

Statement from the Swiss Bankers Association regarding the consultation on the FFSA and FinIA

Basel, 31 October 2014

In general

The Swiss Bankers Association (SBA) supports strong and credible investor protection in terms of increased transparency for the customers of Swiss financial services providers. It can, however, only approve the FFSA if substantial amendments are undertaken, and the FinIA is not an alternative to the Bank Act. Appropriate supervision for wealth managers and investment advisors remains key.

The FFSA

The FFSA facilitates alignment with the principles of EU legislation (MiFID) for the important cross-border business. However, the current draft violates the principle of proportionality and the regulatory approach of differentiation in many areas. A number of recommendations in the FFSA go well beyond the original objectives and compromise the important mutual trust between banker and client. In addition, many of the stipulations involve a costly “Swiss Finish”. The SBA will reject the FFSA if substantial amendments are not made.

- The SBA rejects the introduction of a client advisor register for cost and benefit reasons. Registration is also unnecessary with regards to employee training.
- Also for cost-benefit reasons, but also due to the lack of enforceability, a register for cross-border financial services providers in Switzerland should be dispensed with.
- The SBA also fundamentally rejects special civil procedure legislation for financial services providers. In particular, the reversal of the burden of truth, the fund for litigation costs, the class action suit and the group settlement proceeding far exceed the reasonable scope and in addition, are not foreseen in the EU.
- Finally, the suggested sanctions exceed the reasonable scope. Civil liability law on the one hand and FINMA's possibilities for intervention on the other, in addition to the mediation available through the Swiss Banking Ombudsman, provide customers with sufficient means to protect their rights.

FinIA

- The SBA welcomes the introduction of supervision for asset managers and investment advisors (including trusts). The creation of a comprehensive FinIA is, however, not necessary to this end. The FinIA should therefore remain limited to those aspects that are required for the coverage of these financial services providers and that make sense for the requirements in asset management. For banks, securities dealers and fund management companies, the existing specific legislation such as the Banking Act, Stock Exchange Act and the Collective Investment Schemes Act should be referred to.
- The SBA advocates a tax-compliant financial centre. The banks in Switzerland work together with their clients to regularise the past and supported the introduction of the

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automatic exchange of information with countries abroad (AEOI). However, the SBA rejects Art. 11 on tax compliance. It would be a foreign element in the FinIA and the only of its kind internationally. It would involve disproportionately high costs and be impossible to implement, as no one can be familiar with the tax laws of far more than 100 countries. Furthermore, the banks are not responsible for their customers' meeting their tax obligations.

Comprehensive consultation

The SBA's complete consultation is available here

<http://www.swissbanking.org/en/home/standpunkte-link/vernehmlassungen.htm>. More information on this topic can be found at <http://www.swissbanking.org/home/dossiers-link/fidleg.htm>.

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