



**REGULATORY WATCH
(DECEMBER 2022)**

1. SWISS REGULATION

No.	SUBJECT	DESCRIPTION	ACTIONS TO BE TAKEN	ENTRY INTO FORCE	FOLLOW-UP
EFFECTIVE 1 JULY 2022					
1	Narilo guidelines / Review	<ul style="list-style-type: none">• Accounts without contact and without information : the change of supplier for the recording and reporting system from SIX SIS Ltd to Econis Ltd was taken into account.• Details from circulars and banking practices have been incorporated into the text of the Directives.• The revised text of the Directive does not constitute a new fundamental regulation. Nor does it contain any changes that must be implemented by 1 July 2022.• Explanations of the various adaptations can be found in an annex to the revised Narilo Guidelines	Be informed of changes and provide the latest version to customers	1.7.2022	
ENTRY INTO FORCE 1^{ER} JANUARY 2023					
2	Money laundering (LBA, OBA, OBA-FINMA)	<ul style="list-style-type: none">• Explicit obligation for financial intermediaries to verify the details of the beneficial owner• Establishment of internal guidelines with criteria for the risk-based and periodic verification of the timeliness of customer data and related processes• Registration of associations that are primarily involved in the collection and distribution of funds for charitable purposes abroad• The 20-day deadline for MROS to analyse communications of suspicion will be abolished. In return, financial intermediaries will be able to terminate a business relationship if MROS does not respond within 40 days of the report.• The right to communicate is maintained and the law clarifies the distinction between the right and the obligation to communicate.	Amendment of the AML Directive and control points	1.1.2023 <u>Transitional period of six months</u> from entry into force for the implementation of the OBA-FINMA, to allow financial intermediaries to recalibrate their systems or to put in place the corresponding technical measures	



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3	Code of Obligations / Revision of the Law on Public Limited Companies (General Revision)	<ul style="list-style-type: none"> • Transposition of the provisions of the Ordinance against abusive remuneration in listed companies • Establishment of guidelines for hiring bonuses and competition prohibition allowances • Relaxation of foundation and capital provisions • Revision of the regulations on insolvency, loss of capital and overindebtedness (Art. 725 ff CO) • Harmonisation of company law and the new accounting law, in particular with regard to treasury shares and the use of foreign currencies in accounting and reporting • Solution to the problem of the high volume of unregistered shares (shares-dispo) • Making it easier to hold general meetings electronically 	Adaptation of statutes and regulations to the new law within 2 years of entry into force	1.1.2023	
4	SBA guidelines for financial services providers on the integration of ESG preferences and risks in investment advice and asset management	<ul style="list-style-type: none"> • Binding self-regulation for SBA members, voluntary submission for non-members. These guidelines are not, at this stage, considered to be self-regulation recognised by FINMA and are therefore not deemed to constitute a minimum prudential standard. • Setting a uniform minimum standard for the integration of ESG preferences and ESG risks in investment advice in order to prevent greenwashing. • Regulation : <ul style="list-style-type: none"> ○ disclosure requirements for ESG investment solutions ○ the collection and consideration of clients' ESG preferences ○ documentation and reporting requirements ○ initial and ongoing training requirements for monitoring compliance with the guidelines, at least every three years by the internal auditors <p>Mandatory for SBA members and asset managers who have decided to integrate ESG preferences into management. NB: Eventually, all financial intermediaries will be affected</p>	Changes to contracts and internal guidelines Analysis of the business case for expanding the range of sustainable investment products Appropriate training for customer advisors on ESG criteria and how to advise on them Integration of sustainability risks into internal risk management	1.1.2023 <u>Transitional periods :</u> - until 1 January 2024 for initial and further training and for new customers - until 1 January 2025 for former customers	



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			Integration of ESG criteria in the investment process		
5	Limited Qualified Investment Funds Adaptation of the Federal law on collective investment of capital policy (CISA)	It is planned to introduce into the CISA a category of funds not subject to FINMA authorisation. This new category of funds (Limited Qualified Investment Funds or L-QIF) would be reserved for qualified investors, such as pension funds and insurers. L-QIFs would not be subject to FINMA authorisation and supervision, but would have to be managed by regulated institutions. The advantage of L-QIFs is that they could be brought to market much more quickly and at a lower cost than other funds. NB. L-QIFs can only be managed by collective portfolio managers	Being informed	1.1.2023	
EFFECTIVE 1^{ER} SEPTEMBER 2023					
6	Federal Data Protection Act and Ordinance (DPA/DPO) / Complete revision	<ul style="list-style-type: none"> • Extended transparency and documentation duties • Strengthening the Supervisory and Sanctioning Authority • Maintaining equivalence with the General Data Protection Regulation applicable in the EU from 25 May 2018 (GDPR) and the Council of Europe Data Protection Convention (ETS 108) • Compliance by companies operating in the European Union with the provisions of the GDPR. • Adoption by Parliament in September 2018 of the steps for the introduction of the bill: <ul style="list-style-type: none"> ○ Transposition of EU Directive 2016/680 on the protection of individuals with regard to the processing of personal data for the purpose of the prevention, investigation, detection or prosecution of criminal offences or the enforcement of criminal law (further development of the Schengen acquis) ○ Complete revision of the Federal Data Protection Act (DPA) (adopted by Parliament on 25 September 2020) 	Changes to contracts and internal guidelines	1.9.2023	



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		<ul style="list-style-type: none"> Implementation of the implementing provisions of the Federal Data Protection Act : <ul style="list-style-type: none"> Minimum data security requirements Modalities of the duty to inform and the right of access to data Reporting data security breaches 			
DRAFT LAWS					
7	Establishment of a Swiss trust	<ul style="list-style-type: none"> In order to prevent Swiss clients from having to go abroad to set up trusts, Parliament has instructed the Federal Council, through a motion, to create the legal basis for the introduction of this institution in Swiss law. In addition to the Code of Obligations, other federal laws will have to be adapted, above all the tax laws, which will explicitly specify which rules the trust will be subject to. Currently, taxation is based on the general principles of tax law and two circulars. Specifically, the Federal Council proposes to continue to apply the existing principles of taxation to trusts. Irrevocable trusts that do not confer legal rights will in future be treated in principle as foundations. In addition, the Federal Council's draft defines specific information and documentation requirements for the implementation of international regulations, including the identification of beneficial owners. The draft thus complies with Switzerland's current commitments in the fight against money laundering and terrorism, as well as in the area of tax transparency. 		Consultation until 30 April 2022	
8	Money laundering (MLA): increased transparency for legal persons	<ul style="list-style-type: none"> Drafting of a bill to increase transparency and facilitate the identification of beneficial owners of legal persons Introduction of a central register of beneficial owners Register accessible to competent authorities, but not to the public 	Amendment of the AMLA Directive	Drafting of the bill by the end of June 2023	



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		<ul style="list-style-type: none"> • New obligations to update information on beneficial owners according to risks • Examination of whether other actors are subject to the anti-money laundering regime, e.g. in the legal profession 			
9	Agreement on due diligence 20	<ul style="list-style-type: none"> • Taking into account the recent revisions of the MLA, the OBA and the OBA-FINMA, as well as the FATF recommendations • Renunciation of the implementation in the CDB of the verification and updating obligations resulting from the revised MLA 		In preparation Entry into force: 1 January 2025 at the earliest	
10	Circ.-FINMA Behavioural Rules according to the LSFIn/ New Circular	<ul style="list-style-type: none"> • Publication of the practice on central prudential topics relating to the rules of conduct under the LSFIn and OSFin 		Expected hearing: 3rd quarter 2022 Expected entry into force: 1st quarter 2024	
11	Sustainable development and the financial sector	<ul style="list-style-type: none"> • Recommendation to financial market operators to create transparency in all financial products and customer portfolios with comparable and meaningful climate compatibility indicators • Promoting consistent definitions of the sustainability impact of investments • Status of implementation of the recommendations by the financial sector by the end of 2022, with adaptation of financial market law if necessary to prevent greenwashing 		Publication of the Federal Council report of 17 November 2021 on the climate compatibility of the financial market / Reassessment of financial sector progress by end 2022	



2. INTERNATIONAL REGULATIONS

No.	SUBJECT	DESCRIPTION	ACTIONS TO BE TAKEN	ENTRY INTO FORCE	FOLLOW-UP
JUNE 2022					
12	FATF List of high risk jurisdictions	In June 2022, the FATF updated its list of high-risk jurisdictions under surveillance. The following country is now under "enhanced scrutiny": Gibraltar Malta is no longer on the watch list	Adaptation of the list of jurisdictions	Publication June 2022	
ENTRY INTO FORCE 1^{ER} JANUARY 2023					
13	Automatic exchange for information (EAR): Multilateral Competent Authority Agreement (MCAA) and Common Standard reporting (CRS), as a basis for international legal (OECD) EAR Act: Implemented at Swiss level of the law on the EAR, the Ordinance on the EAR (OEAR) and the FCA Directive	In May 2022, the Federal Council adopted the introduction of the automatic exchange of information (AEI) with twelve additional states and territories. The first exchange of information is expected to take place in 2024 (Ecuador, Georgia, Jamaica, Jordan, Kenya, Morocco, Moldova, Montenegro, New Caledonia, Thailand, Uganda, Ukraine).	Until 31 January 2023: Information to customers affected for the first time by an EAR notification	New states partners: 1.1.2023	