

# Annual Report



# FINMA's mandate and core values

FINMA is an independent supervisory authority with the legal mandate to protect users of financial services and ensure the proper functioning of the financial markets. It contributes to enhancing the reputation, competitiveness and future sustainability of the Swiss financial centre.

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FINMA supervises banks, securities dealers, insurance companies, financial market infrastructures, collective investment scheme products and institutions, entities under the Financial Services Act and the Financial Institutions Act, in addition to insurance intermediaries. FINMA acts independently and consistently. Its staff act with integrity and a strong sense of responsibility to deliver effective results. In its role as supervisor, FINMA adopts a risk-oriented approach. FINMA's activities cover the following areas.

## **Licensing**

FINMA is responsible for licensing companies operating in the sectors it supervises.

## **Supervision**

FINMA monitors permanent compliance with statutory regulations and licensing requirements. FINMA is also responsible for combating money laundering. It supervises the disclosure of shareholdings at listed companies as well as public takeover offers under the Financial Market Infrastructure Act.

## **Enforcement**

In the central area of enforcing supervisory law FINMA conducts proceedings, issues rulings, implements sanctions and is the body to which appeals against decisions of the Swiss Takeover Board may be brought. Where wrongdoing is suspected, it files criminal complaints with the competent criminal authorities.

## **Resolution**

FINMA is responsible for restructuring proceedings and bankruptcies.

## **Regulation**

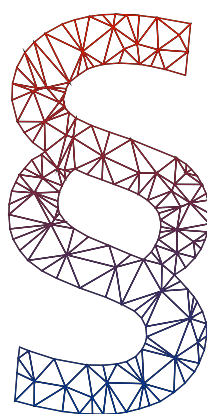
Where it is authorised to do so and when necessary to meet its supervisory objectives, FINMA issues its own ordinances. It also publishes circulars detailing the interpretation and application of financial market law.

## **International activities**

FINMA fulfils the international tasks that are related to its supervisory activity. It represents Switzerland in international fora and cooperates with foreign regulators.

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# Milestones in 2019



Risk focus and efficiency in the regulatory auditing of banks, securities dealers and asset managers are enhanced by the amended Circular 2013/3 “Auditing” (1 January).  
**p. 30**

FINMA concludes enforcement proceedings against envion AG and rules the company in serious breach of supervisory law with regard to an ICO (27 March).  
[Press release](#)

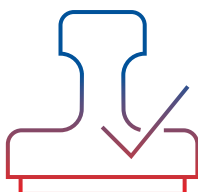
FINMA joins the Network for Greening the Financial System, a group addressing environmental and climate-related risks in the financial sector (17 April).  
**p. 25**

JANUARY

FEBRUARY

MARCH

APRIL





FINMA provides application templates for foreign collective investment schemes, which exceed 6,000 per annum, on its survey and application platform (1 June).  
**p. 78**

The Federal Council re-elects FINMA's Board of Directors, with two new members for the 2020–23 period (3 July).  
**p. 70**

FINMA recognises the adjustments to the Swiss Bankers Association's self-regulation rules on investment property mortgages as the minimum standard (28 August).  
**p. 22**

For the first time FINMA issues banking and securities dealers' licences to two blockchain financial service providers and specifies how it will apply the Anti-Money Laundering Act to FINMA-supervised blockchain financial service providers (26 August).  
**p. 12**

MAY

JUNE

JULY

AUGUST

**The Financial Stability Assessment Program report on Switzerland is published (17 June).**

**The Federal Council announces that it will enforce the protective measures to counter the end of Swiss-EU stock market equivalence (27 June).**

The trial “small banks regime” becomes permanent (31 December).  
**p. 36**

The period for globally systemically important banks to submit effective emergency plans expires (31 December).  
**p. 53**

FINMA publishes its first-ever Risk Monitor, providing an overview of the key current risks facing supervised institutions as well as FINMA’s supervisory focus for the coming year (10 December).  
**p. 28**

FINMA issues an update on “stable coins” and the Libra project (11 September).  
**p. 16**

FINMA reports on its enforcement proceedings against HNA Group (25 September).  
**p. 49**

SEPTEMBER

OCTOBER

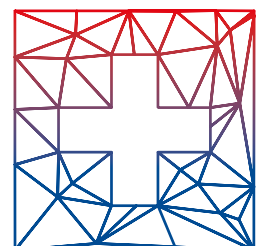
NOVEMBER

DECEMBER

The Federal Council brings FinSA and FinIA and their implementing ordinances into effect from 1 January 2020 (6 November).

The Federal Council approves the Ordinance to the Financial Market Supervision Act with effect from 1 February 2020 (13 December).

The IAIS approves the Common Framework, Holistic Framework and the new global Insurance Capital Standard to strengthen financial stability (11 November).



## Credible and independent supervision – the key to a stable financial centre

Switzerland needs stable financial institutions, particularly in uncertain times for the financial markets. With its risk-based supervision and focus on the interests of customers, FINMA plays an important part in achieving this objective. Moreover, FINMA looks to ensure the fitness of the Swiss financial centre for a future defined by innovation and technological developments.

2019 was a year of growing uncertainty marked by geopolitical upheaval, macroeconomic slowdown and trade disputes. The low interest rate environment continues to pressurise margins and even threatens to undermine the viability of interest rate-dependent business models in the mid-term. The continuing build-up of global debt levels gives rise to considerable risks. Finally, technological progress requires the financial sector to be open to innovation, while also remaining vigilant to the related risks.

### **Stability in the interests of customer protection**

In this challenging environment the Swiss financial centre showed stability and solidity in 2019. Only a few companies entered or left the market. The Swiss banks' capital buffers, central to customer protection, remain overall robust. The solvency level is also on average well above the legal minimum in the insurance sector. The recalibration of prudential regulation following the financial crisis has had the desired effect.

During the year under review FINMA made further progress in differentiating within this regulatory framework. With the definitive introduction of the special regime for particularly well-capitalised small banks, they can in future benefit from significant regulatory relief, without compromising safety levels.

### **Progress in mitigating the “too big to fail” problem**

At the end of 2019, more than ten years after the financial crisis, FINMA confirmed that the emergency plans for the Swiss businesses of the two major Swiss banks are now effective. This is an important milestone on the road to mitigating the “too big to fail” problem, but the journey is not yet over. Further efforts will be needed, from both the institutions themselves and regulators, to ensure all the systemically important banks have credible global resolution plans.

### **Focus on the highest risks**

FINMA has a risk-based approach to supervision, focusing the most attention on the most important risks. We therefore reviewed in 2019 how firms are coping with the risks arising from the low interest rate environment, particularly in the real estate and mortgage markets. We also addressed the risk of cyber attacks and were in close contact with the industry with regard to the risks relating to Brexit and the transition from LIBOR. We further strengthened the tools at our disposal in the fight against money laundering and conducted various enforcement proceedings against rule-breaking institutions, with a particular focus on issues relating to virtual assets.

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## Reorganisation of FINMA's publications

This year's Annual Report has been given a new look and feel. Not only has FINMA modernised the layout of its publications, it has also refined their content. Alongside the Annual Report, statistical data and background information are now available in a separate area of the FINMA website. The aim of this reorganisation is to report on FINMA's activities in a transparent and user-friendly way.

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### **Open to the future**

The growth of business models based on new uses of technology opened up a whole host of technical questions to be clarified. Once again our guiding principle was ensuring customer protection. FINMA's work in this area plays an important part in shaping Switzerland's future as an attractive FinTech location. We have also given increasing thought to how we should deal with the issue of environmental sustainability and the risks arising from climate change.

### **Independence and transparency**

FINMA is committed to fulfilling its responsibilities efficiently and effectively. We have expert, motivated staff, sound governance and a modern infrastructure. We continued to build on these achievements in 2019. The corollary of FINMA's independence is a high degree of transparency to build public trust and credibility. FINMA thus maintains a close dialogue with financial market participants and trade bodies, politicians, civil society and partner authorities. FINMA took a number of steps in 2019 to further enhance transparency. We launched a new publication, the Risk Monitor, to keep the public informed about a central aspect of our supervision, namely the prioritisation of the risks faced by the financial sector. A wide-ranging report on the progress that has been achieved in recovery and resolution planning was also issued at the start of 2020. A reorganisation of FINMA's publications and the publication of additional content on our website are designed to keep the

public even better informed. Furthermore, the members of the Board of Directors and Executive Board have increased the number of public appearances they give as a way of broadening contact with the public, explaining our activities and priorities, while also opening ourselves to critical feedback.

The Federal Council issued an Ordinance to the Financial Market Supervision Act in 2019. This creates more clarity around FINMA's responsibilities in international standard-setting organisations and our regulatory activity. Ten years after FINMA's establishment, the Federal Council once more underlined the importance of the organisation's independence.

This annual report provides a comprehensive review of FINMA's activities in 2019. In the year ahead we at FINMA will continue to dedicate ourselves to helping the Swiss financial centre remain secure and stable.



**We hope you find this annual report informative.**

**Mark Branson – CEO**

**Dr Thomas Bauer – Chair**

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## FINMA oversees more than 29,200 financial institutions and products

Four divisions – Banks (including securities dealers), Insurance, Markets and Asset Management – carry out forward-looking, prudential supervision. Private audit firms also conduct regulatory audits on FINMA's behalf. Only those institutions that have been granted a licence to operate in the financial market are monitored.

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**140** financial market infrastructures

**190** securities dealers

**200** insurers and general health insurers

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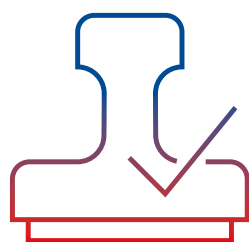
**540** banks

**740** representatives, fund management companies, asset managers, custodian banks, distributors under CISA



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**9,900** collective investment schemes



**17,500**

financial intermediaries (self-regulatory organisations, DSFIs, anti-money laundering supervisory bodies, insurance intermediaries)

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**29,200** institutions and products overseen

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# Market developments and innovation

**12** Market developments

**16** Innovation

# Market developments

The persistent low interest rate environment is posing a challenge for the banking, insurance and asset management sectors. However, there was no significant change to the portfolio of institutions supervised by FINMA in the year under review.

The overall economic environment of the institutions supervised by FINMA remained challenging again in the year under review, with the pressure on margins due to the low interest rate environment particularly affecting the profitability of financial institutions. However, the positive development on the equity markets had a stabilising effect. Smaller institutions and those with particularly interest-dependent business models are under pressure. The financial sector as a whole is seeking opportunities to reduce costs. However, there was once again only limited consolidation on the market in 2019. While digitalisation offers new opportunities, it is also the cause of increased competition from new providers on the market.

### Market developments among banks and securities dealers

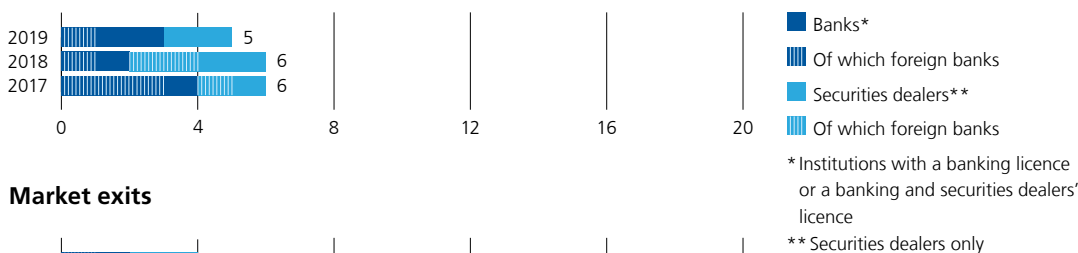
The banking world is facing a wide range of challenges. Persistently low interest rates and fierce competition are exerting further downward pressure on margins. Interest income is in many cases only being kept stable thanks to an expansion of the lending business. Margins are likewise under pressure in the brokerage business, even though positive market conditions in the year under review led to increased profits overall. Although initiatives to increase profitability or reduce costs (such as outsourcing, reducing the branch net-

work and adjusting processes) are being pursued by the majority of institutions, the resulting efficiency gains are not sufficient to offset the narrower margins. Small institutions in particular are also sustaining some persistent loss situations that are eating into their capital base. Nevertheless, the strong overall capitalisation of Swiss banks that has prevailed for several years essentially continued in 2019.

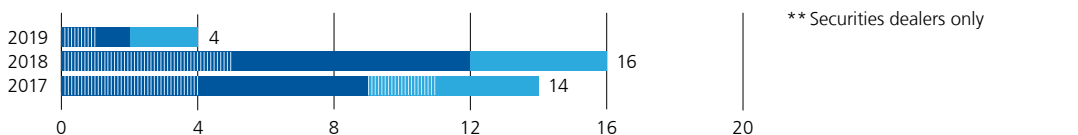
It is generally noticeable that most banks are increasingly addressing the topic of digitalisation. A certain degree of momentum in the business with cryptocurrencies and tokens, the opening of interfaces (open banking) and in the form of increased collaboration with insurance companies can be observed in connection with the adjustment or expansion of business models. However, overall restraint regarding the strategic adjustment of business models can be observed.

Alongside the new licensing of two blockchain financial service providers as banks and securities dealers, FINMA licensed two new securities dealers as well as one branch of a foreign bank. These market entries were matched by the voluntary cessation of business by one bank and one branch of a foreign bank as well as the downgrading of two securities dealers to asset managers of collective investment schemes.

### New licences



### Market exits



### Market developments among insurance companies

The insurance sector improved its overall risk capacity according to the Swiss Solvency Test (SST) in the year under review (see section on "Insurance supervision"). However, there are various challenges that will in future impact risks and profitability. For life and health insurers, the persistently low interest rates, increasing life expectancy and possible turbulence on the overheated real estate market are issues that need to be closely monitored by risk management and taken into account in the valuation of investments and reserves.

The range of occupational pension schemes has shrunk due to the withdrawal of a full coverage insurance provider (reinsurance of all pension and investment risks). In individual life insurance, the continuing low interest rates have greatly reduced the practice of offering long-term guarantees.

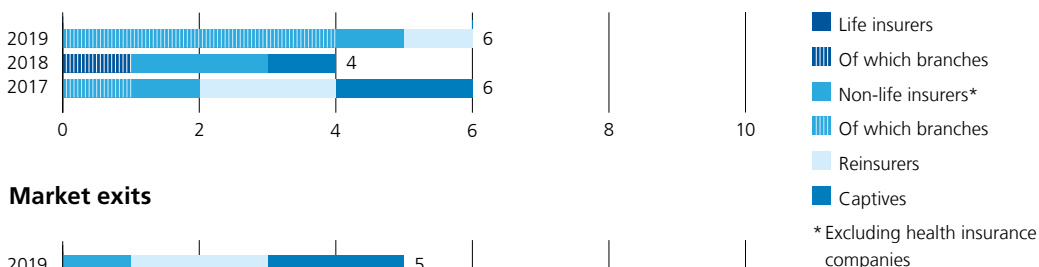
The costs incurred by supplementary health insurers are increasingly coming under pressure. Various political initiatives (cost reduction package and capping of commissions) are under way. FINMA is also requiring supervised institutions to report under supplementary health insurance only those costs that can be claimed as genuine additional benefits compared with basic insurance. These developments have resulted in isolated changes to the product landscape.

The reinsurance sector suffered fewer major losses in 2019 than in the previous year. The premium rates for 2020 are tending to rise due to heavy burdens from the preceding years.

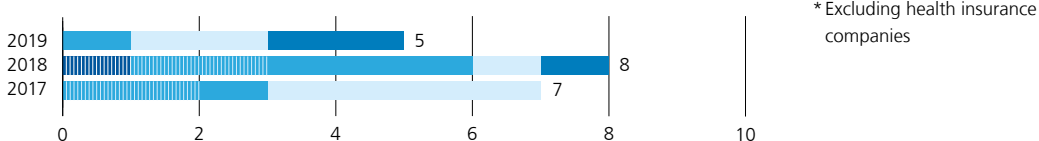
The Swiss insurance industry is increasingly addressing the topics of digitalisation and big data.

The number of life insurance providers remained unchanged in 2019. There was more movement in the

#### New licences



#### Market exits



non-life insurance sector. Four non-life insurers (including three branches of foreign insurance companies) were granted licences in the year under review, while one was released from supervision. Owing to Brexit, some insurance companies have transferred their registered office from the United Kingdom to another country in the European Union (EU) or founded subsidiaries there in recent years. From a regulatory perspective, these relocations entailed new licences and releases from supervision of the applicable Swiss branch office.

One professional reinsurer was granted a licence for insurance activities in 2019, while a total of two reinsurers and two reinsurance captives exited the market during this period. These events were partially connected to mergers.

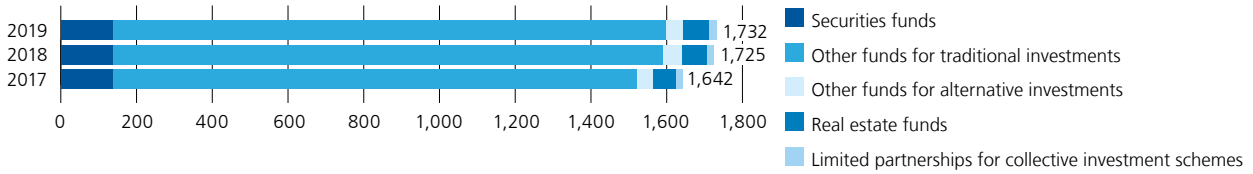
#### **Market developments in the Swiss fund sector**

Asset management benefited in 2019 from a positive market environment, capital inflows and rising prices. However, margins remain under pressure and costs continue to rise in the sector. Demand for passively managed investment funds, which earn low margins, as well as for funds with alternative investments and innovative investment strategies continues to increase. Actively managed funds, which earn higher margins, and niche funds are only recording low capital inflows, while real estate funds are continuing to attract strong demand. The importance of sustainable investment products has increased, although compared with the total volume this segment still represents more of a niche. The dominance on the Swiss fund market of foreign collective investment schemes has intensified further, although the portfolio management for many of these foreign collective investment schemes is carried out from Switzerland.

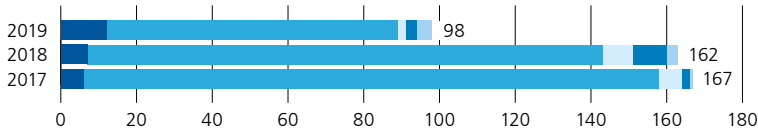
The sector is undergoing structural change but without any consolidation at the institutional level recorded so far. The trend towards outsourcing individual elements of the value chain such as fund administration is continuing to prevail, while at the same time a consolidation of product portfolios can be observed among some market participants.

The introduction of the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA) in 2020 will produce regulatory changes to which the sector will need to adapt.

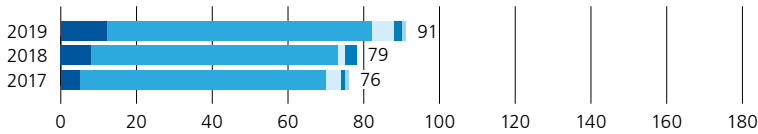
### Total Swiss funds



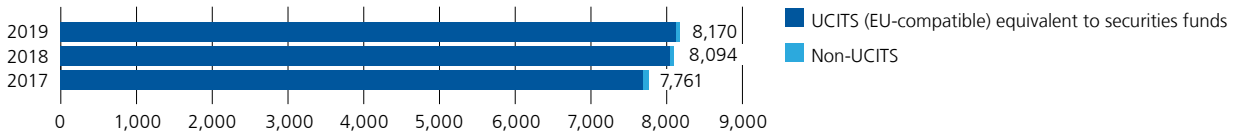
### Market entries of Swiss funds



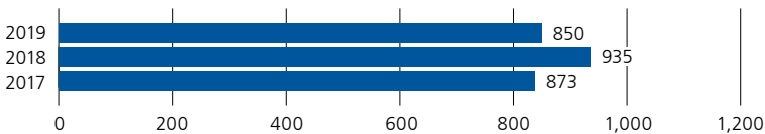
### Market exits of Swiss funds



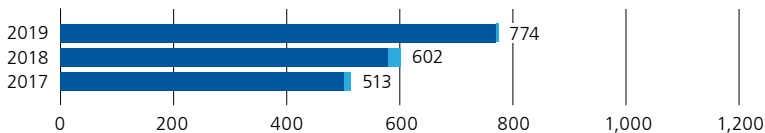
### Total foreign funds



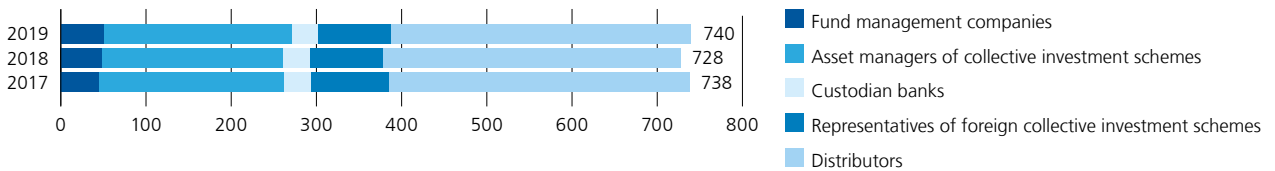
### Market entries of foreign funds



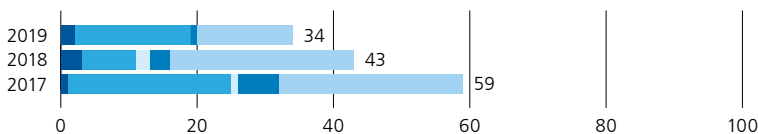
### Market exits of foreign funds



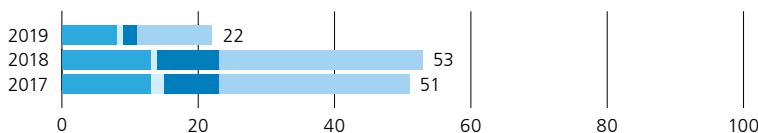
### Total institutions



### Market entries of institutions



### Market exits of institutions



# Innovation

FINMA responded to the numerous enquiries concerning “stable coins” projects with a supplement to its initial coin offerings guidelines. The FinTech licence has meanwhile also been attracting interest.

Blockchain technology continued to preoccupy FINMA intensively and the interest in initial coin offerings (ICOs) remained high (52 enquiries). On the one hand there was an increased focus on projects in connection with “stable coins”, that is, blockchain-based tokens linked to assets, and on the other hand on a diverse range of applications with interfaces to the financial markets that are operated on the basis of blockchain technology. FINMA furthermore dealt intensively with the Libra project and enquiries concerning the FinTech licence that recently entered into force.

## FinTech licence

The FinTech licence was introduced by way of an amendment to the Banking Act on 1 January 2019. This new licensing category allows public deposits of up to CHF 100m to be accepted, provided that these deposits are not invested and no interest is paid on them. Furthermore, licence holders can benefit from relaxed requirements in comparison with the traditional banking licence, for instance with regard to the required capital or control functions. The new licensing category is attracting interest both in Switzerland and abroad, which is regularly generating enquiries with FINMA. Most of the enquiries received by FINMA came from companies offering services in the payment, bill of exchange and custody service sector and additionally wishing to accept public deposits. As well as several briefings and intended applications, FINMA has already received some proper applications for the granting of a FinTech licence. FINMA expects to grant the first FinTech licence in the first half of 2020.

## Enquiries about blockchain-based business models

FINMA published its guidelines for enquiries relating to ICOs in February 2018. Here it defines the minimum information requirements for ICO enquiries and sets out the principles applied; it has also classified the different token types. The number of enquiries in connection with ICOs is now falling significantly. This is due on the one hand to the fact that the number of projects is decreasing owing to the market developments (total of 94 compared with 184 in the previous year), while at the same time the guidelines have created transparency and legal certainty. It is noticeable that an increased number of enquiries are being submitted to FINMA that contain new and challenging legal issues (e.g. concerning “stable coins”; see p. 17).

FINMA is increasingly observing the development of business activities in connection with distributed ledger technology (DLT) and securities. Challenging questions are arising here on all issues concerning the trade, custody and settlement of different token types on various transaction systems. A custody and settlement activity in connection with securities fundamentally poses the question of a possible licensing requirement as central securities depository pursuant to Art. 61 of the Financial Market Infrastructure Act (FMIA).

In connection with the initiatives for the establishment of DLT-based trading and post-trading services, FINMA is in discussions with a number of initiators. FINMA is particularly assessing here whether the planned services fall within the scope of application of the Finan-



cial Market Infrastructure Act (FMIA). Although new technologies enable multiple infrastructure services (such as trading and post-trading) to be combined, the FMIA currently envisages the separation of infrastructure services across several legal entities and licence holders due to risk considerations. This means that several different licences for the provision of infrastructure services may have to be obtained for corresponding projects. Not least to take account of the new technological possibilities, the Federal Council has already submitted some proposed amendments to the legal provisions through the [blockchain report](#) and the regulatory project for improving the framework conditions for blockchain/DLT (see p. 19). In particular, the DLT trading system is intended to create a new licensing category in the FMIA for institutions wishing to pool the trading, settlement and custody of securities under a single legal entity.

### **“Stable coins”**

FINMA observed an increase in the number of projects to create so-called “stable coins” in 2019. The aim of such projects is to minimise the fluctuations in value that have until now been typical for cryptopayment tokens such as Bitcoin and Ether by linking the token to specific assets such as fiat currencies, commodities, real estate or securities (see below). For example, the token can convey an entitlement to a franc, a gram of gold, a share in a real estate portfolio or a specific quantity of a commodity.

FINMA published a [supplement to its guidelines for enquiries relating to ICOs](#) in September of the reporting year, which contains information indicating how

it will assess “stable coins” within its supervisory remit under Swiss supervisory law. FINMA also applies the principle of technology neutrality to its treatment of “stable coins” under supervisory law. It places the focus here on the economic function and the purpose of a token (substance over form) and follows the proven principle of “same risks, same rules” as well as the specific features of each case. In its guidelines, FINMA has divided the “stable coins” into case groups according to the type of linked asset and carried out an indicative classification under supervisory law. The case groups (linked to currencies, commodities, real estate and securities) have in common the fact that due to the usually intended purpose of “stable coins” as a means of payment they are almost always subject to the Anti-Money Laundering Act. Depending on the case group, the question arises as to whether the conveyed entitlements qualify them as a deposit under banking law or a collective investment scheme. If instead of an entitlement there is an alternative stabilisation mechanism, other financial market laws, in particular the FMIA for the operation of payment systems, can also be relevant.

The supplemented ICO guidelines have been picked up on and debated both by the media and by the various international standard-setting bodies in which FINMA participates. The indicative regulatory classification of “stable coins” has been welcomed in the industry.

### **Libra**

On 18 June 2019, Facebook for the first time published public information about the Libra project, which has

strong links to Switzerland owing to the fact that the headquarters of the Libra Association are based in Geneva. How Libra is classified under financial market law and which extra requirements are placed on it, if any, are therefore of substantial importance for both the Swiss financial centre and – should the project prove successful – the protection of financial market participants throughout the world. The project is accordingly being monitored closely at an international level.

In its [press release of 11 September 2019](#), FINMA confirmed that the Libra Association had asked FINMA for an assessment of how it would classify the project in regulatory terms under Swiss supervisory law. FINMA states here that a project of this kind would fall under financial market infrastructure regulation and only require a payment system licence in accordance with the [FMIA](#) together with extra requirements. Regulatory requirements for payment systems in Switzerland are based on the prevailing international standards, particularly the Principles for Financial Market Infrastructures (PFMI).

FINMA also stated in its press release that the planned international scope of the project required an internationally coordinated approach, and the work to define requirements (such as for combating money laundering) should also be carried out internationally.

#### **Blockchain financial service providers**

In late August, FINMA for the first time granted two blockchain financial service providers each a licence to operate as a bank and securities dealer. As usual, the commencement of business was contingent on various conditions and requirements intended to safeguard an orderly business structure.

FINMA already paid close attention during the licensing procedure among other things to the crypto-specific risks. The definition of strict criteria and control processes was required in connection with the operational risks. With a view to the safe custody of tokens, the technological infrastructure of the two applicants was subjected to thorough testing, also with the support of the responsible licensing auditors, in order to address sufficiently the increased IT and cyber risks. The business model of the blockchain financial service providers furthermore implies the necessity for close cooperation with external technical service providers. Particular attention was therefore also paid to the outsourcing risks.

#### **Payments on the blockchain**

Finally, the anonymity inherent in blockchain technology poses increased money-laundering risks. With this in mind, [FINMA states in Guidance 02/2019 "Payments on the blockchain"](#) that it also applies the prevailing Swiss regulations governing the sending of information required in payment transactions in the blockchain sector in a technology-neutral way. With regard to the application of the provisions aimed at combating money laundering, no relaxations versus traditional payments are envisaged. This established practice applies without exception and is thus one of the strictest in the world.

However, exceptions apply where it is not possible to comply with the applicable provisions because there is no system available yet on the blockchain to facilitate the sending of information required in payment transactions: for example, the institutions supervised by FINMA may send cryptocurrencies and other tokens to external wallets of their own customers who have already been identified and

accept cryptocurrencies and tokens from such customers.

**Collaboration on regulatory project for improving the statutory framework for blockchain and DLT**

The Federal Council wishes to develop further the statutory framework for blockchain / distributed ledger technology (DLT) by means of amendments to federal law. FINMA is actively collaborating with this regulatory project and attaches great importance to technology neutrality and legal certainty. One of the core issues of this regulatory project concerns the segregation of cryptocurrencies during bankruptcy proceedings of the service provider. This is important in view of the absence of public deposits and therefore of any licensing requirement under the Banking Act as long as an asset can be segregated from the bankruptcy assets. FINMA announced its position in its statement on the consultation draft of the Federal Council.

## Wide public interest in FINMA's work

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

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**6,645**  
enquiries

**1,056**  
supervisory-related enquiries

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**3,178** enquiries about authorised institutions (banks, insurers, etc.)

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 **1,683** unauthorised institutions reported

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**728** regulatory enquiries

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## **FINMA's core tasks**

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# Focus of prudential supervision

FINMA undertakes prudential supervision to ascertain whether supervised financial institutions are prepared for potential risks and thus in a stable position now and in the future, so that their customers are adequately protected. The focus of FINMA's supervisory remit thus remains on those risks resulting from the low interest rate environment and associated market imbalances.

The current overall economic situation features modest growth and enduring negative interest rates in Europe and Switzerland. This is a challenge for financial institutions. In addition, operational risks, cyber attacks for example, threaten financial sector stability. These were some of the major risks at the centre of FINMA's prudential supervision in all of its supervisory areas.

## Corporate governance

In recent years serious corporate governance failings have come to light at certain supervised institutions. For this reason, FINMA raised the issue of corporate governance regularly in supervisory meetings during the reporting year and conducted on-site reviews. Its focus was on the effectiveness of group-wide risk control by the executive bodies. It achieved this by analysing the relevant regulations and processes, conducting interviews with decision makers and attending executive board meetings.

To further strengthen direct supervision in the area of corporate governance, FINMA also developed a new supervisory approach in the year under review, which it will apply to larger banks and insurance companies in the coming year. The effectiveness of corporate governance will be reviewed periodically at all larger institutions and strengths and weaknesses will be analysed. The findings will allow comparisons to be drawn between similar banks or insurance companies and reveal potential outliers. Further investigations will be conducted at institutions that attract attention and possible failings will be addressed. Besides the regular supervisory dialogue, further suitable measures such as on-site reviews, meetings with selected bodies or deeper insights into internal documents can be adopted.

## Mortgage market

FINMA has repeatedly emphasised the growth of mortgage market risks in recent years. The reporting year was no different as FINMA drew attention to the

ongoing growth of these risks, for example at the annual media conference of 4 April 2019, where the results of the 2018 extended mortgage stress test covering 18 banks were disclosed, and in its December Risk Monitor. The latter report highlighted investment properties, which merit a closer supervisory focus as they are particularly exposed, not least due to unprecedented vacancy levels.

Shrinking interest margins and the simultaneous expansion of mortgage loan volumes as lenders' risk tolerance rises remained unchanged in 2019. As a result, FINMA continues to closely monitor the mortgage market. In 2019, it advocated stricter loan criteria for investment properties. The amendment of the sector's self-regulation during the reporting year is a step in the right direction. However, as buy-to-let financing<sup>1</sup> is not explicitly covered by these tightening measures, FINMA will continue to take a special interest in developments in that area. Besides business and risk development in mortgage business, the results of the on-site reviews conducted in 2018 and the stress tests were the main subjects of the supervisory dialogue with the implicated banks. Where appropriate, FINMA prescribed supervisory measures and imposed additional capital requirements.

FINMA conducted more on-site activities in the year under review, including five supervisory reviews lasting several days and four shorter deep dives into mortgage businesses. It also conducted mortgage stress tests involving five further banks. As a result, the peer group for all the participating banks increased to 23 and the scope of the FINMA stress test increased to over 70% of the Swiss mortgage market.

## Supervision of interest rate risks in banking

FINMA's position on interest rate risks hardly changed from the previous year. The same applies to the basic operating conditions on the money and capital market, where lower interest rate expectations were in

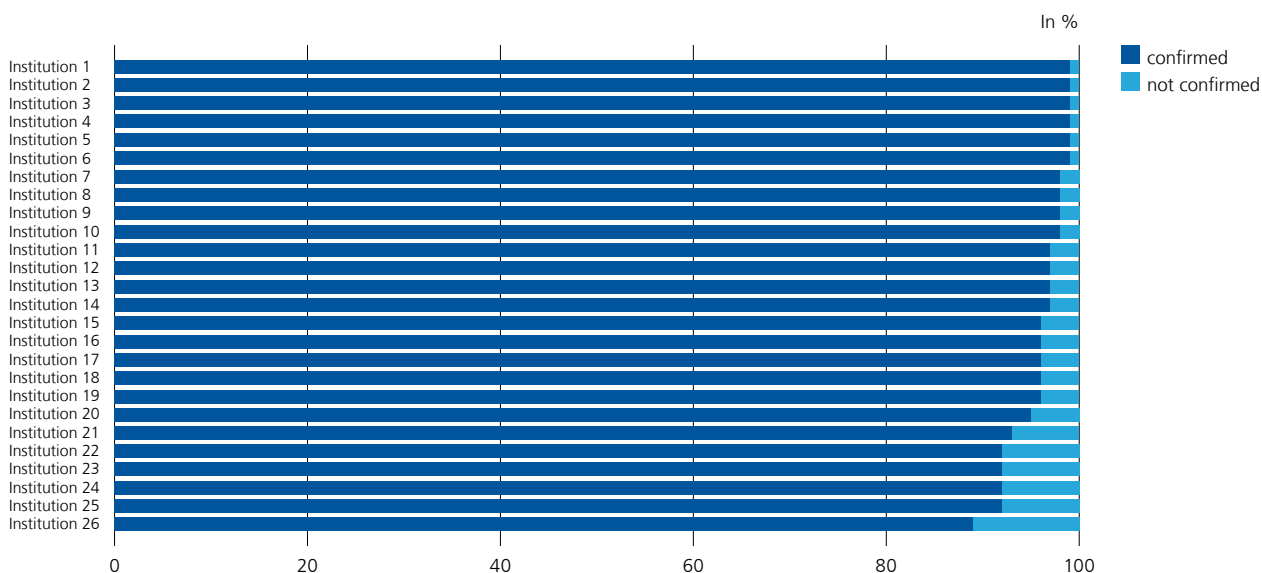
<sup>1</sup> This mainly takes the form of privately owned apartments and single family houses where the owners don't live in the properties themselves but rent them out instead. This segment comprises approximately a quarter of all residential property financing by banks.

evidence. Yields on Swiss treasury bonds were negative over the full maturity range and mortgage rates fell to record lows. This caused growing margin erosion, which the banks attempted to offset with higher mortgage volumes and, to a certain extent, adjusted interest rate risk parameters. On the regulation side, the revised FINMA Circular 2019/2 "Interest rate risks – banks" was updated in line with the international Basel standards. The changes came into force at the start of 2019. FINMA specified its internal process for dealing with outliers in Appendix 1 of the circular. This defines the identification and evaluation of banks facing heightened interest rate risks and the countermeasures that FINMA may resort to. Classifying an institution as an outlier does not necessarily entail bank-specific measures by FINMA.

The process for identifying outliers is performed quarterly and is based on the interest rate risk reports issued by the banks. One key risk indicator is equity

capital sensitivity (changes in the cash values of future payments relative to Tier 1 capital under an interest rate shock and the respective change in Common Equity Tier 1 capital), which is based on an evaluation system consisting of several key figures. The equity capital sensitivity is calculated for six interest rate shock scenarios subject to various interest rate periods and for different currencies. FINMA applies the bank's internal and standard market – average and flat-rate – interest rate periods. Normal market assumptions about interest rate periods are determined by grouping similar banks together. The flat-rate interest rate periods were calculated using past time series of reporting banks and are kept constant over time. All outlier institutions identified by this standardised method are then assessed on an individual basis whereby particular emphasis is on capitalisation and profitability. If FINMA concludes that a bank's interest rate exposure by comparison is increased or that the interest rate risk management is lacking, it will take additional measures.

### Self-assessment on the degree of implementation of critical aspects of threat intelligence by participating institutions



### Cyber risks

Technological progress and the latest trends have led to FINMA stepping up its supervision of cyber risks. These risks are monitored directly, for example through focused on-site audits by FINMA, and monitored by audit firms as part of the regulatory audit process. In addition, larger institutions are regularly reminded of the need to take appropriate precautions against cyber risks during self-assessments. The self-assessment in the second half of 2018 focused on the ability of the participating institutions to identify cyber threats arising from institution-specific vulnerabilities, perform a commensurate risk assessment and define countermeasures (threat intelligence).

The outcome of the self-assessment was that most of the participating institutions had made adequate provision for those risks. Moreover, in so doing they focus on the identification of threats and vulnerabilities affecting critical systems and sensitive data. However, some institutions do need to improve, especially when identifying their vulnerable areas. At the same time, the threat situation keeps growing dynamically so that supervised institutions have to continually adjust and improve their repertoire of countermeasures. The approach of supervised institutions to cyber risks will remain a central challenge for prudential supervision going forward.

### LIBOR

FINMA rates a discontinuation of the London Interbank Offered Rate (LIBOR) without adequate preparation by market participants as a serious financial market risk. The abolition impacts all supervised institutions due to the high business volumes, legal risks, valuation risks for credit and derivative products and the high level of technical dependency. FINMA therefore wants to ensure that supervised companies move quickly to make adequate preparation for all foreseeable risks stemming from the discontinuation of LIBOR. They need to be ready well before the event instead of waiting until the last moment.

In Switzerland, the National Working Group on Swiss Franc Reference Rates (NWG) manages the issues associated with the replacement of LIBOR. FINMA participates in NWG meetings in addition to conducting regular dialogue with the Swiss National Bank (SNB) on the subject. FINMA is also a member of the IOSCO Benchmark Taskforce and actively exchanges ideas with the UK Financial Conduct Authority, which is responsible for supervising LIBOR.

During the reporting year, FINMA raised awareness of this issue among selected supervised institutions and audit firms. [FINMA Guidance 03/2018](#) "Risks of potential replacement" and the letter sent out in January 2019 to 43 of the larger banks addressed the main risk areas and called on institutions to perform a self-assessment of the measures taken. An evaluation of these assessments shows that preparations were inadequate among those banks questioned in late April 2019. The supervised institutions need to take prompt action to ensure they are ready for the conversion to alternative reference rates in 2021. Major progress is especially required in the following areas: the identification of current LIBOR-based contracts that only expire after 2021 and their modification with suitable fallback clauses; an increase in products with alternative reference interest rates; the ensuring of operational readiness; the definition of an effective communication and product strategy vis-à-vis customers.

### Green finance

Sustainable finance has gained considerable significance in recent years. The topic covers a broad range of environmental, social and governance issues. Green finance focuses on how the business world is dealing with climate change.

Climate change poses a challenge to financial institutions in a number of ways. For a start it entails physical risks, for example in the form of rising natural catastrophes and their associated costs. Insurers' loss amounts could increase as a result. Financial in-



stitutions are also exposed to climate policy measures. Changes in political guidelines can quickly trigger asset price adjustments or weaken companies' creditworthiness. At the same time, the transition process to a more sustainable economy also offers financial opportunities. FINMA is actively assessing potential climate-related financial market risks. Despite their particularities, these risks affect all the traditional risk categories, such as credit, market or operational risks. The onus is on the financial institutions themselves to minimise potential climate risks and, where necessary, to develop the necessary instruments and processes. FINMA is also analysing where supervised Swiss institutions are subject to increased climate-related financial risks and highlighting these risks to the institutions with the highest exposure.

In addition, FINMA actively participates, within the scope of its mandate, in national and international discussions on increasing financial market sustainability. In April 2019, it joined the Network for Greening the Financial System (NGFS) – a network of central banks and supervisory authorities addressing environmental and climate risks in the financial sector.

### Implementation of FinSA and FinIA

FINMA's remit has expanded with the coming into force of FinSA and FinIA. From 2020 portfolio managers and trustees in particular need a licence. FINMA has prepared for this.

In passing FinSA and FinIA, lawmakers have created new operating conditions for financial service providers and financial institutions in Switzerland. FinSA aims to harmonise the rules of conduct for financial service providers across all sectors (except insurance)

and bring them into line with international standards. The rules of conduct that in Switzerland have hitherto been self-regulatory in nature, have thus become supervisory law. This will strengthen the basis of FINMA's suitability reviews (see "Focus of conduct supervision", p. 28).

FinIA requires portfolio managers of individual assets and trustees to obtain a FINMA licence and subjects them to ongoing monitoring by a supervisory organisation (SO), in addition to realigning the regulation of current financial institutions.<sup>2</sup> FINMA also licenses the SOs and monitors them on an ongoing basis.

It is estimated that up to 2,500 portfolio managers and trustees need a FINMA licence. It is hard to predict how many licence applications will follow and when they will be submitted during the three-year transition period. FINMA has set itself the goal of implementing an efficient and suitable supervisory approach through a risk-based licensing system with clear requirements for supervisory organisations. Moreover, FINMA is prepared for this new process in spite of the uncertainties involved.

The licensing procedure runs exclusively via the EHP survey and application platform, thus ensuring a high level of standardisation and efficiency gains, which will lower costs. This will enable small, low-risk portfolio managers to receive a reasonably-priced licence quickly. FINMA will apply the regulatory requirements in a consistent manner. This means that only those portfolio managers that meet the requirements for proper business practice, respect the rules of conduct and act solely in the interests of the client will be granted access to the regulated market.

<sup>2</sup> FinIA redefines the regulation of securities dealers, fund management companies and asset managers of collective investment schemes.

## Important changes introduced by FinSA and FinIA

### FinSA

Client segmentation	Financial service providers must segment their customers within two years of FinSA coming into effect into private, professional and institutional clients.
Rules of conduct	Prior to providing financial services, companies must undergo a customer-related appropriateness and suitability review and meet information, documentation and due diligence requirements. The rules of conduct do not apply to institutional clients and must be implemented within two years. The previous rules as set out in the Collective Investment Schemes Act (CISA), the Stock Exchange Act (SESTA) and industry standards apply during the interim period.
Register of advisers	Client advisers of non-supervised financial services providers must be included in a register of advisers. Registration bodies authorised by FINMA will keep the register of advisers. There is a six-month registration deadline following licensing of the registers.
Prospectus review	A prospectus must be issued for securities offered to the public or traded on trading platforms. The prospectus must be approved in advance by the reviewing body. The reviewing bodies are approved by FINMA. The duty to issue an approved prospectus applies for six months following approval by a reviewing body and from 1 October 2020 at the earliest.
Ombudsman	Financial service providers must be affiliated to an ombudsman. These ombudsmen must be recognised by the Federal Department of Finance (FDF). The affiliation deadline is six months from the date on which the ombudsman is recognised.

## FinIA

Securities dealers, fund management companies and asset managers of collective investment schemes	The regulations governing securities dealers (now “securities firms”), fund management companies and asset managers of collective investment schemes (now “managers of collective assets”) have been redefined in FinIA and compliance with the new provisions must occur within one year of FinIA coming into effect.
Portfolio managers and trustees	Portfolio managers and trustees require a licence. They must register with FINMA within six months of the new regime coming into effect. In addition, they must comply with the provisions of FinIA within three years of its implementation and submit a licensing request (special transitional provisions apply to financial intermediaries subject to direct oversight by FINMA under the Anti-Money Laundering Act [AMLA]).
Occupational pension scheme managers	FINMA licenses and supervises occupational pension scheme managers as managers of collective assets.
Authorisation chain system	Banks no longer require an additional licence to function as a securities firm. Fund management companies and managers of collective assets need an additional licence to operate as a trustee.
Supervisory organisation	A supervisory organisation is responsible for monitoring portfolio managers and trustees. The supervisory organisation is authorised and supervised by FINMA.
Directly subordinated financial intermediaries (DSFI)	The status of DSFI is redundant. Any DSFI operating as a portfolio manager or trustee now requires a licence.
Distributors	The distributor licence has been cancelled.
Supervision	Multi-year audit cycles are an option for institutions licensed under FinIA.

# Focus of conduct supervision

FINMA has established various cross-divisional competence centres to deal with cross-sectoral issues. These also monitor the conduct of the supervised institutions. In 2019 the focus was on preventing money laundering, on suitability reviews in advance of the entry into force of FinIA and on market supervision.

According to the Risk Monitor published for the first time in December 2019, money laundering remains one of the principal risks for FINMA's supervised institutions and the Swiss financial centre. Shrinking margins can cause financial institutions to pursue risky business relationships. The financial flows associated with corruption and embezzlement can involve not just affluent private clients, some of whom must be treated as politically exposed persons, but also state or quasi-state organisations and sovereign wealth funds. The complexity of the structures involved, particularly when domiciliary companies are used, can increase the risk of money laundering. This is in spite of the fact that many institutions have further improved their money laundering prevention in recent years, are increasingly identifying suspicious assets and reporting them to the Money Laundering Reporting Office Switzerland (MROS).

## **Risk-based money laundering supervision**

FINMA has analysed enforcement cases from recent years that focused on compliance with provisions for combating money laundering. The aim was to learn lessons that can be applied to regular money laundering supervision activities.

For each AMLA enforcement case, FINMA examined two key issues: firstly, why the serious breach of the Anti-Money Laundering Act was able to occur at the supervised institution in the first place and, secondly, how the chances of discovering the breach at an earlier stage as part of the regulatory audit could have been increased.

## **Features of past enforcement cases concerning the Anti-Money Laundering Act**

It transpired that many of the business relationships involved shared similar features, for example, very high asset values and transaction volumes, or business relationships involving beneficial owners with multiple domiciliary companies or high levels of profitability. There was also a pattern to the legal violations identified, such as a failure to question the economic plausibility of transactions or to recognise the increased risk.

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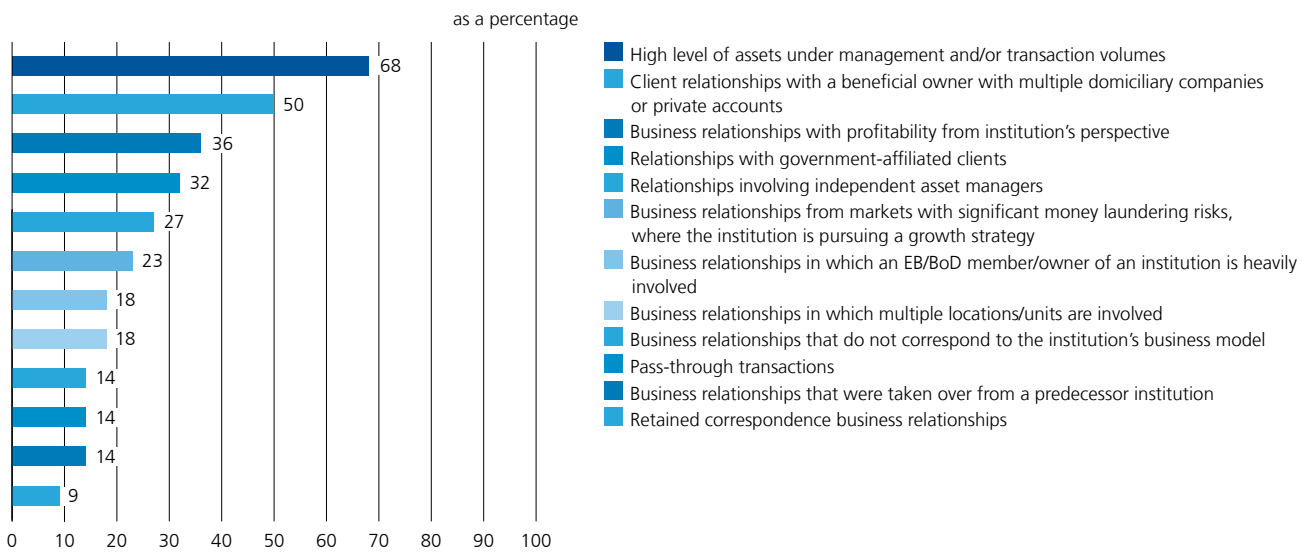
## **New presentation of FINMA publications**

### **Risk Monitor**

In December 2019, FINMA published its first-ever Risk Monitor, which from 2020 will be published annually every fourth quarter. Focusing on forward-looking supervision of the financial sector, the Risk Monitor provides an overview of the main risks with a time horizon of up to three years and the corresponding supervisory aims for the year ahead.

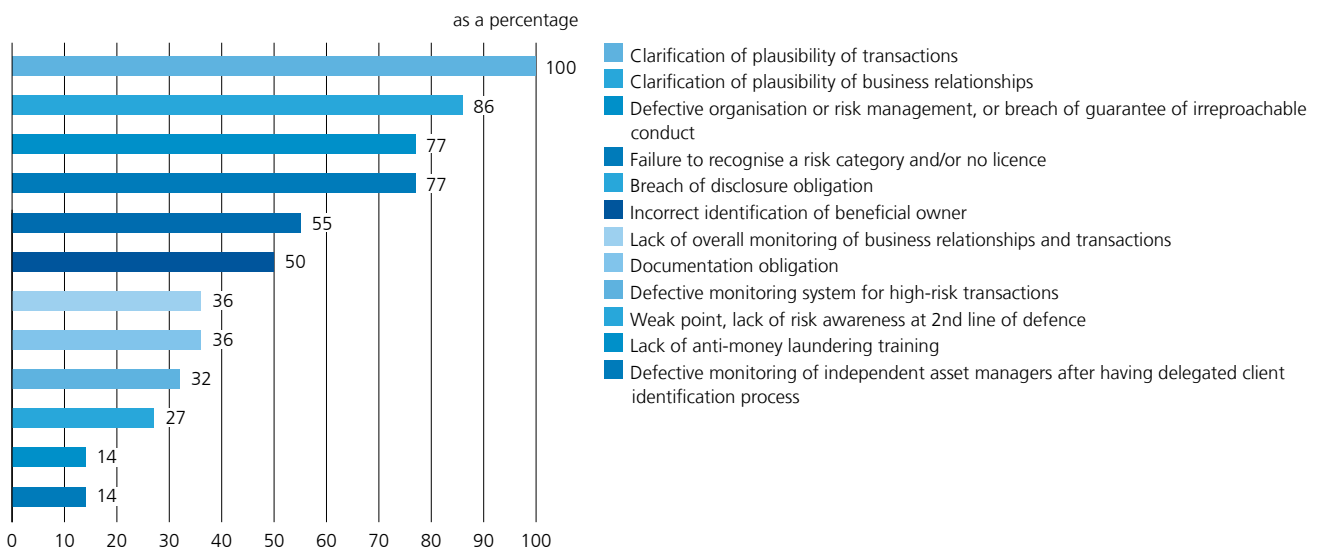
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### Business relationships displaying risk factors (multiple answers possible)



This chart shows the percentage of AMLA cases involving business relationships displaying risk factors.

### Legal shortcomings in business relationships (multiple answers possible)



This chart shows the percentage of AMLA cases involving the specified legal shortcomings and breaches.

These findings are also relevant with regard to how regulatory audits are performed. They demonstrate the importance of a risk-based spot-check sample, which increases the probability of suspected critical business relationships actually being audited.

When reviewing transaction patterns, these should in each case be considered in relation to the purpose and background of the business relationship. It is almost impossible to review the plausibility of transactions in the absence of a dedicated KYC process. The analysis also showed which aspects could be covered even better by money laundering supervision activities, including the status of compliance within the institution or the overall monitoring of business relationships and transactions across the company or group.

These findings have been incorporated into the revision of audit requirements for audit firms. FINMA now stipulates potential criteria to be applied when selecting the client dossiers to be audited with regard to the risk-based definition of the spot-check sample. These criteria include, for example, business relationships managed across multiple locations or entities (shared relationships), business relationships managed by client advisers with the highest revenues or bonuses, business relationships in high-risk markets where the institution is pursuing a growth strategy or business relationships with government-affiliated clients.

#### Revision of AMLA audit requirements

As part of its supervisory activities, FINMA also monitors the financial intermediaries subject to its supervision with regard to their compliance with anti-money laundering requirements and in this respect, carries out a number of on-site reviews each year (31 in 2019). In addition to its own reviews, FINMA's supervisory activities also primarily rely on the audit firms, which extend its reach and work in line with its directives. The AMLA survey form is used as the basis for carrying out AMLA audits.

The partially revised FINMA [Circular 2013/3 "Auditing"](#) came into force on 1 January 2019. Aside from the applicable statutory provisions, it forms the basis for regulatory audits. The revision aims to increase the efficiency and effectiveness of audits by introducing multi-year audit cycles and a consistent risk orientation process. In light of these changes, it was the ideal time to revise the existing AMLA survey form.

Previously, the survey form comprehensively covered all AMLA obligations. Furthermore, it was the same for all institutions, leaving no latitude to be applied proportionally. Formal AMLA obligations were given as much weighting as material obligations. Following the revision of the survey form, AMLA audits will now be based more strongly on the risks involved. The audit items have been reduced to a sensible minimum, which have to be audited as part of every audit. There are now also five thematic modules, which are applied in line with the risks involved. These relate to the monitoring of foreign booking centres, identification rules, complex structures, trade finance and a more in-depth focus on the topic of politically exposed persons.

#### Findings and focus of SRO supervision

Suitable structures, sufficient human resources and independent control functions are the key elements of an efficient, sustainable and internationally credible supervisory approach. This was mentioned back in 1996 in the [dispatch on the Anti-Money Laundering Act \(BBl 1996 III 1146\)](#).

In light of this, FINMA determined that the on-site reviews for self-regulatory organisations (SROs) in 2018 would focus on the quantitative and qualitative structuring of the SROs' resources across their licensing, acceptance, supervisory and sanction processes. As part of a benchmarking exercise, FINMA performed a cross-comparison of SROs to determine how their resources were both structured and allocated. FINMA held an information event in summer

2019, where it presented its findings to recognised SROs. These showed that resources must be deployed more heavily in line with the risks faced. Furthermore, some SROs which had dedicated significantly fewer resources to supervisory activities than others, even though their members did not present a lesser risk, had to implement measures with regard to how their specialist resources are structured and allocated.

FINMA also determined that there is scope for improvement of SROs' supervisory approach to material audits of breaches of their members' due diligence obligations in accordance with [Art. 6 AMLA](#) and the associated review of violations of the disclosure obligation.

In 2019, FINMA determined that SRO supervision should focus on ensuring the independence of SROs as well as on how they deal with conflicts of interest. This is a key requirement for putting in place a credible system of SRO supervision. As such, in 2019 FINMA's on-site reviews included looking at whether independent supervision by the SRO can be ensured at all times, whether and which provisions are in place at the SRO to prevent conflicts of interest as well as whether recusal rules are being correctly and transparently followed. FINMA will notify the SROs of the findings of its consolidated evaluations of the key areas of supervision and of any actions that need to be taken.

### Supervision of DSFIs comes to an end

Following the entry into force of [FinIA/FinSA](#) on 1 January 2020, FINMA's supervision of DSFIs ended as of 31 December 2019, with any remaining DSFIs at the end of this period automatically being removed from DSFI supervision. DSFIs that continue to offer professional financial intermediary services as described under [Art. 2 para. 3 AMLA](#) after being removed from FINMA's supervision must newly affiliate themselves with a recognised SRO by no later than the end of 2020.

### Suitability reviews in light of the future FinSA

The conduct rules vis-à-vis clients in the investment area are being reorganised as a result of [FinSA](#). In 2019, FINMA performed on-site and off-site reviews to check whether institutions were ready in time.

In contrast to the previously applicable rules of conduct, the new act extends the supervisory obligations to all investment areas. This requires that financial service providers be adequately prepared. Almost all of the institutions reviewed are already at an advanced stage with the work they are carrying out. Nevertheless, internationally active institutions are generally progressing faster with the implementation of the new rules than institutions focused on the Swiss market. Financial service providers must close any remaining gaps by no later than when the transition period expires at the end of 2021.

#### Gaps to be closed before complete “FinSA readiness”

A common gap to be closed relates to institutions' internal directives, which at times are limited to generically reproducing regulations, instead of specifically defining how they are to be implemented at the financial service provider.

Downstream internal controls are not yet systematically performed across the board in the area of suitability. In particular, controls carried out by the compliance function (second line of defence) are not consistently implemented within all institutions. They are frequently structured around formal aspects, instead of checking material compliance with the rules

of conduct. For example, checks are not always carried out to verify whether the information gathered for risk profiling purposes is plausible.

In some cases, risk profiling questionnaires do not cover all of the aspects necessary to perform appropriateness and suitability reviews (knowledge and experience, financial situation and investment objectives). In other cases, the information gathered, specifically on clients' financial obligations, contains omissions or is contradictory. There are many instances where institutions lack guidelines on periodically updating risk profiles and their documentation irrespective of any events that may occur, meaning that investment strategies or recommendations may possibly no longer match clients' needs. By contrast, financial service providers are frequently using findings from behavioural economics when determining a suitable investment strategy. Instead of asking about clients' own estimation of their risk tolerance, they may, for example, ask them how they evaluate market trends or how they would respond to any losses of wealth. Some institutions were unaware that direct mailings to clients suggesting that buying certain investment products may be suitable for them actually represent investment advice. Under FinSA, corresponding rules of conduct apply in this regard.

#### Focus on “robo advisors”

In 2019, FINMA collected a significant amount of data from selected institutions in order to gain an overview of the robo advisor market and compliance with suitability obligations when providing automated financial services. The analysis shows that suitability risks



identified in the robo advisor area that differ from those in the traditional investment business are yet to materialise. This likely relates not least to the fact that volumes in the robo advisor market are still small.

The predominant service model is automated asset management, with investment advice and hybrid business models offering access to personal client advisors proving to be the exception in the robo advisor market. The products offered are frequently limited to cost-effective, diversified financial instruments, specifically retrocession-free exchange-traded funds.

In terms of conduct, FINMA identified the greatest risk to be institutions failing to correctly classify their robo advisor services (for example as “execution only” instead of “advice” or “asset management”). This could result in these companies systematically failing to comply with the applicable rules of conduct with regard to the financial service in question. This would be the case, for example, if institutions offered their clients the option to copy the investment patterns of a third party.

FINMA identified room for improvement specifically with regard to gathering data required for client risk profiling, control frameworks, measures to prevent the unauthorised manipulation of algorithms and cyber attacks as well as in dealing with unexpected severe market fluctuations.

### Market supervision

Effective market supervision allows market abuses to be detected and prevented. This increases market participants' trust in the proper functioning of markets and ensures fair and transparent pricing.

In 2019, FINMA continued its efforts to further develop its system of market supervision. Specifically, this involved making improvements to the evaluation of securities dealers' transaction-based reporting and performing more frequent on-site reviews at supervised institutions in the area of "market integrity". FINMA also identified that the origin of suspected cases of market abuse is changing, in particular as a result of the globalisation of securities markets.

### Implementation of revised disclosure requirements

The entry into force of the FMIA resulted in a fundamental revision of disclosure requirements for securities transactions. In particular, the extension of the disclosure requirements meant that internal systems and processes had to be adjusted at institutions subject to these requirements, at reporting and trading supervisory bodies as well as at FINMA itself. Based on the new transaction data, it has already been possible to identify the first suspicious cases and conduct the necessary investigations.

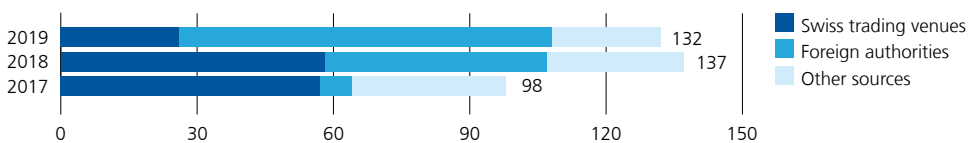
### Contribution of the "market integrity cross-divisional function"

The "market integrity cross-divisional function", which was established in 2015, provides support with regard to prudential supervisory activities and within this framework, promotes awareness among supervised institutions of correct market conduct. This saw the cross-divisional function act as a centre of competence during the reporting year at seven on-site reviews as well as various supervisory discussions. It also produced specific risk analyses with regard to supervised institutions and responded to numerous queries regarding market integrity. These queries often also related to market conduct in connection with cryptocurrencies and blockchain technology. As a key part of ongoing supervisory activities, this particularly helped supervised institutions aware of information related to market conduct, thus making an active contribution towards preventing market abuse.

### Origin of suspected cases of market abuse

The trading of securities approved for trading at a Swiss trading venue has become increasingly globalised in recent years, as also evidenced by the changing origin of suspected cases of market abuse. While in previous years it was mainly Swiss trading supervisory bodies that provided information on potential cases of market abuse relating to securities

### Origin of suspicions of market abuse



approved for trading in Switzerland, FINMA is now receiving more and more reports from foreign supervisory authorities.

Furthermore, information provided by supervised institutions about clients they suspect of potential market abuse as well as employee transactions makes a key contribution towards uncovering cases of market abuse. Thanks to the meetings held by FINMA with supervised institutions and the Swiss Bankers Association (SBA), the number of such reports also rose sharply during the reporting year. This sort of information, which generally speaking indicates a clear suspicion of market abuse that could potentially cause significant damage, is provided on the basis of the reporting obligation according to [Art. 29 para. 2 FINMASA](#).

# Supervisory activity by sector

Besides general issues, the four supervisory divisions deal with sector-specific developments and risks. FINMA's level of supervision is most intensive in areas in which risk is greatest. Key supervisory instruments include on-site supervisory reviews, colleges and high-level meetings.

Being an integrated supervisory authority, FINMA can give equal attention to general developments and risks in all supervisory areas. This comprehensive view ensures that similar or identical situations receive the same supervisory treatment. Sector-specific issues are dealt with by the responsible supervisory divisions. Thanks to close cooperation between the divisions, knowledge management is ensured within the entire authority.

## Banking supervision

FINMA is placing more weight on the application of the proportionality principle through its auditing and small banks regime initiatives. The new auditing rules have been in place since 1 January 2019, while the small banks regime pilot phase ran until the end of 2019 and transitioned seamlessly into the definitive small banks regime as of 1 January 2020.

Ensuring strong capitalisation for banks and insurers is the first of FINMA's seven strategic goals. Banking supervision has shown that the supervised institutions are well on track in this regard. A further aim is achieving efficiency gains through applying consistent risk orientation and clear prioritisation, both in its own supervisory role and in regulatory audits. Auditors now focus their regulatory audits more on risks. Meanwhile the Federal Department of Finance has defined the participation criteria for the small banks regime and the necessary amendments have been made to the applicable ordinances and circulars.

## Continued high level of capitalisation in the Swiss banking system

The high level of capitalisation in the Swiss banking system during recent years continued in 2019. The

banking system's Common Equity Tier 1 capital ratio (CET1 ratio) was between 16% and 17% from 2015 to 2018; it was 17% at the end of June 2019. Notwithstanding the strong capitalisation, profitability came under pressure during the same period, particularly due to very low lending rates and the negative interest rate environment. From 2015 to 2018, the equity capital ratio fluctuated between 3.2% and 8.3% and came to 4.7% at the end of June 2019.

## First-time application of amended audit cycles

FINMA increased the risk focus of its regulatory auditing in its partial revision of FINMA Circular 2013/3 "Auditing". This manifests itself in the less intensive treatment of audit areas presenting a low or average residual risk in order to focus more on the higher-risk areas. The new standard audit strategy for medium-sized and small supervised institutions thus consists of risk-guided audit cycles.

FINMA defines the audit strategy for systemically important supervised institutions (banks in Supervisory Categories 1 and 2 and selected institutions under CISA in Supervisory Category 4) by means of a two-way process with the audit firm. This serves to increase the effectiveness of audits.

## New audit strategy cost estimates

The auditors submitted a cost estimate for the first time as part of the 2019 audit planning. This helped FINMA improve its understanding of the costs associated with an audit. This procedure also increased the transparency within the audit strategy planning process and served as a steering instrument for audit strategy development, especially for larger supervised institutions. Besides increasing the impact, the stronger risk focus aimed to reduce regulatory audit costs significantly system-wide.

### Options for small supervised institutions

One innovation was the introduction of a reduced audit frequency subject to approval by FINMA following an application by the supervised institution's executive management. Over 50 institutions applied during the reporting year. FINMA then made an assessment based on the risk situation of the applicant. A small number of applications were rejected, mainly because of heightened risks relating to rules of conduct (market conduct or money laundering). Audits only take place every second or third year for the 48 institutions with a reduced audit frequency. FINMA has created an evaluation process to check whether an institution can remain on a reduced audit frequency.

### Reporting

The reporting now focuses on the supervised institution's shortcomings. Previously, FINMA had already clarified the rules governing the issuing of complaints and recommendations.

### Tightening of regulatory audit provisions

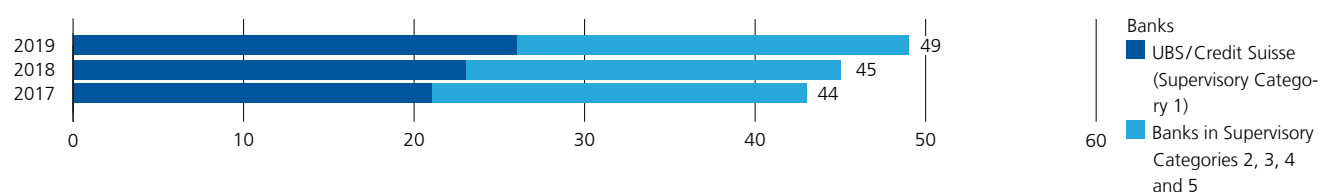
The amendments to regulatory audits require further refinement of the auditing principles, mainly set out in Swiss Audit Notice 70 (PH 70) EXPERTsuisse. The spot checks, for example, focus more on risks, which makes them more relevant. The rules should also stipulate the obligations and responsibilities incumbent on regulatory audit firms, including in audit-free years and how to make use of the work done by internal audit. The refined provisions are an important component in aligning expectations between the financial sector and the authorities when performing regulatory supervisory mandates. One stated goal of FINMA is to ultimately recognise PH 70 as a minimum standard.

### On-site supervisory reviews: banks

In accordance with [Art. 24 para. 1 of the Financial Market Supervision Act \(FINMASA\)](#), FINMA may perform on-site supervisory reviews as part of its supervisory remit at institutions it supervises as well as at the outsourcing partners mandated by these institutions. It can also participate in on-site supervisory reviews performed by foreign supervisory authorities at subsidiaries and branches of supervised institutions.

In the banking sector, the controls (which were increased during the reporting year) mainly focused on banks' mortgage business, anti-money laundering activities, conduct rules in the investment business, and here in particular the status of preparations for the implementation of the new financial market legislation (FinSA) from 2020. The controls also concentrated on the large banking groups' investment banking divisions and operational risks, with an increased focus on cyber risks.

## On-site supervisory reviews: banks



## Average number of on-site supervisory reviews per institution in the banking sector

in brackets: number of on-site reviews per category

	2019	2018	2017
Category 1	13.00 (26)	11.50 (23)	10.50 (21)
Category 2	2.33 (7)	2.00 (6)	2.00 (6)
Category 3	0.62 (16)	0.62 (16)	0.67 (16)
Category 4	n/a (n/a)	n/a (n/a)	0.02 (1)
Category 5	n/a (n/a)	n/a (n/a)	n/a (n/a)
<b>All institutions</b>	<b>0.18 (49)</b>	<b>0.17 (45)</b>	<b>0.15 (44)</b>

### Insurance supervision

Insurance supervision has strengthened the risk-based approach to the supervision of small and medium-sized insurers and increased the number of on-site reviews. In addition, the approval process for internal SST models and company-specific adjustments to the standard model has also been further improved.

The capital requirements used as a benchmark to measure capital adequacy are usually derived from one of FINMA's standard models. Only if none of the standard models adequately reflects the risk situation is an internal model of the supervised institution used instead.

The new or revised standard models for market risk, aggregation and for life and health insurance, devel-

oped in previous years, were introduced industry-wide for the first time with SST 2019. This, together with the approval of Solvency II yield curves for foreign (de facto) subsidiaries for reasons of equal treatment, led to certain line-specific changes in risk-bearing capital (RBC), target capital (TC) and market value margin (MVM); on the whole, though, the SST ratios either remained stable or increased slightly. One exception is reinsurance, where particularly high dividend payments triggered a falling solvency ratio (on average throughout the market).

### Model approval process

In addition to the development, maintenance and enhancement of the standard models, effective and efficient monitoring of internal models is of utmost importance.

## SST figures by insurance sector

Insurance companies	SST 2019		SST 2018	
	SST ratio	Number of insurers with SST ratio below 100%	SST ratio	Number of insurers with SST ratio below 100%
Life insurers	193%	1 (16)	175%	1 (16)
General health insurers	272%	0 (19)	266%	0 (19)
Non-life insurers	247%	1 (51)	221%	2 (53)
Reinsurers	198%	0 (26)	220%	0 (26)
Reinsurance captives	275%	0 (27)	259%	1 (27)
<b>Total</b>	<b>218%</b>	<b>2 (139)</b>	<b>206%</b>	<b>4 (141)</b>

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%.

In parallel to the introduction of the new standard models, the new approval process has been fully implemented for the remaining internal models and company-specific adjustments to the standard model. Numerous summary reviews have been carried out in recent years.<sup>3</sup> Unless serious shortcomings were identified, this led to the respective models being approved. In 2019, FINMA also performed more material reviews, i.e. in-depth reviews of previously summarily reviewed SST models, usually carried out on site at insurers' premises. In some instances, these first material reviews led to the stipulation of collateral clauses or adjustments, which sometimes entailed higher capital requirements. In no case, however, has a model had to be fundamentally rejected following a material review. The consistently applied approval process – in combination with the review of the SST reporting – forms the basis for the efficient and reliable determination of capital requirements.

### Consistent implementation of risk-oriented supervision for small and medium-sized insurers

Supervision of small and medium-sized insurers, i.e. companies with total assets of up to CHF 1bn, has been based on risk-oriented criteria since 2018. These include key figures such as the SST ratio and the coverage of tied assets, selected qualitative information on compliance with legal rules and, to complete the overall picture, FINMA's internal rating of the individual companies, which also incorporates their respective financial statements. The resulting overall assessment is reviewed subsequently or, if necessary, investigated further by means of on-site reviews.

### Greater transparency about benefits covered by supplementary health insurance

FINMA examines supplementary health insurance tariffs with the aim of protecting policyholders from premiums that are abusively high or too low and therefore pose a risk to solvency. For this, FINMA relies on the information provided by the insurance company, which must ensure that the tariff data supplied

<sup>3</sup> The summary review is the second part of the three-level approval process (proof of need – summary review – material review).

is correct and plausible. Under supervisory law, the insurance companies must meet the requirements for proper business conduct and thus have effective controlling and an internal control system in place.

FINMA has evidence which suggests that to date tariff agreements between health insurers and service providers such as doctors and hospitals were so heterogeneous and lacking in transparency that they offered false incentives for inappropriate cost-shifting of benefits provided under basic insurance to supplementary health insurance. This can drive up the costs of supplementary insurance. If the additional benefits covered by the supplementary insurance are not set out transparently, they cannot be measured and verified. As a result, insurers cannot check whether the reimbursed costs are appropriate in proportion to the additional benefits provided. This in turn can lead to inappropriate and abusive pricing in supplementary health insurance, for example, if benefits that are already covered following the introduction of case-based fixed rates in basic insurance in 2012 are billed a second time or if their costs are not verifiable.

FINMA has called on the insurance companies concerned to observe the following principles and to implement these when negotiating with service providers:

- transparency must be ensured in the settlements with medical service providers;
- only genuinely additional benefits compared with basic insurance may be charged under supplementary health insurance.

Health insurers must have adequate controls in place and ensure that compensation paid for such additional benefits is within appropriate plausible limits and that policyholders are protected from abuse. From 2020, FINMA will conduct on-site reviews of supervised institutions to check the implementation status of these principles.

#### Big data in the Swiss insurance sector

Insurers have long been dealing with large amounts of data. The fast pace of digitalisation and technological progress in the areas of artificial intelligence and machine learning have revolutionised the nature of data processing. The quantities of available and completely new data types are enormous and they are increasingly becoming available in real time.

Big data is an important issue for the Swiss insurance sector. Technological progress paves the way for improved efficiency in process automation and the prevention and combating of fraud. However, there are also risks that need to be accounted for. For example, the more information insurers collect, the more serious the consequences of data misuse or loss. Product comparability, price transparency and solidarity among the insured suffer as insurance cover becomes more flexible and customised. Insurers in the Swiss market are also at risk of falling behind in the technological revolution.

Such developments pose new challenges for insurance supervision. Supervisory authorities must adjust their tools to ensure adequate protection for the insured community going forward. New questions arise, specifically in the area of the examination of tariffs subject



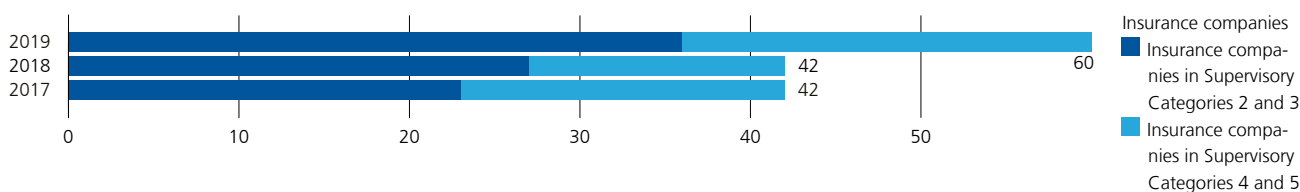
to approval. Pricing differences are permissible if they are actuarially justifiable. However, pricing methods based on machine learning may not be justifiable when evaluated on the basis of traditional actuarial practice. FINMA is technology-neutral and must therefore be receptive to new methods and consider new approaches to tariff audits. It is therefore imperative to ascertain whether the current and new planned Insurance Supervision Act is compatible with future progress or whether it requires further amendment. FINMA will invest in its in-house professional know-how to meet the challenges presented by big data.

in accordance with [Art. 98 of the Insurance Supervision Ordinance \(ISO\)](#), the corresponding information and processes were analysed on site at various insurance companies. In 2020, operational risks and technical reserves will continue to be a focal point.

### On-site supervisory reviews: insurance companies

In the insurance sector, on-site supervisory reviews were carried out during the reporting year with regard to outsourcing, technical reserves, real estate valuations, corporate governance and internal control systems, commissioning at health insurers, tied assets and operational risks. Following a survey to collect data on losses incurred from operational risks

### On-site supervisory reviews: insurance companies



### Average number of on-site supervisory reviews per institution in the insurance sector

in brackets: number of on-site reviews per category

	2019	2018	2017
Category 2	3.00 (15)	1.80 (9)	1.80 (9)
Category 3	0.57 (21)	0.43 (16)	0.37 (14)
Category 4	0.19 (12)	0.11 (6)	0.16 (6)
Category 5	0.13 (12)	0.11 (11)	0.10 (11)
<b>All institutions</b>	<b>0.30 (60)</b>	<b>0.21 (42)</b>	<b>0.21 (42)</b>

### Markets supervision

FINMA defined the extent of the future consolidated supervision of SIX Group in accordance with the FMIA-based legal framework. In addition, FINMA focused on ensuring the quality of reporting and evaluation by the exchanges for trading surveillance. In combination with the abolition of stock market equivalence, FINMA is monitoring compliance with the trading bans for Swiss equities on EU trading venues.

Supervision in the area of markets focused on defining the future consolidated supervision over the SIX Group, ensuring high-quality trading surveillance and monitoring compliance with the trading bans for Swiss equities on EU trading platforms.

#### SIX Group consolidation decree

The coming into force of the FMIA initiated a legal basis for the consolidated supervision of the SIX Group, which had previously been restricted to an agreement between FINMA and SIX Group. Following a consultation with SIX Group and the SNB, a consolidation decree was issued that contributes to legal certainty and describes the consolidation scope and regulatory requirements. The decree also specifies with reference to Art. 15 para. 3 FMIA the banking regulations for financial groups, which are applicable to SIX by analogy, whereby special features of the SIX Group's business model are taken into account. The decree basically preserves the status quo in terms of content requirements. The continuation of the prudential supervision in place since the initiation of SIX Group is thus ensured. In addition, there are now capital adequacy requirements at group level.

#### Expanded data basis, data quality and further development of examination methods for reporting and trading surveillance

Since November 2018 at the latest, Swiss securities dealers have been obligated to fulfil their reporting duties on securities trades as required under the updated provisions of the FMIA or Stock Exchange Act (SESTA) respectively. In addition to the expanded range of mandatory reporting for securities transactions and the accompanying expanded data basis, the new requirement to report the beneficial owners of transactions and to report securities derivatives is worthy of note in terms of monitoring market integrity. Following the revision of [Circular 2018/2 "Duty to report securities transactions"](#), FINMA answered various questions of interpretation in 2018 from market participants and the reporting offices of stock exchanges. To ensure the quality of reporting of securities transactions, SIX's reporting office introduced automated validation at the end of 2019. The exchanges' trading supervisory bodies are also continually improving their evaluation of data bases, including with methods that allow patterns of abuse to be detected.

#### The end of stock market equivalence plus the implementation and observing of the Federal Council's protective measure

At the end of June 2019, the EU decided not to renew stock market equivalence with Switzerland. The FDF then placed the EU on a negative list, which automatically removed the recognition granted by FINMA to EU trading venues. As of 1 July 2019, EU-based trading venues may therefore not trade in shares of companies based in Switzerland or enable such trades.

Trading in Swiss shares at EU trading venues also ceased at the start of July. As a result, trading volumes have shifted significantly to the SIX Swiss Exchange AG and to a small extent to systematic internalisers and OTC trading, although precise figures are hard to ascertain due to seasonal fluctuations. Participants in European trading venues had already prepared for this eventuality and established alternative arrangements with Swiss exchanges so that the transition occurred without any major disruption. FINMA initiated contact with foreign supervisory authorities prior to the event and is monitoring data volumes to ensure compliance with the trading bans.

#### **Abolition of the agreement on implementing financial reporting rules**

SIX Exchange Regulation and FINMA signed an agreement in 2010 on implementing financial reporting rules in the financial statements of banks, securities dealers and insurance companies listed on SIX Swiss Exchange and supervised by FINMA. FINMA took responsibility for enforcing accounting standards in the financial statements of banks and securities dealers that use the statutory financial reporting rules issued by FINMA. Banks' financial statements form the basis for a variety of prudential requirements.

Henceforth FINMA wants to concentrate on the supervisory aspects of financial reporting as part of its prudential supervision. Enforcing accounting standards in financial statements is part and parcel of monitoring issuers' compliance with securities listing obligations, which is the primary responsibility of SIX Exchange Regulation. To reflect this new division of

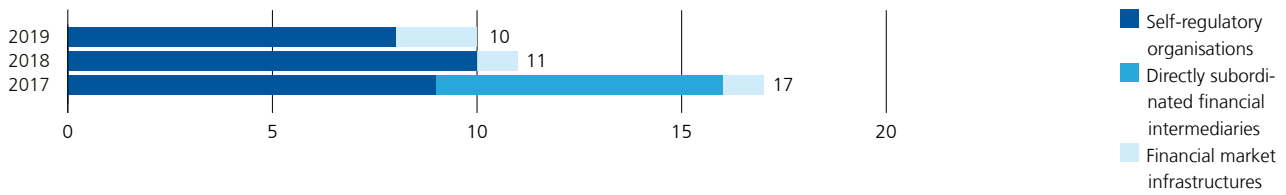
responsibilities between FINMA and SIX Exchange Regulation, the 2010 agreement has been abolished. Thus SIX Exchange Regulation will also be responsible from now on for enforcing accounting standards in the financial statements of banks and securities dealers listed on SIX Swiss Exchange that use the statutory accounting standards. The banks affected by this change have been informed in writing.

### On-site supervisory reviews at SROs and financial market infrastructures

FINMA performs annual on-site supervisory reviews at SROs and financial market infrastructures. As part of its on-site supervisory reviews carried out in 2019, FINMA determined the focus of SRO audits to be

“ensuring independence as an SRO and dealing with conflicts of interest at the SROs”. At financial market infrastructures, the focus was on **operational risks and cyber risks**.

### On-site supervisory reviews: self-regulatory organisations, directly subordinated financial intermediaries and financial market infrastructures



### Asset management supervision

Good corporate governance and supervision of real estate funds are a key focus in asset management. Key figure analysis of real estate funds is being continued and expanded. In addition, the new survey and application platform facilitates digital communication with FINMA.

The advance of digitalisation is bringing new operational challenges to market participants. The growth of **IT and cyber risks** calls for an adequate response. FINMA is monitoring this process. The revised FINMA circular on auditing was implemented. Further amendments are already pending with the opportunity to have a reduced audit frequency under FinIA.

### Approval of the first Swiss fund offering same-day processing of redemptions

In 2019, FINMA approved the first Swiss fund for qualified investors offering same-day payment for the issue and redemption of fund units. This enables investors to receive their money on the same day as they redeem their units, which marks a change from the usual practice of settlement on a later date. The main areas of interest when assessing the application were adequate liquidity management and the operational implementation of the fund redemptions. Specific liquidity management instruments are being developed to ensure adequate liquidity for same-day processing. For example, the fund holds additional liquidity and offers the possibility of a temporary delay in redemptions (gating) if the redemption requests for same-day processing exceptionally exceed a certain threshold.

### Changes in auditing

FINMA significantly streamlined the supervisory reporting templates as part of the implementation of FINMA Circular 2013/3 "Auditing", which was revised in 2018. There are no more detailed descriptions of processes and controls, provided no major negative findings emerge in the relevant audit area.

FinIA and FinSA have also changed the auditing landscape. Some institutions now have the option of requesting a reduced audit frequency from FINMA. In addition to informing the institutions directly, the FINMA website offers a guide detailing the conditions and procedure for submitting an application. [FINMA Circular 2013/3 "Auditing"](#) and its appendices require further amending as do the supervisory audit reports. The amendment process is under way.

### Prudential real estate fund supervision

Buoyed by the enduring low interest rate environment, investor demand for real estate fund investments stayed strong in 2019. Inflows in the form of share certificate issues in the first half of 2019 totalled around CHF 3bn (previous year CHF 3.5bn). Average listed real estate fund premiums<sup>4</sup> returned to 32% at the end of 2019 having fallen well below 20% in 2018.

In view of these parameters and the increasing risks in the Swiss real estate market, FINMA continues to focus on real estate funds. FINMA continued its periodic analysis of the external indebtedness of real estate funds on the basis of the quarterly SNB reports (collective investment statistics) and included other key figures, such as the premium and loss of rental payments. Real estate funds' key figures document the generally rising vacancy rate of residential properties in Switzerland. The average loss of rental income came to about 6.8% on 30 June 2019.

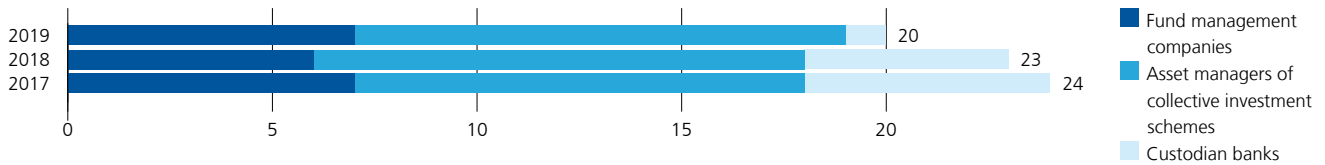
In 2019, FINMA conducted on-site supervisory reviews of four real estate fund management companies focusing on risk management including stress tests. FINMA also analysed the use of real estate funds in unit-linked insurance products. The survey showed that real estate funds only play a subordinate role in such insurance solutions.

<sup>4</sup> Percentage difference between the stock exchange price and the net asset value (after deferred taxes) of the fund units; a positive premium means that the market considers the product to be attractive and investors are prepared to pay more.

### On-site supervisory reviews: institutions under the Collective Investment Schemes Act

As was the case in 2018, the focus in the asset management business area in 2019 was on compliance with rules of conduct (suitability of products and services, market integrity and preventing money laundering). The control activities of the custodian bank, risk management and real estate funds were other areas reviewed on site. The topic of dealing with cyber risks in the area of operational risks was introduced for the first time in 2019.

#### On-site supervisory reviews: institutions under the Collective Investment Schemes Act



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## FINMA's supervisory instruments at a glance

On-site reviews and meetings promote a deeper understanding of the institutions' situation through direct contact. The main supervisory instruments are described briefly below. More in-depth supervisory instruments are available for concrete examinations of specific institutions, use of which is determined under supervisory policy.

### On-site supervisory reviews

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 the employees working there and licence holders. This ultimately helps FINMA to identify potential risks. By comparing the results of individual reviews and assessing quantitative and qualitative aspects of a specific topic, FINMA also gains a broader overview of the market as a whole.

### Colleges

Switzerland's two large banks, the five Swiss insurance groups and the insurance conglomerate for whom FINMA is the domestic supervisor have strong international ties, necessitating close cooperation with foreign supervisory authorities. Colleges are meetings held between prudential supervisory authorities responsible for a supervised group and the supervised institutions themselves to discuss subjects of common interest. In addition to such supervisory colleges on general supervisory topics, crisis-management colleges are also held. These meetings also provide a framework for FINMA to exchange information and coordinate with supervisory authorities abroad in relation to resolution planning for the large banks.

As a group supervisor, FINMA manages six supervisory colleges for the two large banks and five supervisory colleges for insurers. In each supervisory college, at least one actual meeting takes place as well as one additional multilateral telephone call between the supervisory authorities involved. In 2019, this form of cooperation again proved to be an effective means of exchanging information among the supervisory authorities.

The supervision of financial market infrastructures focuses on the consolidated supervision of SIX. Activities are centred around the value chain from trading through to settlement. In the area of clearing, settlement and safekeeping of securities, there is a close collaboration with the Swiss National Bank and FINMA participates in colleges held by recognised central counterparties (CCPs) abroad which are of particular significance to the Swiss financial market.

### High-level meetings

In addition to an operational exchange of information at working level, in particular at institutions in Supervisory Categories 1 to 3, high-level meetings also play a significant role. These meetings with members of executive boards and boards of directors at the relevant institutions usually also involve members of FINMA's executive board.

### Board-level meetings

Besides meetings serving a direct supervisory purpose, regular discussions take place between FINMA's Board of Directors or the Chair of the Board of Directors and the corresponding representatives of supervised institutions and their professional associations.

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# Enforcement

In 2019, FINMA conducted numerous investigations and many proceedings against companies and individuals. In particular, it focused closely on activities in the area of FinTech.

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 service providers and participants in the Swiss securities market. An important aspect of enforcement is the provision of administrative and legal assistance to foreign supervisory authorities and domestic law-enforcement authorities.

FINMA's rulings can be contested by the parties involved before the courts. This resulted in a total of 37 court rulings in 2019. The statistics show that the appeals bodies upheld 84% of FINMA's enforcement rulings, meaning the majority were upheld wholly or predominantly upheld.

## Enforcement activities in FinTech

In the area of FinTech, FINMA also paid close attention to ICOs in Switzerland during 2019. Overall, it carried out investigations into approximately 60 ICOs, of which more than half could be concluded. FINMA identified a breach of the Anti-Money Laundering Act (AMLA) at more than ten ICOs and brought charges against the persons responsible. Eight further cases resulted in entries being made on FINMA's warning list. Enforcement proceedings were ultimately initiated against three companies, with them having already been concluded in one case. One of the companies

against which proceedings were brought had ignored FINMA's previous assessment when answering the supervisory-related queries. In addition, FINMA decreed measures to restore compliance with the law at a number of companies. These measures included the repayment of unlawfully received public deposits under the Banking Act and the removal of the word "bank", or the withdrawal of advertisements, in cases where FINMA had not granted a licence. There has been a noticeable trend towards offering "stable coins", which in particular gives rise to questions regarding the application of the AMLA, the Banking Act and the Collective Investment Schemes Act.

Alongside market activities in the area of ICOs, FINMA also identified an increasing involvement on the part of Swiss providers in secondary market-related financial services in the crypto-area. These included the trading and custody of tokens as well as the operation of trading venues and the associated support activities. In 2019, the Enforcement division conducted investigations into a number of these providers. At one provider of token trading and custody services, FINMA identified breaches of the Banking Act and the Stock Exchange Act, decreed a number of measures to restore compliance with the law and filed a criminal complaint. FINMA also initiated enforcement proceedings relating to the unlawful receipt of public deposits against a money service transferring between cryp-

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## New structure of FINMA publications

### Enforcement Report now available online

The Enforcement Report, which was previously published separately, is now integrated into the Annual Report starting from the 2019 reporting year. The statistical part is now included in the newly created [Statistics section of the website](#) and [case reports are available in their own online database](#).

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to trading venues and their clients. In one further case, FINMA opened enforcement proceedings relating to illegal securities trading with tokens. Overall, there is an increasing number of fraudulent websites relating to these services, which offer their customers supposed investments in cryptocurrencies, but do not use any money they receive for the proper purposes. Where possible, FINMA provides warnings against such offerings on its warning list.

#### **Disgorgement of profits: fixed costs may not be deducted**

In the year under review the Federal Supreme Court issued a decision for the first time on the method used to calculate disgorgements of profits under [Art. 35 of the Financial Market Supervision Act \(FINMASA\)](#), which reduced the legal uncertainty that had existed for some time regarding the disgorgement of profits.

In its ruling dated 7 October 2016, FINMA had identified a serious breach of supervisory law (AMLA due diligence obligations, organisational and “fit and proper” requirements) at one of the institutions it supervises. Due to the severity of this breach of supervisory provisions, it decreed a disgorgement of profits based on [Art. 35 FINMASA](#).

During the subsequent appeals process, it was necessary to decide whether in calculating the profit to be disgorged within the scope of Art. 35 FINMASA, it was possible to deduct any generally incurred operating and infrastructure costs from the profit to be disgorged. In its [judgement dated 20 March 2019](#), the Federal Supreme Court upheld FINMA’s appeal against the decision of the Federal Administrative Court dated 3 April 2018, [annulled the decision of the Federal Administrative Court](#) and decreed a disgorgement of profits at the licence holder concerned, amounting to approximately CHF 2.5m.

In summary, the Federal Supreme Court determined that operating and infrastructure costs, and therefore also fixed costs which would have been incurred even if the breach of supervisory law had not taken place, cannot be deducted from the profit to be disgorged. According to the Federal Supreme Court, the disgorgement under [Art. 35 para. 1 FINMASA](#) represents a purely administrative measure to restore compliance with the law.

#### **Improper disclosure by HNA Group**

As part of enforcement proceedings, FINMA investigated HNA Group’s participation in Dufry Ltd and its compliance with the relevant disclosure obligations. Starting in 2017, various legal entities of HNA Group purchased Dufry shares and resold them in a period lasting until January 2019. During this time, HNA Group cumulatively held up to 21% of all Dufry shares. Based on proceedings opened by the Swiss Takeover Board relating to HNA Group’s ownership structure, FINMA initiated an investigation.

The FINMA investigation showed that in acquiring and disposing of shares in Dufry, HNA Group repeatedly failed to correctly disclose the beneficial owner. In its disclosures, HNA Group always stated that a Chinese foundation was the beneficial owner of the Dufry shares instead of the conglomerate’s two chairmen, one of which has since died. As a result, the six disclosures submitted to the Swiss exchange’s Disclosure Office between April 2017 and February 2019 were not truthful and accurate.

This represented a serious breach on the part of the HNA Group chairman and the Chinese foundation of their disclosure obligation as well as the associated transparency requirement under Swiss financial market law. FINMA determined this in its legally binding decree and reported the facts to the Federal Department of Finance (FDF).

### **Supplementary health insurance: group discounts may not be abusive**

In 2019 the Federal Supreme Court confirmed in a landmark ruling that insurance companies must observe specific supervisory requirements when granting group discounts in the supplementary health insurance sector. In particular, such discounts may not lead to significant unequal treatment of policyholders pursuant to [Art. 117 para. 2 ISO](#).

In its ruling of 29 January 2016 against an insurance company operating in the supplementary health insurance sector, FINMA formally held that the supervisory requirements concerning group discounts must be observed. At the same time it instructed the company to amend the existing non-compliant group agreements and banned it from entering into new agreements that are inconsistent with these requirements. The Federal Administrative Court rejected an appeal against this ruling in its judgment dated 20 June 2017. In its judgment of 25 November 2019 the Federal Supreme Court also confirmed the application of the supervisory requirements to group discounts.

The Federal Supreme Court held that the Federal Council is authorised to issue legislative standards in the supplementary health insurance sector such as, in particular, [Art. 117 para. 2 ISO](#), which aims to protect insured persons from misconduct. Protection from abuse is a stated purpose of the [Insurance Supervision Act \(ISA\)](#) and is one of FINMA's core tasks as a supervisory authority. The Swiss parliament con-

sciously intended to achieve closer supervision of insurance companies operating in the supplementary health insurance sector. Its aim through this is to prevent certain policyholders, particularly old people or those with chronic conditions, from being at a considerable disadvantage as regards pricing in this sector. FINMA's ruling was therefore in compliance with the law.

### **Slight change to practice relating to obligation to bring charges**

FINMA is legally obliged to notify criminal authorities if they receive information about crimes and offences against the ordinary law or any breaches of FINMASA or financial market legislation. Within FINMA, the Enforcement division is responsible for filing criminal charges.

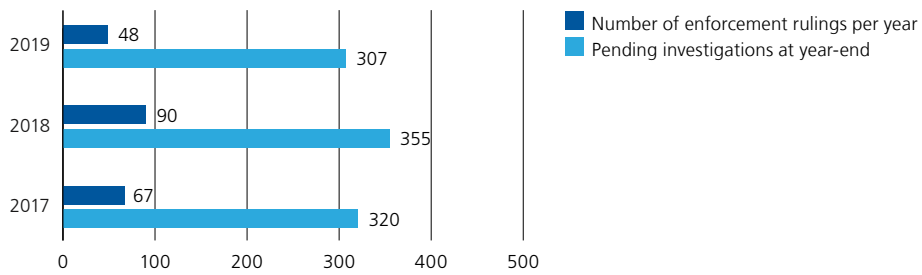
As part of its supervisory and enforcement activities, FINMA regularly encounters suspected instances of criminal conduct. Where there are "reasonable" suspicions, it notifies the responsible criminal authorities. In line with previous practice, FINMA usually filed charges when it was objectively deemed that it was highly likely an offence had been committed. It could thus occur that the criminal authorities did not prosecute the cases submitted to it by FINMA. In this regard, the criminal authorities would not prosecute a case if further relevant prerequisites for prosecution were not met. In light of this, FINMA slightly adjusted its practice in this area. As part of its process for filing charges, it now gives greater consideration to whether the law has actually been broken rather than rights

simply infringed upon, and to what extent the law has been broken. If these prerequisites are clearly not met, FINMA does not file charges.

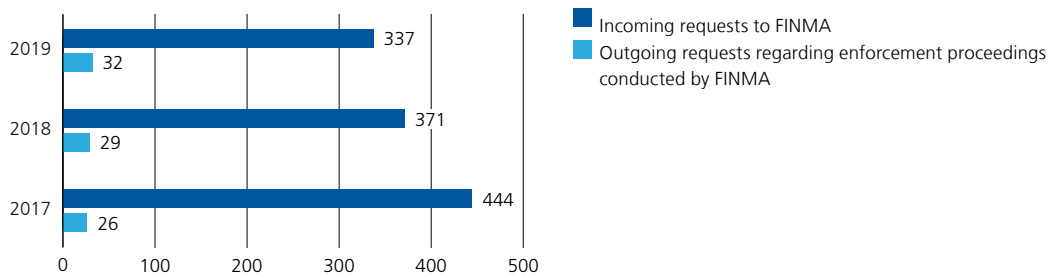
#### **FINMA is new signatory of IOSCO EMMoU**

FINMA has been a full member of the International Organization of Securities Commissions (IOSCO) for many years. This organisation's main activities include investor protection, ensuring fair, efficient and transparent markets, preventing systemic risks, international cooperation and elaborating uniform stock market and securities standards. In 2010, FINMA signed the IOSCO Multilateral Memorandum of Understanding (MMoU), which aimed to facilitate the cross-border exchange of information between financial market authorities in the area of securities supervision. Since then, the MMoU has set the standard for the vast majority of requests for international administrative assistance. IOSCO took account of technical developments and developed a new multilateral agreement (Enhanced Multilateral Memorandum of Understanding [EMMoU]), which can be signed on a modular or integral basis. Participating financial market authorities have greater powers than required for the MMoU, in particular to obtain documents from audit firms, to compel individuals to appear for questioning, to freeze assets and to obtain data from telecommunications service providers. FINMA successfully met the strict requirements for participating in the extended administrative assistance and signed the modular version of the EMMoU in October 2019.

### Investigations and enforcement rulings



### International cooperation



# Recovery and resolution

**Significant progress has been made on the large banks' resolution plans. FINMA continues to accompany and oversee the systemically important banks in developing their emergency plans.**

A priority for FINMA in 2019 was the further development of the resolution plans for the two large banks. In these, FINMA sets out how it would carry out a restructuring or liquidation of the entire banking group. FINMA also made its first formal assessment of the recovery plans of systemically important financial market infrastructures. Further areas of focus included monitoring a large number of liquidation and insolvency proceedings, assisting institutions that had become destabilised and recognising foreign bank insolvencies.

## **Emergency planning for systemically important banks**

The deadline for producing an effective emergency plan designed to ensure uninterrupted continuity of the systemically important functions if a bank was at risk of insolvency was the end of 2019. Both large banks made strenuous efforts in this regard and succeeded in addressing the remaining shortcomings – particularly those relating to reducing internal financial interdependencies within the group and liquidity risks in the event of a crisis. FINMA has therefore confirmed that it regards the emergency plans of the large banks as effective. Credit Suisse meets the statutory requirements in their entirety. Within the UBS Group there remains a material contingent liability (CHF 16.8bn at the end of 2019) of the Swiss entity for third-party debt of the parent bank (joint and several liability). UBS is judged by FINMA to have met the requirements for an effective emergency plan, with the qualification that the abovementioned joint and several liability remains excessive. Full compliance is conditional on the liability being significantly reduced (expected during 2020) and eventually eliminated (expected by the end of 2021).

The emergency plans of the three domestically focused banks had reached various levels of readiness by the end of 2019, although none of them have yet submitted effective plans. At ZKB further build-up of capital and liquidity resources is required. Raiffeisen

and PostFinance also have further work to do, particularly on producing plans to build up the loss-absorbing capacity required for recapitalisation in a crisis.

## **Review of capital rebates**

As last year, the capital rebate review showed that the resolvability of the two large banks continues to improve. The rebates granted as of 31 December 2019 are 40% of the maximum rebate potential at Credit Suisse and 42.5% at UBS. These percentages are based on the current maximum rebate potential, which applies to the gone concern requirements and is set at 2.0% of the leverage ratio denominator and 5.7% of risked-weighted assets (RWAs). FINMA's rebate assessment is based on this scale: for example, a bank which has completed half of the eligible improvements to its global resolvability would qualify for a rebate of 1.0% of the leverage ratio denominator. Due to a recent amendment by the Federal Council to the Capital Adequacy Ordinance, the maximum rebate potential will from 2022 be capped by setting a minimum gone concern component of 3.75% of the leverage ratio denominator and 10% of RWAs. This will mean capping the available rebate at 62.5% of the current maximum rebate potential for Credit Suisse and 60% for UBS (due to a reduction of its market share in the domestic lending business, UBS has to meet slightly lower gone concern requirements than Credit Suisse and thus also has a lower rebate cap). If from 2022 onwards, the banks have completed more than these proportions of the eligible improvements to their global resolvability, the marginal improvements above the cap will not result in higher rebates. Given the project portfolios of the two large banks, it is foreseeable that the banks will reach the level of the future rebate cap over the next few years.

### **New capital regime for the parent banks**

New provisions in the Capital Adequacy Ordinance entered into force at the beginning of 2020. These are designed to ensure, among other things, that the parent companies of the two large international banks Credit Suisse and UBS are sufficiently well capitalised for a crisis. The parent companies UBS AG and Credit Suisse AG will henceforth have to meet gone concern requirements at solo entity level. These are the sum of the following components:

- the gone concern capital internally passed on to subsidiaries of the parent company;
- the total capital requirement for the risks of the parent company as a solo entity vis-à-vis third parties minus rebates;
- 30% of the gone concern requirement applying to the parent bank at consolidated level.

The 30% of consolidated gone concern requirements the parent company is required to hold is referred to as a buffer. This is designed to be available in the event of a crisis, for example to recapitalise subsidiaries.

The gone concern requirements for the consolidated parent companies continue to amount to 100% of their going concern capital requirements less rebates granted by FINMA for improvements to their resolvability above and beyond the statutory requirements.

### **Crisis management colleges**

As the home supervisor of two international systemically important banks, FINMA would be responsible for coordinating the cross-border restructuring or resolution of these banks in a crisis. In 2019 it again organised several crisis management colleges with the banks' most important foreign supervisory and resolution authorities that are members of the crisis

management group (CMG) set up by FINMA. The aim of these international meetings is to lay the groundwork for a cross-border restructuring or resolution of these banks in a crisis. To date authorities from the US, the UK and the Asia-Pacific region have been represented in the colleges. Because one of the two large banks expanded one of its EU subsidiaries in Germany during the reporting year, a number of other authorities from the EU will participate in some of the meetings from 2020 onwards.

Following the designation of the central counterparty SIX x-clear as internationally systemically important, FINMA established an additional CMG for SIX x-clear. FINMA thus also holds annual crisis management college meetings for this institution, to which a total of 14 Swiss and international authorities have been invited. The CMG's work focuses on assessing resolvability and building up cooperation and coordination mechanisms both in recovery and resolution planning and for the eventuality of a crisis at SIX x-clear.

### **Recovery and resolution for financial market infrastructures**

FINMA carried out a detailed review of the recovery plans of SIX x-clear and SIX SIS in 2019 in consultation with the SNB. The plans have improved in some areas compared with last year, but given the stringent requirements they need to meet, FINMA does not consider the work complete yet. It has identified specific areas for improvement, taking due account of international standards, and informed the institutions of its expectations. FINMA also held the second meeting of the international crisis management group for SIX x-clear in the year under review. The main topics on the agenda included an assessment of the recovery

plan, possible approaches to and key considerations for a resolution plan and how to fund a resolution.

### **Significant insolvencies**

FINMA is responsible for launching bankruptcy and liquidation proceedings for financial institutions subject to the licensing requirement. It regularly uses external liquidators, whose work it oversees, to conduct the bankruptcies and liquidations. Important milestones were again reached in most of these bankruptcy and liquidation proceedings during the reporting year. We set out the progress that has been made in a number of particularly important cases below.

#### **Banque Privée Espírito Santo**

The claims of first- and second-class creditors are fully covered in the bankruptcy proceedings of Banque Privée Espírito Santo (BPES). Further disbursements were made to third-class creditors in 2019 as part of the first instalment of 2.8% of admitted claims determined in 2017. The completion of pending legal cases also helped to progress the liquidation. The negotiations between the liquidator and the liquidators of the other companies in the group to resolve intragroup claims are continuing. The ongoing reduction in outstanding positions (collections, realisations and coordination of assigned claims) continues to make progress.

#### **Hottinger & Cie AG in liquidation**

After clarification of the liabilities with the publication of the schedule of claims in 2017 and the resolution of appeals against the schedule in 2018, the focus in 2019 was on realising assets. Proceeds that had already been raised were distributed in 2018 and this was followed in 2019 by measures to realise the illiquid and disputed assets. Substantial positions in

outstanding loans and open guarantees (around CHF 3.6m) were added to the estate and US investments were sold. Action was taken to prevent potential responsibility- and insurance-related claims from lapsing and these claims were prepared. The administration of the estate comprised the remaining client positions (around CHF 15m), the fulfilment of various tax, reporting and certification obligations and the pending appeals against the schedule of claims (around CHF 16m).

#### **Lehman Brothers Finance AG in liquidation**

The conclusion of two important court cases were the dominant events in these bankruptcy proceedings during the year under review. The first was the Federal Supreme Court's dismissal of one of the two remaining appeals against the schedule of claims. Secondly, a ruling by a foreign court in part of a case brought by the liquidator paved the way for a resultant settlement. A further CHF 624.6m was thus paid out on the third-class claims out of the freed-up reserves and realised assets compared with the last FINMA annual report. A total of 67.27% of these claims have therefore now been met. One appeal against the schedule of claims is still pending. The last pending legal action abroad to realise assets was also resolved by settlement by the end of 2019.

#### **On-site reviews at mandataries' premises**

FINMA introduced the possibility of conducting on-site reviews of mandataries it uses for liquidation and bankruptcy proceedings in 2018. It used this supervisory tool in five cases in the year under review. The on-site reviews led by FINMA are a useful complement to the normal monitoring of mandates, as they provide a deeper insight into how the mandate is being fulfilled and enable errors in individual proceed-

ings that would otherwise remain unnoticed to be identified and counteracted at an earlier stage. They also promote an exchange of views with the mandatory and thus give everyone involved a better understanding of the challenges of pursuing the case and FINMA's expectations as to how the mandate should be fulfilled. During the reporting year, alongside the regular topics for review, FINMA checked compliance with the regulations on the availability of documents for inspection and official secrecy.

#### **Recognition of foreign bankruptcies and insolvency actions**

In order for foreign bankruptcy decrees and recovery and resolution measures relating to banks and other financial intermediaries to become effective in Switzerland, FINMA has to recognise these formally. This enables the foreign insolvency administrator to access assets owned by the foreign legal entity in Switzerland directly. Alternatively local legal proceedings can be launched in Switzerland. In 2019 the focus was on the recognition of bankruptcy proceedings for several Russian banks. In addition the recognition of an Andorran bank insolvency completed in 2017 took legal effect.



# Developments in regulation

**FINMA regulates only when this is necessary to meet its supervisory goals. FINMA is committed to principles-based and proportional regulation and issues its regulations on the basis of a robust regulatory process.**

Where expressly provided for by the legislature, FINMA issues ordinances setting out specific details that are either too technical or too liable to change for inclusion in Federal Council ordinances or in laws. It publishes circulars in which it defines its own supervisory practices and sets out laws and ordinances. Using these instruments and in dialogue with other authorities and interest groups, FINMA further enhanced the proportionality of regulation in 2019 with the small banks regime and the new rules on value adjustments for default risks at banks. It also contributed to implementing provisions for the new [FinSA and FinIA](#) legislation. By conducting an [ex-post evaluation of its Circular 2017/6 "Direct transmission"](#), it enabled future regulation to be informed by practical experience with the circular.

## **Small banks regime**

FINMA strives to regulate in a manner that is both proportionate and distinguishes appropriately between different risks and business types. One important milestone is the small banks regime. This aims to reduce the complexity of regulation and supervision for small and particularly solid institutions. These institutions are exempted from certain supervisory requirements if they have well above-average capitalisation and strong liquidity positions.

To introduce the small banks regime on a permanent footing, the Federal Council's Capital Adequacy Ordinance first needed to be amended. Secondly FINMA revised various circulars based on this. The revised circulars entered into force on 1 January 2020 and the pilot has thus been transferred over into the new regulatory regime. Furthermore, all audit programmes and criteria except those relating to suitability and money laundering have been revised. This ensures that the requirements in the audit programmes do not go beyond those in FINMA's circulars.

The various quantitative and qualitative exemptions should mean a saving in both direct and indirect costs and opportunity costs for institutions within the small bank regime and possibly even for all institutions in Supervisory Categories 4 and 5.

The small banks regime makes Swiss financial market regulation a leader in its field as regards proportionality.

## **Value adjustments for default risks at banks**

FINMA reorganised the regulations on banks' accounting principles during the reporting year, particularly with regard to the recognition of value adjustments for default risks. The previous circular on banks' accounting was replaced with a new ordinance and a circular, so producing a significantly slimmed-down and clearer set of regulations.

The approach banks must take when recognising value adjustments for default risks of non-impaired receivables has changed. This addressed weaknesses in the system, particularly the risk of a pro-cyclical effect where value adjustments are created too late. This issue has already been dealt with in the International Financial Reporting Standards: IFRS has been applying the new approach since 2018 and it was introduced to the United States Generally Accepted Accounting Principles (US GAAP) at the beginning of 2020.

The new rules are principles-based and proportionate, which is to say they take the institutions' categorisation into account. In keeping with international standards, systemically important banks will henceforth be required to apply an expected loss approach and create value adjustments. Medium-sized banks operating primarily in the lending and deposit-taking business will be able to apply a simple, principles-based approach to quantifying inherent default risks in their credit portfolios and create the corresponding value adjustments. Medium-sized and smaller banks

and securities dealers can optionally apply the approach in a higher banking category to the creation of value adjustments for default risks.

The new rules took effect on 1 January 2020.

### Implementing provisions for FinSA and FinIA

The Swiss parliament passed the [Financial Services Act \(FinSA\)](#) and the [Financial Institutions Act \(FinIA\)](#) in June 2018. The legislation and the implementing Federal Council ordinances entered into force on 1 January 2020. The Federal Council approved the detailed regulations at ordinance level in November 2019. It has thus prepared the way for the implementing provisions at FINMA level, which depend directly on the content of the legislation and the Federal Council ordinances.

[FinIA](#) and the [Financial Institutions Ordinance \(FinIO\)](#) delegate certain regulatory powers to FINMA, for example to issue certain detailed requirements for the managers of collective investment schemes and securities firms. [FinSA](#) and the [Financial Services Ordinance \(FinSO\)](#), on the other hand, do not delegate any regulatory powers to FINMA. Overall, the two new laws and ordinances have led to a number of changes, both formally and in terms of content, to various FINMA ordinances and FINMA circulars.

### Ex-post evaluation

Following the successful ex-post evaluation of [Circular 2015/2 "Liquidity risks – banks" in 2017](#) and [2018/7 "Video and online identification" in 2018](#), FINMA launched a further [ex-post evaluation in 2019, reviewing the impact and application of Circular 2017/6 "Direct transmission"](#).

In foreign markets, international companies are increasingly facing reporting and information obligations to the relevant local authorities. This put such Swiss companies at risk of a prosecution in Switzerland for providing prohibited assistance to a foreign state

if they supplied information directly to foreign authorities. On the other hand they risked fines, penalties or even a loss of market access if they did not fulfil their reporting obligations to foreign authorities. This legal uncertainty was reduced through an amendment to the law at the beginning of 2016. As the new regulations are principles-based and therefore leave room for interpretation, FINMA has clarified its supervisory practice in Circular 2017/6 "Direct transmission" and so created legal certainty for supervised entities.

To reflect international developments and the initial experiences of supervised entities in its application, FINMA carried out an ex-post evaluation of this circular. Interested parties were invited to report their experience with the implementing provisions in the circular between 19 July and 13 September 2019.

FINMA will evaluate the information received and report on options for implementing it in a report due to be published in the course of 2020.

### Quantitative growth in regulation in 2019

FINMA's regulation depends heavily on the legislative activity of the Swiss Federal Council. Around 85% of the amendments to FINMA's regulation and supervisory practice are triggered directly by changes to the underlying law, i.e. the federal legislation and ordinances. FINMA exercises its legislative powers with restraint. The quantitative growth in FINMA regulation (including codified supervisory practice) over the last decade has been less than the increase in the underlying regulations.

Measured by number of pages, FINMA's ordinances and circulars grew marginally by 3.5% compared with the previous year, amounting to 1,195 pages (previous year: 1,149 pages). The slight increase is mainly explained by a revision of a circular following an adjustment of the Federal Council's Capital Adequacy Ordinance.

FINMA also revised its content relating to supervisory communication and reduced it considerably. At the beginning of January 2020 it removed all existing supervisory FAQs.

### **Ordinance to FINMASA**

The [Financial Market Supervision Act \(FINMASA\) of 2009](#) provides a stable and proven framework for FINMA to fulfil its mandate effectively. A new Federal Council ordinance has defined FINMA's responsibilities in the areas of regulation and international activities. FINMA's independence is not affected by the ordinance and its regulatory components remain unchanged.

To fulfil the [Swiss parliament's motion entitled "Clear responsibilities in financial market policies and financial market supervision" \(17.3317\)](#) and in response to other political initiatives, the Federal Council decided at the end of 2018 to draft an ordinance to FINMASA laying down precisely FINMA's regulatory process and international responsibilities and the terms of the cooperation between FINMA and the Federal Department of Finance (FDF). FINMA was open to the aims of the ordinance to make its tasks and responsibilities more transparent. It welcomed the fact that the Federal Council maintained the centrality of FINMA's independence throughout the process of legislating for the ordinance. At the same time it warned in its public submission to the consultation of the risks of politicising FINMA's supervision and an increasing bureaucratisation of its work.

The Federal Council approved the ordinance to [FINMASA on 13 December 2019. It is due to enter into force on 1 February 2020](#). FINMA was satisfied that the Federal Council has not created a link between FINMA's supervisory practice as expressed in its circulars and general financial market policy. This ensures that FINMA can continue to fulfil its mandate free of influences outside the purview of supervision.

Insofar as they did not already reflect current practice, the provisions relating to FINMA's regulatory process were implemented immediately. FINMA strives to implement any changes in the most resource-conserving manner possible.

As part of the work on the FINMASA ordinance, FINMA and the FDF also signed an agreement on cooperation and exchange of information in international activities and regulation with a view to optimising their future collaboration. Furthermore, the tripartite agreement between the FDF, FINMA and the SNB on Swiss membership of the Financial Stability Board and the memorandum of understanding on trilateral cooperation in the area of financial stability and financial regulation between the FDF, FINMA and the SNB were updated.

## International affairs

Common international standards are of great importance for an export-oriented financial centre like Switzerland. FINMA represents Swiss interests in international fora in coordination with the Federal Department of Finance (FDF) and plays a central role in reviews of Switzerland's compliance with international standards. In 2019 Switzerland received good marks in the most important assessment of the stability of the Swiss financial centre.

International cooperation is of critical importance for Switzerland. It enables the country to participate in the standard-setting process and ensures access to foreign markets. As part of this cooperation FINMA sits on international bodies such as the Financial Stability Board (FSB), the Basel Committee on Banking Supervision (BCBS), the International Association of Insurance Supervisors (IAIS) and the International Organization of Securities Commissions (IOSCO). The position taken when representing Switzerland on these bodies is determined in conjunction with the Federal Department of Finance. FINMA again played an important role in reviews of Switzerland's compliance with international standards in 2019, for example in the IMF's assessment of the stability of the Swiss financial centre.

### IMF Financial Sector Assessment Program

The International Monetary Fund (IMF) conducts annual consultations on macroeconomic developments and economic policies in member states, known as Article IV consultations. Every five years the IMF also carries out an in-depth review of the stability of the financial sector and compliance with international standards in financial market regulation. This Financial Sector Assessment Program (FSAP) was carried out in Switzerland between May 2018 and June 2019. On the Swiss side the lead role was taken by the FDF. Due to its central role in the Swiss financial markets, FINMA was the lead Swiss authority in most of the areas reviewed within the FSAP.

Overall, the FSAP's assessment of Switzerland was positive. The IMF gave the Swiss financial system good marks for stability and believes Switzerland would be able to withstand severe macrofinancial shocks. The IMF welcomed the regulatory reforms in Switzerland since the last FSAP in 2013/2014, particularly in the "too big to fail" (TBTF) regime and the ongoing changes in FinTech. At the same time the IMF recommended continuing to develop the general regulatory framework and strengthening the TBTF

regime. With regard to the supervisory system the IMF recognised FINMA as a "trusted supervisor" which seeks to promote the public interest on a sustained basis. With regard to auditing, the IMF again recommended as in previous years that FINMA should in future be responsible for mandating audit firms directly.

### Financial Stability Board (FSB)

The FSB is responsible for monitoring financial stability globally and acting as the link between the G-20 and the standard-setting bodies in coordinating developments in financial market regulation. During the reporting year the FSB mainly dealt with systemic risk-related issues (bank resolution and TLAC implementation, CCP recovery and resolution, non-bank financial intermediation, FinTech, cyber risks, misconduct, evaluation of the effects of the G-20 reforms and market fragmentation). Monitoring the national implementation of the standards approved following the financial crisis and an analysis of their impact on the financial markets were further important areas of work for the FSB.

The SNB and State Secretariat for International Financial Matters (SIF) represent Switzerland in the FSB plenary, the FSB's decision-making body. FINMA is also a member of the Standing Committee on Supervisory and Regulatory Cooperation and chairs the Resolution Steering Group. In 2019, FINMA's main areas of focus in these bodies were issues of market fragmentation, cyber security and resilience as well as minimum requirements for the financial resources of a CCP in the event of its resolution. The implementation review of resolution standards in banking, particularly the TLAC standards, were also an important area of emphasis for FINMA. Rigorously reviewing implementation in this area is not only critical to the effective resolution of global systemically important banks and mitigating systemic stability risks, but also to ensuring a level competitive playing field for global banks. FINMA coordinated closely with the

SNB and SIF in its work in the FSB and representation of Swiss interests.

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

The BCBS works to enhance the stability and reliability of the international banking system. In January 2019 it finalised the last major component of the Basel III standards, its post-financial crisis reform agenda, by publishing the revised standard on minimum capital requirements for market risk. As a result its focus has now shifted further towards promoting effective banking supervision, monitoring the implementation of Basel III in member countries, assessing the effectiveness of reforms and evaluating emerging risks in the financial sector. Recurrent themes included margin requirements for non-centrally traded derivatives and the prudential treatment of crypto-assets. The SNB and FINMA represent Switzerland on the central committee of the BCBS.

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

The IAIS promotes effective and globally consistent supervision of the insurance industry in order to protect policyholders and contribute to financial stability. 2019 saw the finalisation of multi-year projects at the IAIS relating to financial stability. Milestones included the approval of the holistic framework to assess and mitigate systemic risk in the insurance sector and the approval of ComFrame (Common Framework for the Supervision of Internationally Active Insurance Groups) by the IAIS annual general meeting in November. The latter includes the launch of a five-year monitoring project, known as Insurance Capital Standard 2.0, to prepare a global insurance capital standard.

FINMA regained its seat on the Executive Committee of the IAIS at the start of 2019 and is also represented on various subcommittees.

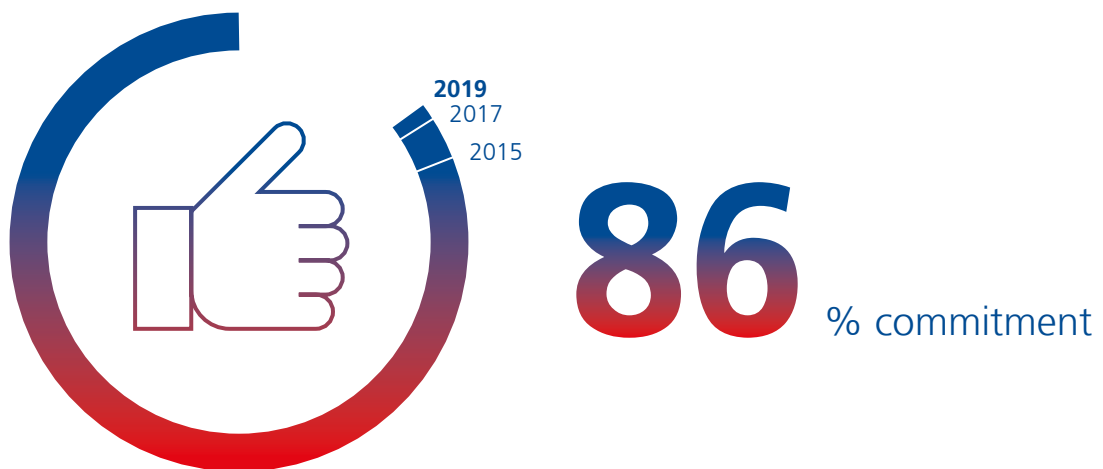
### **International Organization of Securities Commissions (IOSCO)**

IOSCO aims to promote fair, efficient and transparent capital markets and international cooperation in developing consistent standards for securities regulations. FINMA has been a member of the board and various sub-groups for many years.

In 2019 FINMA's focus was on its work on digitalisation and FinTech, particularly as part of the FinTech network and in assessing whether IOSCO principles can be applied to crypto asset trading platforms. The work on quantifying the leverage of investment funds was a further important focus for FINMA. This relates to the FSB's recommendation to address systemic risk in asset management. The aim of this work is to collect comparable data across jurisdictions to enable systemic risk to be monitored effectively.

## Results of the 2019 employee survey

FINMA surveys its employees every two years. In the survey carried out in 2019 they again reported high levels of job satisfaction and identified strongly with their employer.



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## FINMA in dialogue

FINMA operates a transparent information policy. By keeping policymakers informed about its activities, engaging with a range of interest groups and providing the public with information about its activities, FINMA fulfils its statutory requirement to be accountable.

In addition to clarifying FINMA's responsibilities and its position in the framework of government policy, the exchange of information with policymakers, supervised institutions and their associations and other interest groups focused in particular on providing specialist information and on the challenges posed by legislative changes and increased risks in the financial market.

### Annual accountability

Each year, 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, to fulfil their accountability obligation. In the year under review, questions were asked about the most significant risks for the financial market and issues relating to FINMA's management. Discussions also touched on risks in the mortgage market and appropriate ways of dealing with cyber risks.

The annual meeting with the Federal Council, as provided for by the Financial Market Supervision Act (FINMASA), takes place every autumn. 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.

### Provision of expert information to parliamentary committees

In the year under review, FINMA also provided information on specific topics to the parliamentary committees. In the Social Security and Health Committee, FINMA participated in a meeting on conflicts of interest in medical reports. FINMA also informed the National Council's CC subcommittee about its activities in relation to consumer lending.

### Information event on the main issues in 2019

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

The event focused on three topics – mortgage market trends, cyber risks, and climate risks – which, given current developments, are of particular importance not only to FINMA, but also to policymakers. FINMA speakers addressed all three topics in separate presentations on current developments and challenges for the financial market, for financial market institutions, for customers and for financial market supervisors.

In the ensuing discussion, attendees discussed the opportunities and risks in each of the following three areas in detail:

- meeting with the SIF (several times on this subject specifically and within the framework of policy discussions) and meeting with the head of the FDF (proprietor meeting, strategic dialogue);
- reorganisation of cooperation between FDF and SIF-FINMA;
- revision of tripartite cooperation.

### Discussions with important stakeholder groups

FINMA holds annual or semi-annual discussions with key associations of supervised institutions and encourages regular exchanges through topic-specific working groups. The focus in FINMA's discussions with the Swiss Bankers Association (SBA) was on sustainability, digitalisation and cyber security. Intensive discussions with the Swiss Insurance Association (SIA) concentrated on developing the SST



standard models and on various aspects of FINMA's supervisory practice. Dialogue with the Swiss Funds & Asset Management Association (SFAMA) looked at the Financial Services Act and the Financial Institutions Act (FinSA and FinIA) and the associated changes in self-regulation. The issue of EU market access was also discussed. There was intensive engagement with EXPERTsuisse (the Swiss Expert Association for Audit, Tax and Fiduciary) relating to the revision of Statement 70 (PH70), the small banks regime and the initial application of regulatory auditing under FMIA.

As in previous years, FINMA also organised a round table for a number of organisations involved in customer protection. The event was attended by consumer protection organisations (Foundation for Consumer Protection, Konsumentenforum, Fédération romande des consommateurs), the health insurance ombudsman, the private insurance ombudsman and the price supervisor. The discussion covered a variety of topics relating to supplementary health insurance, including FINMA's price reviews and the challenges involved in handling data.

### **Expert panels and symposia with market participants**

Dialogue with supervised institutions is encouraged, particularly through subject-specific expert panels made up of high-level representatives from the supervisory and private sectors. The panels enable direct and open exchange between the parties responsible for making decisions at the supervisory and financial market level. Their discussions look at specific supervisory and regulatory issues and the current market situation. In the banking sector, the expert panels in the fields of asset management, retail banking, capital markets, private banking and small banks proved their worth and were continued in the year under review. In the insurance sector, equivalent bodies for

non-life, health and life insurance were the forum for discussions between FINMA and supervised parties.

FINMA also promotes more broadly based exchange on specific topics. A number of repeat events were held, including symposia on asset management and combating money laundering, a small bank symposium and three information events for independent asset managers on the implementation of [FinSA](#) and [FinIA](#).

### **Enquiries**

In the year under review, well over 6,000 financial service customers, investors, lawyers and other interested parties contacted FINMA. These direct enquiries about such a broad range of financial market players provide FINMA with valuable information, which it uses in its supervisory role. FINMA fielded 1,941 telephone enquiries and 4,704 written ones during the reporting year concerning licensed institutions, unauthorised financial market players, questions about licensing requirements and queries of a regulatory nature. In the region of 1,600 enquiries were in relation to unauthorised financial market participants. The reporting year saw an increase in the number of cases purporting to have a connection to Switzerland, although in reality no such link existed. In some cases the identity of Swiss companies was even feigned (through use of a website or a commercial register number) in order to attract customers. 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 1,000 domestic and foreign financial market players contacted FINMA with questions about authorisations for Switzerland, more than 250 of which were related to [FinTech](#). There was a noticeable increase in the number of enquiries concerning the new [FinIA](#) and [FinSA](#) provisions. A total of 700 enquiries were about

regulatory issues and were addressed as usual by lawyers or other experts. In addition, FINMA processed around 800 media enquiries regarding its activities and general financial market topics.

### Public reporting

As well as engaging in dialogue and responding to enquiries, FINMA also provides information proactively through [publications](#), [information on its website](#), [press releases](#), [social media](#) and events. [Web dossiers](#) on the “[Mortgage market](#)”, “[FinTech](#)”, “[Cyber risks](#)”, “[Combating money laundering](#)”, “[Small banks](#)” and “[Too big to fail](#)” give a general overview of these topics alongside more detailed content for subject-matter experts.

FINMA published its [Risk Monitor](#) for the first time in 2019. In future, it will be published in the fourth quarter of every year. This new report provides an overview of the most significant ongoing risks for supervised institutions from FINMA’s perspective and presents the main areas of supervisory focus for the coming year. FINMA’s intention in developing the [Risk Monitor](#) is to create additional transparency vis-à-vis supervised institutions and the public regarding the fulfilment of its legal mandate in one core area, namely risk-based supervision with the aim of protecting individuals and the financial system.

On the occasion of FINMA’s tenth anniversary, the Chairman of the Board, the CEO and the Executive Board gave presentations at events in a number of Swiss cities. This enabled interested parties to find out about FINMA’s mandate and supervisory activities, current and future challenges facing the supervisory authority, and live issues such as the small banking regime, the “too big to fail” problem and FINMA’s technology-neutral approach. As part of an “Alumni Management Event”, FINMA reviewed the previous ten years of financial market supervision with former and current decision-makers and discussed emerging opportunities and risks.

## FINMA agents and mandataries

FINMA relies on support from third parties in all aspects of its supervisory work. Its key focus in this context is on effectiveness and efficiency.

Given the size of the Swiss financial centre, FINMA is a lean organisation by international standards. This is possible not least because FINMA calls on support from third parties in fulfilling its supervisory remit. It appoints audit firms to extend its reach in its supervisory activities. FINMA can also commission mandataries for specific cases relating to aspects of ongoing supervision, enforcement or restructuring and liquidation proceedings.

### Audit firms play a key role

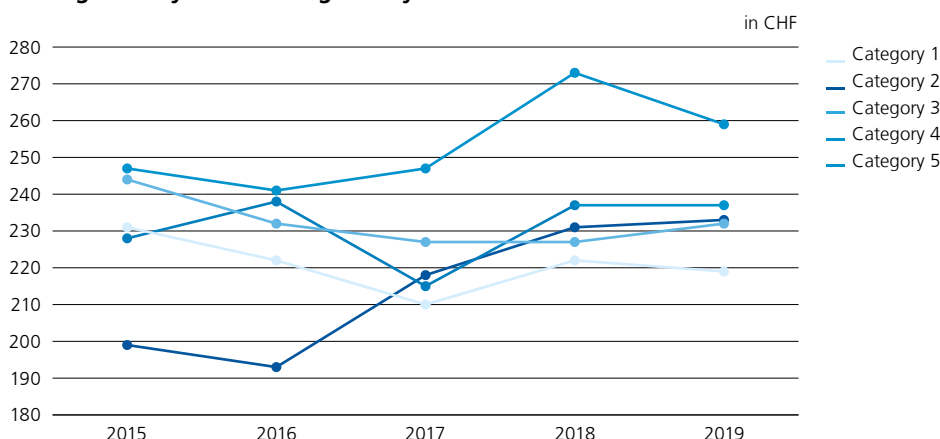
Audit firms produce a risk analysis and audit strategy for their assigned financial institution. FINMA amends the audit strategy if necessary. There are exceptions in the insurance sector and for directly subordinated financial intermediaries (DSFIs),<sup>5</sup> for which FINMA defines both the audit strategy and the audit programme. Moreover, audit firms are not required to perform risk analysis for DSFIs. Audit firms report their findings to FINMA on the basis of their auditing activities. They must comply with independence requirements. In addition, they must take a critical approach and guarantee an objective assessment. The Federal Audit Oversight Authority (FAOA) issues regulatory auditor authorisations.

The costs of regulatory audits conducted by audit firms are borne by the supervised institutions. Audit firms report their invoiced fees to FINMA on an annual basis. The average hourly rate for a regulatory audit is CHF 231 and CHF 151 for a financial audit. Audit costs accounted for 45% 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. In banking supervision, they account for 58% of costs, with average hourly rates for regulatory audits varying according to the size of the bank (see chart "Average hourly rates for regulatory audits at banks").<sup>6</sup> Since FINMA has always undertaken most of the supervisory work in the insurance sector itself, costs attributable to audit firms in this sector are just 17%. In 2019, the total amount invoiced by audit firms for regulatory audits (for the 2018 financial year) was CHF 107.8m, a reduction on the previous year's figure. In the case of insurance companies, multi-year audit cycles can lead to fluctuations in total annual costs in individual audit areas.

<sup>5</sup> DSFI is being dropped as a category in the wake of the changes made to AMLA following the adoption of FinIA. Depending on their area of activity, institutions which previously belonged to this category will either have to affiliate to a self-regulatory or supervisory organisation or apply to FINMA for a licence for their activities.

<sup>6</sup> Average hourly rates for regulatory audits are shown here only for the banking industry due to the increased proportion of audit costs. Corresponding figures for the insurance industry, asset management and markets can be found on FINMA's data portal.

Average hourly rates for regulatory audits at banks



### Fees charged by audit firms for regulatory audits (annual fees per supervisory area in CHF millions)<sup>7</sup>

	2019	2018	2017	2016	2015
Banks and securities dealers	85.8	88.0	94.5	93.7	89.8
Insurance companies	8.2	7.7	6.9	7.6	5.5
Markets	1.6	2.1	2.4	1.7	1.9
Asset managers	12.2	13.2	12.6	12.7	11.8
<b>Total</b>	<b>107.8</b>	<b>111.0</b>	<b>116.4</b>	<b>115.7</b>	<b>109.0</b>

The revision of [FINMA Circular 2013/3 "Auditing"](#), which was adopted in 2018, emphasises the risk focus of regulatory auditing, with the audit scope being less extensive than in the past (see "Banking supervision", p. 36). Lower costs are therefore expected for regulatory banking audits in 2019 (to be published in the 2020 FINMA Annual Report).

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

Mandataries are an important supervisory instrument for FINMA. In contrast to auditors, mandataries are not usually commissioned for recurring audits with a predefined audit programme; instead they are deployed to look into specific issues relating 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 publicly available list of mandataries who can be deployed rapidly in specific cases. Interested candidates can apply to join this list. FINMA has defined requirement profiles for its standard mandates. Candidates who meet the requirement profile are accepted onto the list. If no suitable mandatary is available, FINMA may commission an expert who does not appear on the list. Mandataries must be independent of the supervised institution in question. There were 82 applicants on the FINMA list at the end of the year. FINMA assigned 33 mandates during the reporting year. It monitors the status of mandates at all times and checks that the costs payable by the supervised institutions are proportionate. Costs for FINMA mandataries commissioned in 2019 amounted to CHF 18.1m.<sup>8</sup>

<sup>7</sup> The figures reported each year relate to audits conducted in the previous financial year. Regulatory audit costs include the basic audit, any additional audits and other costs associated with regulatory audits (such as expenditure on special audits required by law).

<sup>8</sup> Invoices received as of mid-February 2020.

### Costs for FINMA mandataries by fee volume and number of mandates commissioned

Category of supervised institution	2019		2018		Total since 2014	
	Fee volume <sup>8</sup> in CHF m	Number of mandates commissioned	Fee volume in CHF m	Number of mandates granted	Fee volume in CHF m	Number of mandates commissioned
Auditing of authorised financial intermediaries	8.7	12	3.8	13	30.5	74
Investigations of authorised financial intermediaries	4	6	1.8	4	30	36
Investigations of unauthorised activities	0.7	9	0.7	10	5.1	61
Liquidation proceedings	0.4	1	0.3	2	4.1	26
Bankruptcy liquidation proceedings	4.3	5	6.5	13	116.6 <sup>9</sup>	68
<b>Total</b>	<b>18.1</b>	<b>33</b>	<b>13.1</b>	<b>42</b>	<b>186.3</b>	<b>265</b>

<sup>9</sup> This exceptionally high figure is due to several large and complex bankruptcy liquidation proceedings.

# Board of Directors and Executive Board

FINMA is a public law institution in its own right. Its strategy is defined by the Board of Directors. The Executive Board, under the leadership of the CEO, is responsible for day-to-day operations.

## 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 2019)<sup>10</sup>

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

On 30 January 2019 the Federal Council appointed Benjamin Gentsch, an insurance expert, to FINMA's Board of Directors. He took up his post on 1 July 2019.

On 3 July 2019, the Federal Council appointed the members of FINMA's Board of Directors for the term of office from 2020 to 2023. It confirmed Dr Thomas Bauer (Chair), Prof. Marlene Amstad (Vice-Chair), Benjamin Gentsch, Bernard Keller, Dr Renate Schwob, Martin Suter and Franz Wipfli in their posts. Two members, Prof. Yvan Lengwiler and Günter Pleines, did not stand for re-appointment and therefore left the Board at the end of 2019. In response, the Federal Council appointed two new members to FINMA's Board of Directors. They are Prof. Ursula Cassani Bossy, Professor of Criminal Law at the University of Geneva, and Dr Andreas Schlatter, a certified financial analyst with a doctorate in mathematics from the ETH Zurich. They took up their posts on 1 January 2020.

## 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.

<sup>10</sup> To ensure transparency, FINMA maintains a public [list of the interests of members of the Board of Directors](#).



Dr Thomas Bauer



Martin Suter



Günter Pleines



Dr Renate Schwob



Prof. Marlene Amstad



Prof. Yvan Lengwiler



Franz Wipfli



Benjamin Gentsch



Bernard Keller

**The standing committees of the Board of Directors and their members (31 December 2019)**

	<b>Audit and Risk Committee</b>	<b>Appointments Committee</b>	<b>Takeover and State Liability Committee</b>
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 decision-making materials for matters which fall within the remit of the Board of Directors and is responsible for implementing the resolutions of the Board and its committees.

#### Members of the Executive Board (31 December 2019)

Mark Branson	CEO
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
Tobias Weingart	Interim Head of Asset Management division
Dr David Wyss	Head of Recovery and Resolution division

The Board of Directors decided that in future the role of Deputy CEO should be held by a member of the Executive Board on a rotating basis for a period of two years and appointed Birgit Rutishauser accordingly to act as Deputy CEO for the period beginning 1 June 2019.

Michael Loretan, Deputy CEO and Head of Asset Management division, passed away in January after a long illness. Tobias Weingart subsequently took over as head of the division on an interim basis. On 8 July 2019, the Board of Directors appointed Thomas Hirschi as the new Head of Asset Management division, effective 1 January 2020. He comes to FINMA from the Financial Services Regulatory Authority of

the Abu Dhabi Global Market (ADGM) international financial centre.

### Enforcement Committee

The Enforcement Committee 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.

#### Permanent members of the Enforcement Committee (31 December 2019)

Mark Branson	Chair
Rupert Schaefer	
Patric Eymann	

Division heads may also join the Enforcement Committee as voting members on a case-by-case basis, where this concerns their remit.





Mark Branson



Jan Blöchliger



Léonard Bôle



Patric Eymann



Alexandra Karg



Birgit Rutishauser  
Hernandez



Rupert Schaefer



Tobias Weingart



Dr David Wyss

# Staff

FINMA is committed to a personnel policy which emphasises efficiency, sustainability and transparency. In 2019, special attention was given to improving equality of opportunity for women and men at FINMA and to the 2019 employee survey.

FINMA has long been committed to delivering equality of opportunity for the sexes and ensuring equal treatment for its employees. Important targets have been achieved, particularly in the areas of equal pay and employment conditions. However, FINMA considers that insufficient progress has been made to date on appropriate gender distribution in management and has therefore defined more detailed objectives and specific supporting measures.

## Gender diversity targets and measures

One of FINMA's key personnel policy objectives is to ensure that the proportion of women at all management levels is approximately the same as in the overall workforce. Women account for 39% of the workforce but occupy only 29% of management positions. To lift this ratio, FINMA has defined maintenance and development targets for equality of opportunity for men and women.

The purpose of the maintenance targets is to ensure that the good conditions and outcomes in terms of equal pay and employment conditions are maintained into the future. On the one hand, FINMA wants to ensure that there are no unaccountable pay differentials between men and women across the organisation. To this end, FINMA has its salary policy reviewed annually by an independent body using "Logib", the Federal Government's equal-pay tool. The wage differential measured in this way was 1.7%

in the year under review (2018: 3.1%), well within the permitted 5% tolerance band.

FINMA also conducts regular employee surveys to measure – among other factors – how satisfied its employees are with their work-life balance. The aim is to achieve approval ratings of more than 70% in all relevant areas. The 2019 employee survey delivered an average approval rating of 84%.

The development goals are defined in terms of phased targets which over time will deliver appropriate and sustainable gender distribution at each management level. The target proportion of women at each management level is based on the FINMA-wide proportion of women minus a maximum tolerance range of three percentage points for junior management positions and five percentage points for senior management roles. Based on the current workforce, the indicative figures are as follows:

- at least 36% of junior specialist management positions to be filled by women by 2022;
- at least 36% of junior management positions to be filled by women by 2024;
- at least 34% of senior specialist and management staff and executive management to be filled by women by 2026.

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## New presentation of FINMA publications

### Separate report on personnel to be discontinued

The Personnel Report will no longer be published as a separate document. Instead, the relevant content will be made available on the website or in the annual report.

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In addition to equality of opportunity for men and women, other key pillars of FINMA's personnel policy remain developing young talent and filling management positions from within the organisation.

FINMA has implemented a number of supporting measures to ensure that it meets its gender diversity targets. For example, management staff are trained to recognise and avoid unconscious bias. In addition, the personnel processes for recruiting, selecting, assessing and developing employees include comparative gender monitoring measures. Any identified differences in the treatment of male and female employees or candidates have to be justified in each case.

In future, FINMA will report annually on the progress made in achieving its diversity targets.

### **Results of the 2019 employee survey**

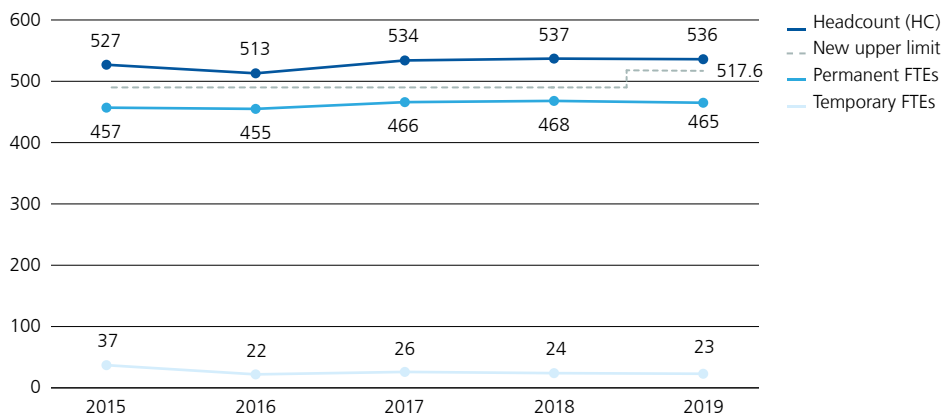
FINMA conducts a full survey of its workforce every two years. Around 90% of FINMA staff took part in the last survey. The detailed responses from these surveys provide FINMA with the basis for in-depth quantitative analysis. The many written comments from employees also provide a comprehensive qualitative picture.

FINMA employees generally show high levels of job satisfaction and identify strongly with their employer. For FINMA as a whole, the results for 2019 showed

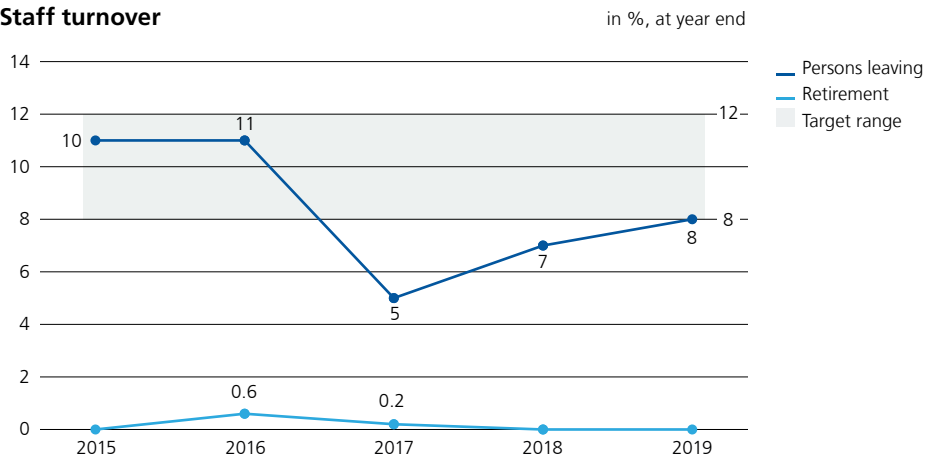
an improvement in all areas over those for 2017. The following topic areas in particular show a marked improvement over the results from the last survey: "IT operational stability", "Evaluation of Zurich as a work location" and "Working together". The categories mentioned above are action areas from 2017.

However, there are also topics and newly identified action areas where there is room for improvement. In particular, FINMA intends to make further progress in future on "Valuing linguistic diversity", "Gender equality", "Access to information" and "Staff development". Although the results are generally consistent across all divisions, the responses from the employee survey are analysed at all levels within each division. Work has already begun on implementing the measures derived from this analysis.

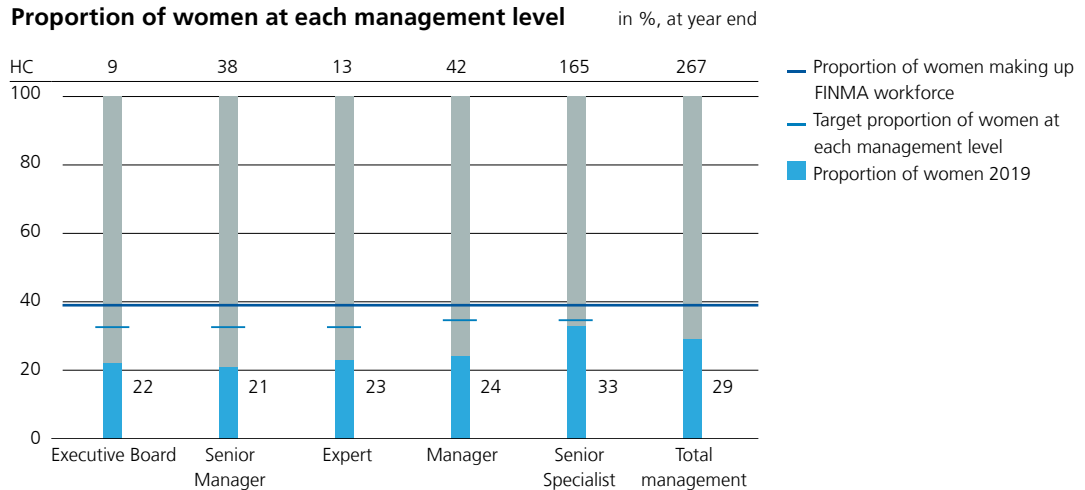
### Average headcount



### Staff turnover



### Proportion of women at each management level



FINMA publishes additional detailed personnel data annually on its website.

### **Necessary expansion**

One of FINMA's strategic goals states that the costs of supervision should only rise if the Swiss parliament ascribes new tasks to FINMA. Given the additional responsibilities which will devolve to FINMA in connection with [FinSA and FinIA](#), it will have no option but to employ additional staff. The Board of Directors therefore increased the maximum number of full-time positions from 481 to 517.6 with effect from 1 January 2019.

This specifically includes all 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 of independent portfolio managers of individual customer assets, as well as of 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 number of full-time positions will therefore rise gradually towards the new upper limit. In the year under review, therefore, only 11.9 new permanent positions were actually created and filled.

FINMA had an average of 536 employees in permanent and temporary employment in 2019 (2018: 537). Just under 27% of employees worked part-time, i.e. less than 90% (2018: 24%).

### **Staff turnover within defined limits**

The optimum staff turnover rate for FINMA is higher than in the federal administration as a whole or in public administration. As part of its personnel strategy, FINMA aims for a medium-term average staff turnover rate of 8% to 12%.

The analytical rigour of FINMA's supervisory activities will be enhanced by the influx of know-how from the financial sector and the fresh perspectives provided by new employees. In addition, a healthy dynamism in the personnel structure offers employees greater opportunities to take on additional responsibilities and explore new roles.

In 2019, the staff turnover rate rose slightly for the second year in a row to 8% (2018: 7%). It was thus again within the defined target ranges.

# Operations

FINMA is committed to upgrading and optimising its infrastructure. FINMA's internal data quality and information flows have been improved by the introduction of digital information sharing through the survey and delivery platforms. The high-quality data delivered in this way will be used in future as the basis for leading-edge analytics. FINMA's energy consumption was reduced thanks to a new energy monitoring system. After deduction of one-off special effects arising from employee pension benefit adjustments in the previous year, FINMA's costs again remained largely stable in the reporting year.

FINMA successfully launched the survey and application platform (EHP), which uses form-based surveys to collect structured data. As a result, the proportion of information submitted to FINMA digitally rose substantially in the year under review. As well as extending the scope of the EHP to support other core authorisation and monitoring processes, the focus in future will be on enhancing internal processes and using leading-edge technologies to exploit the information gathered.

### Digitalisation of applications, surveys and reporting

The EHP enables applications, surveys and reports to be processed digitally. As a central platform, it provides the basis for direct information sharing between FINMA, supervised institutions and audit firms and hence for the expansion of digital approaches to licensing and supervisory processes.

Supervised institutions can submit licence applications to FINMA via the EHP. Until 2019 this was possible for changes to business plans for insurance companies and for applications relating to foreign collective investment schemes. Since 1 January 2020 applications for Swiss collective investment schemes can also be submitted via the EHP. And following the entry into force of FinSA and FinIA on 1 January 2020, independent asset managers have also been able to apply for access to the EHP and use it to submit licence applications. The information provided in the EHP enables applicants to track the status of all their applications. Since data and information entered in

EHP applications is automatically retained by the system, it will in many cases no longer be necessary to re-enter the same information for each application.

The EHP is also used in data- and topic-based surveys to collect supervisory data in a structured and standardised form – directly in the case of supervised institutions and indirectly for audit firms. The EHP therefore provides an improved basis for automated, data-based analysis of key regulatory topics. FINMA has now begun to exploit the possibilities offered by the EHP in all areas of supervision for a variety of data surveys and reports (e.g. for requesting annual reports or group structures from institutions) as well as in the context of conduct supervision and combating money laundering. In regulatory reporting, the intention is that audit firms will submit the audit reports for various categories of supervised institutions to FINMA via the EHP for the 2019 audit year.

Use of the digital information portal has risen steadily since the introduction of the delivery platform in 2016. FINMA has recorded even stronger growth since the launch of the EHP. In the year under review, 16,687 (i.e. 43.7%) out of a total of 38,167 submissions were made digitally via the delivery and survey platforms.

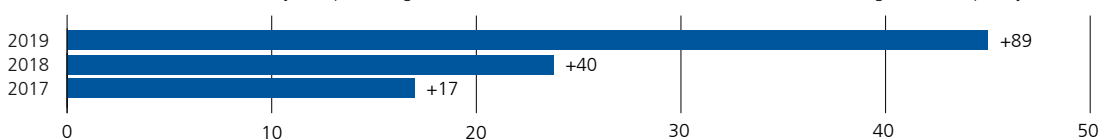
### FINMA's data strategy

FINMA published its data strategy in 2019. The appropriate use of modern technologies, particularly in data analysis, plays an important role. Thanks to structured data collection via the EHP, combined with

### Digital information submission trends

Documents submitted electronically as a percentage of all documents received

Change from the prior year in %



initiatives to enhance data processing and exploit information across the organisation, FINMA is creating a data foundation which will facilitate the use of new analytical techniques (e.g. machine learning and artificial intelligence). While the ways in which these technologies are used will depend on the area of application, the maintenance of high-level data protection and information security standards will be a key priority at all times.

FINMA must be able to rely on high-quality information when making decisions. FINMA's data strategy establishes the basis for how it collects, stores, transforms and uses data in order to perform its core tasks most effectively.

## Key figures for EHP 2019

**870** registered supervised institutions and audit firms

**3,600** registered users

**29** surveys conducted

**150** applications submitted per month

## Key environmental indicators

Due to increased consumption of district heating at the premises in Bern, FINMA was not able to improve its overall energy efficiency in the reporting year. The reason for the increased consumption was the higher number of heating days in Bern. However, power consumption in Bern stayed within the defined efficiency ranges and met the targets set out in the cantonal target agreement for 2019.

## Key environmental indicators

	Unit	2016	2017	2018	2019	Change from prior year in %
Power consumption Bern	kWh	1,015,350	949,695	866,062	823,274	-5.5
Power consumption Zurich	kWh	100,360	102,282	100,758	107,006	7.6
Consumption of district heating Bern	kWh	1,277,804	1,186,540	948,928	1,056,248	9.0
Total energy consumption	kWh	2,393,514	2,238,517	1,915,748	1,986,528	3.2
Proportional of total energy needs met by renewable energy sources	%	86.5	86.6	87.5	86.3	-1.3
Paper consumption per FTE	kg	29.7	26.4	21.8	16.7	-23.4

FINMA has implemented an energy monitoring system at its headquarters. It highlights potential excess energy consumption due to operational malfunctions and enables building service systems to be managed more efficiently. FINMA's offices in Bern are heated exclusively with waste heat from the nearby Forsthaus energy centre. This consists of almost 75% renewable energy.

In recent years, FINMA has steadily expanded its facilities for digital information sharing with third parties and has adapted its internal processes accordingly. This has led to a steady reduction in paper consumption per employee. This is yet another way in which FINMA makes a contribution to protecting the environment.

#### **Operating costs**

FINMA's operating costs have remained largely stable since 2012. However, they were higher in 2019 than in the previous year due to exceptional items in 2018 arising from employee pension benefit adjustments.

FINMA's Annual Financial Statements showed that its operating costs were around CHF 4m higher than in the previous year at CHF 123m (CHF 119m in 2018). Together with the statutory reserves, this amounted to CHF 135m (CHF 131m in 2018). These expenses were covered by income from supervisory fees and levies.

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## **New presentation of FINMA publications**

### **Annual Financial Statements for 2019**

[The 2019 Annual Financial Statements](#), which set out FINMA's results in detail, are published separately.

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# Abbreviations

<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>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>Art.</b> Article	<b>FSAP</b> Financial Sector Assessment Program
<b>BCBS</b> Basel Committee on Banking Supervision	<b>FSB</b> Financial Stability Board
<b>bn</b> billion	<b>FTE</b> Full-time equivalent
<b>BPES</b> Banque Privée Espírito Santo	<b>ICO</b> Initial coin offering
<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>IFRS</b> International Financial Reporting Standards
<b>CC</b> Control Committees of the Federal Assembly	<b>IMF</b> International Monetary Fund
<b>CCP</b> Central counterparty	<b>IOSCO</b> International Organization of Securities Commissions
<b>CET1 ratio</b> Common Equity Tier 1 capital ratio	<b>ISA</b> Swiss Federal Act of 17 December 2004 on the Supervision of Insurance Companies (Insurance Supervision Act; SR 961.01)
<b>CHF</b> Swiss francs	<b>ISO</b> Swiss Federal Ordinance of 9 November 2005 on the Supervision of Private Insurance Companies (Insurance Supervision Ordinance; SR 961.011)
<b>CISA</b> Swiss Federal Act of 23 June 2006 on Collective Investment Schemes (Collective Investment Schemes Act; SR 951.31)	<b>IT</b> Information technology
<b>CMG</b> Crisis Management Group	<b>kg</b> kilogram
<b>D-SIB</b> Domestic systemically important bank	<b>kWh</b> kilowatt hour
<b>DSFI</b> Directly subordinated financial intermediary	<b>KYC</b> Know your customer
<b>EHP</b> FINMA survey and application platform	<b>LIBOR</b> London Interbank Offered Rate
<b>EMMoU</b> Enhanced Multilateral Memorandum of Understanding	<b>Logib</b> Federal government's equal pay instrument
<b>ENA</b> FINMA Enforcement Committee	<b>m</b> million
<b>EU</b> European Union	<b>MMoU</b> Multilateral Memorandum of Understanding
<b>EXPERTsuisse</b> Swiss Expert Association for Audit, Tax and Fiduciary	<b>MoU</b> Memorandum of Understanding
<b>FAOA</b> Swiss Federal Audit Oversight Authority	<b>MROS</b> Money Laundering Reporting Office Switzerland
<b>FAQs</b> Frequently Asked Questions	<b>MVM</b> Market value margin
<b>FC</b> Finance Committees of the Federal Assembly	<b>n/a</b> Not applicable
<b>FDF</b> Federal Department of Finance	<b>NGFS</b> Network for Greening the Financial System
<b>FinIA</b> Swiss Federal Act of 15 June 2018 on Financial Institutions (Financial Institutions Act; SR 954.1)	<b>Non-UCITS</b> Non UCIT-compatible collective capital investments
<b>FinIO</b> Ordinance on Financial Institutions (Financial Institutions Ordinance; SR 954.11)	<b>NWG</b> National Working Group on Swiss Franc Reference Rates
<b>FINMA</b> Swiss Financial Market Supervisory Authority	<b>OTC</b> Over-the-counter
<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>p.</b> Page
<b>FinSA</b> Federal Act on Financial Services (Financial Services Act; SR 950.1)	<b>para.</b> Paragraph
<b>FinSO</b> Ordinance on Financial Services (Financial Services Ordinance; SR 950.11)	<b>PFMI</b> Principles for Financial Market Infrastructures
<b>FMI</b> Financial market infrastructures	<b>RBC</b> Risk-bearing capital
	<b>RWA</b> Risk-weighted assets
	<b>SBA</b> Swiss Bankers Association
	<b>SESTA</b> Swiss Federal Act of 24 March 1995 on Stock Exchanges and Securities Trading (Stock Exchange Act; SR 954.1)
	<b>SFAMA</b> Swiss Funds & Asset Management Association

**SIA** Swiss Insurance Association

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

**SNB** Swiss National Bank

**SR** Classified Compilation of Federal Legislation

**SRO** Self-regulatory organisation

**SST** Swiss Solvency Test

**TBTF** Too big to fail

**TC** Target capital

**TLAC** Total loss-absorbing capacity

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

**UK** United Kingdom

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

**USA** United States of America

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**Christoph Kluser**

Anti-Money Laundering  
and Suitability  
**Marc Mauerhofer**

Financial Market Infrastructures  
and Derivatives  
**Andreas Bail**

Market Analysis  
**Matthias Obrecht**

Accounting  
**Stephan Rieder**

Board of Directors  
**Thomas Bauer**  
Chair

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

Internal Audit  
**Nicole Achermann**

CEO  
**Mark Branson**

Asset Management  
**Tobias Weingart a.i. \***

Enforcement  
**Patric Eymann \***

Recovery and Resolution  
**David Wyss \***

Division Operating Office  
**Martin Meier**

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

Division Operating Office  
**Marcel Walthert**

Authorisation  
**Philip Hinsén**

Investigations  
**Philipp Lüscher**

International Affairs and Policy Issues  
**Reto Schiltknecht**

Supervision of Institutions  
and Products  
**Daniel Bruggisser**

Proceedings  
**Anton Brönnimann**  
**Christoph Kuhn**

Recovery and Resolution Planning  
**Johanna Preisig**

Legal Expertise  
**Tobias Weingart**

International Cooperation  
**Dominik Leimgruber**

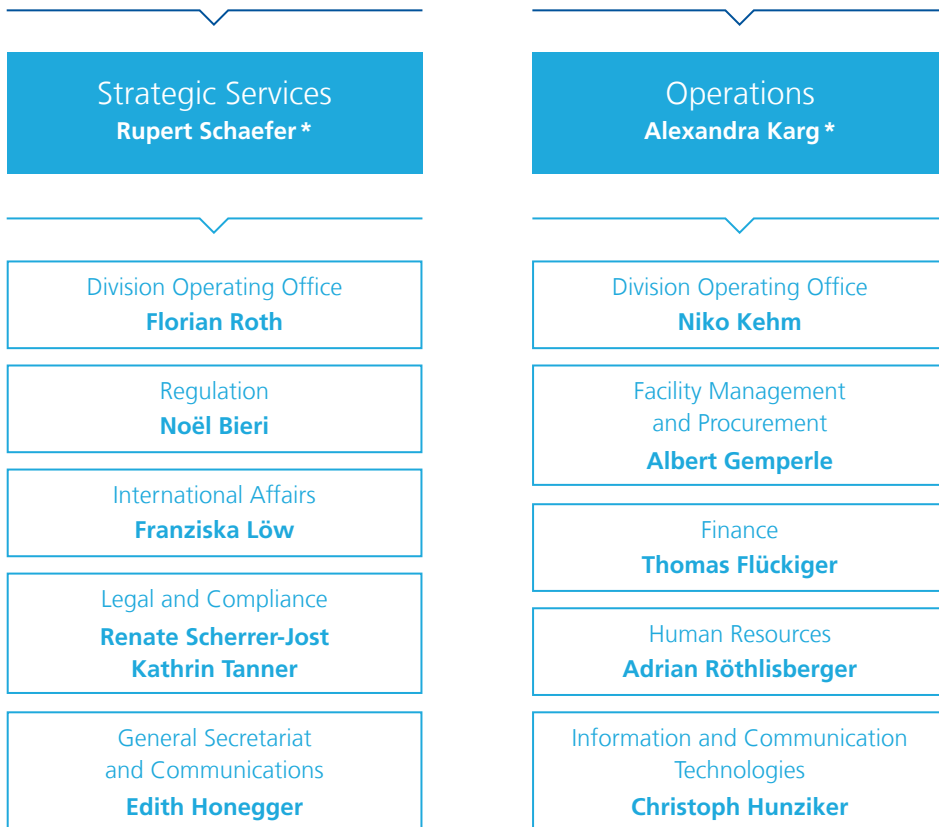
Restructuring and Insolvency  
**David Wyss**

Operations and Insolvency  
Proceedings  
**Marcel Walthert**

# Organisation chart

(31 December 2019)

- 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



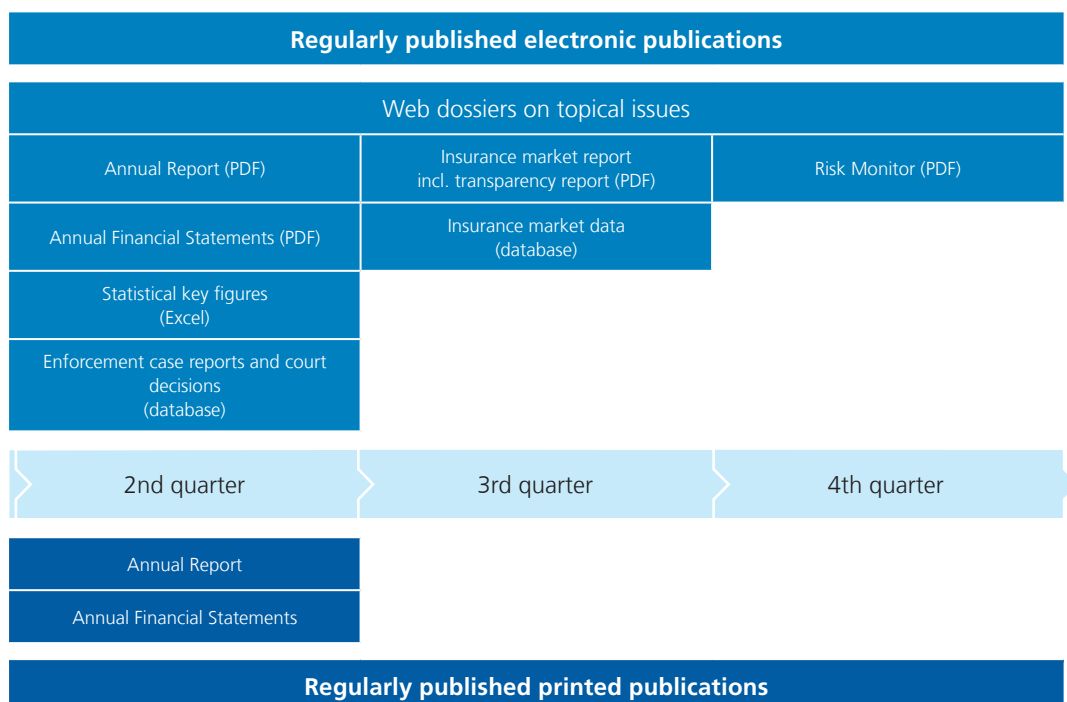
# Reorganisation of FINMA's publications

The way in which FINMA's printed materials and digital publications are made publicly available has been adjusted to reflect the needs of readers. Report planning has now been optimised for digital publication and access to statistical data has been improved.

The FINMA website offers a wide range of information about FINMA's activities, including in-depth dossiers on current topics and a variety of PDF reports. Figures and statistics from many publications are now also available as Excel documents or as a database. The Annual Report and the Annual Financial Statements will continue to be available in print.

In order to paint an accurate picture of FINMA's supervisory activities, the risk report will be published annually from now on. It provides an overview of the most significant ongoing risks for supervised institutions from FINMA's perspective and presents the main supervisory focal points for the coming year. The previously separate PDF publications, the Personnel Report, Enforcement Report and the Transparency Report on Occupational Pensions, will be incorporated into other FINMA publications in summary form.

## FINMA publications



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