006 on Collective Investment Schemes (Collective Investment Schemes Act; SR 951.31)	<b>FinIA</b> Financial Institutions Act
<b>CISO</b> Swiss Federal Ordinance of 22 November 2006 on Collective Investment Schemes (Collective Investment Schemes Ordinance; SR 951.311)	<b>FINMA</b> Swiss Financial Market Supervisory Authority
<b>CISO-FINMA</b> Ordinance of 27 August 2014 of the Swiss Financial Market Supervisory Authority on Collective Investment Schemes (FINMA Collective Investment Schemes Ordinance; SR 951.312)	<b>FINMASA</b> Swiss Federal Act of 22 June 2007 on the Swiss Financial Market Supervisory Authority (Financial Market Supervision Act; SR 956.1)
<b>CMG</b> Crisis Management Group	<b>FinSA</b> Financial Services Act
<b>CMISA</b> Capital Markets Insurance and Savings Authority (Israel)	<b>FMI</b> Financial-market infrastructures
<b>COAG</b> Cooperation agreement	<b>FMIA</b> Swiss Federal Act of 19 June 2015 on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (Financial Market Infrastructure Act; SR 958.1)
<b>CPMI</b> Committee on Payments and Market Infrastructures	<b>FMIO</b> Swiss Federal Ordinance of 25 November 2015 on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (Financial Market Infrastructure Ordinance; SR 958.11)
<b>CVM</b> Comissão de Valores Mobiliários	<b>FMIO-FINMA</b> Ordinance of 3 December 2015 of the Swiss Financial Market Supervisory Authority on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (FINMA Financial Market Infrastructure Ordinance; SR 958.111)
	<b>FSB</b> Financial Stability Board
	<b>FSC</b> Federal Supreme Court
	<b>FSCD</b> Federal Supreme Court Decision
	<b>FSRA</b> United Arab Emirates Abu Dhabi ADGM Financial Services Regulatory Authority
	<b>FTE</b> Full-time equivalent

**G-SIB** Global systemically important bank

**G-SII** Global systemically important insurer

**HKMA** Hong Kong Monetary Authority

**IAIS** International Association of Insurance Supervisors

**IASB** International Accounting Standards Board

**ICA** Swiss Federal Act of 2 April 1908 on Insurance Contracts (Insurance Contract Act; SR 221.229.1)

**ICO** Initial coin offering or token generating event

**IFRS** International Financial Reporting Standards

**IOSCO** International Organization of Securities Commissions

**ISA** Israel Securities Authority

**ISA** Swiss Federal Act of 17 December 2004 on the Supervision of Insurance Companies (Insurance Supervision Act; SR 961.01)

**ISO** Swiss Federal Ordinance of 9 November 2005 on the Supervision of Private Insurance Companies (Insurance Supervision Ordinance; SR 961.011)

**JFSA** Japan Financial Services Agency

**kg** kilogram

**kWh** kilowatt hour

**LCR** Liquidity coverage ratio

**LIBOR** London Interbank Offered Rate

**Logib** Federal government's equal pay instrument

**LP** Limited partnership for collective investment schemes

**L-QIF** Limited Qualified Investment Funds

**LTV** Loan-to-value ratio

**MTF** Multilateral trading facility

**MoU** Memorandum of understanding

**MROS** Money Laundering Reporting Office Switzerland

**Non-UCITS** Non UCIT-compatible collective capital investments

**NSFR** Net stable funding ratio

**OTC** Over-the-counter

**OTF** Organised trading facilities

**PEP** Politically exposed person

**PFMI** Principles for Financial Market Infrastructures

**PUBLICA** Swiss Federal Pension Fund

**RAB** Federal Audit Oversight Authority

**RAP** Resolvability assessment process

**RCAP** Regulatory Consistency Assessment Programme

**RWA** Risk-weighted assets

**SA-CCR** Standardised approach for measuring counterparty credit risk

**SBA** Swiss Bankers Association

**SESTA** Swiss Federal Act of 24 March 1995 on Stock Exchanges and Securities Trading (Stock Exchange Act; SR 954.1)

**SESTO** Swiss Federal Ordinance of 2 December 1996 on Stock Exchanges and Securities Trading (Stock Exchange Ordinance; SR 954.11)

**SFAMA** Swiss Funds & Asset Management Association

**SFC** Securities and Futures Commission (Hong Kong)

**SHL** SHL Telemedicine Ltd.

**SIA** Swiss Insurance Association

**SICAF** Investment company with fixed capital

**SICAV** Investment company with variable capital

**SIF** Swiss State Secretariat for International Financial Matters

**SM** Standard model

**SNB** Swiss National Bank

**SO** Supervisory organisations

**SQS** Swiss Association for Quality and Management Systems

**SRO** Self-regulatory organisation

**SST** Swiss Solvency Test

**Suva** Swiss Accident Insurance

**TLAC** Total loss-absorbing capacity

**TOB** Swiss Takeover Board

**UCITS** Undertakings for Collective Investment in Transferable Securities

**US GAAP** United States Generally Accepted Accounting Principles

# Organisation chart

(31 December 2018)

- Divisions
- Sections and groups reporting directly to the division heads
- Sections and groups reporting directly to the Board of Directors
- \* Member of the Executive Board.



## Board of Directors

**Thomas Bauer**  
Chair

Secretariat of the Board of Directors  
**Silvia Kiss**

Internal Audit  
**Nicole Achermann**

**CEO**  
Mark Branson

## Asset Management

**Michael Loretan †\***

Division  
Operating Office  
**Martin Meier**

Legal Expertise  
**Tobias Weingart**

Supervision of  
Institutions and  
Products  
**Daniel  
Bruggisser**

Authorisation  
**Philip Hinsen**

## Enforcement

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Division  
Operating Office  
**Danielle  
Schütz,  
Sarah Bienz**

Investigations  
**Philipp Lüscher**

Proceedings  
**Anton  
Brönnimann,  
Christoph  
Kuhn**

International  
Cooperation  
**Annemarie  
Nussbaumer**

## Recovery and Resolution

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Division  
Operating Office  
**Marcel  
Walthert**

International  
Affairs and  
Policy Issues  
**Reto  
Schiltknecht**

Recovery  
and Resolution  
Planning  
**Johanna Preisig**

Restructuring  
and Insolvency  
**Rastko Vrbaski**

Operations  
and Insolvency  
Proceedings  
**Marcel Walthert**

## Strategic Services

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Division  
Operating Office  
**Florian Roth**

Legal and  
Compliance  
**Renate  
Scherrer-Jost,  
Kathrin Tanner**

General  
Secretariat and  
Communications  
**Edith Honegger**

International  
Affairs  
**Franziska Löw**

Regulation  
**Noël Bieri**

## Operations

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Operating Office  
**Niko Kehm**

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Finance  
**Anita Koch**

Information and  
Communication  
Technologies  
**Christoph  
Hunziker**

Facility  
Management  
and  
Procurement  
**Albert  
Gemperle**

## FINMA's core values

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### Independent decision-making

FINMA is functionally, institutionally and financially independent. It fulfils an important supervisory role in the public's interest, serving and protecting different groups of stakeholders equitably. In line with its remit, FINMA preserves its autonomy, making independent and proportionate decisions.

### Consistent supervision

FINMA is charged with protecting creditors, investors and policyholders and is responsible for ensuring the proper functioning of Switzerland's financial markets. Among its key tasks are licensing, monitoring, enforcement and regulation. FINMA adopts a risk-based approach to supervision that ensures continuity and predictability, fostering dialogue with supervised institutions, authorities, professional associations and other key institutions in and outside Switzerland.

### Responsible staff

FINMA's staff combine experience with responsibility, integrity and the ability to deliver results. Working professionally and independently, its staff show a high degree of flexibility and can handle challenging situations. They keep abreast of new developments and respond with concrete measures that are timely and appropriate.

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