Ordinance on Banks and Savings Banks

(Banking Ordinance, BO)

SR 952.02
dated 30 April 2014 (version as at 1. August 2017)
Ordinance on Banks and Savings Banks

(Banking Ordinance, BO)

SR 952.02
dated 30 April 2014 (version as at 1. August 2017)

Table of Contents

1. Banking Ordinance pg. 2
2. Annex 1 pg. 29
3. Annex 2 pg. 37
4. Annex 3 pg. 39

1 Other Languages

DE: Verordnung über die Banken und Sparkassen (Bankenverordnung, BankV)
FR: Ordonnance sur les banques et les caisses d’épargne (Ordonnance sur les banques, OB)
IT: Ordinanza federale sulle banche e le casse di risparmio (Ordinanza sulle banche, OBCR)
Ordinance on Banks and Savings Banks 952.02
(Banking Ordinance, BO)
dated 30 April 2014 (version as at 1. August 2017)

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

Chapter 1: General Provisions

ARTICLE 1  Subject
(Article 56 BA)

This Ordinance shall govern:

a. the requirements for obtaining a license to operate as a bank;
b. the requirements regarding a bank’s internal organization;
c. accounting requirements;
d. the deposit guarantee fund;
e. the transfer and liquidation of dormant assets;
f. the contingency planning applicable to systemically important banks and the improvement of their recovery or liquidation possibilities.

ARTICLE 2  Banks
(Article 1(1) BA)

1 Companies shall be considered to be banks if they are active mainly in the financial sector and, in particular, do the following:

a. accept deposits from the public or which publicly advertise for such; or

b. on a large scale refinance themselves with loans from banks that do not own any significant holdings in them in order to finance for own account and in any manner possible any number of persons or companies with which they do not form an economic unit.

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

---

1 SR 952.0
a. Total assets;
b. Assets under management;
c. Privileged deposits;
d. Minimum capital requirements.

3 A bank shall be classified in the category in which it fulfills at least three criteria.

ARTICLE 3 Non-banks
(Article 1(2) BA)

Corporations and institutions under public law as well as savings institutes for which such a corporation or institution is fully liable are not considered to be banks, even if they also accept deposits from the public on a commercial basis.

ARTICLE 3a Significant group companies
(Article 2bis BA)

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

ARTICLE 4 Financial sector
(Article 3c(1)(b) BA)

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

a. institutions rendering financial services or those that broker these and especially those that operate the deposits and credit business, securities trading and the investment business on their own behalf or for third parties; or

b. institutions that own qualifying equity interests in companies mainly active in the financial sector (holding companies).

2 Being active as an insurance company (insurance sector) shall be considered to be an activity equal to that of the financial sector, provided this ordinance or the Capital Adequacy Ordinance of 1 June 2012 (CAO) does not stipulate anything else for such companies.

---

3 Inserted according to Enclosure Sect. 1 of the ordinance of 11 May 2016, in force since 1 July 2016 (AS 2016 1725).
5 SR 952.03
ARTICLE 5  Deposits from the public  
(Article 1(2) BA)

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

2 The following are not considered to be deposits from the public:
   a. deposits of domestic and foreign banks or other enterprises under state oversight;
   b. deposits of shareholders or partners holding qualifying equity interests in the relevant debtor;
   c. deposits of persons who are connected to those in (b), either economically or as relatives;
   d. deposits of institutional investors with professional treasury departments;
   e. deposits of active or retired employees who hold deposits with their employers; or
   f. deposits at associations, foundations or co-operatives, provided these:
      1. are not involved in the financial sector,
      2. were created for the sustenance of an idealistic cause, and which strictly use the deposits garnered for this cause; and
      3. for which the terms of the deposits last at least six months.

3 The following are not considered to be deposits:
   a. funds that constitute a consideration from a contract for the transfer of ownership or for the rendering of a service or which are transferred as a security;
   b. bonds or other debt instruments that are standardized and issued en masse or non-certificated rights with a similar function (value rights) if the creditors are informed of this in the scope stated in Article 1156 Code of Obligations6;
   c. credit balances on client accounts of securities dealers, precious metal traders, asset managers or any similar enterprises which solely serve the purpose of settling client transactions, provided that:
      1. no interest is paid on them, and
      2. they are not client accounts of securities dealers, i.e. their settlement takes place within 60 days.

---
6 SR 220
7 Version according to Section I of the ordinance of 5 July 2017, in force since 1 August 2017 (AS 2017 3823).
d. funds the acceptance of which is inseparably linked to life insurance contracts, occupational benefit plans or other benefit plans governed by Article 82 of the Swiss federal law of 25 June 1982 on Occupational Old-age, Survivors’ and Disability Benefit Plans;

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

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

**ARTICLE 6** Commercial nature

1 An institution or person shall be deemed to act in a commercial capacity as per the BA if it accepts on an ongoing basis more than 20 deposits from the public or recommends itself publicly to accept deposits from the public, even if upon doing so, fewer than 20 deposits result.

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

   a. Accept deposits from the public of no more than 1 million Swiss francs in total;

   b. Neither invest nor pay interest on such deposits from the public; and

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

      1. they are not supervised by the FINMA; and

      2. the deposit will not be covered by any depositor protection scheme.

3 Moreover, anyone shall not be deemed to act in a commercial capacity if they meet the requirements as per (2)(a) and (c), the main activity is that of a trade or industrial enterprise, and the deposits from the public are used to finance such activities.

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

**ARTICLE 7 Advertising**

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

Whoever is prohibited from commercially accepting deposits from the public may under no circumstances advertise to offer this service.

---

8 SR 831.40
9 Version according to Section I of the ordinance of 5 July 2017, in force since 1 August 2017 (AS 2017 3823).
Chapter 2: Licensing

Section 1: Information required on persons and holders of equity interests in the license application

ARTICLE 8  (Article 3(2)c) and (c(bis), (5) and (6) BA)

1  An application for a license to incorporate a new bank shall provide the following information and documents on the persons entrusted with its administration and management (Article 3(2)c BA) as well as its holders of qualifying equity interests (Article 3(2)(c(bis)) BA):

   a.  for natural persons:

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

      2.  a signed curriculum vita of the person in question,

      3.  references,

      4.  an extract from the register of criminal convictions;

   b.  for legal persons:

      1.  the articles of incorporation,

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

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

      4.  details on completed and pending court or administrative proceedings.

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

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

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

2. Business area(s) and geographical scope shall correspond to the bank’s financial capacities as well as to its board and management organization.

ARTICLE 10  Bank’s Management  
(Article 3(2)(d) BA)

Factually, the bank shall be managed from Switzerland. The only aspects that are excepted from this rule shall be general directives and decisions taken in regard to the group’s supervision, provided the bank is part of a group active in the financial sector which is subject to adequate supervision by a foreign supervisory authority.

ARTICLE 11  Governing bodies  
(Article 3(2)(a) BA)

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

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

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

ARTICLE 12  Segregation of functions and risk management  
(Articles 3(2)(a), 3f and 3g BA)  

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

2. The bank must provide a risk management framework as well as regulations or internal directives describing processes and responsibilities for risk-bearing business undertakings. Specifically,

---

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

it must detect, mitigate and monitor market, credit, default, settlement, liquidity and reputational risks as well as operational and legal risks.

2bis The bank shall ensure both at the level of the single entity as well as the group that new agreements or amendments to existing agreements which are subject to foreign law or a foreign place of jurisdiction are only entered into if the counterparty recognizes a suspension of the termination of agreements as per Article 30a BA. 12

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

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

ARTICLE 13 Notification duty in regard to qualifying holders of equity interests (Article 3(5) and (6) BA)

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

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

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

ARTICLE 14 Private banks (Article 3(3) BA)

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

Section 3: Capital requirements

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

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

2 In case a company is incorporated with contributions in kind, an accredited audit firm must review

---

the value of these assets and liabilities brought into the company.

**ARTICLE 16** Minimum capital at conversion  
(Article 3(2)(b) BA)

1. If an existing corporation is converted into a bank, the fully paid-in capital may amount to less than CHF 10 million, provided the Common Equity Tier 1 capital as per Article 21 CAO\(^{13}\) reaches this amount after taking into account the adjustments stipulated in Articles 31-40 CAO. The FINMA shall decide on such cases using a case-by-case approach.

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

**ARTICLE 17** Exceptions to minimum capital requirements

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

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

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

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

### Section 4: Cross-border aspects

**ARTICLE 18** Additional licenses  
(Article 3\(^{3}\) BA)

Applications for additional licenses as a foreign controlled bank as per Article 3\(^{3}\) BO shall include the data listed in Article 8.

**ARTICLE 19** Reciprocal rights in the case of foreign controlled institutions  
(Article 3\(^{3}\)(1)(a) BA)

1. Reciprocity rights shall be guaranteed in particular if:

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

   b. these newly incorporated banks are not subject to more significant curtailments in regard to their business activities than foreign banks in Switzerland.
2 With the incorporation of a permanent representative office of a foreign bank as per Article 3bis(1) BA, reciprocity is also guaranteed if Swiss banks can open permanent representative offices in that country with the same functions.

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

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

   a. a business plan that specifically describes the type of business it intends to pursue and its organizational structure;
   
   b. the address of the office abroad;
   
   c. the names of the persons entrusted with Board and Management functions;
   
   d. the audit firm;
   
   e. the supervisory authority in the host country.

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

**Chapter 3: Financial groups and financial conglomerates**

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

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

2 Compulsory support may apply in particular due to:

   a. personal or financial interconnection;
   
   b. the use of a joint company;
   
   c. acting in the market with a uniform corporate identity; or
   
   d. due to letters of comfort.
ARTICLE 22  Group companies
(Article 3c(1)(c) BA)

Group companies shall be deemed affiliated companies if they are perceived as economic units or if they are obliged to support each other (“compulsory support”).

ARTICLE 23  Scope of group and conglomerate supervision
(Article 3e BA)

1 The FINMA’s group supervision shall include all group companies active in the financial sector of a financial group as defined in Article 4(1). A conglomerate supervision shall also include group companies whose activity as insurance company as per Article 4(2) is considered to be equal to that of one in the financial sector.

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

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

ARTICLE 24  Content of consolidated supervision
(Article 3g BA)

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

   a. is adequately organized;

   b. has an adequate internal control system;

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

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

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

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

   g. disposes of adequate liquidity;

   h. applies the accounting regulations correctly;

   i. has a recognized, independent and competent audit firm.
The FINMA may deviate from (1) for the consolidated supervision of financial conglomerates in order to account for the particularities of activities in the insurance sector.

Chapter 4: Accounting

Section 1: Single-entity financial statements

ARTICLE 25  Financial statements
(Article 6 (1) (a), 6b (1) and (3) BA)

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

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

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

2  In the statutory true and fair view single-entity financial statements, the CO\textsuperscript{14} provisions are not applicable for the following items:

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

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

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

3  The financial statements shall consist of balance sheet, income statement, statement of shareholders’ equity, cash flow statement and notes. Banks that prepare statutory single-entity financial statements with reliable assessment shall be exempt from having to prepare a cash flow statement.

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

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

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

c. no equity securities are listed on a stock exchange.

\textsuperscript{14} SR 220
5 The persons referred to in Article 962(2) CO may request financial statements prepared according to the true and fair view if the bank does not prepare consolidated financial statements in accordance with the provisions of Articles 33-41 or in accordance with an international reporting standard recognized by the FINMA.

ARTICLE 26  Fundamentals and Principles  
(Article 6(3), 6b(1) BA)

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

2 Specifically, the financial statements must observe the following principles:
   a. correct recording of business transactions;
   b. clarity and understandability;
   c. completeness;
   d. reliability;
   e. materiality of information;
   f. prudence;
   g. consistency in presentation and valuation;
   h. prohibition of netting assets with liabilities and expenses with income;
   i. substance over form.

ARTICLE 27  Valuation and recording  
(Article 6(3), 6b (1) and (3) BA)

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

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

15 SR 220
ARTICLE 28  Minimum structure  
(Article 6(3), 6b(3) BA)

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

ARTICLE 29  Management report  
(Article 6(1)(b), 6b(1) BA)

The bank’s management report shall be prepared in accordance with Article 961c CO\(^{16}\).

ARTICLE 30  Content of the annual report  
(Article 6b(1) BA)

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

ARTICLE 31  Interim financial statements  
(Article 6(3), 6b (1) and (3) BA)

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

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

ARTICLE 32  Publication  
(Article 6a, 6b (1) and (3) BA)

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

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

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

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

\(^{16}\) SR 220
Section 2: Consolidated financial statements

ARTICLE 33  Consolidated financial statements  
(Article 6(1)(c), 6b (1) BA)

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

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

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

ARTICLE 34  Duty to prepare consolidated financial statements  
(Article 6(1)(c), 6b (1) and (2) BA)

1 In addition to its annual financial statements, a bank shall prepare consolidated financial statements if it:
   a. controls one or more companies;
   b. is able to influence a company’s business activities in such a way as to be its primary beneficiary; or
   c. is the main risk bearer for another company’s business activities.

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

3 The bank or the holding company shall control a company if it:
   a. directly or indirectly holds the majority in votes in the supreme management body;
   b. directly or indirectly holds the right to appoint or remove the majority of the members of senior management or the board of directors; or
   c. is able to exert a dominant influence as per (a) and (b) in another way.

4 The Bank or the holding company does not have to consolidate a controlled company, if:
   a. it does not financially or otherwise benefit from the success of the controlled company now or in the future, and bears no risks from this company’s business activities;
   b. the benefits of the controlled company’s business activities will go to independent third parties and the risks are borne exclusively by these; and
c. the monetary or non-monetary remunerations from the relationship with such a controlled company is in line with market conditions and reflects its performance.

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

ARTICLE 35 Exception from the obligation to prepare consolidated financial statements (Article 6b(1)-(3) BA)

1 Consolidation is not required for:

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

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

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

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

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

b. are made available to the public.

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

ARTICLE 36 Alleviations granted for the preparation of consolidated financial statements (Article 6b(2) and (3) BA)

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

a. prepares consolidated financial statements in accordance with the provisions of Articles 33-41 or in accordance with a recognized international standard recognized by the FINMA and publishes it together with the group’s management report; or

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

2 However, the exemption referred to in (1)(b) does not apply if the bank’s equity shares are listed on a stock exchange.
3 In its implementing provisions, the FINMA shall specify:
   a. which information may be left out in the annual financial statements if consolidated financial statements are prepared;
   b. the extent to which the disclosure of interim financial statements on a consolidated basis exempts an institution from disclosing single-entity interim financial statements.

4 The persons referred to in Article 961d(2) CO\textsuperscript{17} may demand the following:
   a. complete financial statements and a management report;
   b. the publication of stand-alone interim financial statements.

ARTICLE 37 Minimum structure

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

ARTICLE 38 Group management report

The group management report must be prepared in accordance with Article 961c CO\textsuperscript{18}.

ARTICLE 39 Content of the annual report
(Article 6b(1) and (3) BA)

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

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

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

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

2 These are made up of the same components as the interim single-entity financial statements in accordance with Article 31, are based on the same data and use the same principles as the consolidated financial statements.
ARTICLE 41  Publication
(Article 6a(1)-(3) (a), 6b(1) and (3) BA)

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

Section 3: Implementing provisions on accounting

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

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

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

b. the particularities of the consolidated financial statements;

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

Chapter 5: Depositor protection scheme

ARTICLE 43  Disbursement plan
(Article 37j BA)

1 The investigator, restructuring agent or liquidator (appointee) appointed by the FINMA shall prepare a disbursement plan for the receivables which are deemed to be secured deposits as per Article 37h (1) BA and which have not yet been satisfied as stated in Article 37b BA (distribution plan).

2 The appointee is under no obligation to review the receivables which are included in the disbursement plan based on accounting data. Claims which are manifestly not entitled to payment shall not be included in the disbursement plan.

3 If there is any evidence that the accounts had not been properly managed, the appointee may request depositors to submit proof of their claim. The FINMA shall regulate the details.

ARTICLE 44  Payment of secured deposits
(Article 37j(1) BA)

1 The appointee shall reimburse the secured deposits to the depositors based on the distribution plan as soon as it has received the amount from the responsible body for the depositor protection scheme (Article 37i, (2) BA).

2 If the amount received from the depositor protection scheme cannot satisfy all claims recorded in the distribution plan, the secured deposits shall be paid out on a pro rata basis.
Chapter 6: Dormant assets

Section 1: Definition

ARTICLE 45 (Article 371(4) BA)

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

2 The most recent contact noted in the bank’s file documents shall be deemed the last contact.

3 Assets that are transferred to another bank in the course of a bank’s liquidation are considered dormant even before the end of the 10-year period, if the transferring bank proves that it has taken all necessary steps to reestablish contact to the beneficiary.

Section 2: Transfer

ARTICLE 46 Transfer contract (Article 371(2) BA)

1 The following shall be deemed components of the written contract used to transfer a bank’s dormant assets to another bank (transfer contract):

   a. The name of the beneficiary or other information that allow the identification of this person; and
   b. The list of assets allocated to this beneficiary that are to be transferred.

2 The transferring bank shall make the following documents available to the acquiring bank:

   a. Supporting documents of the last recorded contact with the beneficiary;
   b. The documents relating to the contractual relationship with the beneficiary.

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

ARTICLE 47 Obligations of the acquiring bank (Article 3 (2) (a) and 371 (1) BA)

1 The acquiring bank must:

   a. have an appropriate organization in place for the safe custody and administration of dormant assets; and
b. be in a position to assign the dormant assets entrusted to it to the beneficiary at any time, to the extent that the information available allow for this.

2 If a bank acquires dormant accounts for the same beneficiary from different banks, the acquiring bank shall aggregates these.

3 A bank acquiring dormant assets from another bank for the first time, shall report this to the FINMA.

4 If the dormant assets are recorded in a central database for dormant accounts (database), the bank shall indicate the transfer and state its name as the acquiring bank.

**ARTICLE 48  Obligations of the transferring bank**  
(Article 37l(1) BA)

The transferring bank shall refer anyone submitting a claim to transferred assets to the acquiring bank or to the database.

### Section 3: Publication

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

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

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

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

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

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

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

4 The publication must explicitly point out that:

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

   b. any claims expire with the liquidation of the assets.
ARTICLE 50  Publication media
(Article 37m(1) and (4) BA)

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

2 Instead of the publication in the SOGC, banks may publish the calls on a central electronic platform
they organize and manage themselves.

3 If, in a specific case, it seems necessary to publish the call in another appropriate publication media
in order to find a beneficiary, the bank shall publish the call also in this media.

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

5 The publication may combine several dormant accounts.

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

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

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

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

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

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

1 The bank shall verify reported claims to dormant assets in accordance with the statutory and con-
tractual provisions applicable on a case-by-case basis.

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

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

4 The bank shall document its verification results in a manner that is comprehensible to a third party.
Section 4: Liquidation

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

1 The Bank shall liquidate dormant assets, if:
   a. no notifications have been received: no later than two years after the expiry of the deadline;
   b. notifications have been received: no later than two years after it has been established that
      claims made are ineligible.

2 The bank shall offer dormant assets that are not usable or have no liquidation value to the Swiss Federal Government. If it declines them, the bank may destroy them.

ARTICLE 55  Record of the liquidation decision
(Article 37m(1) and (4) BA)

1 The bank shall maintain a record of its decision to liquidate dormant accounts.

2 The record shall include:
   a. the documentation of the verifications as per Article 53;
   b. a list of the assets to be liquidated;
   c. details on the planned liquidation procedure.

ARTICLE 56  Record of the liquidation
(Article 37m(1) and (4) BA)

1 The bank shall maintain a record of the liquidation.

2 For each asset, the record in particular shall include the following:
   a. the type of liquidation;
   b. the liquidation proceeds;
   c. the liquidation costs.

ARTICLE 57  Liquidation proceeds and closing of the liquidation
(Article 37m(2)–(4) BA)

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

2 The Bank is to pay the net proceeds at least once a year to the Swiss Federal Finance Administration.
3 The liquidation is deemed to be finalized with this transfer.

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

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

6 If dormant assets have been entered into a database, the bank shall note the finalized liquidation.

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

The bank liquidating dormant assets shall preserve the documents relating to their acquisition, liquidation and transfer to the Swiss Federal Government in application of the relevant legal provisions.

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

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

2 The value of such assets shall be calculated based on the total value of the dormant assets allocated to the same beneficiary held, safeguarded or managed by one bank.

Chapter 7: Special Provisions for Systemically Important Banks

Section 1: Contingency planning

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

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

2 It shall describe the necessary measures in a contingency plan in which it shows to the FINMA that, to the best of its knowledge, it would be capable of performing its duties described in the first sentence of (1).
3 For systemically important banks not internationally active as per Article 124a CAO the Swiss emergency plan has to be prepared in implementable form within three years after the SNB has determined their systemic importance. In justified cases, the FINMA may extend this deadline. The measures of the emergency plan must be implemented in an anticipatory manner if this is necessary for the uninterrupted continuation of systemically important functions.

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

ARTICLE 61  Review of the contingency plan
(Article 10(2) BA)

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

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

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

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

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

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

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

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

SR 952.03

Version according to Enclosure Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS 2016 1725).
2 The global resolvability shall be part of the Swiss emergency plan review insofar as it is decisive for its implementation.\textsuperscript{21}

ARTICLE 62 Remediation of deficiencies and the ordering of measures (Article 10(2) BA)

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

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

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

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

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

ARTICLE 63 Triggers for the contingency plan (Articles 25 and 26 BA)

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

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

a.\textsuperscript{22} the eligible Common Equity Tier 1 capital falls below 5% of the risk-weighted positions; or

b. if Article 42(4) CAO takes place.

\textsuperscript{21} Inserted according to Enclosure Sect. 1 of the ordinance of 11 May 2016, in force since 1 July 2016 (AS 2016 1725).

\textsuperscript{22} Version according to Enclosure Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS 2016 1725).
Section 2: Improving the ability to restructure and liquidate

ARTICLE 64  Recovery and resolution plans  
(Articles 9, 25 et seq. BA)

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

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

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

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

5 When submitting this information, the bank shall describe which of the measures listed in Article 66 it has prepared or already implemented to improve its ability to restructure and liquidate in Switzerland and abroad.

ARTICLE 65  Discounts on the additional loss-absorbing funds  
(Article 10(3) BA)

1 The FINMA shall grant discounts in regard to the additional funds defined in Articles 132 and 133 CAO if there is a high likelihood that the systemically important bank has improved its resolvability in Switzerland and abroad by measures as described in Article 66. It shall take into consideration to what extent these measures have been implemented in Switzerland and abroad.

2 This does not apply to the fulfillment of the requirements of Article 9(2)(d) BA.

---

23 Version according to Enclosure Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS 2016 1725).
24 SR 952.03
25 SR 952.0
ARTICLE 66  Measures to improve a bank’s ability to restructure and liquidate (Article 10(3) BA)

Measures to improve a bank’s ability to restructure and liquidate shall specifically include:

a. structural improvements and the dissolution of complex structures by:
   1. creation of business-aligned legal entities,
   2. creation of legally independent service entities,
   3. elimination or minimization of compulsory support, specifically by creating an independent management structure,
   4. reducing geographical or financial asymmetries;

b. financial separation to limit contagions by:
   1. reduction of horizontal equity investments between legal entities,
   2. restrictions on the granting of unsecured loans and guarantees between legal entities at the same level within the financial group,
   3. creation of incentives to provide intra-group financing as close to the market as possible

c. separation of operational structures in order to secure data and the continuation of important operational services by:
   1. guaranteeing access to and the use of data, data bases and IT tools,
   2. separating significant functions and their sensible outsourcing,
   3. being able to access and continue to use significant systems for operations.

---

26 Version according to Annex 1 Section 11 Financial Market Infrastructure Ordinance dated 25 November 2015, in force since 1 January 2016 (AS 2015 5413).
Chapter 8: Final provisions

ARTICLE 67  Repeal of another ordinance

The Banking Ordinance of 17 May 1972\(^{27}\) is hereby repealed.

ARTICLE 68  Amendments to other ordinances

The amendment of other legislative instruments is set out in Annex 2.

ARTICLE 69  Transitional provisions

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

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

3. Internationally active systemically important banks within the meaning of Article 124a CAO\(^{28}\) shall implement the Swiss emergency plan pursuant to Article 60(3) in an anticipatory manner by 31 December 2019, if this is necessary for the uninterrupted continuation of systemically important functions. In justified cases, the FINMA may extend this deadline.\(^{29}\)

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

5. The FINMA may provide the banks with adequate deadlines\(^{30}\) to implement the measures as per Article 12(2bis), taking into consideration international standards.

ARTICLE 70  Entry into force

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

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


\(^{28}\) SR 952.03

\(^{29}\) Version according to Enclosure Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS 2016 1725).

\(^{30}\) Inserted with Annex 1 Section 11 Financial Market Infrastructure Ordinance dated 25 November 2015, in force since 1 January 2016 (AS 2015 5413).
Annex 1  (Article 28)

Minimum structure of the annual financial statements

A. Balance sheet

1. Assets

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

1.1 Cash and cash equivalents
1.2 Amounts due from banks
1.3 Amounts due from securities financing transactions
1.4 Amounts due from customers
1.5 Mortgage loans
1.6 Trading portfolio assets
1.7 Positive replacement values of derivative financial instruments
1.8 Other financial instruments at fair value
1.9 Financial investments
1.10 Accrued income / prepaid expenses
1.11 Investments
1.12 Tangible fixed assets
1.13 Intangible assets
1.14 Other assets
1.15 Capital not paid in
1.16 Total assets
1.16.1 Total subordinated claims
1.16.1.1 of which subject to mandatory conversion and/or debt waiver
2. Liabilities and shareholders’ equity

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

2.1 Amounts due to banks
2.2 Liabilities from securities financing transactions
2.3 Amounts due in respect of client deposits
2.4 Trading portfolio liabilities
2.5 Negative replacement values of derivative financial instruments
2.6 Liabilities from other financial instruments at fair value
2.7 Cash bonds
2.8 Bond issues and central mortgage institution loans
2.9 Accrued expenses and deferred income
2.10 Other liabilities
2.11 Provisions
2.12 Reserves for general banking risks
2.13 Share capital
2.14 Statutory capital reserves
2.14.1 of which tax-exempt capital contributions reserve
2.15 Legal retained earnings reserve
2.16 Voluntary retained earnings reserves
2.17 Treasury shares (negative position)
2.18 Profit/loss carried forward
2.19 Profit/loss (result for the period)
2.20 Total liabilities and shareholders’ equity
2.20.1 Total subordinated liabilities
2.20.1.1 of which subject to mandatory conversion and/or debt waiver
3. Off-balance-sheet transactions

3.1 Contingent liabilities
3.2 Irrevocable commitments
3.3 Obligations to pay up shares and margin calls
3.4 Credit commitments

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

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

B. Income statement

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

1 Result from interest operations
    1.1 Interest and discount income
    1.2 Interest and dividend income from trading portfolios
    1.3 Interest and dividend income from financial investments
    1.4 Interest expenses
    1.5 Gross results of interest operations \((1.1 + 1.2 + 1.3 - 1.4)\)
    1.6 Changes in value adjustments due to default risk as well as losses from interest differential business
    1.7 Subtotal net results of interest operations \((1.5 +/- 1.6)\)

2 Result from commission and service fee activities
    2.1 Commission income from securities trading and investment activities
    2.2 Commission income from lending activities
    2.3 Commission income from other services
    2.4 Commission expenses
    2.5 Subtotal results from commission business and services \((2.1 + 2.2 + 2.3 - 2.4)\)

3 Result from trading business and the fair value option
4 Other result from ordinary activities

4.1 Result from the disposal of financial investments

4.2 Income from equity interests

4.3 Result from real estate

4.4 Other ordinary income

4.5 Other ordinary expenses

4.6 Subtotal other result from ordinary activities (4.1 + 4.2 + 4.3 + 4.4 – 4.5)

5 Operating expenses

5.1 Personnel expenses

5.2 General and administrative expenses

5.3 Subtotal operating expenses (5.1 + 5.2)

6 Value adjustments on equity interests as well as depreciation and amortization of tangible fixed assets and intangible assets

7 Changes to provisions and other value adjustments, and losses

8 Operating result (1.7 + 2.5 + 3 + 4.6 - 5.3 – 6 –/+ 7)

9 Extraordinary income

10 Extraordinary expenses

11 Changes in reserves for general banking risks

12 Taxes

13 Profit/loss (result for the period)

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

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

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

– The cash flow statement shall include at least the following elements:
  - Cash flow from operating activities;
  - Cash flow from shareholder’s equity transactions:
    - Cash flow from transactions in respect of equity interests, tangible fixed assets and intangible assets;
  - Cash flow from banking operations.

D. Statement of changes in equity

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

E. Notes

The notes must contain the following subsections:

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

b. Accounting and valuation policies:

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

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

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

  4. Disclosures as to how transactions are recorded,

  5. Disclosures concerning the treatment of past due interest,

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

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

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

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

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

g. Significant events after the balance sheet date

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

i. Information on the balance sheet:

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

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

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

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

5. Breakdown of financial investments,

6. Presentation of participations (equity interest),

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

8. Presentation of tangible fixed assets,

9. Presentation of intangible assets,

10. Breakdown of other assets and other liabilities,

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

12. Disclosure of liabilities relating to own pension schemes, and number and nature of equity instruments of the bank held by own pension schemes,
13. Disclosures of the economic position of own pension schemes,

14. Presentation of issued structured products,

15. Presentation of bonds outstanding and mandatory convertible bonds,

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

17. Presentation of the bank’s capital,

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

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

20. Disclosure of significant holders of equity interests,

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

22. Disclosures in accordance with the Ordinance against Excessive Compensation of 20 November 2013\textsuperscript{31} with respect to Listed Stock Corporations and Article 663c (3) CO\textsuperscript{32} for banks whose equity securities are listed,

23. Presentation of the maturity structure of financial instruments,

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

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

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

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

j. Information on off-balance sheet transactions:

28. Breakdown and explanations of contingent assets and liabilities,

29. Breakdown of credit commitments,

30. Breakdown of fiduciary transactions,

\textsuperscript{31} SR 221.331
\textsuperscript{32} SR 220
31. Breakdown of assets under management and presentation of their development;

k. Information on the income statement:

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

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

34. Breakdown of personnel expenses,

35. Breakdown of general and administrative expenses,

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

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

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

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

40. Disclosures and explanations of the earnings per equity security in the case of banks whose equity securities are listed.
Annex 2:  (Article 68)

Amendments of other enactments

The following ordinances shall be amended as follows:

...
Annex 3\textsuperscript{34} (Article 2(2) and (3))

Categorization of Banks

<table>
<thead>
<tr>
<th>Category</th>
<th>Criteria (in CHFbn)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total assets ≥ 250</td>
</tr>
<tr>
<td></td>
<td>Assets under management ≥ 1000</td>
</tr>
<tr>
<td></td>
<td>Privileged deposits ≥ 30</td>
</tr>
<tr>
<td></td>
<td>Minimum required capital ≥ 20</td>
</tr>
<tr>
<td>2</td>
<td>Total assets ≥ 100</td>
</tr>
<tr>
<td></td>
<td>Assets under management ≥ 500</td>
</tr>
<tr>
<td></td>
<td>Privileged deposits ≥ 20</td>
</tr>
<tr>
<td></td>
<td>Minimum required capital ≥ 2</td>
</tr>
<tr>
<td>3</td>
<td>Total assets ≥ 15</td>
</tr>
<tr>
<td></td>
<td>Assets under management ≥ 20</td>
</tr>
<tr>
<td></td>
<td>Privileged deposits ≥ 0.5</td>
</tr>
<tr>
<td></td>
<td>Minimum required capital ≥ 0.25</td>
</tr>
<tr>
<td>4</td>
<td>Total assets ≥ 1</td>
</tr>
<tr>
<td></td>
<td>Assets under management ≥ 2</td>
</tr>
<tr>
<td></td>
<td>Privileged deposits ≥ 0.1</td>
</tr>
<tr>
<td></td>
<td>Minimum required capital ≥ 0.05</td>
</tr>
<tr>
<td>5</td>
<td>Total assets &lt; 1</td>
</tr>
<tr>
<td></td>
<td>Assets under management &lt; 2</td>
</tr>
<tr>
<td></td>
<td>Privileged deposits &lt; 0.1</td>
</tr>
<tr>
<td></td>
<td>Minimum required capital &lt; 0.05</td>
</tr>
</tbody>
</table>

\textsuperscript{34} Inserted according to Enclosure Sect. 1 of the ordinance of 11 May 2016, in force since 1 July 2016 (AS 2016 1725).
Contacts

Philipp Rickert  
Partner, Head of Financial Services, Member of the Executive Committee  
Zurich  
Tel. +41 58 249 42 13  
prickert@kpmg.com

Olivier Gauderon  
Partner, Financial Services  
Geneva  
Tel. +41 58 249 37 56  
ogauderon@kpmg.com

Markus Schunk  
Partner, Stream Lead Collective Investment Schemes  
Zurich  
Tel. +41 58 249 36 82  
markusschunk@kpmg.com

Patrizio Aggio  
Director, Financial Services  
Lugano  
Tel. +41 58 249 32 34  
paggio@kpmg.com

Mirko Liberto  
Partner, Stream Lead Regulatory Audit  
Tel. +41 58 249 40 73  
mirkoliberto@kpmg.com

Ralph Dicht  
Partner, Stream Lead Financial Audit  
Tel. +41 58 249 42 41  
rlicht@kpmg.com

Cataldo Castagna  
Partner, Cluster Head Assurance & Accounting  
Tel. +41 58 249 52 85  
castagna@kpmg.com

Michael Schneebeli  
Partner, Financial Services  
Zurich  
Tel. +41 58 249 41 06  
mschneebeli@kpmg.com

Helen Campbell  
Cluster Head Risk Management  
Tel. +41 58 249 35 01  
hcampbell@kpmg.com

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received, or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. The scope of any potential collaboration with audit clients is defined by regulatory requirements governing auditor independence.

© 2017 KPMG AG is a subsidiary of KPMG Holding AG, which is a member of the KPMG network of independent firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss legal entity. All rights reserved.