

BANKING - SWITZERLAND

FINMA supports regulatory changes in favour of fintech industry

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The Financial Market Supervisory Authority (FINMA) recently spent time and effort evaluating digital business, financial technology (fintech) and technological neutrality.

On January 1 2016 FINMA revised its Anti-money Laundering Ordinance, with new provisions for the handling of and compliance with duties of care regarding the Anti-money Laundering Act in connection with new payment methods and virtual currencies. Regarding new payment methods, FINMA focused on facilitations and waivers; and regarding virtual currencies, it equated them with money-transmitting services.

On March 18 2016 FINMA introduced a new circular facilitating video and online identification of clients (Circular 16/7) by modifying the act's duties of care. The client onboarding process can now be handled completely digitally, provided that the financial intermediary meets specific requirements. In particular, video identification is equated to in-person identification. Further, the circular covers certain other methods of digital client onboarding technologies.

FINMA also announced that it supports the introduction of a new licensing category for financial innovators and a licence-exempt area. The licence-exempt area is called a 'regulatory sandbox' and is already known from the UK Financial Conduct Authority's project Innovate, among others.

According to the Banking Act, there are several fintech business models carrying out some sort of banking business where a full banking licence would be too expensive and would not reflect the business model properly. As a result, FINMA supports a new licensing category for financial innovators carrying out some banking activities, but with limited acceptance of client assets and no lending activity. Compared to a full bank, the licensing requirements would be less extensive because the risks are lower and the scope of business is limited. Such reduced requirements would probably cover specific thresholds of maximum client deposits and minimum collateral requirements. In particular, such 'light' licences would enable or facilitate market entry for providers of payment systems, managers of digital assets and crowdfunding platforms. According to FINMA, particularly for start-ups, even a full licence waiver is conceivable, subject to certain maximum deposit thresholds. However, FINMA is discussing a range of ideas with the banking sector and competent authorities.

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