



SWITZERLAND

DETAILED ASSESSMENT OF OBSERVANCE—INSURANCE CORE PRINCIPLES

September 2014

This Detailed Assessment of Observance on the Insurance Core Principles on Switzerland was prepared by a staff team of the International Monetary Fund. It is based on the information available at the time it was completed on August 20, 2014.

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DETAILED ASSESSMENT OF OBSERVANCE

September 2014

INSURANCE CORE PRINCIPLES

Prepared By
**Monetary and Capital
Markets Department**

This Detailed Assessment Report was prepared in the context of an IMF Financial Sector Assessment Program (FSAP) mission in Switzerland during September 2013, led by Charles Enoch, IMF and overseen by the Monetary and Capital Markets Department, IMF. Further information on the FSAP program can be found at <http://www.imf.org/external/np/fsap/fssa.aspx>

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Glossary

ALM	Asset Liability Management
AML	Anti-money laundering
AMLA	Anti-Money Laundering Act
AMLO	Anti-Money Laundering and Terrorism Financing Ordinance
APLIEM	Anti- persistent low interest rate environment measures
BOD	Board of Directors
CCG	Swiss Code of Best Practice for Corporate Governance
CEO	Chief Executive Officer
CFT	Combating Financing of Terrorism
CG	Corporate governance
CO	Code of Obligations
ERM	Enterprise Risk Management
FAOA	Federal Audit Oversight Authority
FDF	Federal Department of Finance
FFSA	Federal Financial Services Act
FINMA	Swiss Financial Market Supervisory Authority
FINMASA	Financial Market Supervision Act of 22 June 2007
FOPH	Federal Office of Public Health
FSAP	Financial Sector Assessment Program
FSB	Financial Stability Board
IAIS	International Association of Insurance Supervisors
IBO	Insurance Bankruptcy Ordinance
ICA	Insurance Contract Act
ICP	Insurance Core Principle
ICS	Internal Control Systems
IMF	International Monetary Fund
ISA	Insurance Supervision Act of 17 December 2004
ISO	Insurance Supervision Ordinance
MOU	Memorandum of Understanding
MROS	Money Laundering Reporting Office of Switzerland
PA	Personal Accident
RM	Risk Management
SESTA	Collective Investment Schemes Act
SIA	Swiss Insurers Association
SIBA	Swiss Insurance Brokers Association
SNB	Swiss National Bank
SRO	Self-regulatory Organization
SQA	Swiss Qualitative Assessment
SST	Swiss Solvency Test
SUVA	Swiss Accident Insurance Office

EXECUTIVE SUMMARY

The insurance industry in Switzerland is well developed having among the highest insurance penetration and expenditure per capita in the world. Insurance penetration is the fourth highest in the world with 14.1 gross premium as percentage of GDP, well above the EU average penetration of 7.8 percent. Expenditure per capita on insurance leads worldwide with over CHF 10 thousand. Total premium in 2012 amounted to CHF 83 billion, of which 40 percent corresponds to life insurance, and 30 percent each to non-life and to comprehensive health insurance. Total assets of the sector are CHF 460 billion or around 15 percent of the financial sector assets, of which two thirds correspond to life insurance. Over half of the investments on own account are in fixed income instruments, 17 percent in real estate and mortgages, and only 2 percent in equities.

The sector is dominated by a few players writing significant international business. The life sector is dominated by two players, responsible for 54 percent of the business and the top ten life insurers account for 97 percent of the market. The non-life sector is also concentrated but less than the life sector; here the top ten insurers account for 65 percent of the business. Without taking Swiss Re and Zurich Insurance Group into account, the Swiss insurance groups write on average around 35 percent of the premium outside Switzerland and over 45 percent of their assets are related to foreign business. For Swiss Re and Zurich Insurance Group the domestic premium is only 1.7 percent and 9.8 percent, respectively, of their total premium income.

The industry has weathered the 2008 crisis well; however the current low interest rate environment is affecting the sector. The negative impact on the share prices of Swiss insurers during the crisis has basically been reversed. However, the ensuing challenging economic environment is adversely affecting the industry, which has not been growing, except for the mandatory occupation pension business, which grew 6 percent in 2011. Low interest yields have reduced the government-mandated guarantees that insurers are required to offer, making their products less attractive, and has probably created negative spreads in a few portfolios. Measures being introduced include the reduction in 2012 of the statutorily guaranteed return for the occupational pensions to 1.5 percent.

The lack of availability of Swiss government bonds to match long term liabilities of life insurers and pension funds could be a source of vulnerability. The long term nature of the liabilities of life insurers and pension funds could in principle be matched by investment in Swiss government securities. However, the CHF one trillion of assets managed by life insurers and pension funds is disproportionate to the CHF 80 billion outstanding bonds by the federal government. Before taking diversification benefits into account, the cost of capital under the Swiss Solvency Test (SST) to hold equity investments can require high returns; thus leaving real estate as the main domestic alternative for investments; this in turn runs the risk of contributing to the creation of a real estate bubble, and possibly raise liquidity issues.

Important mandatory insurance and pension providers are not supervised in line with FINMA standards. Pension funds providing for the mandatory Swiss occupational pensions are supervised

under softer solvency requirements compared to insurers active in the same business segment. Thus participants' pensions have different level of protection. Mandatory insurance is present in several lines of business, for instance in health, accident, motor, fire and property. It is recommended that mechanisms be devised to ensure consistent effective supervision for all insurance and pension providers.

Significant regulatory reforms and increased supervision since 2003 have updated Switzerland's regulatory and supervisory regime for the insurance industry to levels consistent with international best practices. The Financial Market Supervisory Authority Act of June 22, 2007 (FINMASA), together with two related Ordinances, serves as an umbrella law for sector-specific laws governing financial market regulation and supervision and also establishes the integrated financial services supervisor FINMA. The new insurance law effective on January 2006 and the introduction of the SST have reoriented the regulatory focus towards a risk based supervision supported by a strong risk sensitive solvency regime.

The Swiss authorities succeeded in passing and implementing a state-of-the-art solvency regime. This Swiss solvency test should serve to properly assess the risks run by the insurers; however, its risk sensitive provisions showing at an early stage the negative effects of the low interest rate environment on the solvency ratio has led the authorities to introduce temporary measures to offset the stress to the sector, partly to avoid that Swiss companies become disadvantaged vis-à-vis those from areas without an advanced regime. The temporary measures have been taken with care and maintaining as much transparency as possible; however the measures have implicitly reduced policyholders' protection and it is recommended to remove them as scheduled in 2016.

Supervision focuses on ensuring sufficiency of liquid assets to meet policy liabilities. There are statutory accounting methods to determine technical provisions and value of assets on a prudent basis for "tied asset" purposes. Insurers (excluding reinsurers) are required to earmark and ring-fence assets designated as tied assets subject to a liquidity test to back the technical provisions plus a risk margin. Policyholders have priority claims over the tied assets. In addition, robust solvency requirements ensure there is sufficient capital to safeguard the insurers' financial soundness under adverse conditions. The triple focus on the adequacy of technical provisions, liquidity and safety of tied assets, and the adequacy of capital forms the basis of FINMA's supervision.

FINMA supervision is particularly strong in quantitative analysis and group supervision, while risk management, internal control and governance requirements are relatively new. FINMA has highly qualified staff. A large group of actuaries and mathematicians support the offsite reviews, internal model approval and other SST quantitative work. All but two domestic insurance groups have active colleges in place that engage in group wide supervision. The granular and aggregated approaches towards solvency of a group are also commendable. Qualitative assessment of insurers' operating environment is newer. The Swiss Qualitative Assessment (SQA) was first carried out in 2008, covering all insurers. The second SQA was carried out in 2012 and was risk-prioritized to cover groups and insurers in the high-risk categories. For SQA various means are used to gather information and carry out the analyses, including a questionnaire answered separately by key

functions of the insurer, followed up with onsite visits to discuss findings and set out remedial steps if needed.

Increasing the intensity of onsite supervision will complement FINMA’s strong supervisory framework. Increasing the intensity of onsite supervision will complement FINMA’s strong supervisory framework. In addition to onsite inspections, FINMA uses a variety of other ways to gather information and make assessments. As a result, FINMA’s onsite inspections tend to be focused in scope and, compared to some jurisdictions, less frequent. The main purpose of a FINMA inspection is either to verify a specific concern identified during offsite analysis, to gain understanding of an observed emerging trend, or determine if the insurer has a weakness or is not complying in a specific area. There is a danger that FINMA may not be able to identify weaknesses in the insurer’s operation without direct observation and verification through onsite inspections. FINMA should therefore increase the frequency and scope of inspections. More in-depth onsite inspections will enhance FINMA’s understanding of insurers’ operations and facilitate more accurate risk ratings. FINMA is encouraged to maintain its direct supervision of insurers, limiting the use of external auditors to checking compliance with clearly defined guidelines that require minimal or no supervisory judgment.

The position of Switzerland as global insurance center and a reinsurance hub sets additional demands on the regulatory framework.

- In 2012 FINMA started a review of the possibility of expanding public disclosure requirements, taking into account international standards and practices. It is recommended that FINMA completes its review and Swiss authorities institute the necessary regulatory changes to be more in line with international standards.
- While laws clearly stipulate the intention to protect policyholders and entrust FINMA to intervene on behalf of the policyholders and their beneficiaries, FINMA has yet to articulate specific rules on business conduct. Supervision of tied agents is indirectly through insurers. Supervision of brokers is minimal. There are no on-going reporting requirements for intermediaries. It is recommended that Swiss authorities press on with the legislative effort to improve policyholder protection and enhance brokers’ supervision.
- The requirements on the investments of reinsurers need to be strengthening. Notwithstanding the specific characteristics of the reinsurance business, the lack of the requirement to have tied assets backing up reinsurance liabilities could weaken the asset quality of reinsurers as well as the ability of FINMA to liquidate them. Ultimately this could impact on policyholder’s protection given that cedents can use reinsurance recoverable as part of their tied assets. FINMA’s legal reach to the assets in case of liquidation is particularly relevant in its role as home supervisor given the ability of reinsurers to operate in foreign jurisdictions without local capital requirements.
- All reinsurers established in Switzerland are supervised by FINMA, although branches of companies headquartered outside Switzerland and conducting only reinsurance business are

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exempted from supervision. The scope of relevant Swiss law on this point (ISA Art. 2 (2)) is transparent and known in the marketplace in addition, FINMA is in close contact with their home supervisors where needed. However, given the relevance of reinsurance for the stability of the insurers abroad, it may be helpful for FINMA to more actively communicate its approach in regard of the supervision of branches of foreign reinsurers. A more prudent approach would be for FINMA to bring such reinsurance activity into its supervisory ambit.

ASSESSMENT OF INSURANCE CORE PRINCIPLES (ICPS)

A. Introduction and Scope

1. **This report is a detailed assessment of Switzerland's compliance with the Insurance Core Principles (ICPs) of the International Association of Insurance Supervisors (IAIS), as adopted in October 2011 and revised in October 2012.** The review was carried out as part of the 2013 Financial Sector Assessment Program (FSAP) assessment of Switzerland, and was based on the regulatory framework in place, the supervisory practices employed, and other conditions as they existed in September 2013. The assessment was carried out by Dr. Rodolfo Wehrhahn, Technical Assistance Advisor in the Financial Supervision and Regulation Division, a part of the Monetary and Capital Markets Department, IMF and Ms. Mimi Ho, Consultant.
2. **Switzerland has taken steps to address shortcomings identified in the last FSAP from 2005–2006.** The insurance supervisor has enhanced inspection powers and supervisory processes, with increased emphasis on risk-based supervision, onsite inspections, reinsurance activities, enhanced corporate governance and risk management requirements and public disclosure.

B. Information and Methodology Used for Assessment

3. **Supervision of the private insurance industry in Switzerland is the responsibility of the Swiss Financial Market Supervisory Authority (FINMA).** FINMA is the supervisory authority of the insurance sector that includes insurers, reinsurers, intermediaries as well as entities and organizations which, in any form, perform functions partly included in the operational cycle of insurance or reinsurance undertakings.
4. **The assessment is based solely on the laws, regulations and other supervisory requirements and practices that are in place at the time of the assessment in September 2013.** Ongoing regulatory initiatives are noted by way of additional comments. The assessors had access to a complete self-assessment on the ICPs and responses to a detailed questionnaire FINMA provided prior to the commencement of the exercise. Anonymized examples of actual supervisory practices and assessments provided by the authorities enhanced the robustness of the assessment. Technical discussions with and briefings by officials from FINMA also enriched this report, as did discussions with industry participants.
5. **The assessment has been informed by discussions with regulators and market participants.** The assessors met with staff from FINMA, insurers, industry associations, professional bodies and audit firms. The assessors are grateful for the full cooperation extended by all.
6. **The level of observance for each ICP reflects the assessment of the various standards there under.** Each ICP is rated in terms of the level of observance as follows:
 - Observed—whenever all the standards are considered to be observed or when all the standards are observed except for a number that are considered not applicable.

- Largely observed—where only minor shortcomings exist, which do not raise any concerns about the authorities’ ability to achieve full observance.
- Partly observed—where, despite progress, the shortcomings are sufficient to raise doubts about the authorities’ ability to achieve observance.
- Not observed—where no substantive progress toward observance has been achieved.
- Not applicable—when the ICP is considered to be not applicable.

C. Overview—Institutional and Macroprudential Setting

Institutional framework and arrangements

7. The Federal Constitution of the Swiss Confederation of April 18, 1999 (FC) establishes a free market economic system in which own property and economic freedom are guaranteed (Arts. 26, 27 and 94 FC). Any governmental restriction of economic freedom is limited by the rule of law which is a basic principle of the Swiss Federal Constitution (Art. 5 FC). All regulation shall be based on and limited by law, be in the public interest, and be proportionate to the ends sought.

8. Articles 95 and 98 of the Federal Constitution lay down the constitutional basis for the regulation of professional activities in the private sector, and the financial sector in particular. The Confederation is empowered to legislate on the banking and stock exchange system, and on private insurance. The Financial Market Supervisory Authority Act of June 22, 2007 (FINMASA), together with two related Ordinances, serves as an umbrella law for sector-specific laws governing financial market regulation and supervision. In addition to setting organizational parameters including its liability for FINMA as an institution that is not part of the ministry of finance and financed by fees received from the supervised, the FINMASA defines principles for the regulation of financial market, as well as a set of harmonized supervisory instruments and sanctions.

9. Seven sector-specific Federal Acts issued by the Federal Parliament (referred to as the “Financial Market Acts”) complement the FINMASA: the Banking Act, the Stock Exchange Act, the Collective Investment Schemes Act (SESTA), the Insurance Supervision Act (ISA), parts of the Insurance Contract Act (ICA), the Anti-Money Laundering Act (AMLA), and the Mortgage Bond Act.

10. The statutory framework for the supervision of private insurance business is provided both by FINMASA and ISA. Whereas FINMASA confers on FINMA the responsibility for insurance supervision in accordance with ISA, and provides FINMA with the necessary supervisory powers and instruments, ISA sets out the regulatory rules on the insurance business. ISA thus defines the insurance-specific regulation, complementing the regulations defined in the FINMASA. Statutory ordinances issued by the Federal Council (executive branch of government) and by FINMA implement the Financial Market Acts on a second level. The ISA also delegates some rule-making powers to FINMA for specific and named subjects, for instance the Ordinance on the Supervision of Private Insurance Companies (FINMA-ISO) and the Insurance Bankruptcy Ordinance (IBO-FINMA). Circulars issued and published by FINMA provide further guidance on FINMA’s interpretation and

practical implementation of relevant financial market legislation. They provide substance to the intention of the legislator as conveyed in acts and ordinances. Circulars address, inter alia, solvency, reserves and the investment of tied assets, the governance and risk management of an insurance entity, the position of the responsible actuary, the internal audit function and the external auditors, group supervision, and reporting.

11. FINMA coordinates with the Swiss National Bank (SNB) and Federal Department of Finance (FDF) on financial stability issues. In February 2010, FINMA and SNB updated their bilateral Memoranda of Understanding (MOU) on financial stability issues to provide a clear division between their individual tasks, describe their common areas of interest, and govern their collaboration in these areas. A Steering Committee has been established to set priorities in common areas of interest. In addition, there is a trilateral MOU between the FINMA, FDF and SNB that was signed in January 2011, governing the collaboration between the three agencies, including (a) the exchange of information on financial stability and financial market regulation issues and (b) coordination in the event of a crisis that could threaten the financial system's stability.

12. FINMA is the consolidated supervisor of the financial markets in Switzerland. Created under FINMASA in 2007, FINMA came into full power on January 1, 2009, superseding the Federal Office of Private Insurance (formerly responsible for supervising private insurance), the Swiss Federal Banking Commission (formerly responsible for supervising banks, securities firms, exchanges and investment funds), and the Money Laundering Control Authority. Thus FINMA supervises banks, insurance companies, stock exchanges and securities dealers as well as other financial intermediaries according to FINMASA. Where necessary, FINMA conducts financial restructuring and bankruptcy proceedings. FINMA is also responsible for preventing money laundering and terrorist financing in the financial sector. In addition, it has supervisory powers with respect to holdings of participations and is the complaint-handling body for decisions of the Takeover Board relating to public takeover bids for listed companies.

13. FINMA's supervisory ambit excludes social insurance programs under Pillars I and II of Swiss three-pillar social security system. In addition to the social security benefits, compulsory health insurance is provided under the Federal Health Insurance Act through specialist health funds. The Federal Office of Public Health (FOPH) supervises and approves the premium rates for these health funds. Individuals may purchase additional health coverage from private insurers (supervised by FINMA) to supplement the basic level of compulsory health insurance. FINMA supervision also excludes cantonal building insurers writing homeowners' protection.

14. FINMA is a public law institution. Its official seat is in Bern. It enjoys autonomy and independence accountable to and subject to the overall supervision of the Federal Parliament. It is possible to appeal against rulings issued by FINMA to the Federal Administrative Court. Against the decisions of the Federal Administrative Court appeals are available to the Federal Supreme Court for a number of counts.

Market structure and industry performance

Industry structure and recent trends

15. The Swiss insurance sector and pension fund assets are relevant for the financial sector. The pension and insurance sector including reinsurance and captives are of about the same size in terms of assets and account together for 31 percent of the financial sector assets. The insurance market share has been constant over the years and in 2012 amounts to 100 percent of GDP.

Table 1. Switzerland: Financial Sector Assets, 2008–2012
(CHF billions, percent for the Share)

Assets	2008	2009	2010	2011	2012
All financial institutions	4,196	3,843	3,914	3,998	4,000
Banks	3,080	2,668	2,715	2,793	2,778
Insurance Companies	578	576	579	580	592
Pension funds	539	599	621	625	629
Share					
All financial institutions	100	100	100	100	100
Banks	73	69	69	70	69
Insurance Companies	14	15	15	15	15
Pension funds	13	16	16	16	16
Financial system assets					
in percent of GDP	739	693	684	683	677

Source: Authorities and IMF.

16. The direct insurance industry in Switzerland is well developed, with a high penetration and the highest insurance expenditure per capita in the world. The insurance penetration (gross premium as percentage of GDP) is the 4th highest in Europe¹ and the 9th highest in the world² well above the EU average penetration of 7.8 percent and the expenditure per capita in insurance is the leading worldwide with over CHF 10 thousand. Total premium in 2012 amounted to CHF 83 billion, of which a forty percent corresponds to life, and a thirty percent each to nonlife and to comprehensive health. Total assets of the sector are CHF 460 billion. Of which two thirds correspond to life.

¹ After Netherlands (3rd), United Kingdom (7th), and Finland (8th). Source: Swiss Re World Insurance in 2012.

² After Taiwan (1st), South Africa (2nd), Hong Kong (4th), South Korea (5th), and Japan (6th). Source: Swiss Re World Insurance in 2012.

Table 2. Switzerland: Insurance Sector Premium and Assets, 2008–2012
(CHF millions, CHF thousand for the density)

	2008	2009	2010	2011	2012
Gross premiums					
Life	32,372	32,180	32,651	32,760	33,484
Nonlife	52,537	51,717	51,007	46,712	49,876
Total	84,909	83,897	83,658	79,472	83,360
Assets					
Life	280,611	281,706	291,265	299,151	311,237
Nonlife	153,648	147,891	147,157	148,198	148,581
Total	434,259	429,597	438,422	447,349	459,818
Penetration*	15.0	15.1	14.6	13.5	14.1
Density**	11,183	10,775	10,630	9,990	10,372

* Measured as total premium as a percentage of GDP

** Measured as total premium per capita

Source: Authorities.

17. The number of undertakings in the insurance sector is stable except for the captives that showed a reduction of 20 percent since 2008. Currently 207 institutions are licensed to provide insurance in Switzerland, compared with 218 in 2008. The reduction is basically due to the exiting of captives from 42 in 2008 to currently 34. The number of foreign branches has not significantly changed since 2008 with 46 entities. In addition to the 207 institutions, 16 insurers provide comprehensive health insurance and are primarily supervised by FOPH. All major international insurers, reinsurers and brokers are active in the market, and also Swiss insurers are active outside the country with 20 branches operating abroad and 6 active international insurance groups.

Table 3. Switzerland: Number of Registered Insurance Undertaking and Intermediaries, 2008–2012

Licensed risk carriers					
	2008	2009	2010	2011	2012
<i>Insurers</i>					
Life (long-term)	26	25	25	24	23
Non-life (general)	122	125	126	124	123
Reinsurance	28	26	27	27	27
Captive	42	42	35	35	34
	218	218	213	210	207
Supplementary Information					
Branches of foreign Insurers	47	50	51	47	46
Local Insurers' branches abroad	34	22	19	20	20
Insurance groups	9	9	8	8	8

Source: Authorities.

18. The sector is dominated by a few players writing significant international business. The life sector is dominated by two players, responsible for 54 percent of the business and the top 10 life insurers account for 97 percent of the market. The non-life sector is also concentrated but less than the life sector; here the top 10 insurers account for 65 percent of the business. Without taking Swiss Re and Zurich Insurance Group into account, the Swiss insurance groups write on average around 35 percent of the premium outside Switzerland and over 45 percent of their assets are related to foreign business. For Swiss Re and Zurich Insurance Group the domestic premium is only 1.7 percent and 9.8 percent, respectively, of their total premium income.

Table 4. Switzerland: Market Share of Top 10 Insurers, 2012

	Life sector (% of total assets)	Non-life sector (% of total premiums)
1	29.2	12.4
2	26.2	10.1
3	9.0	9.1
4	8.9	6.7
5	8.1	5.7
6	5.8	5.0
7	4.3	4.5
8	2.3	4.3
9	2.2	3.9
10	1.3	3.1
Total	97.4	64.7

Source: Authorities.

Table 5. Switzerland: International Participation of the Insurance Groups, 2012

Top 10 Insurance Groups in 2012							
	Assets			Premiums			
	Consolidated	Domestic	% of	Consolidated	Domestic	% of	Domestic
		Operations*	Domestic		Operations*	Domestic	
Baloise	73,527	32,873	44.7%	6,742	3,827	56.8%	
Helvetia	42,497	28,407	66.8%	6,829	3,978	58.3%	
Nationale Suisse	6,260	5,098	81.4%	1,512	1,050	69.4%	
Mobilier	15,648	15,648	100.0%	3,299	3,280	99.4%	
Swiss Life	163,401	84,894	52.0%	12,351	7,802	63.2%	
Swiss Re	197,519	177,120	89.7%	24,661	409	1.7%	
Vaudoise	11,627	4,960	42.7%	1,496	978	65.4%	
Zurich Insurance Group	374,623	103,913	27.7%	49,408	4,842	9.8%	
Total	885,102	452,913	51.2%	106,298	26,166	24.6%	

* Total assets of regulated Swiss entities

* Foreign branches of Swiss legal entities not included

Source: Authorities.

19. The life sector consists mainly of participating policies that include the occupational pension business; also annuities and unit-linked products are important. Life products with profit sharing or participating policies made up to 90 percent of the life insurance sector. Annuities that are generated by the voluntary third pillar are still small given that the second pillar mandatory annuities are important and 80 percent is insured by the pension funds which are supervised at a cantonal level and since January 2012 under the Occupational Pensions Supervision Commission (OAK BV). Unit-linked products demand of which highly depends on the stock market performance are also offered.

Table 6. Switzerland: Life Insurance Products (in CHF million)

Life	Gross Premiums written		
	<i>2010</i>	<i>2011</i>	<i>2012</i>
Domestic risks			
Participating (or with-profits)	26,215	27,415	27,831
Annuities	871	734	674
Unit-linked	3051	2421	2628
Foreign risks			
Participating (or with-profits)	1,579	1,411	1,430
Annuities	636	620	572
Unit-linked	0	0	0
Others - Received Reinsurance	299	159	349
TOTAL	32,651	32,760	33,484

Source: Authorities.

20. The nonlife sector is balanced with property and motor insurance as the principal products followed by liability insurance. The nonlife insurance sector is well developed offering all types of protection. Property insurance and motor insurance are the leading products corresponding to 19.6 and 13 percent of the policies respectively. The optional supplementary health insurance (which is supervised by FINMA) is offered by insurers and the mandatory health coverage provided by health insurance funds. This supplementary insurance as well as accident insurance account for a quarter of the nonlife premium. Liability insurance is also important as an independent line of business with five percent of the premium.

Table 7. Switzerland: Nonlife Insurance Products

Non-life	Gross Premiums written		
	2010	2011	2012
Domestic risks			
Motor	5,414	5,511	5,652
Property	8,085	7,969	8,261
Liabilities	2,117	1,903	1,916
Accident & health	11,867	12,203	12,446
Others incl. Received Reinsurance	6,310	5,069	6,014
Foreign risks			
Motor	962	972	1,010
Property	1,790	1,748	1,829
Liabilities	530	450	503
Accident & health	41	42	65
Others incl. Received Reinsurance	13,891	10,845	12,180
TOTAL	51,007	46,712	49,876

Source: Authorities.

21. Eighty percent of compulsory fire insurance is provided by the cantonal building insurers. Compulsory fire insurance requirements vary by canton; many cantonal fire offices monopolize the fire coverage on building structure while private insurers write the fire coverage on household contents. In 19 of the total 26 cantons, the elementary damage insurance of buildings is provided by the Kantonale Gebäudeversicherungen – KGV (cantonal building insurance companies). These independent institutions under public canton law insure more than 80 percent of Swiss building constructions; that is 2 million buildings worth a total of approximately CHF 1.5 billion.

22. Related party investments, reinsurance and other receivables are not significant assets in the insurance sector except for reinsurers. The life and nonlife sectors have minimal exposure to intangible assets, receivables and related party investments, accounting for less than two percent and ten percent of assets respectively. The reinsurance sector shows a much higher exposure to intra-group and related party investments, close to 6 percent and 26 percent of assets are reinsurance recoverables. While the reinsurance business has longer times to settle reinsurance

exposures (retrocessions) having 33 percent of their assets in the form of illiquid assets could cause liquidity issues, in particular since the tied asset regime does not apply to reinsurers.

**Table 8. Switzerland: Illiquid Assets of the Insurance Sector
(in CHF million)**

Life	2008	2009	2010	2011	2012
Total assets	280,611	281,706	291,265	299,151	311,237
Intangible assets	45	29	33	53	62
Receivables	3,697	2,296	2,392	2,105	2,307
Intra-group/related company receivables	1,250	1,579	1,677	1,818	1,351
Reinsurance recoverables	157	138	154	257	277
Nonlife					
Total assets	153,648	147,891	147,157	148,198	148,581
Intangible assets	1,118	1,075	834	879	776
Receivables	8,046	5,167	5,754	5,245	4,705
Intra-group/related company receivables	836	7,914	7,276	5,576	4,969
Reinsurance recoverables	5,359	4,657	2,988	2,869	3,127
Reinsurance					
Total assets	141,554	144,522	138,734	130,091	132,926
Intangible assets	77	66	45	35	41
Receivables	1,403	1,641	2,026	982	922
Intra-group/related company receivables	23,502	22,575	13,460	12,509	8,095
Reinsurance recoverables	40,142	36,785	35,515	31,325	34,472

Source: Authorities.

23. Asset composition is predominantly in fixed income instruments, in particular in government bonds. Over half of the investments on own account corresponds to fixed income securities, 17 percent to investments in real estate and mortgages and a few percent are invested in equities. At the end of 2012, 89 percent of the investment assets of life insurers and 49 percent of the investments of nonlife insurers correspond to tied assets. 60 percent of the life insurers' investments are in fixed income of which 46 percent are government securities and 54 corporate securities; 21 percent are invested in real estate and mortgages. This reflects the need to match long term liabilities generated by the participating long term products. Forty percent of the nonlife sector investments correspond to fixed income and a quarter to participations. Exposure to real estate is minimal with less than 5 percent. (Table 9).

Table 9. Switzerland: Investments of the Insurance Sector
(in CHF million)

Life	2008	2009	2010	2011	2012
Investments	269,175	271,288	280,662	288,417	301,116
<i>of which:</i>					
Government securities ¹	141,253	71,570	75,045	75,359	75,361
Corporate securities		76,805	75,465	82,440	87,475
Equities ³	12,299	13,241	13,396	11,998	14,083
Real estate and real-estate related	28,209	28,907	30,562	31,189	32,963
Cash and bank balances	15,951	12,028	11,265	13,099	14,175
Investments supporting unit-linked	14,271	16,052	16,104	15,317	16,373
Nonlife					
Investments	136,116	127,177	128,426	131,549	133,001
<i>of which:</i>					
Government securities ¹	57,385	22,514	22,418	23,688	22,811
Corporate securities		30,056	28,243	29,396	30,424
Equities ³	7,958	7,386	8,337	9,518	10,852
Real estate and real-estate related	6,550	6,341	6,125	6,156	6,399
Cash and bank balances	15,137	8,790	9,000	9,768	9,018
Reinsurance					
Investments	72,857	80,685	79,896	78,273	84,599
<i>of which:</i>					
Government securities ¹	21,819	27,722	22,188	21,196	25,841
Corporate securities		4,481	5,549	6,494	11,369
Equities ³	6,846	9,159	12,971	12,120	11,774
Real estate and real-estate related	1,193	1,167	1,180	1,143	1,291
Cash and bank balances	10,007	8,633	7,729	5,381	4,907

Source: Authorities.

1 No distinction between government securities and corporate securities in 2008 available.

24. The reinsurance capacity in Switzerland is large and internationally focused. Sixty one reinsurers and captives are currently licensed in Switzerland. The business model is providing reinsurance capacity globally, with over 95 percent of their premium coming from abroad and a total premium in 2012 of CHF 34 billion. The top three reinsurers have maintained over the years more than 75 percent market share.

25. Under Solvency I requirements, both life and non-life industries have maintained, on average, a solid level of capital. However under the SST the life sector shows a weaker picture. The solvency margins under Solvency I are well above the requirements for 2012 with average ratios between 281 and 603 percent for the industry as a whole. The risk sensitive regime SST on the other hand shows a different picture. The life sector was close to the limit of 100 percent ratio in 2011 and

is now 146 percent as companies decided to retain basically all dividends in 2012. For 2013 the introduction of the anti persistent low interest rate environment measures (APLIEM) will help insurers' solvency position but a comparison with the 2012 numbers might not be straight forward. (Table 10).

Table 10. Switzerland: Insurers' Solvency Position (in percent)

	Solvency I Ratios				SST Ratios			
	2009	2010	2011	2012	2009	2010	2011	2012
Life (long-term)	222	245	279	281	117	145	105	146
Non-life (general)	377	446	407	420	236	225	188	207
Reinsurance	424	436	349	340	292	246	NA	NA
Captive		637	644	603	NA	NA	NA	NA

Source: Authorities.

26. The life insurance sector has not been growing in the last years and the return on equity is down to 2008 levels. The life insurance market appears to be saturated with basically unchanged premium income. From 2008 to 2012, the premium has increased by less than one percent. Investment income has been growing since 2008 from the CHF 3.4 billion to CHF 10 billion in 2012; however, offsetting this positive development, during the same period claims have risen from CHF 28 to CHF 40 billion. The return on equity of 5.3 percent in 2008 after having very positive years of double-digit figures is back in 2012 to a single digit with 7.1 percent.

Table 11. Switzerland: Key Figures of the Life Insurance Sector (in CHF million, ROE in percent)

Life	2008	2009	2010	2011	2012
Gross premiums	32,372	32,180	32,651	32,760	33,484
Net premiums	32,063	31,912	32,372	32,506	33,226
Investment income	3,417	8,183	7,836	9,231	10,035
Net claims incurred	28,805	36,498	35,139	35,444	40,048
Expenses	6,262	2,370	3,831	3,897	2,220
ROE (after tax)	5.30	13.80	12.20	18.35	7.10
Total assets	280,611	281,706	291,265	299,151	311,237
Share capital	1,453	1,463	1,479	1,490	1,482
Accumulated retained earnings	5,086	5,209	6,147	6,042	7,814
Subordinated loans	4,416	4,034	3,754	5,073	5,818
Technical provisions	249,441	253,641	256,034	259,928	270,880

Source: Authorities. Note that additional paid in capital is excluded.

27. The nonlife insurance sector has slightly declined since 2008 but it shows double digit return on equity. The nonlife insurance market has suffered a slight decrease in production down

from CHF 52.5 billion in 2008 to CHF 49.8 billion in 2012; during the same period of time claims have decrease from CHF 31.1 billion to CHF 27.5 billion and investment income has been stable around CHF 6 billion. As a result return on equity has been fairly stable around 16 percent in the last two years, well recovered from its slow of 8,7 percent in 2008.

Table 12. Switzerland: Key Figures of the Nonlife Insurance Sector
(in CHF million, ROE in percent)

Non-Life	2008	2009	2010	2011	2012
Gross premiums	52,537	51,717	51,007	46,712	49,876
Net premiums	47,752	46,513	45,689	41,282	43,640
Investment income	2,468	5,079	6,924	6,192	5,461
Net claims incurred	31,150	30,244	28,280	26,561	27,508
Expenses	17,006	17,002	17,270	15,593	16,341
ROE (after tax)	8.7	15.5	21.9	16.2	16.2
Total assets	153,648	147,891	147,157	148,198	148,581
Share capital	2,605	2,638	2,616	2,615	2,636
Accumulated retained earnings	15,839	17,160	11,621	9,597	10,006
Subordinated loans	10,215	11,044	9,620	7,138	7,590
Technical provisions	85,414	80,126	75,912	78,211	79,183

Source: Authorities. Note that additional paid in capital is excluded.

28. Profitability of the reinsurance sector is still severely affected since the 2008 crisis but shows signs of recovery. The profitability of reinsurers appears to be more affected by the 2008 crisis. The average return on equity since 2008 is around 2 percent with two year showing negative returns and never having double digit figures. Some signs of recovery can be seen in the 2012 numbers. Production is back to the 2008 level with a slight reduction of less than 10 percent down from CHF 36,500 million in 2008 to CHF 34,064 million in 2012. Claims have declined stronger during the same period from CHF 25,100 million down to CHF 18,307 million as a result the combined ratio of almost 100 percent in 2008 is down to 96.5 percent in 2012.

Table 13. Switzerland: Key Figures of the Reinsurance Sector
(in CHF million, ROE in percent)

Reinsurance	2008	2009	2010	2011	2012
Gross premiums	36,566	29,887	27,328	27,515	34,064
Net premiums	31,096	24,406	22,277	21,254	26,743
Investment income	-76	829	1,592	-485	3,824
Net claims incurred	25,180	16,871	17,011	13,920	18,307
Expenses	5,876	6,185	5,823	6,950	7,506
ROE (after tax)	-0.10	7.60	3.60	-0.40	0.19
Total assets	141,554	144,522	138,734	130,091	132,926
Share capital	2,818	3,200	3,288	2,788	2,782
Accumulated retained earnings	10,319	10,429	10,990	10,515	2,315
Subordinated loans	6,006	8,477	8,545	4,885	6,373
Technical provisions	81,449	76,987	72,067	68,990	72,511

Source: Authorities. Note that additional paid in capital is excluded.

D. Key Risks and Vulnerabilities

Regulatory and supervisory key findings

29. Focus of supervision is to ensure sufficient liquid assets to meet policy liabilities. There are statutory accounting methods on a prudent basis to determine technical provisions and value of assets for tied asset purposes. Insurers (excluding reinsurers) are required to earmark and ring-fence assets designated as “tied assets” subject to liquidity test to back the technical provisions plus a risk margin. Policyholders have priority claim over the tied assets. In addition, robust solvency requirements ensure there is sufficient capital to safeguard the insurers’ financial soundness under adverse conditions. The triple focus on adequacy of technical provisions, liquidity and safety of tied assets, and adequacy of capital forms the basis of FINMA’s supervision.

30. Supervision is particularly strong in quantitative analysis. FINMA has highly qualified staff. In the Life Supervision Department, 9 out of 12 supervisors are qualified actuaries. Many of the 21 staff in the Quantitative Risk Management Department are actuaries and mathematicians. There are actuaries in other departments as well. The Quantitative Risk Management Department performs detailed analysis of insurers’ SST reports and thus plays an important role in supporting supervisors in the life, non-life, health and reinsurer and group supervision departments.

31. Qualitative assessment of insurers’ operating environment is relatively new. To supplement the general requirements on duties of the board of directors specified in the civil corporate laws, FINMA issued guidance on corporate governance, risk management and internal controls in 2008. The Swiss Qualitative Assessment (SQA) was designed to provide an understanding of insurers’ governance and control environment. The first SQA was carried out in 2008, covering all insurers. The second SQA was carried out in 2012 and was risk-prioritized to cover groups and

insurers in the high-risk categories (representing over 80 percent of insurance premium). For the SQA various means are used to gather information and carry out analyses, including a questionnaire answered separately by key functions of the insurer, followed up with onsite visits to discuss findings and set out remedial actions if needed.

32. Increasing the intensity of onsite supervision will strengthen the qualitative assessment. FINMA adopts a risk-based approach to supervision. It has frequent contacts with insurers in high risk categories (mainly by size), particularly the insurance groups, through high-level meetings two times a year, monthly telephone calls with management, ad hoc information requests, and dialogues on routine supervisory matters. As a result FINMA's onsite inspections tend to be focused in scope and, compared to some jurisdictions, less frequent. In the first eight months of 2013, FINMA commenced eight inspections of solo entities and 12 inspections of insurance groups. (The numbers were 45 and six in 2012, respectively.) The main purpose of a FINMA inspection is either to verify a specific concern identified during offsite analysis, gain understanding of an observed emerging trend, or determine if the insurer has a weakness or is not complying in a specific area. There is a danger that FINMA may not be able to identify weaknesses in the insurer's operation without direct observation and verification through onsite inspections. FINMA should increase the frequency and scope of inspections to complement its strong offsite analysis.

33. FINMA introduced alleviation in the SST for 2013 to 2015. Consideration should be made if allowing for a lower capital requirement but maintaining the risk free curve as the discount curve would provide the same alleviation of the sector during the extreme low interest rate environment and at the same time maintain the SST framework free from distortions. FINMA should evaluate not relaxing or change the SST trigger points of intervention also while the measures remain in place to maintain supervisory action's comparability with the original SST framework.

Market key findings

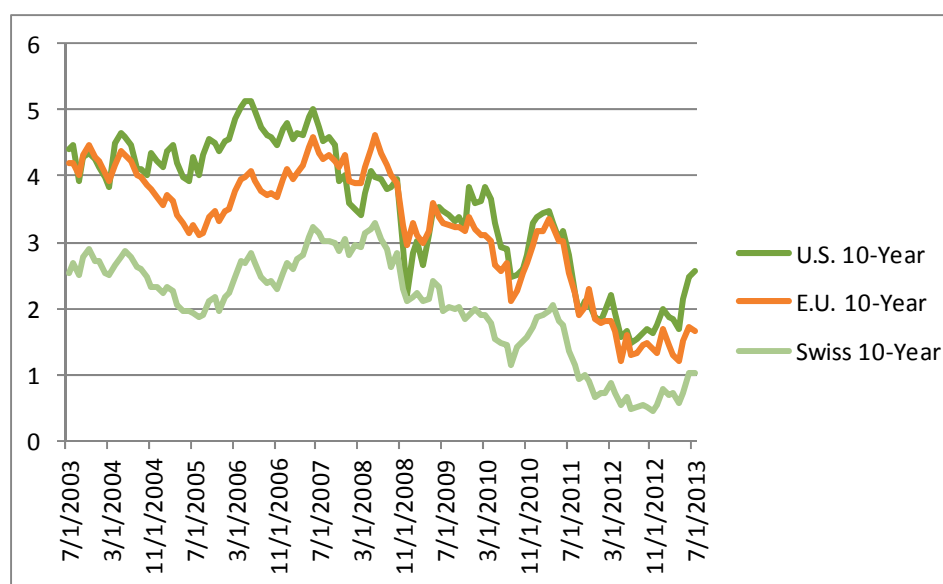
34. The Swiss insurance market having among the highest density and penetration has reached a level of saturation, challenging any further market growth. The insurance market shows a change in premium of two percent in the last five years. The life insurance sector has grown since 2008 by less than one percent and the nonlife market declined by five percent. The domestic business has been complemented with international business that makes up around 20 percent of the production.

35. The 2008 crisis has basically not affected the level of premium of the direct insurance business, but eroded the solvency position of life insurers. The insurance market was able to maintain the same level of premium in the last years, but profitability has declined and depleted the solvency position of the life insurance sector. Life insurance solvency measured under SST has been suffering and reached in 2011 an average level close to trigger intervention of 105 percent. In 2012 the average life SST ratio is up to 145 percent the use of the APLIEM from 2013 for the next three years will additionally increase the stated solvency ratio. However the SST calculated using the APLIEM will not correspond to the original SST methodology and FINMA will have to closely monitor

liquidity of the insurers due to the additional created capital and also avoid delaying necessary remedies.

36. The current persistent low interest rate environment requires a change in business strategy and adds strains to risk management in particular of life insurers. Insurers are facing important challenges related to asset liabilities mismatching; negative return spreads; managing the return to a high interest rate environment, in particular if brusque; managing credit deterioration in searching for yield; and containing lapses and low production in the current environment and for the event of a sudden inflationary environment. The strategy to transfer more risk to policyholders is probably not sustainable as it results in loss of attractiveness of the sector and lower demand for life insurance. The depressed goodwill value of the share prices appears to confirm the challenges that the sector is facing with shares trades very close to book value.

Figure 1. Switzerland: 10 Years Government Bonds Yields



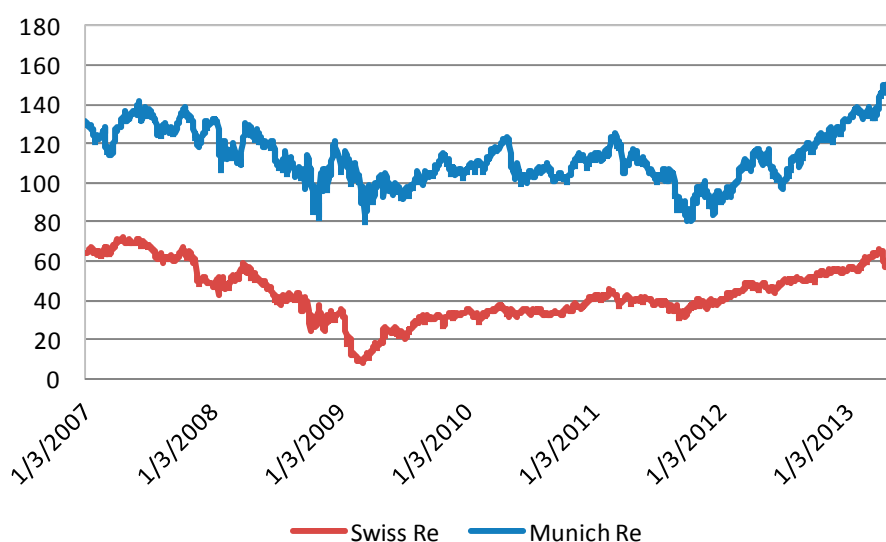
Source: Bloomberg.

37. The prevailing investment environment could be a source of vulnerability as demand for Swiss government debt exceeds by several multiples the existing offering. The long term character of the liabilities of life insurers and pension funds are better matched with the investment in government bonds. Thus, the demand for these instruments created by around CHF one trillion of assets managed by life insurers and pension funds is in disproportion to the CHF 80 billion outstanding federal government bonds. Further detailed analysis indicates that under SST the optimal investment is a risk free investment that matches the liability duration. The average duration of life insurers' liabilities are in the order of 15 years but the volume Swiss government bonds with that duration is CHF 15 billion. The cost of capital under SST to held equity investments can require high returns; thus leaving real estate as the main alternative for investments with the associated risk of contributing to the creation of a real estate bubble and increasing possibly liquidity issues.

38. The reinsurance market struggles to come to positive returns and increased growth.

The highly international business orientation of the reinsurance market in Switzerland (95 percent of premium is generated outside Switzerland) under a depressed global economy appears to be one of the reasons for the lack of growth in the reinsurance sector. The average return on equity over the last five years is low, around 2 percent. The international nature of this business makes it challenging to assess the profitability of the operating company of reinsurers at their place of domicile, given the common market use of intra-group retrocession to reflect profits in different jurisdictions. The analysis is additionally complicated in the case of those reinsurance groups whose major operating company is also a holding company. The share price performance of two major reinsurers, Swiss Re and Munich Re, is plotted in Figure 2. The latter illustrates important challenges in recent years for global reinsurers. It shows a stronger decline of Swiss Re during the financial crisis between 2007 and early 2009 which was due in part to higher non-insurance exposures. It also shows a more favourable situation for the German reinsurer with a strong home presence.

Figure 2. Switzerland: Share Value of The Top Two Reinsurers



Source: Bloomberg.

39. Compulsory accident and building insurance is largely provided through monopolistic public or quasi-public entities.

Mandatory insurance are present in several lines of business, for instance there are compulsory insurance in health, motor, fire and property, accident and second pillar pensions. Workmen's compensation is compulsory under the Federal Law on Accident Insurance. Coverage is provided partly by the Swiss Accident Insurance Office (SUVA) and partly by private insurers through group personal accident (PA) policies. Around 80 percent of the Swiss building construction is insured under the compulsory fire insurance by the cantonal building insurance companies. The government is recommended to consider mechanisms to ensure consistent effective supervision for all insurance and pension providers.

E. Preconditions for Effective Insurance Supervision

Sound and sustainable macroeconomic and financial sector policies

40. Switzerland has a well-established framework of fiscal, monetary and other macroeconomic policies. Federal Constitution requires that Federal expenditures be increased only if its financing is secured by additional receipts or corresponding cost-cutting, and tax reductions must be accompanied by corresponding spending cuts. At the cantonal level, 25 of 26 cantons have a debt break rule embedded in the Cantonal Constitutions that restricts the budgeting process. It publishes a debt issuance strategy and a program for debt issues. Since 2000, the SNB's monetary policy strategy consists of three elements: a definition of price stability, a medium-term inflation forecast and a target range for a reference interest rate. SNB publishes its monetary policy on a quarterly basis.

41. There is a comprehensive financial sector policy framework. Following the financial crisis, the too big to fail legislative revision for the regulation of systemically important banks has strengthened the stability of financial sector. Switzerland has already incorporated the requirements of the Basel III reform package into national legislation. The corresponding amendments to the Capital Adequacy Ordinance and the Banking Ordinance were passed by the Federal Council, approved by Parliament and entered into force on January 1, 2013.

A well-developed public and private infrastructure

42. The courts system and other legal infrastructure in Switzerland are highly developed and the independence of the judiciary is respected. The Federal Supreme Court is the highest level federal court. Subordinate courts include the Federal Criminal Court and the Federal Administrative Court. Judges to federal courts are elected by the Parliament for six-year terms. Judges are affiliated with political parties and are selected according to linguistic and regional criteria in approximate proportion to the level of party representation in the Parliament. In addition, each of the 26 cantons has its own courts

43. Swiss accounting and auditing standards are in line with international best practices. The Swiss Institute of Certified Accountants and Tax Consultants established in 1980 sets the Swiss accounting and auditing standards. There are seven firm members that include the four major global auditing firms and three local firms. The Swiss GAAP FER applies to companies with limited operations outside Switzerland. Listed companies may use IFRS, U.S. GAAP or Swiss GAAP FER. Private companies have the additional option of reporting according to Article 957 of civil Code of Obligations. The Institute has over 900 member companies and more than 5,000 individual members. There are approximately 40 lead auditors and 250 to 300 registered auditors for insurance and intermediaries work. The institute provides professional training to its members. The oversight responsibility over auditors is being transferred from FINMA to the Federal Audit Oversight Authority.

44. There is a large pool of actuaries available in Switzerland. Founded in 1905, the Swiss Association of Actuaries is the actuarial accreditation body in Switzerland. It uses the local universities to provide actuarial education. It has 1,300 members, 670 of whom are qualified actuaries. FINMA recognizes the actuarial qualification from a number of jurisdictions but the responsible actuary of an insurer must be a member of the Swiss Association of Actuaries. There is no shortage of actuaries in the Swiss market that is supported by actuaries from across Europe. The Association of Actuaries can issue actuarial standards that are not binding on FINMA.

45. A wide range of statistics is available to support insurance business and effective regulation. The Swiss Federal Statistical Office publishes information on the situation and developments in Switzerland in a multitude of fields. FINMA discloses publicly detailed report on the insurance market with electronic tables on individual insurers on a regular basis. FINMA also publishes policy papers on its supervisory philosophy and strategic plans. The insurance association publication complements FINMA's reporting with additional data on new business, number of employees in the industry as well as with different analysis and reports. The SNB completes the statistical information.

46. FINMA leverages on industry association to supplement its regulatory framework. The Swiss Insurance Association (SIA) is the organization representing the private insurance industry. Membership in SIA is voluntary. It has 72 members, comprising all 23 life insurers, 42 (out of 123) non-life insurers and seven (out of 27) reinsurers. Premium-wise, SIA members account for over 90 percent of private insurance premiums generated in the Swiss market. FINMA has delegated the responsibility of monitoring compliance with anti-money laundering laws of SIA members to SIA. To discharge its self-regulatory responsibility, SIA has set up an independent foundation whose CEO is a director on the board of SIA. The Swiss Insurance Brokers Association (SIBA) represents the largest 60 of the 1,300 corporate brokers in the market. SIBA members are bound by its Code of Conduct.

Mechanisms for consumer protection

47. Dedicated "tied assets" is the basis of assurance that promised payments under insurance policies will be made. Switzerland has a rigorous tied assets regime backing all claims liabilities for all direct insurers. There are stringent ring-fencing and liquidity requirements applied to assets earmarked as tied assets to make sure that they can be liquidated under Swiss law. In case of insolvency or liquidation, policyholders and insured persons have a priority claim against these restricted assets. There is no general policyholder protection fund other than the National Guarantee Fund for motor insurance.

Efficient financial markets

48. Swiss financial markets offer a broad range of instruments but the availability of Swiss government securities is limited to facilitate insurers' asset-liability management. The SIX Swiss Exchange is one of the largest in Europe in term of market capitalization (US\$1,233 billion at end-December 2012, with 268 listed companies). However, insurers' investment portfolio consists of less than 5 percent of equities. The long term character of the liabilities of life insurers and pension

funds are better matched with the investment in government bonds. Thus the demand for these instruments created by around CHF one trillion of assets managed by life insurers and pension funds is in disproportion to the CHF 80 billion outstanding federal government bonds. Switzerland has liquid money and bond markets, with a range of instruments and maturities and active markets in derivatives. Insurers also have access to investments issued outside Switzerland. The payment and securities settlement systems are overseen by the SNB. The operators of these systems are subject to prudential supervision by FINMA.

Table 14. Switzerland: Summary of Compliance with the ICPs

Insurance Core Principle	Level	Overall Comments
1. Objectives, Powers and Responsibilities of the Supervisor	O	<p>FINMASA designates FINMA as the consolidated financial market supervisor, with clearly defined objectives, responsibilities and powers. Article 7 of FINMASA requires FINAMA to take into account, among other things, cost of compliance and impact on market competitiveness in carrying out its supervisory activities. FINMA staff have consistent understanding that their primary responsibility is to protect consumers with secondary responsibility to ensure the proper functioning of financial markets as provided under Article 5 of the FINMASA. The issuance of the Guideline on Financial Market Regulation, and the articulation of its supervisory strategy and priority in its annual reports are good measures in clarifying FINMA's supervisory approach.</p> <p>There is a recent Parliamentary initiative to make market competitiveness of equal importance to consumer protection. If the initiative is successful, there could be potential tension between prudential objectives and market competitiveness.</p>
2. Supervisor	O	<p>FINMA is operationally independent, but the Federal Council is the authority on certain policy matters such as definition of insurance, classes of insurance, risk management, professional qualification for insurance practitioners, and disclosure of information to customers by intermediaries. It is recommended that FINMA should have the delegated authority over such matters.</p> <p>FINMA is accountable to the Parliament, by presenting its annual report to the Parliamentary Control Committees every year, addressing supervisory outcomes, issues and concerns. There are legal provisions in place to safeguard confidential information and protect FINMA personnel from civil and criminal liabilities when carrying out their duties in good faith.</p>

		<p>The internal audit function has been revised a year ago, a comprehensive framework has been since developed and several internal processes have been audited.</p>
3. Information Exchange and Confidentiality Requirements	O	<p>The statutory regulations enable FINMA to engage in comprehensive exchange of information for the purposes of administrative assistance, better supervision and international cooperation with due regard to safeguarding confidentiality. Strict laws in Switzerland protect information received from other supervisors.</p> <p>FINMA has appropriate resources and procedures to be able to provide effective and timely assistance to foreign counterparts.</p>
4. Licensing	LO	<p>Every insurer or reinsurer operating in Switzerland must be licensed by FINMA with the exception of (a) branches of foreign insurers conducting only reinsurance business, and (b) entities providing compulsory insurance under federal or cantonal laws. While it is not uncommon to exclude public entities providing mandatory coverage from supervision, FINMA should engage dialogues with cantonal supervisors to encourage the adoption of similarly prudential standards as for private insurers.</p> <p>FINMA does not have data on the volume of business conducted by unlicensed foreign reinsurers operating in Switzerland. However, it is widely acknowledged that one of such reinsurers has substantial business operation out of Switzerland. To avoid misunderstanding by market participants that such reinsurers are supervised by FINMA, FINMA should require the branches to be incorporated in Switzerland whereby subject to FINMA supervision when its size reaches a pre-determined level.</p> <p>The licensing process and requirements are specified in the ISA. The Insurance Division strives to achieve consistency in licensing decisions through the establishment of an Approval Committee consisting of heads of various departments and functions within the Insurance Division, and sharing of information across</p>

		banking, markets and insurance divisions. In assessing key individuals, FINMA assess the suitability of members of BOD and senior management. While the internal auditor and the actuary are explicitly mentioned in FINMA’s regulations, “control functions” are not defined in Swiss laws or supervisory procedures. (See ICP 5 for more discussion.)
5. Suitability of Persons	LO	<p>Suitability assessment is generally conducted for members of the board and senior management only, since “control functions” are not specified. Consequently, suitability of heads of risk management, compliance, internal audit and actuarial functions are not assessed unless they are members of the management board.</p> <p>The procedures to ensure continued suitability of key persons subsequent to initial licensing or new appointments of key persons can be improved. FINMA relies on Article 29 of FINMASA, which requires insurers to inform FINMA of any matters that may be of material significance for FINMA’s supervision of the insurer, for continued suitability. In the absence of guidance, however, the industry may not have consistent understanding that Article 29 reporting obligations include changes in circumstances materially adversely affecting the suitability of persons in key positions. FINMA should provide greater clarity to its expectation with regard to continuing suitability of key persons in control functions. Moreover, “control functions” should be defined to ensure consistency across companies.</p>
6. Changes in Control and Portfolio Transfers	O	<p>The ISA sets ownership and control thresholds, both above and below which notification to FINMA is required. FINMA may impose conditions or disallow the acquisition/disposition. In essence, the notification is a de facto approval requirement.</p> <p>Moreover, notification/approval is required of any person who may exert “significant influence” on the business activities of the insurer, regardless of his level of ownership of the insurer.</p>
7. Corporate Governance	O	The CG framework consists of requirements in corporate law, insurance ordinance and FINMA

		<p>circulars, as well as voluntary code of best practice for listed companies. FINMA monitors compliance and assesses quality of CG as part of its qualitative supervision. FINMA expects insurer's BOD to provide oversight in respect of the design and implementation of sound RM and ICS functions, basing on:</p> <ul style="list-style-type: none"> a) the BOD's non-transferable duty of oversight of management and of the company, including its organization and controls; b) the BOD's general duty of care; and c) the obligation to provide "Gewähr" - the assurance of proper business conduct. <p>For completeness and avoidance of doubt, it is recommended that Circular 2008/32 be amended to explicitly indicate that BOD has the oversight responsibility over RM and ICS.</p> <p>It is also recommended that Circular 2008/32 be amended to include the requirement for insurers to disclose their CG practices on par with the Swiss code of Best Practice for Corporate Governance (CCG), which is a voluntary code for listed companies.</p>
8. Risk Management and Internal Controls	LO	<p>ISA articulates the principle that insurers should have effective risk management and internal control systems. Circular 2008/32 provides details on the necessary elements of such systems. However, there is no requirement that there should be dedicated risk management and compliance functions. FINMA is currently assessing the need to provide additional clarity and specificity relating to RM and ICS. It is recommended that FINMA require the establishment of risk management and compliance function with exceptions based on size, nature and complexity of operation</p>
9. Supervisory Review and Reporting	LO	<p>FINMA's risk-based approach includes offsite analysis of financial information and SST reports, and onsite verification of issues identified through offsite review or observed trends in the market. FINMA leverages on external auditors to verify areas where there are clear regulatory requirements such as tied assets and technical provisions. FINMA also relies on external</p>

	<p>auditors to audit insurers in the low risk categories. FINMA is particularly strong in quantitative analysis. It has a number of actuaries and mathematicians on staff to conduct in-depth analysis of solvency and internal models.</p> <p>Onsite inspections typically focus on one area (such as derivative instruments, data security, adherence to business plan, reserving interest rate, and outsourcing) and are of short durations. At the time of this assessment, FINMA has commenced eight onsite inspections of solo entities, and 12 onsite inspections of the insurance groups in 2013. (The numbers of inspections in 2012 were 45 for solos and six for groups.) With the limited scope and duration of inspections, it is difficult for FINMA to gain a comprehensive view on the effective implementation of insurers' own policies and procedures and compliance with regulatory requirements.</p> <p>Onsite inspection may provide information that can supplement the analysis from offsite monitoring and provide the opportunity to verify information FINMA has received. Onsite inspection may also help detect problems that may not be apparent through offsite reviews. Important objectives in conducting an onsite inspection include verifying the implementation of the insurer's risk management processes and compliance with relevant insurance laws and regulations. This will help FINMA in identifying the strengths and weaknesses in the insurer's policies and procedures.</p> <p>FINMA's risk-based approach is to devote its resources to those with high market impact. While the failure of a smaller insurer may not have market-wide impact, it will affect policyholders. It is recommended that FINMA adopt a more intrusive approach to onsite supervision by increasing the frequency and scope of onsite inspection to strengthen the qualitative aspect of its supervision. If the recommendation is adopted, FINMA will need to increase its resources, in terms of number of staff and their level of experience.</p> <p>The key account manager concept is a good approach</p>
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		to coordinate the interaction with the supervised entity and to foster a holistic view based on inputs from specialists. To preserve institutional knowledge and to inject fresh perspectives from time to time, FINMA may wish to consider measures to strengthen the approach, for example through a periodic rotation of the key account managers and limiting the division chief role to quality control and assurance of the integrity of the process away from a key account manager function.
10. Preventive and Corrective Measures	O	FINMA, working with the criminal prosecutors, is empowered to take action against a person/entity who conducts insurance activities without the necessary license. FINMA's supervisory framework supports early intervention to minimize losses to policyholders. FINMA has adequate power to initiate timely and proportionate preventive and corrective measures where insurers do not adequately address supervisory concerns
11. Enforcement	O	<p>Legislations have given FINMA a wide enforcement power, except the power to impose monetary fines. There is an Enforcement Committee that meets weekly to ensure consistent and fair application of enforcement actions.</p> <p>By law, FINMA is obliged to report all criminal offences under the insurance laws to FDF for consideration for criminal proceedings. FINMA does not track the outcome of reported criminal breaches. In practice, FINMA relies on its supervisory power to restore compliance with the law; it rarely takes enforcement action. In 2012, FINMA took enforcement actions against 3 insurers, 2 board members of an insurer, one member of the executive management of an insurer, and 3 insurance intermediaries.</p> <p>For offences that are administrative in nature, such as the infringements listed under Article 86 of the ISA, FINMA should be given the power to impose administrative fines. It is recommended that Article 86 of ISA be amended to de-criminalize the offences and delegate the responsibility of imposing administrative fines to FINMA.</p>
12. Winding-up and Exit from the Market	O	There are extensive provisions in the legislation for

		<p>FINMA to manage an insurer's exit from the market in an orderly manner. These also provide for policyholders to rank second only to liquidator. The tied assets regime is a robust tool in ensuring policyholder protection.</p>
<p>13. Reinsurance and Other Forms of Risk Transfer</p>	<p>LO</p>	<p>The supervision of reinsurers is in general in line with the supervision of direct insurers, while considering the specific business models of reinsurers. From the perspective of ceded reinsurance of primary insurers, it is to be noted that Switzerland retains tied assets requirements. These include limited allowances and require the monitoring of reinsurance recoverables.</p> <p>While from the perspective of ceded reinsurance of reinsurers there are no tied assets requirements, there are general investment principles and specific limits of asset categories which apply. These help protect against the weakening of the asset quality of reinsurers.</p> <p>The ability for FINMA to have legal reach to the assets in case of liquidation is particularly relevant in its role as home supervisor given the current ability of reinsurers to operate in foreign jurisdictions without local capital requirements. Consideration should be made to extend requirements to reinsurers' assets to further strengthen FINMA's ability to have access to them in case of liquidation. It is recognized that FINMA has already begun dialogues with the largest groups on recovery and resolutions plans and is using its active involvement at the level of IAIS and FSB in these areas to identify best practices in these areas.</p> <p>All reinsurers established in Switzerland are supervised by FINMA, although branches of companies headquartered outside Switzerland and conducting only reinsurance business are exempted from supervision. The scope of relevant Swiss law on this point (ISA Art. 2 (2)) is transparent and known in the marketplace; in addition, FINMA is in close contact with their home supervisors where needed. However, given the relevance of reinsurance for the stability of the insurers abroad, it may be helpful for FINMA to</p>

	<p>more actively communicate its approach in regard of the supervision of branches of foreign reinsurers. A more conservative approach would be to include the supervision of that reinsurance activity.</p> <p>The use of side letters affects the integrity and transparency of reinsurance treaties but its use is not regulated. The transparency of the contracts needs to be enhanced by the requirement on the integrity of the contract (banning the use of side letters could be one way to observe this transparency standard).</p> <p>Concentration of reinsurance in a given reinsurer is supervised during the SST for the insurers. In addition, where reinsurance recoverables are recognized in tied-assets, insurers are required to report major reinsurer counterparties individually by their share and with information on their country and rating. Reinsurers for their part have to report their top 20 single retrocessionaires besides the respective lines of business, geographic area and lines of business of ceded reinsurance.</p> <p>All of the above allow FINMA to monitor reinsurance concentrations, including any major exposure to a single reinsurer, and identify any inappropriate practices or trends. Where this is the case FINMA requires the matter to be addressed.</p> <p>For purpose of systemic risk supervision, FINMA is recommended to also monitor market shares in the reinsurance sector by type of reinsurer, like rating and geographic origin; and also monitor exposures to single reinsurer on critical large risks.</p> <p>Regulation requires insurers to analyze the effects of reinsurance on the balance sheet of insurers.</p> <p>With respect to risk transfer, it is the responsibility of the appointed actuary to ensure correct risk-transfer treatment, which is part of the business plan. In the case of major Swiss insurers which are part of a listed company, their reporting uses U.S. GAAP or IFRS.</p>
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	<p>These companies are thus required to apply certain risk-transfer tests. These are applied also in statutory accounting, provided it does not result in any conflict with the statutory accounting rules. However risk transfer definitions vary in accounting systems. Under one system uncertainty in the time of payment would be sufficient to have risk transfer in place. In another accounting system, in addition underwriting risk would also need to be transferred in a contract for it to qualify as a reinsurance contract. U.S.-GAAP and IFRS differ on this perspective for instance.</p> <p>FINMA should consider issuing specific rules on risk transfer to bring certainty as to what constitutes a valid reinsurance transaction.</p> <p>FINMA supervises at time of licensing that reinsurance contracts are in place and that new contracts and major changes to contracts are reported. These are subject to FINMA's ongoing supervision. In addition, FINMA has the right to review any contract at any time, not only when there are changes. With most reinsurers involved in traditional reinsurance business, the contractual relationships tend to be long-term where FINMA is well acquainted with the material arrangements. To fully observe the standard 13.4 FINMA should explicitly require that parties to reinsurance contracts promptly document the principal economic and coverage terms and conditions agreed upon by the parties and finalize the formal reinsurance contract within a given reasonable period of time</p>
<p>14. Valuation</p>	<p>O Regulation concerning market-consistent valuation in the SST is independent of international accounting standards.</p> <p>FINMA sets the valuation requirements for assets and liabilities to be applied for solvency purposes. Under the Swiss Solvency Test (SST)) positions are valued on a market consistent basis. The insurers own credit risk cannot be taken into account in the valuation of its liabilities and to provide a full economic picture, the SST includes positions which would be off-balance in</p>

	<p>accounting standards. The use of models for the valuation of liabilities is subject to strict requirements to warrant the economic valuation. For instance, when stochastic techniques are applied for the valuation of life insurance liabilities, the underlying economic scenarios have to be calibrated market consistently, and a consistent approach in assessing assets and liabilities has to be very carefully considered.</p> <p>Most assets are valued at market and the concept of the discounted best estimate and the market value margin (MVM) applies with regard to liabilities and technical provisions.</p> <p>For discounting liabilities, risk-free yield curves have to be used and FINMA makes counterparty risk-free yield curves available in the most commonly used currencies (CHF, EUR, USD, GBP, JPY) as per 1 January and 1 July of every year. Where other risk-free yield curves are required, the insurer is responsible for calculating them.</p> <p>Some elements distorting the full economic valuation of assets and liabilities are however present in the regulation:</p> <ul style="list-style-type: none"> • FINMA allows for new business stemming from Swiss group life cash flows beyond the contractual obligation, but considers the impact of new business in capital requirements. • The valuation of the statutory technical reserves for the purpose of the tied assets coverage requirement (but not for the SST) is currently done using the interest rates produced by the investment portfolios under stress and subject to prudential assumptions of individual companies as the discount rates that are in the order of 4 to 2.5 percent. Given that the tied assets regime is the main protection for policyholders in absence of a guarantee scheme, a conservative approach is recommend defining a forward looking maximum discount interest rate for the valuation of liabilities.
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		<p>As a result of the low interest rate environment affecting the insurance sector FINMA has introduced temporary measures that reduce the solvency requirements for insurers, while these measures have been introduced in line with the ICP requirements and with sufficient safeguards, to maintain the level of protection for policyholder as intended by the SST framework, the temporary measures should be seen as temporary and reverted as planned.</p> <p>The use of an additional margin (MVM) to the best estimate in valuating liabilities is used under SST and the value of the MVM is linked to the cost of regulatory capital, currently set at 6 percent. While it can be argued that there is a relation between the required risk capital and hence of the cost of maintaining such capital and the uncertainty of the future cash flows, such relationship is certainly difficult to determine. The cost of capital approach for the MVM is given as an example in ICP 14.7.5 and ICP 14.9.1. Moreover the cost of maintaining such capital has not been changed since the design of SST.</p> <p>FINMA should consider regular updates of the cost of capital rate of currently 6 percent.</p>
<p>15. Investment</p>	<p>O</p>	<p>The investment activities of insurers are regulated in a manner to properly address the risks faced by insurers.</p> <p>Swiss domiciled (re)insurance companies must submit their investment guidelines for approval. The assessment is also based on the prudent investor rule and considers common practice of modern portfolio management.</p> <p>Specially designated assets are required for backing up the insurance liabilities. These tied assets are subject to limits and rules to provide security, liquidity, diversification and legal access in case of bankruptcy. More complex types of assets are subject to stricter limits, including prohibitions, detailed reporting and full understanding of their inherent risks.</p>

		Asset-Liability mismatching as well as permissible concentration risk are penalized through capital surcharges. Use of derivatives is restricted for hedging purposes and portfolio optimization; further all positions need to be fully covered.
16. Enterprise Risk Management for Solvency Purposes	O	<p>FINMA has established well documented, detailed, comprehensive and forward looking requirements for enterprise risk management for the supervised entities that address all relevant and material risks that could affect their solvency. These requirements are part of our insurance law and are further defined through circulars and supervisory practice and FINMA monitors their implementation by insurers and insurance groups. The BoD is ultimate responsible for the implementation of these requirements and the use of the systems in the day to day business decisions. While ORSA is not a formal separate requirement, through the annual risk, capital planning, liquidity and the SST, insurers are required to consider current and emerging risks that could affect the ability to meet the SST and the models and scenarios used to determine solvency have to include those risks. In addition, qualitative scenarios are used for better understanding and planning future capital needs.</p> <p>The SQA complement the SST on checking the quality of the risk management systems of the entities.</p> <p>In addition to management and the risk office, also the responsible actuary plays an important role in the documentation process. The responsible actuary report presents the current status as well as possible developments from an actuarial perspective, in particular actuarial developments which may endanger the financial condition of the company. But this report is only available to the supervisory authority on request. FINMA is recommended to require the responsible actuarial report on a regular basis.</p>
17. Capital Adequacy	O	The solvency regime set up by FINMA is risk sensitive, comprehensive having due regard of all risks insurers at the solo and group level are taking and provides appropriate degrees for supervisory intervention.

	<p>The use and approval of models is well controlled and sophisticated.</p> <p>The capital requirements are transparent, objective and in line with the level of risk run by the institution. The permissible capital resources allow for the absorbance of unforeseen losses, under both, going and gone concern, with the exception when the APLIEMs are used. There, the additional capital resource created by the difference in the discounted liabilities does not have the required loss absorbance property, but is treated as a temporary measure.</p> <p>Consideration should be made if allowing for a lower capital requirement but maintaining the risk free curve as the discount curve would provide the same alleviation of the sector during the extreme low interest rate environment and at the same time maintain the SST framework free from distortions.</p> <p>Under the temporary measures, FINMA allows for relaxing the supervisory intervention ladder and grants the companies longer deadlines to again reach the target threshold values. This approach will reduce the effectiveness of supervision and deviating further the supervisory actions from the original SST framework. While in line with the ICP requirements, FINMA should consider not relaxing or changing the SST trigger points of intervention also while the measures remain in place to maintain supervisory action's comparability with the original SST framework.</p> <p>The SST does not quantify operational risk and only certain aspects of this risk are directly covered. FINMA is advised to consider incorporating the quantification of operational risk into the SST.</p> <p>The SST standard model for life insurers should be more actively used as a benchmark. The discussions of deviations from a baseline can be a useful tool to check on the effectiveness and of the internal model to replicate the insurers' risks. FINMA is recommended to enhance its scrutiny of the internal models of life</p>
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		<p>insurers by verifying outcomes with the standard model.</p> <p>The approval of internal modes creates an important legal liability for FINMA. Considerations should be made to allocate the legal approval responsibility of the internal model to the board of the entities subject to FINMA's objection rights. FINMA should maintain the strong level of supervisory checks on the internal models, but consideration should be made to transfer the legal burden created by an approval to the board the supervised entities.</p> <p>Going forward, concerning the model approval process, further development of the insurance risk sensitivity methodology is encouraged when assessing internal models using portfolio replication methods and onsite verification of the appropriateness of the stochastic scenarios used in internal models is recommended.</p>
<p>18. Intermediaries</p>	<p>PO</p>	<p>Supervision of insurance intermediaries is through the mandatory registration of independent intermediaries and voluntary registration of non-independent intermediaries. Through FDF, FINMA takes action against unregistered intermediaries when it becomes aware of their illegal activities.</p> <p>Since registration by non-independent intermediaries is voluntary (this includes brokers who are deemed not-independent based on the source of income test), the register is only a partial roster of intermediaries practising in Switzerland. However, FINMA observes that increasingly insurers require their tied agents to be registered, and that insurers are reluctant to deal with brokers who are not registered.</p> <p>Registration requirements include professional competence and personal attributes. FINMA relies mainly on registrants' notification to ensure continuing accuracy of information kept in the register. There are no on-going reporting requirements for intermediaries. Supervision of tied agents is indirectly through insurers. Supervision of brokers is minimal.</p>

		<p>It is recommended that FINMA consider the following:</p> <ul style="list-style-type: none"> • Require registration of all intermediaries, to eliminate the current gap in the register. For tied agents, make the insurers responsible for ensuring the data is kept up to date. • Broaden the on-going supervision of brokers to include offsite review (financial statements and auditor’s opinion where applicable, ownership structure), and onsite inspection (corporate governance and internal controls, basis of placing business, complaint handling). • Strengthen indirect supervision of agents by including in the on-going supervisory review of insurers how they control the behaviour of their agents and the disciplinary action against errant agents. • Require independent intermediaries to put in place safeguards in handling client monies, and assess these safeguards during onsite inspections. • Require disclosure of intermediaries’ financial interest in the transaction where a potential conflict exists. <p>Apply appropriate CG standard to legal entity intermediaries.</p>
<p>19. Conduct of Business</p>	<p>PO</p>	<p>Swiss laws clearly stipulate the intention to protect policyholders and entrust FINMA to intervene on behalf of the policyholders and their beneficiaries. Life insurers have ongoing duties to disclose certain information to policyholders, including investment performance and surrender values. However, other than as indicated, FINMA has yet to articulate additional specific rules on business conduct. Without additional explicit rules, it is difficult to have consistent implementation of the expectation of treating customer fairly. Recognizing the shortcomings, FINMA has taken steps to introduce the FFSA to address the following key areas:</p> <ul style="list-style-type: none"> • documentation of products characteristics; • selling practice: implement “Know Your Customer”, review of appropriateness and suitability of products, documentation and accountability,

		<p>disclosure of third-party remuneration;</p> <ul style="list-style-type: none"> • training of intermediaries who provide advice to ensure they are proficient of knowledge on an continuing basis; and • reversing the burden of proof in cases of mis-selling. <p>It is recommended that FINMA press on with the legislative effort to improve policyholder protection, particularly fair treatment of customers, after sales disclosure, avoidance of conflict of interest by intermediaries, and timely payment of claims.</p>
20. Public Disclosure	PO	<p>The information published by the insurers and by FINMA does not provide sufficient details on the insurer's:</p> <ul style="list-style-type: none"> • policies and processes for managing capital; • investment objectives, processes and sensitivity to market variables; • technical provisions by appropriate segment, the rationale for the choice of discount rates, and description of the method used to determine technical provisions; • information on ERM and ALM; • financial performance: earnings analysis, claims statistics including claims development, pricing adequacy, information on returns on investment assets and components of such returns; • nature of risk, reinsurance and other risk transfer arrangement, risk concentration; and • nature of its business, key products, the external environment in which it operates, and its business objectives and the strategies in place to achieve them. <p>It is noted that FINMA has started a review of the possibility of expanding public disclosure requirements in 2012, taking into account international standards and practices. It is recommended that FINMA completes its review and institute the necessary regulatory changes to be more in line with international standards.</p>
21. Countering Fraud in Insurance	LO	There is an established legal framework enabling

		<p>criminal authorities to investigate and apply sanctions in cases of insurance frauds. Fraud prevention is included in FINMA's on-going supervisory process, and the SQA. The recent SQA II has made a number of insightful observations relating to insurers' fraud (both external and internal) prevention controls.</p> <p>There are no explicit anti-fraud requirements. While FINMA includes fraud prevention in its on-going review of an insurer's risk management and compliance procedures, the source of information on insurer's fraud prevention practice appears to be limited to the ad hoc survey and SQA II. The survey is ad hoc and on a sampling basis. SQA is done pursuant to a time cycle and covers groups and the insurers in the highest risk categories. To ensure a consistent standard of fraud prevention in the insurance industry, FINMA should issue anti-fraud guidance to insurers and intermediaries, clearly stating FINMA's expectation with respect to anti-fraud policy, procedures and controls in place to deter, detect, prevent, report and remedy frauds. FINMA should include insurers' anti-fraud procedures in its offsite review and require insurers to report fraud cases to FINMA as part of FINMA's assessment of the effectiveness of insurer's anti-fraud procedures.</p> <p>It is recommended that FINMA consider the risk of fraud by intermediary in relation to misrepresentation of insurance cover to a customer in its current review of policyholder protection. (See ICP 19).</p>
<p>22. Anti-Money Laundering and Combating the Financing of Terrorism</p>	<p>O</p>	<p>FINMA is the designated competent authority for AML matters relating to financial institutions. MROS is the financial intelligence unit responsible for receiving and analysing suspicious transaction reports. There is a mechanism in place for FINMA to cooperate, coordinate and exchange information with MRO and other relevant law enforcement agencies.</p> <p>FINMA delegates the AML/CFT supervisory responsibility to recognized SRO. AML/CFT rules issued by SROs with approval from FINMA are binding on members. FINMA assesses the effectiveness of SROs on an annual basis</p>

23. Group-wide Supervision	O	<p>FINMA has a clear and transparent approach to identifying entities subject to its group-wide supervision. The scope of the group covers all entities, whether regulated or not, within the group. FINMA's group supervision is complementary to solo supervision, based on coordinated cooperation with solo supervisors and the involvement of specialist functions (such as SST, SQA).</p>
24. Macroprudential Surveillance and Insurance Supervision	LO	<p>FINMA has established periodic monitoring and analysis of market and financial developments and other environmental factors that may impact insurers and insurance markets. Information capture in the Risikobarometer process is used to assessing the possible impact of the identified risks and to implement measures effective in improving the resilience of the financial sector. The impact analysis is shared with FINMA's executive board and is an internal document. Also the recently developed tools, the Business Indicators Cockpit and a Group Indicators Cockpit allow monitoring market trends and identifying potential risk and adverse market developments. The Group Indicators Cockpit is analyzed on a semi-annual basis. Reports are used in the preparation of risk rating decisions of insurers, as well as an early warning tool.</p> <p>The historical financial market stress scenarios required under SST are used to assess resilience of the sector to financial crisis; however there are no clear requirements to consider feedback loops and spillover effects.</p> <p>The D-SII designation process in Switzerland has excluded insurers. However FINMA's highest risk rated insurers are subject to intense supervision.</p> <p>Notwithstanding the absence of a Swiss insurer in the FSB G-SIIs list, the strong participation of FINMA at the FSC IAIS committee continues and, in preparation of a possible G-SII designation of an Swiss insurer or reinsurer, FINMA has implemented a FINMA Insurance Bankruptcy Ordinance (IBO) and is further drafting regulation to comply with the FSB recommendations applicable to G-SIIs.</p>

		<p>The existing of current tools used by FINMA to identify systemic risk, including shocks, interconnectedness and feedback effects; need to be developed and implemented into a comprehensive surveillance framework that ultimately will reduce the likelihood of systemic risk and mitigate spillover effects within the financial system and into the real economy.</p>
<p>25. Supervisory Cooperation and Coordination</p>	<p>O</p>	<p>FINMA has the authority to enter information and coordination agreements with foreign authorities responsible for financial market supervision. FINMA is signatory to various MoUs that allow for smooth information sharing and coordination in supervisory matters.</p> <p>FINMA has a vast experience in organizing and effectively running colleges. It has created colleges for the relevant Swiss insurance groups and it also participates in several international colleges that are relevant for the Swiss policyholders as the host supervisor.</p> <p>Notwithstanding being the home supervisor it takes the pragmatic approach in the determination of the group supervisor to be the national authority where the decision management of the group is located.</p> <p>To enhance the information exchange, FINMA is recommended to develop for their colleges a secure information exchange platform</p>
<p>26. Cross-border Cooperation and Coordination on Crisis Management</p>	<p>O</p>	<p>For colleges lead by FINMA emergency plans compliant with the standards of this principle have been developed. The emergency plans are regularly tested and improved.</p> <p>Using as a guidance the recovery and resolution plans developed for banks, FINMA has requested and discussed resolution plans for the three largest insurers groups. These plans have already produced concrete actions of the groups toward improving the speed of reaction to serious emergency situations that included dialogue with foreign supervisors applicable during such situations.</p> <p>Going forward, FINMA is recommended to enter agreements with the relevant foreign supervisors with</p>

		<p>the colleges for the situations that would require resolution of the supervised entity.</p> <p>To enhance the resolution of complex groups, FINMA is recommended to acquire the power to act as the liquidator also of non regulated entities belonging to the insurance group.</p>
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Table 15. Switzerland: Summary of Observance Level

Observed (O)	16
Largely observed (LO)	7
Partly observed (PO)	3
Not observed (NO)	0
Total	26

Table 16. Switzerland: Recommendations to Improve Observance of the ICPs

Insurance Core Principle	Recommendations
1. Objectives, Powers and Responsibilities of the Supervisor	None
2. Supervisor	<p>It is recommended that FINMA should have the delegated authority over matters of operational relevance such as definition of insurance, classes of insurance, risk management, professional qualification for insurance practitioners, and disclosure of information to customers by intermediaries.</p> <p>While FINMA continues to integrate the supervision process in among the different financial sectors, the effective use of FINMA staff in insurance supervision should be maintained and the use of external auditors limited to checking compliance with clearly defined guidelines that require minimal or no supervisory judgment.</p>
3. Information Exchange and Confidentiality Requirements	None
4. Licensing	It is recommended that FINMA should require branches to be incorporated in Switzerland and to be subject to FINMA supervision when their size reaches a pre-determined level.
5. Suitability of Persons	<p>FINMA should provide greater clarity as to its requirements with regard to the continuing suitability of key persons in control functions.</p> <p>The control functions should be defined to ensure consistency across companies.</p>
6. Changes in Control and Portfolio Transfers	None
7. Corporate Governance	<p>It is recommended that Circular 2008/32 be amended to indicate explicitly that the BOD has the oversight responsibility over risk management and internal controls for the avoidance of doubt.</p> <p>It is also recommended that Circular 2008/32 be amended to include the requirement for insurers to disclose their CG practices on a par with CCG (the voluntary code for listed companies).</p>

8. Risk Management and Internal Controls	It is recommended that FINMA requires explicitly the establishment of risk management and compliance functions in companies while recognizing exceptions based on the size, nature and complexity of the operations.
9. Supervisory Review and Reporting	<p>It is recommended that FINMA increase the intensity of onsite supervision to strengthen the qualitative aspect of its supervision by raising the frequency and scope of onsite inspection. This will require that FINMA increase its resources, in terms of number of staff and their level of experience.</p> <p>FINMA may wish to consider measures to strengthen the key account manager approach, to preserve institutional knowledge and to inject fresh perspectives from time to time; for example, a periodic rotation of the key account manager and limiting the role of the division chief to quality control and assurance of the integrity of the process.</p>
10. Preventive and Corrective Measures	None
11. Enforcement	For offences that are administrative in nature, such as the infringements listed under Article 86 of the ISA, FINMA should be given the power to impose administrative fines. It is recommended that Article 86 of ISA be amended to decriminalize the offences and delegate the responsibility of imposing administrative fines to FINMA.
12. Winding-up and Exit from the Market	None
13. Reinsurance and Other Forms of Risk Transfer	<p>Consideration should be given to strengthening further FINMA's access to reinsurers' assets in case of liquidation.</p> <p>To enhance the transparency of reinsurance treaties, FINMA may consider introducing a mandatory treaty clause stating the completeness of the reinsurance treaty.</p> <p>FINMA should consider issuing specific rules on risk transfer to bring additional certainty as to what constitutes a valid reinsurance transaction.</p> <p>FINMA should consider additional steps to increase insurers' retention of adequate documents on the agreed terms and conditions of reinsurance contracts and have them formalized over a reasonable period of time.</p> <p>For systemic risk monitoring purposes, FINMA is recommended to further monitor concentration by type of reinsurer, including rating and geographic origin; and also monitor exposure to single reinsurer on critical single large risks.</p>
14. Valuation	Given that the tied assets regime is the main protection for policyholders in absence of a guarantee scheme, consideration for introducing a conservative approach defining a forward looking maximum discount interest rate for the mathematical reserves is recommended.

	<p>To maintain the level of protection for policyholder as intended by the SST framework, it is recommended to remove the temporary measures as planned in 2016.</p> <p>FINMA should consider regular updates of the cost of capital rate of currently 6 percent</p>
15. Investment	None
16. Enterprise Risk Management for Solvency Purposes	FINMA is recommended to require the responsible actuarial report on a regular basis.
17. Capital Adequacy	<p>FINMA is recommended to promote the use of the standard model for life insurers and use it to enhance its scrutiny as an additional checking tool of the internal models.</p> <p>FINMA is advised to consider incorporating the quantification of operational risk into the SST.</p> <p>FINMA should maintain the strong level of supervisory checks on the internal models, but consideration should be made to transfer the legal burden created by an approval to the board the supervised entities.</p> <p>Concerning the model approval process, further development of the insurance risk sensitivity methodology is encouraged when assessing internal models using portfolio replication methods and onsite verification of the appropriateness of the stochastic scenarios used in internal models is recommended.</p>
18. Intermediaries	<p>It is recommended that FINMA consider the following:</p> <ul style="list-style-type: none"> • Require registration of all intermediaries, to eliminate the current gap in the register. For tied agents, make the insurers responsible for ensuring the data is kept up to date. • Broaden the on-going supervision of brokers to include offsite review (financial statements and auditor’s opinion where applicable, ownership structure), and onsite inspection (corporate governance and internal controls, basis of placing business, complaint handling). • Strengthen indirect supervision of agents by including in the on-going supervisory review of insurers how they control the behavior of their agents and the disciplinary action against errant agents. • Require independent intermediaries to put in place safeguards in handling client monies, and assess these safeguards during onsite inspections. • Require disclosure of intermediaries’ financial interest in the transaction where a potential conflict exists. • Apply appropriate CG standard to legal entity intermediaries.

19. Conduct of Business	<p>There is existing legal basis in this area and new legislation is being introduced to address the following key areas:</p> <ul style="list-style-type: none"> • Documentation of products characteristics; • Selling practice: implement “Know Your Customer”, review of appropriateness and suitability of products, documentation and accountability, disclosure of third-party remuneration; • Training of intermediaries who provide advice to ensure they are proficient of knowledge on an continuing basis; • Reversing the burden of proof in cases of mis-selling. <p>It is recommended that FINMA press on with the legislative effort to improve policyholder protection, particularly fair treatment of customers, after sales disclosure, avoidance of conflict of interest by intermediaries, and timely payment of claims. In addition, it is recommended that FINMA issue rules on business conduct.</p>
20. Public Disclosure	<p>It is recommended that FINMA completes its review and institute the necessary regulatory changes to be more in line with international standards and include for instance sufficient details on the insurer’s:</p> <ul style="list-style-type: none"> • policies and processes for managing capital; • investment objectives, processes and sensitivity to market variables; • technical provisions by appropriate segment, the rationale for the choice of discount rates, and description of the method used to determine technical provisions; • information on ERM and ALM; • financial performance: earnings analysis, claims statistics including claims development, pricing adequacy, information on returns on investment assets and components of such returns; • nature of risk, reinsurance and other risk transfer arrangement, risk concentration; and • nature of its business, key products, the external environment in which it operates, and its business objectives and the strategies in place to achieve them.
21. Countering Fraud in Insurance	<p>To ensure a consistent standard of fraud prevention in the insurance industry, FINMA should issue anti-fraud guidance to insurers and intermediaries, clearly stating FINMA’s expectation with respect to anti-fraud policy, procedures and controls in place to deter, detect, prevent, report and remedy frauds.</p> <p>FINMA should include insurers’ anti-fraud procedures in its offsite review and require insurers to report fraud cases to FINMA as part of FINMA’s assessment of the effectiveness of insurer’s anti-fraud procedures.</p>

	It is recommended that FINMA consider the risk of fraud by intermediary in relation to misrepresentation of insurance cover to a customer in its current review of policyholder protection. (See ICP 19).
22. Anti-Money Laundering and Combating the Financing of Terrorism	None
23. Group-wide Supervision	None
24. Macroprudential Surveillance and Insurance Supervision	For the historical financial market stress scenarios FINMA should introduce feedback loops and spillover effects. The tools currently used by FINMA to identify systemic risk need to be developed and implemented into a comprehensive surveillance framework that ultimately will reduce the likelihood of systemic risk and mitigate spillover effects within the financial system and into the real economy.
25. Supervisory Cooperation and Coordination	To enhance the information exchange, FINMA is recommended to develop for their colleges a secure information exchange platform.
26. Cross-border Cooperation and Coordination on Crisis Management	FINMA is recommended to enter agreements with the relevant foreign supervisors on each party's obligations in the situations that would require resolution of the supervised entity. To enhance the resolution of complex groups, FINMA is recommended to acquire the power to act as the liquidator also of non regulated entities belonging to the insurance group.

F. Authorities' Responses to the Assessment

49. The Swiss authorities would like to thank the IMF for the thorough and professional assessment of Switzerland's observance of the Insurance Core Principles of the International Association of Insurance Supervisors.

50. We are very pleased that the assessment recognizes the considerable work and progress Switzerland has made in these areas. While we appreciate the recognition on the regulatory side, we believe our efforts have been as strong on the supervisory side.

51. We were also pleased to see that in the most critical areas the assessment shows Switzerland in observance, and that our practices in the solvency area are recognized as market leading.

52. We acknowledge there are areas requiring further improvement. In some of these areas we had already begun actions prior to the assessment. In others we will be working on action plans as part of our commitment to continuous improvement. The IMF observations will be very useful in this regard.

53. In earlier exchanges with the IMF we shared observations on where we believe the assessment did not take sufficiently into account how Switzerland meets the spirit and substance of certain aspects of the ICP. Here we would like to summarize only two points.

Licensing

54. We strongly believe Switzerland meets the necessary threshold of observance of ICP 4 as a whole but also in respect of each of its components. Thus our review of our practices against each of the standards under ICP 4 shows consistency therewith. As we demonstrated, we have a clear and thorough licensing process, which has been improved further recently, including with the introduction of an approvals committee. We also interact with other supervisors where needed during the licensing review process to ensure all relevant considerations are taken into account. We do not deem the observations of the IMF—including regarding the current exemption for branches of foreign reinsurers which is already taken into account under ICP 13 — as sufficient for lowering our rating from “Observed” to “Largely Observed”.

Reinsurance

55. Switzerland effectively regulates and supervises reinsurers in a manner that we believe is consistent with the requirements of ICP 13. In earlier exchanges with the IMF, we indicated how we believe we meet ICP 13, including in respect of matters involving 1) treaties and documentation, 2) risk transfer, and 3) monitoring and acting on inappropriate risk concentrations. The fact that we currently do not supervise branches of foreign insurers is transparent in our law and supervision, though we will be considering ways to make this even better known publicly. Further, as already communicated, we will be considering changes to our regulation to cover branches of foreign insurers.

56. The Swiss authorities have already launched a process to systematically evaluate all IMF recommendations in order to assess in detail how, within which timeframe and to what extent the recommendations can be considered for implementation.

DETAILED ASSESSMENTS

Table 17. Switzerland: Detailed Assessment of Observance of the ICPs

ICP 1	Objectives, Powers and Responsibilities of the Supervisor The authority (or authorities) responsible for insurance supervision and the objectives of insurance supervision are clearly defined.
Description	<p>The primary legislation that defines FINMA's authority and responsibility in the area of insurance supervision is the Financial Market Supervision Act (FINMASA) and the Insurance Supervision Act (ISA).</p> <p>FINMA was established in 2009 pursuant to FINMASA as an independent consolidated financial market supervisor, overseeing the following legislation:</p> <ul style="list-style-type: none"> a) Banking Act of November 8, 1934; b) Stock Market Act of March 24, 1995; c) Insurance Supervision Act of December 17, 2004; d) Mortgage Bond Act of June 25, 1930; e) Collective Investment Act of June 23, 2006; f) Federal Act on Contracts of Insurance of April 2, 1908; and g) Anti-Money Laundering Act of October 10, 1997; <p>FINMA's supervisory ambit includes persons and entities covered by the above sectorial financial markets legislations, as well as auditors. Not included in FINMA's ambit are private pensions and compulsory basic level of insurance such as accident, health and fire provided by public agencies. However, additional insurance coverage to supplement the compulsory insurance provided by private insurers is subject to FINMA's supervision.</p> <p>FINMA's objective is to protect creditors, investors and insured persons, and to ensure the proper functioning of the financial market, whereby contributes to the sustaining the reputation and competitiveness of the Swiss financial center. In exercises its supervisory powers, FINMA is required to take account of:</p> <ul style="list-style-type: none"> a) the costs that the supervised persons and entities incur due to regulation; b) the effect that regulation has on competition, innovative ability and the international competitiveness of Switzerland's financial center; c) the various business activities and risks incurred by the supervised persons and entities; and d) the international minimum standards. <p>Swiss insurance legislation is principle-based. Federal Council (i.e., the government) is empowered to issue ordinances to give specificities of the legislative intent. FINMA is empowered to issue ordinances if the authority to do so is provided in the legislation or</p>

	<p>delegated by the Federal Council. Examples of ordinances issued by FINMA include the Insurance Supervision Ordinance (ISO) and Insurance Bankruptcy Ordinance (IBO). FINMA may also issue circulars on the application of the primary and subsidiary legislation. To articulate its supervisory approach and expectations, FINMA has issued Guideline on Financial Market Regulation setting out its supervisory principles, including observation of developments in financial markets to identify and understand relevant risks; how regulatory process can be triggered; collaboration with stakeholders; and transparency.</p> <p>Since its establishment in 2009, FINMA has undertaken numerous review of its supervisory approach, and has initiated and proposed changes to legislation to close any identified gaps between legislation and its objectives. Examples include the revisions to the ISO and the Swiss Solvency Test (SST).</p>
Assessment	Observed
Comments	<p>FINMASA designates FINMA as the consolidated financial market supervisor, with clearly defined objectives, responsibilities and powers. Article 7 of FINMASA requires FINAMA to take into account, among other things, cost of compliance and impact on market competitiveness in carrying out its supervisory activities. FINMA staff have consistent understanding that their primary responsibility is to protect consumers with secondary responsibility to ensure the proper functioning of financial markets as provided under Article 5 of the FINMASA. The issuance of the Guideline on Financial Market Regulation, and the articulation of its supervisory strategy and priority in its annual reports are good measures in clarifying FINMA's supervisory approach.</p> <p>There is a recent Parliamentary initiative to make market competitiveness of equal importance to consumer protection. If the initiative is successful, there could be potential tension between prudential objectives and market competitiveness.</p>
ICP 2	<p>Supervisor</p> <p>The supervisor, in the exercise of its functions and powers:</p> <ul style="list-style-type: none"> • is operationally independent, accountable and transparent; • protects confidential information; • has appropriate legal protection; • has adequate resources; and • meets high professional standards.
Description	<p>Governance Structure</p> <p>FINMASA specifies FINMA's three-tiered governance structure designed to provide appropriate checks-and-balances: Board of Directors (BOD), management board and auditor.</p> <p>BOD comprises seven to nine members, none of whom are members of FINMA</p>

management and are independent of the supervised persons and entities. The Federal Council appoints members of the BOD, including the Chair and the Vice-Chair. The appointments are for terms of four years; each member may be reappointed twice. The Chair may not carry out any other economic activity or hold any federal or cantonal office unless this is in the interest of fulfilling the purpose of FINMA.

BOD sets the strategic objectives for FINMA and submits them to the Federal Council for approval. It appoints the Chief Executive Officer (CEO), subject to Federal Council's approval, and other members of the management board. BOD establishes internal controls, approves budget, issues ordinances and circulars, and decides on other matters of substantial importance. (Art. 9.1 of FINMASA.)

The Federal Council may remove members of the BOD and approve the decision of the BOD to terminate the employment of the CEO. It is not a legal requirement to publish the reasons for removing the Chair and the CEO from office, and there have been no precedents since FINMA's establishment in 2009.

Headed by the CEO, the management board carries out the day-to-day operations of FINMA in accordance with the organizational directions set by the BOD.

The Federal Audit Office is the external auditor of FINMA. It provides the BOD and the Federal Council with a report on the result of its audit. The internal audit unit reports directly to the BOD.

Independence and Funding

FINMASA provides FINMA autonomy in carrying out its supervisory activities. Although FINMA submits the strategy for its supervisory activity and current issues of financial center policy to the Federal Council for approval at least once a year, there is no interference on a day-to-day basis either by the Parliament or the Federal Council. (Art. 21 of FINMASA)

Nonetheless, the Federal Council is the authority on a number of policy matters relating to insurance, as provided under the ISA:

- Definition of insurance activities (Art. 2).
- Designation of insurance classes (Art. 6).
- Risk management (Art. 22).
- Professional skills for key individuals and intermediaries (Arts. 14, 23, and 44).
- Disclosure to customers by intermediaries (Art. 45).
- Enforcement of ISA (Art. 88).

FINMA is funded independently from the federal budget by charging fees for individual

cases and services and levying annual supervision charges on (a) insurers based on their share of the total premium income; and (b) insurance intermediaries based on their number and size of the undertaking. BOD of FINMA has the sole discretion in approving and allocating the annual budget.

Transparency of Requirements and Procedures

FINMA adopts a risk-based approach to supervision. Supervised institutions are assigned to one of six categories according to their risk impact on stakeholders (creditors, investors, and insurance policyholders), the financial system as a whole, and the reputation of the Swiss financial sector. Each institution is also given a rating corresponding to FINMA's assessment based on criteria such as quality of corporate governance, risk management, adequacy of provisions, and solvency. These two parameters—categorization and institution rating—form the basis to determine the intensity of supervision and the use of supervisory tools. The supervisory approach is published in a report on Effectiveness and Efficiency in Supervision in April 2011.

FINMASA requires FINMA to inform the public at least once a year on its supervisory activity and practices. However, information on individual proceeding is not disclosed, unless the information is necessary to protect market participants, or to correct false or misleading information, or to safeguard the reputation of Switzerland's financial center.

Policy changes are subject to a public consultation process. FINMA website publishes papers and reports on current issues, policy statements, market data and annual reports.

Supervised persons and institutions may contest FINMA's supervisory decisions in court.

Confidentiality and Legal Protection

The members of BOD and staff of FINMA are bound by official secrecy provision in FINMASA. The duty of secrecy continues to apply after termination of employment or membership in a management body of FINMA.

Staff and members of BOD of FINMA are not personally liability in civil law for discharging their duties. Nor are they liable in criminal law if they have not committed a breach of fundamental duties. FINMA has a policy to bear the expenses of a criminal proceeding against its staff and members of BOD if they have acted in good faith in carrying out their duties.

Supervisory Resources

The employment of FINMA staff is governed by public law. The BOD issues the Employee Ordinance, setting out terms of employment such as salaries, benefits, working hours, duties and termination of employment, subject to Federal Council approval. (Art. 13.3 of FINMASA.) Coupled with financial independence, FINMA is able to recruit and retain

experienced and skilled staff, at salary levels comparable to private sector. Number of staff has increased by nearly one-third from 359 in 2009 to 477 in 2012. About 100 of them are in the Insurance Division. FINMA intends to maintain the current level of staffing barring changes in its mandates.

Many of the new recruits are experienced private sector professionals. The quantitative analysis units in the Insurance Division have actuaries and mathematicians on staff to conduct in-depth review of solvency and internal models.

In 2012, FINMA spent 1.1 percent of payroll on staff training programs.

Since many financial services professionals reside around the Zurich area, FINMA has opened an office in Zurich in 2012, eliminating the need for staff to commute between Bern and Zurich, which has been seen as a drawback by some. Up to 20 percent of staff are based in Zurich.

The BOD has issued a Code of Conduct, stipulating the proper behavior to uphold the reputation and credibility of the authority and avoid conflicts between personal interests and those of FINMA.

Outsourcing of Supervisory Activities

Statutorily, FINMASA allows FINMA to carry out on-site inspection either by itself, through appointed third parties, or through audit firms appointed by the supervised entities subject to FINMA approval. The supervised entities bear the cost of the inspection or audit. As an indicator, the cost of regulatory audits accounted for 9.2 percent of total audit fees for the insurance industry in 2012.

In insurance supervision, FINMA uses external audit firms appointed by the supervised entity to supplement its supervision. For example, it relies on the external auditors to verify insurers' tied assets; it has also used external auditors in assessing the corporate governance framework at selected insurers under a pilot program. Going forward, FINMA intends to rely on external auditors in areas where clear rules exist, such as verification of the calculation methodology of technical provisions. To ensure consistency in scope and quality of outsourced activities, FINMA has developed detailed questionnaires for the auditors' use.

From 2013, regulatory audits are modularized. The basic audit covers the fundamental financial statements. An additional audit may be ordered by FINMA if current developments or changes in the risk situation of supervised institutions warrant it. Case-related audits are carried out by FINMA-appointed investigators who may be the insurer's auditing firms or other third-party investigators. Case-related audits are primarily conducted when specialist expertise is required or a supervised institution is affected by

	<p>an exceptional event.</p> <p>Audit firms require both a basic license from the Federal Audit Oversight Authority (FAOA) and a special statutory license under FINMASA. FINMA and FAOA share the supervisory responsibility for audit firms: FAOA takes responsibility for financial audits and FINMA for regulatory audits. In June 2012, the Federal Council has decided in principle that the responsibility for supervising audit firms is to be transferred to FAOA to eliminate duplication, improve efficiency, pool specialist knowledge and improve the quality of supervision. The phased-transfer of responsibility has commenced in September 2012. The final stage is pending legislative changes by the Parliament.</p> <p>Aside from regulatory audits, FINMA may appoint agents to enforce regulatory compliance. This includes appointing one or several investigating agents under Article 36 of FINMASA or liquidators in bankruptcy of a supervised entity.</p> <p>FINMA maintains a list of qualified service providers: auditors, lawyers or other individuals with experience of the law governing financial markets, insolvencies and liquidations. This list is regularly updated.</p>
Assessment	Observed
Comments	<p>FINMA is operationally independent, with the BOD as the highest authority comprising of seven to nine members appointed for a fix term of 4 years, none of whom are members of FINMA management and are independent of the supervised persons and entities. Given the long democratic tradition of Switzerland, the BOD has acted with independence, but respecting the authority of the Federal Council. For instance, when the alleviations measures due to the low interest rate environment were introduced, a high level of transparency was required by FINMA, and the measures were made only limited in time. FINMA is funded independently from the federal budget by industry levies and FINMA has the sole discretion in approving and allocating the annual budget.</p> <p>The Federal Council is the authority on certain policy matters such as definition of insurance, classes of insurance, risk management, professional qualification for insurance practitioners, and disclosure of information to customers by intermediaries. It is recommended that FINMA should have the delegated authority over such matters.</p> <p>FINMA is accountable to the Parliament, by presenting its annual report to the Parliamentary Control Committees every year, addressing supervisory outcomes, issues and concerns. There are legal provisions in place to safeguard confidential information and protect FINMA personnel from civil and criminal liabilities when carrying out their duties in good faith.</p> <p>The internal audit function has been revised a year ago, a comprehensive framework has</p>

	<p>been since developed and several internal processes have been audited.</p>
ICP 3	<p>Information Exchange and Confidentiality Requirements The supervisor exchanges information with other relevant supervisors and authorities subject to confidentiality, purpose and use requirements.</p>
Description	<p>Article 29 of FINMASA requires supervised persons and entities, their auditors, qualified investors or those who have a substantial interest in the supervised entities to provide FINMA with all information and documents that FINMA requires to carry out its duties. Moreover, Article 25 of ISA imposes a comprehensive reporting duty on insurance conglomerates.</p> <p>Articles 38 and 39 of FINMASA and Article 80 of ISA allow FINMA to cooperate and exchange information with prosecution and other domestic authorities. FINMA has done so regularly with SNB. Article 40 of FINMASA allows FINMA to refuse to disclose information if the disclosure may prejudice ongoing proceedings or counter to FINMA’s supervisory objectives. Any disputes relating to cooperation between FINMA and other domestic authorities are heard in the Federal Administrative Court.</p> <p>Article 42 of FINMASA authorizes FINMA to exchange confidential supervisory information with foreign supervisors on the basis of official or professional secrecy. The existence of an information exchange agreement or reciprocity is not a pre-condition for cooperation. However, to facilitate the assessment of requests, FINMA has concluded a number of bilateral MoUs with foreign supervisory authorities, in particular with supervisory authorities in jurisdictions with whom there is a regular exchange of information due to cross-border activity of supervised institutions. These MoUs specify, among other things, cooperation and modalities on information exchange and on-site inspections within the statutory framework.</p> <p>FINMA generally requires an ad-hoc declaration from the requesting supervisory authority stipulating that the information may only be used for the direct supervision of the regulated institutions, that the supervisory authority is bound by official or professional confidentiality provisions, and that the information may not be published or passed on to other authorities and bodies, including other supervisory or criminal prosecution authorities, without the prior consent of FINMA.</p> <p>Similarly, FINMA treats information received from other supervisors confidentially, and uses it only for the specified purposes. The FINMA BOD and staff are bound by official secrecy under FINMASA, its Employees Ordinance and its Code of Conduct. A violation of official secrecy may lead to administrative disciplinary measures and to a prison sentence or a fine under the Criminal Code.</p> <p>FINMA establishes and chairs supervisory colleges in cases where FINMA is the</p>

responsible group supervisor of an insurance group with international activities. FINMA also participates in 15 supervisory colleges hosted by foreign supervisors. FINMA assesses each request for information from another supervisor to ensure that there is a valid supervisory purpose, taking into account all relevant facts. Should a request not meet the statutory requirements for cooperation, FINMA contacts the requesting supervisor to find a mutually agreeable solution. In 2012, FINMA received 378 requests for administrative assistance from 71 foreign counterparts, and fully completed 317 requests (some of these were received in late 2011 and processed in 2012).

In the event that FINMA were to be legally compelled to disclose confidential information it has received from another supervisor, FINMA would promptly notify the originating supervisor, indicating what information it is being compelled to release and the circumstances surrounding the release. If the providing supervisor were not in agreement, FINMA would use all reasonable means to prevent the release of the information. Article 40 of FINMASA allows FINMA to refuse to disclose information to domestic authorities if the disclosure may prejudice ongoing proceedings or counter to FINMA's supervisory objectives.

FINMA regularly works with other authorities in Switzerland. It shares information and documents with other domestic supervisory bodies of financial services, including the Swiss National Bank, to the extent required for the discharge of their remits (Art. 80 ISA).

In order to facilitate international cooperation and exchange of information, FINMA has entered arrangements on cooperation and information exchange with foreign supervisory authorities, in particular with supervisory authorities in jurisdictions with whom there is a regular exchange of information due to cross-border activity of supervised institutions. These MoUs specify, among other things, cooperation and modalities on information exchange and on-site inspections within the statutory framework (Arts. 42 and 43 FINMASA, Art. 23 septies BA, Arts. 38 and 38a SESTA, Art. 143 CISA, see also answers to ICP 23, 25, and 26 for more detailed information about the international cooperation in practice).

FINMA is signatory to the IAIS Multilateral Memorandum of Understanding on Cooperation and Information Exchange (IAIS MMoU), and is also legally authorized to cooperate with a foreign supervisory authority even in the absence of a specific agreement between the two.

Article 42 paragraph 2 FINMASA requires that in order to share non-public information with another competent foreign authority, the latter must be subject to official or professional secrecy. Furthermore, the requesting authority has to provide FINMA, as part of the request for administrative assistance, a declaration agreeing to treat the transmitted information in compliance with the rules of confidentiality.

Moreover, FINMA demands an express warranty from the requesting authority that the transmitted information and documents be used exclusively for the direct supervision of foreign institutions and that the transmitted information and documents be passed on to competent authorities or to bodies that are entrusted with supervisory duties that lie in the public interest only on the basis of a general authorization in an international treaty or with the prior consent of FINMA.

Supervised persons and entities, their audit companies and auditors, as well as persons or companies that are qualified investors or that have a substantial participation in the supervised entities must provide FINMA with all information and documents that FINMA requires to carry out its tasks (Art. 29 paragraph 1 FINMASA). Moreover, Article 25 ISA imposes a comprehensive reporting duty on insurance conglomerates).

With respect to information related to an individual client FINMA is obligated to follow a client procedure (Art. 42 paragraph 4 FINMASA). Prior to transmitting any non-public information relating to a client of a supervised institution, FINMA may have to issue a formal decree to the client concerned, subject to appeal to the Federal Administrative Court deciding as a first and only judicial instance. FINMA's decision may be challenged on the basis that one or more of the conditions for administrative assistance cited in Article 42 FINMASA are not fulfilled.

FINMA requests information from other supervisors when it has a legitimate interest and a valid purpose related to the fulfillment of its supervisory duties, such as to enforce key laws and regulations such as FINMASA, ISA, IOA, BA, SESTA, CISA (Art. 42 paragraph 1 FINMASA). FINMA uses information received from other supervisors only for the purposes specified. Further, it treats such information confidentially. The FINMA Board of Directors and FINMA employees are bound by official secrecy according to Article 14 FINMASA, Article 38 FINMA Employees Ordinance (SR 956.121), and Article 2 of the FINMA Code of Conduct. This duty applies not only with regard to third parties but also toward other offices of the federal or cantonal administration. In addition, FINMA must comply with the Data Protection Act (SR 235.1), that imposes restrictions on the processing of personal data. A violation of official secrecy may lead to administrative disciplinary measures and to a prison sentence or a fine according to Article 320 of the Criminal Code (SR 311).

FINMA itself is competent to decide whether to waive official secrecy (decision of the Swiss Supreme Court, BGE 123 IV 157, consideration 1b). In any such case, FINMA would naturally observe the agreement with the foreign supervisor with regard to consent from such supervisor prior to any use of the information for any other purpose than initially agreed.

	<p>FINMA generally permits the information it has exchanged with another supervisor to be passed on to other relevant supervisors or other bodies in that jurisdiction for legitimate purposes, subject to the confidentiality requirements described above.</p> <p>In the event that FINMA were to be legally compelled to disclose confidential information it has received from another supervisor, FINMA would promptly notify the originating supervisor, indicating what information it is being compelled to release and the circumstances surrounding the release. If the providing supervisor were not in agreement, FINMA would use all reasonable means to prevent the release. According to Article 40 FINMASA, FINMA may refuse to disclose information that is not publicly accessible or to hand over files to prosecution authorities and other domestic authorities where (a) the information and the files solely serve the purpose of forming internal opinions; (b) their disclosure or handover would prejudice ongoing proceedings or the fulfillment of its supervisory activity; or (c) it is not compatible with the aims of financial market supervision, or with its purpose.</p> <p>FINMA assesses each request for information from another supervisor on a case by case basis. In this context, FINMA takes into account all relevant facts and examines if the request fulfills the statutory requirements.</p> <p>In 2012 FINMA received 378 requests for administrative assistance from different foreign counterparts. The same year FINMA managed to fully complete 317 requests which also included requests filed in late 2011. Of which only a few were with jurisdictions without mutual agreements.</p>
<p>Assessment</p>	<p>Observed</p>
<p>Comments</p>	<p>The statutory regulations enable FINMA to engage in comprehensive exchange of information for the purposes of administrative assistance, better supervision and international cooperation with due regard to safeguarding confidentiality. Strict laws in Switzerland protect information received from other supervisors.</p> <p>FINMA has appropriate resources and procedures to be able to provide effective and timely assistance to foreign counterparts.</p>
<p>ICP 4</p>	<p>Licensing A legal entity which intends to engage in insurance activities must be licensed before it can operate within a jurisdiction. The requirements and procedures for licensing must be clear, objective and public, and be consistently applied.</p>
<p>Description</p>	<p>ISA requires every insurance undertaking (direct or reinsurance) operating in Switzerland must be licensed by FINMA, with the exception of (a) branches of foreign insurers conducting only reinsurance business in Switzerland and (b) insurers subject to special supervision pursuant to Swiss Federal Law. The latter category of insurers is either public</p>

or semi-public entities that provide compulsory insurance under federal or cantonal laws, such as fire, guaranteed by the cantonal governments, and health insurance. Mergers of insurers also require approval. Intention to acquire controlling interest in insurers triggers a notification obligation. FINMA may prohibit the taking of such interest or impose conditions if the nature or extent of the holding might endanger the insurance company or the interests of the insured. Although law does not require approval, investors in practice await FINMA approval before proceeding with the acquisition.

Carrying on insurance activities without a required license is a criminal offence under FINMASA Article 44.

The license is by classes (life, non-life and reinsurance/captive) and types of insurance business that may be underwritten and describes any conditions or restrictions that may apply. FINMA does not allow direct insurers to hold both life and non-life licenses. FINMA website lists the licensed insurers and the types and classes of insurance business that they are permitted to underwrite.

The requirements and procedures for licensing are specified in ISA, including the permissible legal form (either corporation or cooperative); minimum capital and types of acceptable capital; maintenance of an operational fund to meet operating cost; directors and key persons in control positions must be of good reputation and suitable for the positions; and be a member of the National Bureau of Insurance and participate in the National Guarantee Fund for those who wish to write motor vehicle liability insurance. As part of the license application, FINMA requires information on entities that directly or indirectly own at least 10 percent of the capital or votes in the insurer or can exert a significant influence (regardless of ownership level) over its business.

A foreign insurer that intends to start an insurance operation in Switzerland are subject to additional requirements: must be authorized to conduct insurance activities in its home country; establish a branch in Switzerland; meet the capital and solvency requirements at the head office level; and place a deposit in Switzerland, which corresponds to a percentage of the amounts attributable to the domestic financial solvency margin to be determined by FINMA.

FINMA has not indicated any target time period to complete a license application. However, the process generally takes less than three months once FINMA receives all necessary information. Further, FINMA keeps the applicant informed along the way of the status of the application and the approximate time still required. FINMA is careful not to promise in advance a fixed deadline since in its experience responsible due diligence by the supervisor may sometimes require extra time for in-depth review and follow up on information provided by the applicant. FINMA, however is committed to prompt processing of applications, as demonstrated by the fact that in most cases it takes less

	<p>than three months.</p> <p>Cross-border insurance activity without physical presence in Switzerland is not allowed, with exception for insurance activities from the Principality of Liechtenstein pursuant to governmental agreement between the Swiss Confederation and the Principality of Liechtenstein on direct insurance and insurance intermediation (SR 0.961.514). FINMA routinely consults foreign regulators in processing license applications involving foreign insurers or personnel.</p>
Assessment	Largely observed
Comments	<p>Every insurer or reinsurer operating in Switzerland must be licensed by FINMA with the exception of (a) branches of foreign insurers conducting only reinsurance business, and (b) entities providing compulsory insurance under federal or cantonal laws. While it is not uncommon to exclude public entities providing mandatory coverage from supervision, FINMA should engage dialogues with cantonal supervisors to encourage the adoption of similarly prudential standards as for private insurers.</p> <p>FINMA does not have data on the volume of business conducted by unlicensed foreign reinsurers operating in Switzerland. However, it is widely acknowledged that one of such reinsurers has substantial business operation out of Switzerland. To avoid misunderstanding by market participants that such reinsurers are supervised by FINMA, FINMA should require the branches to be incorporated in Switzerland whereby subject to FINMA supervision when its size reaches a pre-determined level.</p> <p>The licensing process and requirements are specified in the ISA. The Insurance Division strives to achieve consistency in licensing decisions through the establishment of an Approval Committee consisting of heads of various departments and functions within the Insurance Division, and sharing of information across banking, markets and insurance divisions. In assessing key individuals, FINMA assess the suitability of members of BOD and senior management. While the internal auditor and the actuary are explicitly mentioned in FINMA's regulations, "control functions" are not defined in Swiss laws or supervisory procedures. (See ICP 5 for more discussion.)</p>
ICP 5	<p>Suitability of Persons</p> <p>The supervisor requires Board Members, Senior Management, Key Persons in Control Functions and Significant Owners of an insurer to be and remain suitable to fulfil their respective roles.</p>
Description	<p>Article 14 of ISA requires persons "responsible for the overall direction, supervision and control as well as the persons responsible for the management" of an insurer to be of good reputation and suitable for their positions. (The German word "Gewähr" literally means providing assurance of proper business conduct. A person who is not suitable in terms of character or competence is not deemed qualified to provide such assurance.)</p>

	<p>These persons generally refer to members of the BOD and management board (i.e., senior management).</p> <p>The ISO requires insurers to notify FINMA of changes in members of BOD and senior management within two weeks. Upon notification, FINMA reviews their suitability. If FINMA does not object within four weeks, insurers may assume that FINMA agrees with the appointment.</p> <p>Article 4 of ISA requires submission of information on persons who own, directly or indirectly, at least 10 percent of the insurer's capital or voting rights, or who can exert a significant influence (regardless of level of ownership) on the business operation. Article 5 of ISA requires the insurer to notify FINMA of any changes to these substantial owners or those who can exert a significant influence on an ongoing basis. FINMA has up to four weeks to assess their continued suitability based on the new information.</p> <p>In addition, Article 23 of ISA requires the Appointed Actuary to be professionally qualified and be able to correctly assess the financial impact of the activities of the insurer. FINMA Circular 08/35 sets out the duties and appointments of internal auditors of insurers, including meeting the requirements of the Swiss Association of Internal Auditors.</p> <p>The Swiss supervisory regime does not specify key control functions. Therefore, the risk manager and compliance officer are subject to a suitability review only when they are members of the management board. However, in the context of the Swiss Qualitative Assessment (SQA), risk management, compliance, internal audit and actuarial functions are part of the review and analysis to assess the insurer's governance, risk management and internal controls environment. Such reviews include suitability assessment of the heads of these functions. (SQA II was conducted on risk-prioritized basis, focusing on groups and insurers in the highest risk categories).</p> <p>Article 30 of ISA requires the external auditor to inform FINMA without undue delay if it becomes aware of the following:</p> <ul style="list-style-type: none"> a) criminal offences; b) serious irregularities; c) breach of good business principles; d) circumstances likely to endanger the solvency of the insurance company or the interests of the insured. <p>FINMA expects Article 30 to include any circumstances that materially adversely affect the suitability of persons in key positions. It is not apparent that the auditors have the same understanding.</p> <p>If members of BOD and senior management are no longer suitable (that is, not able to provide assurance of proper business conduct), FINMA may seek their removal and ban</p>
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	<p>them from serving in a responsible position with another supervised entity through enforcement proceedings. FINMA may force significant owners to divest their holdings if they are found unsuitable. (Art. 21 of ISA).</p>
Assessment	Largely observed
Comments	<p>Suitability assessment is generally conducted for members of the board and senior management only, since “control functions” are not specified. Consequently, suitability of heads of risk management, compliance, internal audit and actuarial functions are not assessed unless they are members of the management board.</p> <p>The procedures to ensure continued suitability of key persons subsequent to initial licensing or new appointments of key persons can be improved. FINMA relies on Article 29 of FINMASA, which requires insurers to inform FINMA of any matters that may be of material significance for FINMA’s supervision of the insurer, for continued suitability. In the absence of guidance, however, the industry may not have consistent understanding that Article 29 reporting obligations include changes in circumstances materially adversely affecting the suitability of persons in key positions. FINMA should provide greater clarity to its expectation with regard to continuing suitability of key persons in control functions. Moreover, “control functions” should be defined to ensure consistency across companies.</p>
ICP 6	<p>Changes in Control and Portfolio Transfers</p> <p>Supervisory approval is required for proposals to acquire significant ownership or an interest in an insurer that results in that person (legal or natural), directly or indirectly, alone or with an associate, exercising control over the insurer. The same applies to portfolio transfers or mergers of insurers.</p>
Description	<p>Article 21 of ISA specifies the thresholds at which an investor is required to <u>notify</u> FINMA when he acquires or disposes direct or indirect ownership in supervised institutions. These thresholds are 10, 20, 33, and 50 percent of the capital or voting rights of the supervised institutions. FINMA has the power to disallow the acquisition or disposition after receiving the notification. In practice, investors notify FINMA of their intention to acquire threshold ownerships and wait for FINMA explicit approval before proceeding with the acquisition or sale. That is, the notification requirement is a de facto approval process.</p> <p>Regardless of the level of holding, notification/approval is also required of any person who may exert significant influence on the business activities of the insurer. FINMA deems “significant influence” to arise by virtue of (i) the person being a member of BOD and management board; (ii) the person being an advisor to decision-makers of the insurer; or (iii) a majority of the BOD collectively representing the same interests.</p> <p>Upon receipt of notification, FINMA determines the effect of the proposed changes in</p>

	<p>control to the insurer and to its policyholders, using a checklist to ensure that all relevant aspects including the proper identification of the ultimate owner(s) are considered. The criteria used to assess suitability of owners are the same whether it is someone seeking a new license or seeking to gain control of an already licensed insurer.</p> <p>In assessing the proposed changes in control, FINMA takes into account justified differences, which may result in additional or different information required depending on the nature of the acquirer and any specific regulatory requirements in the jurisdiction where the acquirer is located (for example, any difference in capital requirements).</p> <p>FINMA may impose specific conditions with its approval. Such conditions might, for example, relate to additional notification and approval requirements in the area of intra-group transactions between the new controlling shareholder and the supervised entity.</p> <p>Any mergers, divestures, and change of legal form and transfer of insurance portfolios require FINMA approval. FINMA approves such transactions if it is satisfied that the interests of the insurer and of the insured are not endangered (Art. 62.1 of ISA). FINMA may initiate a portfolio to be transferred, e.g., in the case of financial difficulties of the insurer. The acquiring insurer must inform the acquired policyholders within 30 days and to offer the right to terminate their policies within three months. (Art. 62.3)</p> <p>The provisions regarding portfolio transfers are not applicable to reinsurers (Art. 35 of ISA), as Switzerland considers the transfer of reinsurance contracts to another entity is a commercial matter between the respective ceding companies.</p>
Assessment	Observed
Comments	<p>The ISA sets ownership and control thresholds, both above and below which notification to FINMA is required. FINMA may impose conditions or disallow the acquisition/disposition. In essence, the notification is a de facto approval requirement.</p> <p>Moreover, notification/approval is required of any person who may exert “significant influence” on the business activities of the insurer, regardless of his level of ownership of the insurer.</p>
ICP 7	<p>Corporate Governance</p> <p>The supervisor requires insurers to establish and implement a corporate governance framework which provides for sound and prudent management and oversight of the insurer’s business and adequately recognizes and protects the interests of policyholders.</p>
Description	<p>The corporate governance (CG) framework for Swiss financial institutions is based on a combination of general legal requirements in Code of Obligations (CO – the civil company law), ISO, FINMA Circulars 2008/32, 2008/35, and 2010/1, and voluntary Code of Best Practice for CG (CCG) for public limited companies.</p>

FINMA's supervisory approach includes a periodic qualitative assessment of the effectiveness of CG, risk management (RM) and internal control systems (ICS) of all groups and selected insurers, including those in the high-risk categories. Called the Swiss Qualitative Assessment (SQA), it is a supervisory tool to complement the quantitative SST and ongoing off-site/on-site supervision. FINMA publishes the main findings from its SQA. (See ICP 8 for more on SQA.)

CG Framework

The CO lays down the inalienable and non-transferable primary duties of the BOD to be, among other things, ultimately responsible for the company; the accounting system and the financial controls; supervision (i.e. oversight) of management, including with regard to compliance with the law, the Articles of Association, regulations and directives; and preparation of annual reports and general shareholders' meetings (Art. 716a of CO). Members of BOD have unfettered access to company information and are obligated to give information at shareholders' meetings (Art. 715a of CO). Members of BOD and management must carry out their duties with due care and in good faith (Arts. 717 and 812 of CO). For mutuals and cooperatives, the corresponding provision is in Article 902 of CO.

Originally issued by the Swiss Business Federation (economiesuisse) in 2002, CCG recognizes the statutory responsibility of the BOD and makes further recommendations on the composition of the board regarding its size and collective competence and independence. CCG recommends that the BOD should meet at least 4 times a year; discuss annually its own and its members' performance; avoid conflicts of interest; prevent insider-trading offences; oversee the RM and ICS; and establish board committees to carry out in-depth analysis of specific business functions.

FINMA Circular 2008/32 on CG requires every insurer to have a documented and transparent CG structure by which it is directed and controlled, providing checks and balances on its operations, and balancing the objectives of various stakeholder groups, including the policyholders and their beneficiaries, the shareholders, supervisors and employees.

Circular 2008/32 also requires the CG structure to promote high integrity and ethical behavior and a culture of accountability; avoid conflicts of interest; heighten employee awareness of CG through periodic training; establish a compliance function appropriate for the size, nature and complexity of its business; establish an independent internal audit function; and create an environment under which the appointed actuary may discharge his duties.

Article 13 of ISO requires segregation of the roles of Chairman and CEO. While Circular

2008/32 requires each insurer to have appropriate RM and ICS in place, it does not explicitly indicate that the BOD has the oversight responsibility in the design and implementation of RM functions. FINMA believes the BOD's general oversight duty and the duty of care specified in the CO includes RM and ICS; and that these, together with the obligation of proper business conduct ("Gewähr"), provide FINMA the basis to expect BOD oversight in the above areas without explicit provisions in insurance legislation. This is in respect of insurers organized as corporations or mutual and cooperatives.

Remuneration

FINMA was one of the first regulators to issue guidelines on executive compensation after the financial crisis. Circular 2010/1 issued in October 2009 set out 10 principles of remuneration for Swiss financial institutions. Persons covered under Circular 2010/1 are board members, members of senior management, and other employees who are remunerated for work performed in respect of the insurer. Consistent with the FSB Principles for Sound Compensation Practice, Circular 2010/1 covers (a) the appropriateness of incentives, (b) alignment with risk, (c) long-term orientation, and (d) alignment with capital, liquidity and other financial soundness considerations. A key supervisory focus for FINMA is the extent and quality of BOD's oversight of the remuneration system.

The CCG was amended in 2007 to include best practice recommendations on executive compensation, with a view to reward conduct aimed at medium and long-term corporate success with compensation elements available at a later date.

In March 2013, Swiss voters approved limits on "fat cat" executive pay in a referendum, including annual ballot by shareholders on board of directors and management board pay; elimination of sign-on bonuses, "golden parachute" severance agreements, extra incentives for completing merger transactions; transparency on retirement packages for executives. The ordinance to give effect to this initiative is now in its final draft and will soon go to the Federal Council for final approval. It is expected that this approval will take place in time for the ordinance to take effect as of January 1, 2014. By law, it must at least be in force one year after the said referendum.

There is a dedicated senior-level FINMA-wide function responsible for remuneration and corporate governance. Ensuring proper corporate governance practice is the joint responsibility of this dedicated unit and FINMA supervisory teams.

External Audit

Article 28 of ISA requires insurers to comply with the external auditor requirements under the CO, which requires annual audits by external auditor to provide the BOD a report on the financial condition and internal control system. The external auditor also provides a summary report to the shareholders containing:

- a) an assessment on the result of the audit;

	<ul style="list-style-type: none"> b) information on independence; c) information on the person who managed the audit and on his professional qualification; and d) recommendation on whether the annual accounts and the consolidated accounts should be approved or rejected with or without qualification. <p>The CCG recommends disclosure of information on CG in annual reports, and indeed, the Swiss stock exchange makes it mandatory for listed companies to provide such information. FINMA, however, does not have a specific requirement for insurers to disclose their governance structure, with the exception of remuneration practices.</p>
Assessment	Observed
Comments	<p>The CG framework consists of requirements in corporate law, insurance ordinance and FINMA circulars, as well as voluntary code of best practice for listed companies. FINMA monitors compliance and assesses quality of CG as part of its qualitative supervision. FINMA expects insurer's BOD to provide oversight in respect of the design and implementation of sound RM and ICS functions, basing on:</p> <ul style="list-style-type: none"> d) the BOD's non-transferable duty of oversight of management and of the company, including its organization and controls; e) the BOD's general duty of care; and f) the obligation to provide "Gewähr" - the assurance of proper business conduct. <p>For completeness and avoidance of doubt, it is recommended that Circular 2008/32 be amended to explicitly indicate that BOD has the oversight responsibility over RM and ICS.</p> <p>It is also recommended that Circular 2008/32 be amended to include the requirement for insurers to disclose their CG practices on par with CCG, which is a voluntary code for listed companies.</p>
ICP 8	<p>Risk Management and Internal Controls</p> <p>The supervisor requires an insurer to have, as part of its overall corporate governance framework, effective systems of risk management and internal controls, including effective functions for risk management, compliance, actuarial matters, and internal audit.</p>
Description	<p>Systems for Risk Management and Internal Controls</p> <p>ISA is a principle-based legislation. Articles 14, 22, 27, 68, 75, and 76 of ISA articulated the principle that insurers, insurance groups and conglomerates should have effective systems of risk management and internal controls. FINMA Circular 2008/32 provides details to the necessary elements of such systems, such as having risk strategies and defined risk tolerances, appropriate organizational structure and resources, adequate training for staff, regular review of the effectiveness, and established process to (a) identify, measure, mitigate risks; (b) document and report identified risks; and</p>

(c) monitor the process to identify deficiencies and implement corrective measures.

However, regulations do not require a dedicated RM function to carry out the RM and ICS functions. For insurance groups and other complex insurers, FINMA expects that they appoint a Chief Risk Officer, with a supporting RM team. SQA II confirmed that all insurance groups now have a RM function and increasingly such dedicated RM function exists in other insurers.

Those insurers that do not have dedicated RM units carry out their RM function through alternative ways, such as having a management-level risk committee or other risk processes.

Compliance Function

A compliance function is not required, although Circular 2008/32 states the general principle that an insurer should establish a compliance function if appropriate for its size and complexity.

SQA II confirmed that all insurance groups and increasingly more insurers have a dedicated compliance function.

Actuarial Function

Every insurer is required to have an appointed actuary (Art. 23 of ISA), whose duties is to perform the solvency calculations according to regulatory requirements and to set adequate technical provisions (Art. 24 of ISA). The appointed actuary also has the duty to inform management of any weakness, and to propose remedial actions.

Internal Audit Function

Article 27 of ISA requires insurers to have independent internal audit functions. Circular 2008/35 gives details to the requirements, including direct reporting line to the BOD or its Audit Committee, the BOD's approval of the annual audit plan, and deliberation of the audit reports.

In limited cases, FINMA may exempt smaller insurers (including reinsurance captives) from having in-house internal auditors. For example, a subsidiary of a group may be allowed not to have its own internal auditor, as long as the internal auditor of the parent or a related entity covers the subsidiary. Where the insurer is a solo, FINMA may allow exemption with the expectation that the external auditor will assume a greater role. Such exemptions may be revoked at FINMA's discretion.

Outsourcing

Insurers must inform FINMA of outsourcing of material functions. Aside from the notification requirement, FINMA does not specify the extent of oversight of, and accountability for, any outsourced activity or function.

	<p>SQA II</p> <p>The first SQA was conducted in 2009; the second (SQA II) in 2012. The next SQA is scheduled for 2015. Assessment under SQA II was based on 11 indicators to gauge the effectiveness of insurer’s governance, risk management and internal control systems: the (1) BOD, (2) information provided to the BOD, (3) governance of the Management Board, (4) RM, (5) ICS, (6) internal audit, (7) actuarial function, (8) compliance function, (9) compliance-related risk areas (AML, insider trading, employee reporting mechanisms an internal fraud prevention), (10) employee training on risk and compliance topics and (11) outsourcing.</p> <p>SQA II covered some 50 insurers and 15 further insurers were reviewed through other FINMA tools (28 percent of total number of insurers) representing some 85 percent of total premium.</p> <p>The findings of SQA II showed that since SQA I Swiss insurers in general have been making progress in the areas reviewed, with more advanced practices evident among larger and more complex insurers. Insurance groups tend to do better across all indicators than solo insurers. Only in the areas of compliance and outsourcing were their results in SQA II slightly lower than solo insurers.</p>
Assessment	Largely observed
Comments	ISA articulates the principle that insurers should have effective risk management and internal control systems. Circular 2008/32 provides details on the necessary elements of such systems. However, there is no requirement that there should be dedicated risk management and compliance functions. FINMA is currently assessing the need to provide additional clarity and specificity relating to RM and ICS. It is recommended that FINMA require the establishment of risk management and compliance function with exceptions based on size, nature and complexity of operation.
ICP 9	<p>Supervisory Review and Reporting</p> <p>The supervisor has an integrated, risk-based system of supervision that uses both off-site monitoring and onsite inspections to examine the business of each insurer, evaluate its condition, the quality and effectiveness of its Board and Senior Management and compliance with legislation and requirements. The supervisor obtains the necessary supervisory information to conduct effective supervision of insurers and evaluate the insurance market.</p>
Description	<p>Supervisory Framework and Resources</p> <p>FINMA’s supervisory power is derived from FINMASA, which requires the supervised entities, their auditors and substantial owners to provide any information that FINMA requests, and report immediately any incident that is of substantial importance to FINMA (Art. 29 of FINMASA). The duty to provide information extends to service providers of outsourced functions (Art. 47 of ISA).</p>

FINMASA also gives FINMA the power to conduct on-site inspection, either directly by FINMA, through third-party auditor appointed by FINMA, or through third-party auditor appointed by the supervised entities (Art. 24 of FINMASA). Cost of the inspection is borne by the supervised entities. This power extends to foreign subsidiaries of domestically licensed entities (Art. 43 of FINMASA).

FINMA adopts a risk-based approach to supervision. Supervised entities are assigned to one of six categories according to their risk impact on consumers (creditors, investors, and insurance policyholders), the financial system as a whole, and the reputation of the Swiss financial sector:

- Category 1 – Extremely large, important and complex institutions/very high risk
- Category 2 – Very important, complex market participants/high risk
- Category 3 – Large and complex market participants/significant risk
- Category 4 – Medium-sized market participants/average risk
- Category 5 – Small market participants/low risk
- Category 6 – Market participants not subject to prudential supervision

Each entity is also given a risk rating corresponding to FINMA's assessment of its quality of CG, RM, adequacy of provisions, and solvency. These two parameters—categorization and institution rating—serve as the basis for determining the intensity of supervision, e.g., frequency or depth of on-site inspections, and more comprehensive assessments via SQA. The risk assessment also affects reporting requirements in frequency or degree of detail. As at time of this FSAP, the distribution of insurers across risk categories is as follows:

Risk Category	1	2	3	4	5	6	Total
# Insurers	0	5	36	52	114	0	207
Percentage of total	0	2.4	17.4	25.1	55.1	0	100

The risk categories and the risk ratings are updated continually to reflect annual supervisory review; the SST report; the SQA assessment; the report of external auditor to BOD; the auditor’s reports on risk analysis of the insurer, its tied assets,³ technical

³ Insurers are required to provide security for their claim payment obligation by designating specific investments as tied assets. Tied assets may only be used for the claims they are intended to secure. In case of insolvency or liquidation, policyholders and insured persons have a priority claim against these restricted assets. The amount of tied assets is at least equal to the statutory insurance technical provisions, plus a reasonable additional amount that is determined by FINMA. For investments to qualify as tied assets they have to comply with requirements in ISA, ISO and Circular 08/18 on “Investment guideline for tied assets and the use of derivative financial instruments by insurers.” See ICP 15 for more details.

	<p>provisions, CG, RM, ICS and the compliance with AML; and any incidents reported by the insurers as required by Article 29 of FINMASA.</p> <p>The insurance division of FINMA has 100-strong staff, deployed in nine units:</p> <ul style="list-style-type: none"> • Supervision of Life Insurance - 13 • Supervision of Non-life Insurance - 13 • Supervision of Reinsurance - 7 • Supervision of Health Insurance - 14 • Supervision of Insurance Groups - 13 • Qualitative Risk Management (this is the unit that conducts SQA, among other duties) – 12 • Quantitative Risk Management - 21 • Insurance regulation and legal services - 6 • Division Operating Officer Support (including Management Support) - 10 <p>The insurance division may also draw on support provided by centralized units (such as International Cooperation; International Committees and Coordination; FINMA-wide CG). In particular, Markets Division is in charge of the supervision of insurance intermediaries. (Also see ICP 19).</p> <p>Accounting Standard</p> <p>Swiss GAAP FER applies to insurers with limited operations outside Switzerland. Private (i.e., not listed) insurers may use IFRS, U.S. GAAP or Swiss GAAP FER for its consolidated accounts. All supervised legal entities report primarily according to Article 957 of CO. Insurers listed on SIX Swiss Exchange may report using one of the following standards:</p> <ul style="list-style-type: none"> • IFRS or U.S. GAAP when listed under the Main Standard⁴. • Swiss GAAP FER when listed under the Domestic Standard. <p>However, there are statutory bases on valuation of assets and determination of technical provisions in ISA and FINMA circulars that override financial accounting standards. There is plan to introduce a statutory insurance accounting standard.</p> <p>Supervisory Process – Offsite review</p> <p>FINMA requires submission of information:</p> <ol style="list-style-type: none"> a) at quarterly and annual intervals under FINMA Insurance Reporting and Supervisory Tool (FIRST) on legal entity basis, and FIRST GRE on insurance groups basis;
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⁴ The “Main Standard” is designed for international investors in terms of financial reporting and transparency criteria, and therefore is catered to companies that desire to gain access to the international capital markets. In contrast, the “Domestic Standard” has a less extensive shareholder base and a lower minimum requirement, and permits the use of domestic accounting principles. *Source: SIX Swiss Exchange website.*

- b) when there are material changes; and
- c) when FINMA deems such information necessary for the fulfillment of its supervisory duties.

Examples of ad hoc requests for information under (b) and (c) include:

- In 2008 at the height of the financial crisis, FINMA required all insurers to report, on a monthly basis, key indicators for solvency, operational results and asset allocation. Insurance groups had to report additional information, such as liquidity. This reporting is still in place but the data collection now takes place on a quarterly basis.
- In 2011, FINMA launched a study on the real estate market in Switzerland and requested insurers to provide more detailed information than the one already collected under FIRST.

FIRST is a web-based system that enables timely submission and analysis. Information collected through FIRST relate to solvency, technical provisions, tied assets, financial reports (including off-balance sheet items) and changes to business operation.

Solvency – All insurers (excluding low complexity and risk reinsurance captives) must prepare the SST report relating to the calculation of Target Capital and the Risk Bearing Capital. The report is prepared once a year by solo insurers, and twice a year by insurance groups.

Technical provisions – Circulars 2008/42, 2008/43 and 2011/3 provide the reporting requirements relating to technical provisions. FINMA is in the process of preparing a set of audit guidelines for external auditors to verify compliance with these requirements. The guidelines will include qualitative (process and organization) and quantitative (adequacy of technical provisions) criteria. For insurers in high-risk categories (1-3), an annual frequency of audit is envisaged; for others a lower frequency will be established. Audit reports are submitted to FINMA. This verification by external auditor is to supplement and not to replace FINMA's supervision of adequacy of technical provisions.

Tied assets - FINMA relies on external auditors to verify compliance with the investment guidelines according to Circular 2008/18. FINMA has issued audit guidelines to ensure consistency and quality. The review is done on an annual basis. Audit reports are submitted to FINMA.

Financial reports – Insurers must prepare annual audited supervisory and management reports on an annual basis. The reports must cover analysis and evaluation of assets and liabilities (including off-balance sheet commitments) and components of income statements.

Changes to business operation – Insurers must report important changes with regard to organization, financial strength, technical provisions, shareholders, BOD, Executive Board,

appointed actuary, audit firms, outsourced functions, intended insurance classes and the nature of the risks to be insured, reinsurance/retrocession plan and details of risk identification and how risks are to be limited and monitored (Arts. 4 and 5 of ISA).

FINMA's supervisory process includes discussions with BOD, senior management, and other relevant individuals on a periodic or an ad-hoc basis to discuss topical issues relevant to its supervision. Specifically, monthly calls with insurers in high-risk categories take place to keep abreast of developments and updates.

SQA – Approximately every three years, the Qualitative Risk Management unit, with the involvement of the supervisory teams, conducts analysis of CG and RM practices at insurers in the highest risk categories to supplement on-going supervision in specific areas. (See ICP 8 for more details on SQA.) SQA includes on-site discussions usually with the Chairman of the Board of the Directors, the CEO, and the heads of the key functions.

Supervisory Process - Onsite Inspections

FINMA aims to inspect insurers in the highest risk categories (1–3) at least once a year. Insurance Groups are inspected more frequently. These inspections are focused, and typically involve up to one week in the insurer's premise.

The areas covered under an inspection are selected based on concerns identified during off-site reviews, or observed developments, or emerging trends in the insurance market or risk landscape. For areas where FINMA does not have the necessary resources, independent experts are appointed to conduct the on-site inspections.

As part of its prioritization, FINMA has recently increased the use of audit firms for insurers in the lower risk categories, so that it may focus its resources on insurers in risk categories 1–3 and insurers with high risk-ratings.

Supervisory Feedback and Follow-up

FINMA discusses the findings of its reviews and inspections with the insurer to identify required preventive or corrective action. Written report and feedback are provided. In case of material weaknesses, FINMA requests the insurer to take appropriate remediation measures within a specified timeframe.

Key Account Manager

The supervision methodology adopts a "key account manager" concept. The key account manager is the contact person between FINMA and the supervised entity, who coordinates inputs from various departments involved in supervising the group: solo supervisor (life, non-life, health), group supervisor (if applicable), and specialists (quantitative analysis, qualitative analysis, legal, investment, etc.) Currently, there is no rotation of key account manager. Department heads can be appointed as the key account

	<p>manager for large insurers/groups and are also responsible for quality control of other account manager’s performance.</p>
Assessment	<p>Largely observed</p>
Comments	<p>FINMA’s risk-based approach includes offsite analysis of financial information and SST reports, and onsite verification of issues identified through offsite review or observed trends in the market. FINMA leverages on external auditors to verify areas where there are clear regulatory requirements such as tied assets and technical provisions. FINMA also relies on external auditors to audit insurers in the low risk categories. FINMA is particularly strong in quantitative analysis. It has a number of actuaries and mathematicians on staff to conduct in-depth analysis of solvency and internal models.</p> <p>Onsite inspections typically focus on one area (such as derivative instruments, data security, adherence to business plan, reserving interest rate, and outsourcing) and are of short durations. At the time of this assessment, FINMA has commenced eight onsite inspections of solo entities, and 12 onsite inspections of the insurance groups in 2013. (The numbers of inspections in 2012 were 45 for solos and six for groups.) With the limited scope and duration of inspections, it is difficult for FINMA to gain a comprehensive view on the effective implementation of insurers’ own policies and procedures and compliance with regulatory requirements.</p> <p>Onsite inspection may provide information that can supplement the analysis from offsite monitoring and provide the opportunity to verify information FINMA has received. Onsite inspection may also help detect problems that may not be apparent through offsite reviews. Important objectives in conducting an onsite inspection include verifying the implementation of the insurer’s risk management processes and compliance with relevant insurance laws and regulations. This will help FINMA in identifying the strengths and weaknesses in the insurer’s policies and procedures.</p> <p>FINMA’s risk-based approach is to devote its resources to those with high market impact. While the failure of a smaller insurer may not have market-wide impact, it will affect policyholders. It is recommended that FINMA adopt a more intrusive approach to onsite supervision by increasing the frequency and scope of onsite inspection to strengthen the qualitative aspect of its supervision. If the recommendation is adopted, FINMA will need to increase its resources, in terms of number of staff and their level of experience.</p> <p>The key account manager concept is a good approach to coordinate the interaction with the supervised entity and to foster a holistic view based on inputs from specialists. To preserve institutional knowledge and to inject fresh perspectives from time to time, FINMA may wish to consider measures to strengthen the approach, for example through a periodic rotation of the key account managers and limiting the division chief role to quality control and assurance of the integrity of the process away from a key account manager function.</p>

ICP 10	<p>Preventive and Corrective Measures</p> <p>The supervisor takes preventive and corrective measures that are timely, suitable and necessary to achieve the objectives of insurance supervision.</p>
Description	<p>Conducting insurance activities without a valid license is a criminal offence under FINMASA. When FINMA suspects an entity is conducting insurance activity in Switzerland without a license, it writes to the entity to confirm the nature of its operation, and remind it of the legal requirement of regulated activities. Should the unlicensed activities continue, FINMA refers the case to the FDF for criminal prosecution.</p> <p>FINMA monitors regulatory compliance through ongoing supervision; review of audit and other reports; regular meetings with an institution’s board, management, and (where appropriate) substantial shareholders; and other ad hoc reports. When a compliance issue or a weakness in the supervised entity is identified, FINMA requests corrective action in supervisory meetings, and then in written supervisory assessment letters if no action is taken. Corrective measures may be monitored through written progress reports to FINMA, but more often reporting is upon request until the matter is resolved. For example, if the SST ratio is in the “yellow zone”, FINMA will request the insurer to submit an action plan, subject to approval by FINMA, to establish specific measures and timeframe within which to improve solvency. If the matter is not resolved in a timely and satisfactory manner, FINMA may escalate it into a formal enforcement proceeding (see ICP 11).</p> <p>Article 31 of FINMASA empowers FINMA to “restore compliance” with the law whenever an irregularity occurs. This general provision gives FINMA a wide range of options in supervisory intervention. More specifically, Article 51 of ISA empowers FINMA to take the following actions when it suspects that policyholders’ interest might be compromised:</p> <ul style="list-style-type: none"> a) prohibit the distribution or disposal of assets; b) freezing of assets; c) transfer an insurance function, in whole or in parts, to a third person; d) transfer the insurance portfolio and the related tied assets to another insurer with its consent; e) liquidation of tied assets; f) require the dismissal of directors, members of senior management and key person in control positions including the appointed actuary, and prohibit them from carrying out any insurance activity for a period up to five years; g) remove from the intermediary register, in the case of an intermediary; h) increase tied assets; i) order the deferral of the policy maturity date if there is a risk of insolvency. <p>The list is not exhaustive.</p>

	Depending on the gravity of the situation, FINMA may also commission special audit, appoint independent investigators, and revoke the license or withdraw the registration.
Assessment	Observed
Comments	FINMA, working with the criminal prosecutors, is empowered to take action against a person/entity who conducts insurance activities without the necessary license. FINMA's supervisory framework supports early intervention to minimize losses to policyholders. FINMA has adequate power to initiate timely and proportionate preventive and corrective measures where insurers do not adequately address supervisory concerns.
ICP 11	Enforcement The supervisor enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.
Description	<p>In addition to the possible supervisory interventions under Article 51 of ISA, FINMA has a wide range of enforcement powers under FINMASA (Arts. 31–37):</p> <ul style="list-style-type: none"> • restoration compliance with the law; • declaratory ruling; • prohibition from practicing in a profession; • publication of supervisory ruling; • confiscation of illicit profits; • appointment of investigative agents; and • Revocation of license, withdrawal of recognition, cancellation of registration. <p>Certain regulatory breaches are designated as criminal offences under FINMASA. These include: (Arts. 44–48 of FINMASA):</p> <ul style="list-style-type: none"> • conducting insurance activities without a license; • willfully providing false information to FINMA, auditors or SROs; • violations of obligations by auditors; • failing to have financial statements audited; and • failing to comply with an enforcement order by FINMA. <p>The FDF is the prosecuting authority for such criminal breaches under FINMASA. For example, if the insurer does not follow FINMA's request to implement corrective measures, the matter may become – under certain circumstances - a criminal offence and FDF may commence a criminal proceeding against the insurer respectively the responsible persons.</p> <p>Article 86 of ISA stipulates the administrative fines for regulatory breaches such as failure to meet reporting obligations relating to ownership interests; failure to file annual reports and financial statements on time; failure to meet prescribed technical provisions.</p>

	<p>Article 87 of ISA stipulates the monetary fines and the custodial sentence for criminal offences, conclusion or mediation of insurance contracts on behalf of not licensed insurers; not seeking approval for changes in insurance business activities; reduction in tied assets; actions that lead to reduction in security of value of tied assets.</p> <p>Articles 44–52 of FINMASA also stipulate the monetary fines and custodial sentence against insurers and individuals for criminal breaches.</p> <p>Imposition of fines is considered a criminal sanction under Swiss law, and is outside of FINMA’s authority. Hence, FINMA has the power to take a wide range of administrative measures, but does not have the power to impose fines. Given this restriction, FINMA’s enforcement objective is primarily to restore compliance with the law.</p> <p>Under Swiss law, criminal sanctions (such as fines) are primarily directed against natural persons. Fines against legal persons are possible under special circumstances. For criminal offences, responsible natural person(s) must be identified for criminal proceedings to commence. FINMA cooperates with the prosecuting authorities in pursuing criminal enforcement action, which does not impede FINMA’s ability to impose preventive and corrective regulatory measures.</p> <p>FINMASA has issued an Enforcement Policy paper in 2009, updated in 2011, outlining its 13 principles in handling enforcement matters, such as:</p> <ul style="list-style-type: none"> • ensure the integrity of markets (Principle 2); • enforcement with measured judgment (Principle 3); • raid, focused, fair and transparent proceedings (Principles 4 and 5); • reluctance in proceedings against individuals or individuals no longer holding a senior position (Principles 6 and 7); and • restrained communication on enforcement (Principle 13). <p>Generally, FINMA does not publish enforcement actions.</p>
Assessment	Observed
Comments	<p>Legislations have given FINMA a wide enforcement power, except the power to impose monetary fines. There is an Enforcement Committee that meets weekly to ensure consistent and fair application of enforcement actions.</p> <p>By law, FINMA is obliged to report all criminal offences under the insurance laws to FDF for consideration for criminal proceedings. FINMA does not track the outcome of reported criminal breaches. In practice, FINMA relies on its supervisory power to restore compliance with the law; it rarely takes enforcement action. In 2012, FINMA took enforcement actions against 3 insurers, 2 board members of an insurer, one member of</p>

	<p>the executive management of an insurer, and 3 insurance intermediaries.</p> <p>For offences that are administrative in nature, such as the infringements listed under Article 86 of the ISA, FINMA should be given the power to impose administrative fines. It is recommended that Article 86 of ISA be amended to de-criminalize the offences and delegate the responsibility of imposing administrative fines to FINMA.</p>
<p>ICP 12</p>	<p>Winding-up and Exit from the Market</p> <p>The legislation defines a range of options for the exit of insurance legal entities from the market. It defines insolvency and establishes the criteria and procedure for dealing with insolvency of insurance legal entities. In the event of winding-up proceedings of insurance legal entities, the legal framework gives priority to the protection of policyholders and aims at minimizing disruption to provision of benefits to policyholders.</p>
<p>Description</p>	<p>The ISA defines several options to exit the market:</p> <ul style="list-style-type: none"> • liquidation of insolvent insurers (Arts. 53–56); • liquidation of solvent insurers when FINMA revokes the license (Article 52); or • liquidation of solvent insurer when it voluntarily surrenders the license (Article 60). <p>The same or analogous arrangements apply to branches of foreign insurers in respect of their operations in Switzerland.</p> <p>The procedure for dealing with insolvency is governed by the ISA (article 53-56), the Federal Act on Debt Collection and Bankruptcy, and FINMA Insurance Bankruptcy Ordinance (IBO). An application to wind-up an insurance operation may be brought by the company itself or by FINMA on the ground of indebtedness and liquidity (Art. 53.1 of ISA).</p> <p>FINMA may revoke the license and commence bankruptcy proceeding if an insurer is over-indebted or has serious liquidity problems and a recovery is not possible (Art. 53.1 of FINMASA). But even before reaching this point, FINMA can revoke the permission to continue the business if the insurer no longer fulfills the requirements for its activity or seriously violates the supervisory provisions (Art. 37 of FINMASA) or the interests of the policyholders are endangered (Art. 51 of ISA). In practice, FINMA would revoke the license if the SST ratio is equal or below 33 percent (FINMA Circular 08/44, Appendix 4).</p> <p>Under Switzerland’s tied assets regime, policyholders and insured persons have a priority claim against tied assets in case of insolvency or liquidation of the insurer (Art. 19.1 of ISA), after the liquidator (Art. 34 of IBO). FINMA can make upfront payments to policyholders before their claims are judicially determined in the schedule of claims in the interest of timely provision of benefits (Art. 35 of IBO).</p> <p>Motor vehicle policyholders have the option of receiving payment from the National</p>

	Guarantee Fund, or through the bankruptcy/liquidation process. Should the policyholders choose to be paid from the National Guarantee Fund, the Fund becomes a creditor in the bankruptcy proceedings.
Assessment	Observed
Comments	There are extensive provisions in the legislation for FINMA to manage an insurer's exit from the market in an orderly manner. These also provide for policyholders to rank second only to liquidator. The tied assets regime is a robust tool in ensuring policyholder protection.
ICP 13	Reinsurance and Other Forms of Risk Transfer The supervisor sets standards for the use of reinsurance and other forms of risk transfer, ensuring that insurers adequately control and transparently report their risk transfer programmes. The supervisor takes into account the nature of reinsurance business when supervising reinsurers based in its jurisdiction.
Description	<p>The use of reinsurance and other forms of risk transfers is regulated e.g., in the scope of the approval, in business plan requirements, in the solvency calculation (both solvency I and SST). Reinsurance and risk transfers are covered in both regular and ad hoc reporting requirements.</p> <p>In general the supervision of reinsurers is in line with direct insurers, considering however the specific business model of reinsurers. In Article 35 ISA, the articles which do not apply for reinsurers are exhaustively listed, e.g., tied asset requirements (Art. 17 ISA) are explicitly not applicable for reinsurers and other articles are applied correspondingly. Branches of companies headquartered outside Switzerland and conducting only reinsurance are exempted from supervision (Art. 2 paragraph 2 let. a ISA).</p> <p>The reinsurance/retrocession plan is an element of the business plan which needs to be approved in order to obtain a license to conduct business (Art. 4 paragraph 1 let. a ISA).</p> <p>The business plan has to be updated constantly. Changes to the reinsurance/retrocession plan (Art. 4 paragraph 2 let. n ISA) must be submitted to FINMA according to Article 5 paragraph 2 ISA within 14 days after taking effect (Art. 5 ISO). In addition the underwriting guidelines as an element of the organizational structure might be affected (Art. 4 paragraph 2 let. b ISA). In practice changes are usually filed before implementation. Changes will be approved either explicitly or implicitly within four weeks unless FINMA starts an examination of the changes.</p> <p>The reinsurance/retrocession plan consists of two sections:</p> <ul style="list-style-type: none"> a) management of credit risks arising from reinsurance/retrocession; and b) reinsurance/retrocession strategy.

	<p>For the management of credit risks this includes a description of:</p> <ol style="list-style-type: none"> a) A description of the method or the criteria for selecting reinsurers/retrocessionaires (e.g., including securities committee, minimum rating criteria). b) Ways in which reinsurance and retrocession claims are actively managed. c) Description of the methods for determining the limits on reinsurance claims in relation to individual reinsurers/reinsurance group or retrocessionaires and on individual countries or country group. <p>The reinsurance/retrocession strategy shall give a description of the concept of the principles applicable to the purchase of reinsurance (reinsurance concept, self-retention or strategy for purchasing reinsurance: coverage of peak risks, etc.).</p> <p>For insurance companies the minimum retention is 10 percent per line of business and for reinsurance companies the minimum requirement is 20 percent overall.</p> <p>In order to ensure the supervisory reporting requirements ceding companies must have in place procedures and systems over the reinsurance transactions. Furthermore ceding companies must have appropriate arrangements in place regarding risk management and control activities, e.g., guidelines for underwriting, investments, reinsurance, technical provisions, claims management etc. (FINMA-Circular 08/32, Corporate Governance, Risk Management and Internal Controls, margin No. 26).</p> <p>In case of an inappropriate concentration to reinsurance in general or to a single reinsurance counterparty, modification e.g., in form of specific scenarios would be required in the calculation of the SST ratio in order to ensure that the risks arising from reinsurance are accordingly considered. FINMA does not track concentration by type of reinsurer, including rating and geographic origin (i.e. the share in the reinsurance market of reinsurers coming from region x or have rating of y).</p> <p>The annual supervisory reporting requires that most of the insurance elements in profit and loss account as well as balance items are distinguished between gross and reinsurance/retrocession.</p> <p>In the calculation of solvency I, reinsurance is considered in general but only given limited effect depending on various factors. In the calculation of the target capital of the SST, reinsurance is fully considered and the resulting counterparty risk from reinsurance is separately covered in credit risk in the target capital based on Basel II/III approach. Furthermore transparency is ensured in the annual SST report, where the exposure vs. reinsurers is included and discussed. There is no requirement on the integrity of the reinsurance contracts, including the prohibition of side letters.</p>
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Switzerland has no restrictions for reinsurance activities both conducted on a cross-border basis or through branches in Switzerland and there are no collateral requirements for reinsurers domiciled outside Switzerland. On a case-by-case basis from a risk management perspective FINMA could impose specific conditions to mitigate possible excessive risk in this respect.

At the time of initial approval of the business plan (simultaneously with granting of the license) reinsurance contracts and/or the reinsurance program have to be available to the supervisor. The effect of the reinsurance are assessed annually both on the level of statutory accounting and solvency I as well as on the SST. However, a definition on risk transfer is not explicitly required.

Material changes like significant new reinsurance/retrocession contracts would represent a change of this element of the business plan which has to be filed accordingly, either based on a term sheet or with the final reinsurance contract. In the approval of the business plan a condition might be included to file the executed contract, unless it was available beforehand, within a reasonable time period.

The circular on liquidity risk management (FINMA-Circular 2013/5) is the base for insurers for the recording of liquidity risks as well as for the reporting. Based on the supervisory category, insurers have either (1) to file the liquidity reporting to FINMA; (2) to produce an internal report which would be made available on request to FINMA; or (3) are dealing with the subject.

Liquidity considerations arising from risk transfer contracts are addressed by way of limiting the credit of the risk transferred and on the requirement on tied assets in the amount of reinsurance recoverable in the case of life business. Cash payment clauses which are typical in the coverage of natural catastrophes help to mitigate potential liquidity issues arising from a significant or series of significant natural catastrophes. Further, the SST requires the assessment of impact of the failure of the main reinsurer in the form of a stress test.

Awareness of the existing and impact of liquidity triggers (downgrade clauses) in reinsurance contracts has been addressed on various occasions, e.g., on onsite reviews.

Risk transfer by way of reinsurance/retrocession contracts through a special purpose vehicle (indirectly to the capital markets) is allowed. In practical terms for small insurers/reinsurers this is hardly an option due to the complexity and market requirements for portfolios which are able to be securitized. As a result risk transfer to capital markets is only an option for very large insurers/reinsurers.

Risk transfer directly to capital markets of insurance risks would be additionally governed

	<p>by securities' regulation and would be assessed from FINMA also from the perspective of non-insurance activities according to Article. 11 ISA.</p> <p>A material risk transfer transaction to the capital market would as a traditional reinsurance arrangement constitute a business plan change (Art. 4 paragraph 2 let. n in conjunction with Art. 5 paragraph 2 ISA). FINMA would examine the transaction and assess e.g., the following: type of risks to be transferred, the efficiency of the transaction, legal structure including legal risks, quality of the collaterals.</p> <p>As mentioned in answer 13.2 second paragraph counterparty risks if relevant would be included in the target capital of the SST. In addition in a parametric risk transfer transaction to the capital market the remaining basis risks would be modeled and reflected in the insurance risk of the of the SST.</p>
<p>Assessment</p>	<p>Largely observed</p>
<p>Comments</p>	<p>The supervision of reinsurers is in general in line with the supervision of direct insurers, while considering the specific business models of reinsurers. From the perspective of ceded reinsurance of primary insurers, it is to be noted that Switzerland retains tied assets requirements. These include limited allowances and require the monitoring of reinsurance recoverables.</p> <p>While from the perspective of ceded reinsurance of reinsurers there are no tied assets requirements, there are general investment principles and specific limits of asset categories which apply. These help protect against the weakening of the asset quality of reinsurers.</p> <p>The ability for FINMA to have legal reach to the assets in case of liquidation is particular relevant in its role as home supervisor given the current ability of reinsures to operate in foreign jurisdictions without local capital requirements. Consideration should be made to extend requirements to reinsurers' assets to further strengthen FINMA's ability to have access to them in case of liquidation. It is recognized that FINMA has already begun dialogs with the largest groups on recovery and resolutions plans and is using its active involvement at the level of IAIS and FSB in these areas to identify best practices in these areas.</p> <p>All reinsurers established in Switzerland are supervised by FINMA, although branches of companies headquartered outside Switzerland and conducting only reinsurance business are exempted from supervision. The scope of relevant Swiss law on this point (ISA Art. 2 (2)) is transparent and known in the marketplace; in addition, FINMA is in close contact with their home supervisors where needed. However, given the relevance of reinsurance for the stability of the insurers abroad, it may be helpful for FINMA to more actively communicate its approach in regard of the supervision of branches of foreign</p>

reinsurers. A more conservative approach would be to include the supervision of that reinsurance activity.

The use of side letters affects the integrity and transparency of reinsurance treaties but its use is not regulated. The transparency of the contracts needs to be enhanced by the requirement on the integrity of the contract (banning the use of side letters could be one way to observe this transparency standard).

Concentration of reinsurance in a given reinsurer is supervised during the SST for the insurers. In addition, where reinsurance recoverables are recognized in tied-assets, insurers are required to report major reinsurer counterparties individually by their share and with information on their country and rating. Reinsurers for their part have to report their top 20 single retrocessionaires besides the respective lines of business, geographic area and lines of business of ceded reinsurance.

All of the above allow FINMA to monitor reinsurance concentrations, including any major exposure to a single reinsurer, and identify any inappropriate practices or trends. Where this is the case FINMA requires the matter to be addressed.

For purpose of systemic risk supervision, FINMA is recommended to also monitor market shares in the reinsurance sector by type of reinsurer, like rating and geographic origin; and also monitor exposures to single reinsurer on critical large risks.

Regulation requires insurers to analyze the effects of reinsurance on the balance sheet of insurers.

With respect to risk transfer, it is the responsibility of the appointed actuary to ensure correct risk-transfer treatment, which is part of the business plan. In the case of major Swiss insurers which are part of a listed company, their reporting uses U.S. GAAP or IFRS. These companies are thus required to apply certain risk-transfer tests. These are applied also in statutory accounting, provided it does not result in any conflict with the statutory accounting rules. However risk transfer definitions vary in accounting systems. Under one system uncertainty in the time of payment would be sufficient to have risk transfer in place. In another accounting system, in addition underwriting risk would also need to be transferred in a contract for it to qualify as a reinsurance contract. U.S.-GAAP and IFRS differ on this perspective for instance.

FINMA should consider issuing specific rules on risk transfer to bring certainty as to what constitutes a valid reinsurance transaction.

FINMA supervises at time of licensing that reinsurance contracts are in place and that new contracts and major changes to contracts are reported. These are subject to FINMA's

	<p>ongoing supervision. In addition, FINMA has the right to review any contract at any time, not only when there are changes. With most reinsurers involved in traditional reinsurance business, the contractual relationships tend to be long-term where FINMA is well acquainted with the material arrangements. To fully observe the standard 13.4 FINMA should explicitly require that parties to reinsurance contracts promptly document the principal economic and coverage terms and conditions agreed upon by the parties and finalize the formal reinsurance contract within a given reasonable period of time.</p>
<p>ICP 14</p>	<p>Valuation The supervisor establishes requirements for the valuation of assets and liabilities for solvency purposes.</p>
<p>Description</p>	<p>Insurers are required to report on an annual basis and groups on a semiannual basis their solvency position. Solvency of an insurance company/group is measured by the Swiss Solvency Test (SST). The SST uses a total balance sheet approach and adheres to a market-consistent valuation of assets and liabilities (Art. 48 ISO).</p> <p>Regulation concerning market-consistent valuation in the SST is independent of international accounting standards. The requirement for a market-consistent valuation is considered central to the SST (Art. 48 ISO). Certainly, values from accounting balance sheets using IFRS can readily be used in the SST balance sheet if the underlying valuation requirements and methods fulfill the corresponding SST requirements.</p> <p>Market-consistent valuation has to be in line with and not in contradiction to information obtainable from liquid markets (margin No. 32 FINMA-Circular 08/44). Market-consistent values are either equal to prices directly observable on markets (“marking-to-market”), or, where such market prices are not available, they are determined based on sound models from financial mathematics or actuarial science (“marking-to-model”) (Appendix 3, 1 ISO). Where sufficient transactions for an asset or liability take place at arm’s length between knowledgeable business partners or a sufficient number of securities traders or brokers quote prices in the capacity of business partners for a potential transaction, in good faith and in a binding manner, and for significant volumes, an insurance company is to use this price for determining the market consistent value of the position being valued (“Marking-to-market”, Appendix 3 paragraph 1, ISO and margin No. 38 the FINMA-Circular 08/44). Where no marking-to-market is applicable, an insurance company must apply the marking-to-model method (Appendix 3 paragraph 1 ISO and margin No. 39 FINMA-Circular 08/44). In general the market for insurance liabilities is not deep and liquid requiring for the determination of liabilities and technical provisions the use of the marking-to-model approach. Marking-to-model must satisfy various conditions, including that valuation models and their parameters have to be calibrated as much as possible on the basis of objectively observable data (margin No. 42 FINMA-Circular 08/44).</p>

As claims are regularly settled with policyholders in the majority of cases, the view has shifted partially from a pure exit value to a settlement value of the corresponding technical provisions.

On the assets side, when no reliable market values exist, asset cash flows are to be discounted with a risk-adjusted rate. The risk-adjusted rate is derived by the risk-free yield curve modified by the risk premium. The risk premium takes into account in particular the general risk aversion of the market, the time to maturity of the claim, its liquidity and seniority, the debtor's credit rating, and the existence and quality of any potential collateral instruments (margin No. 5 Appendix 1 FINMA-Circular 08/44). Real estate is valued using the discounted cash flow method.

The market-consistent value of technical provisions equals the sum of a best estimate and a market value margin (MVM). However, where the market consistent value of insurance liabilities can be determined directly and without having to resort to the indirect method of a discounted best estimate, it does not need to be subdivided into the discounted best estimate and the risk margin (margin No. 45 FINMA-Circular 08/44). The best estimate value corresponds to the expected value (in the mathematical sense) of future cash-flows, using the relevant risk-free interest rate term structure (Appendix 3, 3 ISO, margin No. 46 FINMA-Circular 08/44). The calculation of the best estimate shall be based upon up-to-date and credible information and realistic assumptions (Appendix 3, 3 ISO). Implicit or explicit margins are not part of the best estimate (Appendix 3, 3 paragraph 2 let. b ISO).

For discounting liabilities, risk-free yield curves have to be used (Appendix 3 paragraph 33 ISO, margin No. 46 FINMA-Circular 08/44), and FINMA makes counterparty risk-free yield curves available in the most commonly used currencies (CHF, EUR, USD, GBP, JPY) as per 1 January and 1 July of every year. In lieu of the risk-free yield curves issued by FINMA in the most commonly used currencies, insurance companies may use their own risk-free yield curves. The method used for computing these yield curves has to be submitted to FINMA in a suitable form for approval. Where an insurance company employs its own risk-free yield curves in lieu of the risk-free yield curves provided by FINMA, it is to provide a side-by-side comparison of the yield curves calculated by it and those issued by FINMA. Where there are significant valuation differences due to the insurance company using its own yield curves, FINMA reserves the right to apply a markdown to the RBC (47 FINMA-Circular 08/44 margin No. 47).

There are no explicit requirements for processes around SST technical provisions. In order to generate best estimates of technical provisions, (re-) insurers however have to have sound processes in place, which is checked by FINMA in actuarial reserve reviews, which include, inter alia, the following aspects:

- the reserving processes and guidelines, in particular the derivation of unbiased assumptions and parameters, are in line with actuarial best practice and properly documented;
- changes to the reserving processes and guidelines are well documented and signed-off by senior management;
- reinsurance strategy and implementation, including analysis of triangles and cash flows on both gross and net basis;
- pricing and reserving actuaries are independent from each other, and there is a feedback loop between them; and
- the underwriting and claims settlement processes and guidelines must be in line with common best practice, and there is a feedback loop with the reserving actuaries.

The market value margin is determined such as to ensure that the value of the technical provisions is equivalent to the amount that insurance and reinsurance undertakings would be expected to require in order to take over and meet the insurance and reinsurance obligations (margin No. 36 FINMA-Circular 08/44). It is calculated by determining the capital cost for the risks in each year in the run-off of the portfolio (Art. 41 paragraph 4 ISO) over the whole period until final settlement of the portfolio. More specifically, the “capital for the risks” is referring to the regulatory capital requirement under SST over the whole period until final settlement of the insurance liabilities.

Thus, the inherent risks in future years require in principle an SST calculation for each future year during the entire expected duration of settlement of the insurance liabilities, and an ancillary SST is to be performed in order to determine the one-year SST risk capital. Like the current SST, the method employed in the ancillary SSTs to be conducted is to extend to determining at least the inherent market, insurance and credit risk and evaluating and aggregating the relevant SST scenarios (margin No. 60 FINMA-Circular 08/44). However, the FINMA-Circular 08/44 (margin No. 60-65) allows using approximate determination of future one-year risks.

To achieve consistency with the best estimate assumptions, in determining the market value margin, companies are to apply the same parameters and assumptions as when determining the insurance liabilities, including inter alia (margin 62 FINMA-Circular 08/44):

- assumptions pertaining to one’s own business policies;
- assumptions pertaining to settling one’s own portfolio;
- assumptions pertaining to diversification in one’s own portfolio;
- assumptions pertaining to one’s own expense risk; and
- assumptions pertaining to client behavior.

If the market-consistent value of hedgeable risks is already included in the best estimate

of liabilities, then, up to the degree of this inclusion, the determination of the future one-year SST risk capitals reflects the non-hedgeable risks. For example, if the market-consistent value of hedgeable risks were already completely included in the best estimate of liabilities, then, to avoid double counting, the market value margin would reflect solely the inherent non-hedgeable risks.

The future one-year capital costs are calculated by multiplying the future one-year SST-risk capitals with the cost-of-capital rate. The latter represents the yield over the risk-free rate and is currently assumed to be equal to 6 percent. The future one-year capital costs are then to be discounted as of the reporting date of the current SST using a counterparty risk-free yield curve. The sum of these present values results in the market value margin (margin No. 66 FINMA-Circular 08/44).

As a result of the low interest rate environment affecting the insurance sector since the crisis, FINMA allows insurance companies to value their technical provisions from in-force business by using interest curves with counterparty credit risk since January 1, 2013. The new regulation is valid for a period of three years. For the accounting year starting in 2016, insurance companies will have to use risk-free interest curves again to value their technical provisions. Consequently and in addition to the risk-free yield curves, FINMA is now also publishing bi-annually yield curves with counterparty credit risk in the most commonly used currencies (CHF, EUR, USD, GBP, JPY) as per 1 January and 1 July. FINMA has also requested insurers to perform shadow calculations without the temporary adjustments to track solvency positions with and without the adjustments.

Concerning these valuation modification, four important points should be noted:

- a) The adjustments to the yield curve do not go any further than the adjustments made within the framework of QIS 5 in Solvency II.
- b) The adjustments are aimed at mitigating the impact of the low interest rate environment on the valuation of in-force business only, without altering the valuation methodology for new business. The regular SST provisions in respect of new business (and the incentives these create) are thus left intact.
- c) The adjustments will automatically expire on December 31, 2015. Subject to the developments in interest rates and in the capital requirements of the EU and other relevant jurisdictions, FINMA does not expect at this time to need to extend this expiration date.
- d) Making use of the adjustments is not mandatory for any insurance company.

Regarding intervention thresholds, FINMA allows for temporarily relaxing the supervisory intervention ladder and grants the companies longer deadlines to again reach the target threshold values.

Each insurer is required to determine assets as well as liabilities including technical provisions for all obligations of the firm, as the market consistent SST balance sheet has to include “all economically relevant positions” (Art. 48 paragraph 2 ISO, Appendix 3, 3 paragraph 2 let. a ISO, margin No. 26 FINMA-Circular 08/44). In particular, the determination of liabilities and technical provisions has to be comprehensive (Appendix 3, 3 margin No. 2 let. a ISO), the best estimate part has to equal the expected value (in the mathematical sense) of discounted cash flows of future payments (Appendix 3, 3 ISO). Thus, an insurance contract liability is subject to derecognition if and only if its cash flow is nil (or below materiality thresholds stipulated in margin No. 26 FINMA-Circular 08/44).

For Swiss group life policies, there usually exists the boundary constraint that the insurer can freely re-underwrite the policy. In its current practice, FINMA allows for new business stemming from Swiss group life cash flows beyond that boundary constraint. However, that new business is constrained to maximal 10 years for users of the standard model, and to maximal 40 years for users of internal valuation models, respectively, and all relevant risks arising from it have to be addressed by the capital requirements. As the determination of insurance liabilities and technical provisions has to be comprehensive, embedded options are to be valued by sound methods recognized by financial mathematics (Appendix 3, 3 margin No. 2 let. a ISO). Thus, realistic assumptions of lapses and exercising of embedded options have to be applied. For the calculation of the time value of options and guarantees all payments which are connected to the insured risks have to be considered, especially profit participations.

Individual insurance companies also have to comply with the tied assets requirements. Requirements for the valuation of assets for tied assets purposes are stated in Article 88–95 ISO and FINMA-Circular 08/18. With regard to tied assets, the applicable statutory valuation of assets and liabilities for the purpose of tied assets regulation is not fully based on a purely market consistent valuation. The majority of asset classes is priced at their market values and is hence consistent with international accounting standards, to the extent possible. For some asset classes (e.g., fixed income securities, real estate, derivative financial instruments, etc.) values are, however, capped by the statutory values (e.g., amortized cost values). The valuation of the statutory technical reserves for the purpose of the tied assets coverage requirement uses the interest rates produced by the individual company investment portfolios under stress and with prudential safeguards as discount rates.

FINMA adheres to the principle of proportionality: in case of lack of own data, for example, companies can base their best estimate assumptions on industry data. During FINMA’s actuarial reserve reviews, however, all relevant assumptions have to be explained and shown to be appropriate. Also, simplified valuation methods and consolidations are permissible as long as they are not in breach of the materiality thresholds stipulated in margin No. 26 FINMA-Circular 08/44. This has to be shown by the insurance company by

	providing a suitable analysis. (margin No. 163 FINMA-Circular 08/44).
Assessment	Observed
Comments	<p>Regulation concerning market-consistent valuation in the SST is independent of international accounting standards.</p> <p>FINMA sets the valuation requirements for assets and liabilities to be applied for solvency purposes. Under the Swiss Solvency Test (SST) positions are valued on a market consistent basis. The insurers own credit risk cannot be taken into account in the valuation of its liabilities and to provide a full economic picture, the SST includes positions which would be off-balance in accounting standards. The use of models for the valuation of liabilities is subject to strict requirements to warrant the economic valuation. For instance, when stochastic techniques are applied for the valuation of life insurance liabilities, the underlying economic scenarios have to be calibrated market consistently, and a consistent approach in assessing assets and liabilities has to be very carefully considered.</p> <p>Most assets are valued at market and the concept of the discounted best estimate and the market value margin (MVM) applies with regard to liabilities and technical provisions. For discounting liabilities, risk-free yield curves have to be used and FINMA makes counterparty risk-free yield curves available in the most commonly used currencies (CHF, EUR, USD, GBP, JPY) as per 1 January and 1 July of every year. Where other risk-free yield curves are required, the insurer is responsible for calculating them.</p> <p>Some elements distorting the full economic valuation of assets and liabilities are however present in the regulation:</p> <ul style="list-style-type: none"> • FINMA allows for new business stemming from Swiss group life cash flows beyond the contractual obligation, but considers the impact of new business in capital requirements. • The valuation of the statutory technical reserves for the purpose of the tied assets coverage requirement (but not for the SST) is currently done using the interest rates produced by the investment portfolios under stress and subject to prudential assumptions of individual companies as the discount rates that are in the order of 4 to 2.5 percent. Given that the tied assets regime is the main protection for policyholders in absence of a guarantee scheme, a conservative approach is recommend defining a forward looking maximum discount interest rate for the valuation of liabilities. <p>As a result of the low interest rate environment affecting the insurance sector FINMA has introduced temporary measures that reduce the solvency requirements for insurers, while these measures have been introduced in line with the ICP requirements (IAIS ICP Guidance 14.3.7, 14.5.7 and 14.10.2) and with sufficient safeguards, to maintain the level</p>

	<p>of protection for policyholder as intended by the SST framework, the temporary measures should be seen as temporary and reverted as planned.</p> <p>The use of an additional margin (MVM) to the best estimate in valuating liabilities is used under SST and the value of the MVM is linked to the cost of regulatory capital, currently set at 6 percent. While it can be argued that there is a relation between the required risk capital and hence of the cost of maintaining such capital and the uncertainty of the future cash flows, such relationship is certainly difficult to determine. The cost of capital approach for the MVM is given as an example in ICP 14.7.5 and ICP 14.9.1. Moreover the cost of maintaining such capital has not been changed since the design of SST.</p> <p>FINMA should consider regular updates of the cost of capital rate of currently 6 percent.</p>
ICP 15	<p>Investment</p> <p>The supervisor establishes requirements for solvency purposes on the investment activities of insurers in order to address the risks faced by insurers.</p>
Description	<p>Requirements for investment activities are defined in the Insurance Supervision Act (ISA), the Insurance Supervision Ordinance (ISO), and in the following circulars:</p> <ul style="list-style-type: none"> • FINMA-Circular 08/18 "Investment guideline for tied assets and the use of derivative financial instruments by insurers" • FINMA-Circular 08/44 "Swiss Solvency Test (SST)", which is supplemented by several guidelines ("Wegleitungen") addressing special aspects of different risk types. • FINMA-Circular 08/32 "Corporate governance, risk management and the internal control system within the insurance sector" • FINMA-Circular 08/33 "Risk-based capital requirement of reinsurance captives" <p>Swiss domiciled (re)insurance companies must submit their investment guidelines for approval (Art 4 paragraph 2let. d ISA). The assessment is also based on the prudent investor rule and considers common practice of modern portfolio management. Investment risks are more specifically covered in the context of the business plan to be submitted by undertakings. Based on Article 4 paragraph 2 lets. d and q ISA and on the specific forms to be filled, undertakings among others are required to submit their investment strategy and guidelines for approval. The approval is granted if the minimum provisions of Articles 96–98 ISO and Circular 08/32 are fulfilled. The main practical aspects of FINMA's assessment are:</p> <ul style="list-style-type: none"> • the organization of the Risk Management must be appropriate and ensure that all material risks are identified, monitored and managed; • the investment strategy is consistent with the risk appetite defined by the board and is reflected in the limit system; and • the investment process and guidelines must be in line with common practice. <p>Accumulation risks is monitored, and mitigated. The investment approach must be</p>

proportionate and ensure that the solvency position of the undertaking is not impaired (prudent investor).

According to Article 17 ISA, direct insurance companies shall secure claims arising from its insurance contracts by means of tied assets (“gebundenes Vermögen”). There are no tied assets requirements for reinsurers and at a group level. Tied assets regulation requires each insurance entity to provide security for its claim payment obligation by designating specific investments as tied assets.

For investments to qualify as tied assets they have to comply with Article 17 ISA. Articles 70–95 ISO equally apply. The regulations are substantiated through Circular 08/18 “Investment guideline for tied assets and the use of derivative financial instruments by insurers” (Status as of December 6, 2012). The Circular represents the framework for tied assets mainly in a qualitative sense. It applies on a legal entity basis. Additionally, for some asset classes (e.g., shares, real estate, mortgage loans, ABS, alternatives, derivatives), strategies (e.g., securities lending) and risk categories (e.g., counterparty risk, currency risk), quantitative constraints are also in place.

Generally, it is a requirement that the valuation of positions of the tied assets is straightforward. Investments have to show a high liquidity within the specific asset class (e.g., shares quoted on a minor exchange that are traded infrequently are not allowed as tied assets investments). Investments in assets containing insurance risks are prohibited. Tied assets have to be invested prudently in the best interest of all policyholders. Investments in risky assets are admitted on a marginal level only and require the company to benefit from a high risk carrying capacity. Sub-investment-grade investments are only allowed in a highly diversified portfolio and require the company to have the necessary skills.

There are explicit quantitative limitations regarding risk accumulation and risk concentration. Counterparty risk exposure and unhedged foreign currency exposure are restricted. Furthermore, asset allocation has to consider the company’s liquidity needs. As a basic principle, tied asset investments have to be highly liquid compared to assets in the same asset class.

Generally, tied assets investments have to belong to one of the following asset classes:

- Cash and cash-like investments
- Bonds, convertible bonds
- Structured products, securitized debt
- Loans
- Stocks and other listed equity
- Real estate
- Mortgages

- Alternative investments
- Derivatives
- Investment funds

For each asset class a number of qualitative (economic and legal) restrictions apply. In a quantitative sense an explicit limit system applies to investments in stocks, securitized debt, real estate, mortgages, alternative investments and derivatives for purposes other than hedging. There are also limits within the asset classes for diversification purposes. Securities lending is allowed but restricted.

Examples of qualitative restrictions include:

- Inadmissibility of cash holdings outside Switzerland.
- Several restrictions on securitized debt investments concerning the structure and riskiness of the underlying pool.
- Inadmissibility of loans outside Switzerland, restrictions on Swiss loans rated lower than A.
- Restrictions on equity not listed on a highly liquid stock exchange.
- Direct real estate investments are restricted to Switzerland; there is a list of not admissible real estate holdings.
- Explicit constraints on mortgage lending (e.g., loan to value constraints).
- An exclusive definition of admissible alternative investments; a company intending to invest in alternatives has to apply to FINMA for approval.
- Investments in derivative instruments are generally possible insofar as they contribute to a reduction of risks or facilitate an efficient portfolio management. Commitments arising from derivative transactions have to be covered at any time. For tied assets purposes only particular derivative instruments are allowed. The use of derivative instruments is restricted to a) reduce risks on investments and on liabilities toward policyholders, and b) to manage investments efficiently (Art. 100 paragraph 1ISO). Furthermore, there are collateralization requirements.

Legal restrictions apply to the custody of tied assets investments to ensure the access by both the company and the regulator at any time, especially in the event of bankruptcy.

Moreover, the Swiss Solvency Test defines how potential risks of investments must be underpinned with capital. Risk types that must be considered include market risk and credit risk. Diversification between different assets is taken into consideration. Also, diversification of risks between assets and liabilities is taken into consideration and potential mismatches between assets and liabilities must be underpinned with capital.

In addition, FINMA- Circular 08/33 on risk-based capital requirement for reinsurance captives defines high capital charges for exposures against counterparties exceeding 10 percent of available economic capital. Exposure exceeding 30 percent of available

	<p>economic capital are charged with 100 percent of the corresponding capital.</p> <p>For reinsurance companies where there are no requirements for tied assets and no explicit limits for certain investment categories, FINMA may conclude in view of the risk capacity of an undertaking and/or the risk management aspects as stated above to limit certain investments, categories, structure etc., possibly combined with additional reporting requirements. In recent years there were several cases where such measures were applied, for instance in 2008 on structured products like asset back securities where closely monitored for proper valuation.</p> <p>The use of derivatives is regulated separately for all insurance and reinsurance undertakings and derivatives are allowed for hedging and optimizing the investment portfolio purposes. The investment strategy related to the use of derivatives has to address the basic principles for investments, namely security, liquidity, profitability, diversification relating to asset classes, to risks and to counterparties (Art. 102 paragraph 2 ISO).</p> <p>Article 22 paragraph 1 ISA on risk management provides that undertakings must be organized in a way that ensures that all material risks are identified, monitored and mitigated. The scope of this clearly goes beyond insurance risks and includes all risks associated with investment activities. Minimum Standard for risk management covering the identification, measurement, monitoring and reporting of financial risks are defined in Articles 96–98 ISO an further detailed in FINMA-Circular 08/32 on Corporate governance, risk management and the internal control system.</p> <p>The general principles regarding risk management apply to investments of free assets as well. Under these principles, undertakings must submit their investment guidelines for approval (Art. 4 paragraph 2 let. d ISA). The assessment is also based on the prudent investor rule and considers common practice of modern portfolio management. Even if there are no separate requirements for free assets, and no explicit limits for certain investment categories, FINMA may take corrective action. In recent years there were several cases where such measures were applied.</p>
Assessment	Observed
Comments	<p>The investment activities of insurers are regulated in a manner to properly address the risks faced by insurers.</p> <p>Swiss domiciled (re)insurance companies must submit their investment guidelines for approval. The assessment is also based on the prudent investor rule and considers common practice of modern portfolio management.</p> <p>Specially designated assets are required for backing up the insurance liabilities. These tied</p>

	<p>assets are subject to limits and rules to provide security, liquidity, diversification and legal access in case of bankruptcy. More complex types of assets are subject to stricter limits, including prohibitions, detailed reporting and full understanding of their inherent risks.</p> <p>Asset-Liability mismatching as well as permissible concentration risk are penalized through capital surcharges. Use of derivatives is restricted for hedging purposes and portfolio optimization; further all positions need to be fully covered.</p>
ICP 16	<p>Enterprise Risk Management for Solvency Purposes</p> <p>The supervisor establishes enterprise risk management requirements for solvency purposes that require insurers to address all relevant and material risks.</p>
Description	<p>FINMA regulation requires insurers to be so organized so as to allow the identification, monitoring, reporting on, mitigation and management of key risks of the insurance undertaking (Arts. 22 and 68 ISA, and Art. 96 ff. ISO and for insurance groups: 195 ff. ISO), along with a well-documented risk management system that enables the timely fulfillment of these activities and which properly defines:</p> <ul style="list-style-type: none"> • The categories of risks to which the insurance undertaking is exposed. • The insurance company's risk appetite and risk limits. • The measures to monitor and address identified risks and to report thereon. • The expectations by the insurance company of employees in these areas, which is supported with training where appropriate. • The existence of sufficient resources for the risk management system and the internal controls system. • Periodic reviews by the insurance company of the adequacy of its risk management and internal controls systems. <p>The requirements also apply under FINMA's Group supervision. Article 64 ff. ISA, in particular Articles 67, 68, and 70 ISA set the regulatory parameters applicable to the governance of insurance groups. They incorporate by reference the Articles 14 and 22 ISA on corporate governance and risk management. They are complemented by the group-specific Article 191 ff. ISO and the general Articles 14 and 96 ff. ISO regarding corporate governance, risk management, and internal controls of an insurer.</p> <p>The expectations of a working ERM are further elaborated under the Swiss Solvency Test (SST, Art. 21 ff. ISO) pursuant to which Swiss domiciled (re)insurance companies and groups have to be able to measure their risks for regulatory capital purposes, including at least (i) insurance risks; (ii) market risks; and (iii) credit risks. (FINMA-Circular 08/44 margin Nos. 79-91).</p> <p>The SST-use test provides that exposure limits are to be in line with the results of the risk model, and that management and board have sufficient knowledge of the risk model, its use and its limitations. The board and management have to take into account the results</p>

of the (internal) model when taking decisions FINMA-Circular 08/44 margin nos. 146 and 148).

With respect to operational risks, FINMA does not require quantification for regulatory capital purposes under the SST. However, it does expect, pursuant to Article 98 of the ISO, the successful identification and assessment of operational risks. If these results could put regulatory solvency at risk, FINMA can intensify its supervision of operational risks and/or increase the required capital under the SST (Art. 98 paragraph 4 let. a and b ISO).

Liquidity risk is addressed in more details in a new FINMA-Circular 2013/05 "Liquidity Insurers" published this year.

In addition to the SST-scenarios specified by FINMA, an insurance company is to define its own scenarios that take into account the company's own individual risk situation. The scenarios are to be appropriately documented and reviewed on an annual basis. Valuation of the relevant positions is to be done in the scenarios applying a revaluation. The results of the scenarios are to be analyzed and taken into account in risk management. FINMA-Circular 08/44 margin No. 97).

An insurance company is to analyze in particular whether and to what extent the model used understates the probability of extreme events due to its specification. Where this is the case, the insurance company is to define and evaluate appropriate scenarios and take them into account in determining its target capital FINMA-Circular 08/44 margin No. 98). With regard to proportionality, pursuant, among others, to FINMA-Circular 08/32, the insurer's risk management framework is expected to be of an appropriate level of sophistication, in light of its size, complexity, and risk profile. Sophistication includes having the appropriate techniques for the identification and quantification of risk which are adequate also for risk management, capital management and solvency purposes. FINMA provides additional supervision in the risk management area through the Swiss Qualitative Assessment (see ICP 8) as well as through regular supervision. Among other things, the insurer has to provide FINMA information about the recognition, limitation and monitoring of risks as part of the business plan (Art. 4 paragraph 2 let. q ISA).

On the documentation requirements, besides management and the risk office, also the responsible actuary plays an important role in the documentation process. For example, the responsible actuary is required to establish regular reports for management. The report presents the current status as well as possible developments from an actuarial perspective, in particular actuarial developments which may endanger the financial condition of the company. The report indicates the improvement measures proposed in respect of the shortcomings identified as well as details of measures actually taken. The

report provides material conclusions as well as comments on the principles, parameters and models used as well as on the sensitivity of results on changes of parameters. On request the report has to be made available to the supervisory authority.

With respect to transactions, an insurance company is expected to have documented, internally validated and internally approved methods that ensure that all transactions and contractual agreements are recorded in a complete, correct and timely manner, and are processed for the purpose of valuation and risk measurement FINMA-Circular 08/44 margin No. 154).

With respect to the SST, an important documentation requirement is that each insurer is required to prepare and send an SST report annually to FINMA (Art. 53 paragraph 1 ISO). In addition, insurance groups have to submit the SST report biannually (Art. 202 ISO). Every insurer is required to determine and report the target capital as soon as its risk situation changes considerably (Art. 51 paragraph 2 ISO).

The risk reporting for groups to FINMA includes, among other things, the following elements:

- Swiss Solvency Test report (bi-annually) (FINMA-Circular 08/44).
- An annual risk management documentation of an insurance group (Art. 196 paragraph 1 ISO); the objective and content as well as the documentation are the same as for solo entities (Art. 96s. ISO).
- Risk report (annually) (Art. 197 ISO).

To set out its expectations, FINMA has published guidelines to the Report on group-wide risks and risk concentration according to Article 197 ISO. The individual reports received from the insurance groups are of different size and content, reflecting the nature, size and complexity of the respective insurance group.

Pursuant to FINMA-Circular 08/32, margin No. 36, among others, for a well-documented risk management system include ensuring the company has a risk policy with appropriate connection to the business strategy and which is embedded in the operations of the business. Among other things, such policy covers:

- the categories of the key risks to which the insurer is exposed; and
- matters such as (a) allocation of responsibilities; (b) risk strategy and tolerance; (c) risk limits; (d) risk methodologies; and (e) escalation and risk reporting.

According to margin No. 24 of FINMA-Circular 08/32, insurers are expected to operate consistently with good practice in the risk management field, which includes those practices as regards ALM. Further under the SST, Swiss domiciled (re)insurance companies and groups have to be able to measure, among others, market risks FINMA-Circular 08/44 margin Nos. 79-91), under which are subsumed ALM risks. In addition, addressing

ALM is an integral part of the group risk report.

Investments activities are to be embedded in an investment strategy that takes into account a) the nature and complexity of the underlying insurance business and b) the financial situation of the insurer. FINMA-Circular 08/18 explicitly prohibits investments in assets that may endanger the company's solvency. The main practical aspects of FINMA's assessment are:

- The organization of risk management must be appropriate and ensure that all material risks are identified, monitored and managed.
- The investment strategy is consistent with the risk appetite defined by the board and is reflected in the limit system.
- The investment process and guidelines must be in line with common practice. Accumulation risks are to be monitored and mitigated. The investment approach must be commensurate to the risks and ensure that the solvency position of the undertaking is not impaired (prudent investor test).

During the actuarial reserve reviews, FINMA checks in particular the following aspects:

- The underwriting and claims settlement processes and guidelines must be in line with common best practice, and there is a feedback loop with the reserving actuaries.
- Pricing and reserving actuaries are independent from each other, and there is a feedback loop between them.
- Reinsurance strategy and implementation, including analysis of triangles on both gross and net basis.
- Expense control and role of (superimposed) inflation.

The responsible actuary's role also helps in ensuring appropriate underwriting discipline. He or she is responsible for ensuring that the tied assets are in accordance with the supervisory requirements, and for setting the parameters that adequate technical provisions are established. Identified shortcomings have to be reported to the management of the insurance company without delay.

As FINMA-Circular 08/32 also applies to insurance groups, the respective underwriting risk policy is required on a group level and is assessed during the ongoing group supervision.

Risk tolerance is part of the risk documentation as per Article 97 ISO which applies for solo entities as well as for groups (Risk management documentation for insurance groups is required by Article 196 ISO and for details referred to Articles 96 and 97 ISO).

Under margin Nos. 23 and 30 of the FINMA-Circular 08/32 insurers are to review regularly and adjust their risk methodologies, and under margin No. 39 they are to ensure ongoing quality control.

FINMA's supervision under the minimum provisions of Article 22 ISA and Article 96 paragraph 2 ISO and the SST results in a process by which the insurer, in effect, is required to regularly assess its own solvency and risks that relate to it and engage with FINMA directly.

- Besides the annual supervisory report ("Aufsichtsbericht") pursuant to Article 25 paragraph 2 ISA (including among others details on solvency margin Nos. and technical provisions) and the interim supervisory report (less detailed; on quarterly basis), FINMA requires.
- an annual risk management documentation (Art. 97 and 196 ISO).
- an annual report as to liquidity risk (FINMA-Circular 2013/05 margin No. 27 applicable to solo and group entities).
- an annual risk report (Art. 197 ISO) (for groups).
- Reports to FINMA on capital planning are required for the three largest Swiss insurance groups.

Furthermore, as part of the Swiss Qualitative Assessment, there are various elements requiring the insurer to focus on specific risks, identify other risks, and indicate what measures it is taking to respond to these and how well these are working.

Under CO Article 716a, paragraph 1, No. 5, the BoD has the responsibility of overall supervision of senior management, including in respect of complying with law and regulation. This would include any reporting to FINMA. Under the Swiss Qualitative Assessment FINMA goes further in requiring independent answers and assessments also from the insurer's control functions. Thus, in addition to the views of the Board of Directors and management, FINMA receives directly and separately the views and assessments by the insurer's actuary, head of risk management, head of compliance, and head of internal audit.

FINMA reviews regularly through interaction with insurers, onsite inspections, and other means the risk management system of the insurer and its financial position (see ICP 9). Solvency is assessed through the Swiss Solvency Test and qualitative elements of risk management (as well as of governance and internal controls) are assessed through the Swiss Qualitative Assessment.

Regular supervision includes the supervisory activity that results from the requirement under Swiss law of FINMA approval for any changes in the insurance activity or business plan of the insurer. Through this process FINMA can review risk management related items such as:

- Details on financial conditions and technical provisions.
- Financial statements of the last three years or opening balance sheet of a new carrier respectively.
- The proposed lines of business and the type of risks to be insured.

	<ul style="list-style-type: none"> The reinsurance plan or, for reinsurers, the retrocession plan.
Assessment	Observed
Comments	<p>FINMA has established well documented, detailed, comprehensive and forward looking requirements for enterprise risk management for the supervised entities that address all relevant and material risks that could affect their solvency. These requirements are part of our insurance law and are further defined through circulars and supervisory practice and FINMA monitors their implementation by insurers and insurance groups. The BoD is ultimate responsible for the implementation of these requirements and the use of the systems in the day to day business decisions.</p> <p>While ORSA is not a formal separate requirement, through the annual risk, capital planning, liquidity and the SST, insurers are required to consider current and emerging risks that could affect the ability to meet the SST and the models and scenarios used to determine solvency have to include those risks. In addition, qualitative scenarios are used for better understanding and planning future capital needs.</p> <p>The SQA complement the SST on checking the quality of the risk management systems of the entities.</p> <p>In addition to management and the risk office, also the responsible actuary plays an important role in the documentation process. The responsible actuary report presents the current status as well as possible developments from an actuarial perspective, in particular actuarial developments which may endanger the financial condition of the company. But this report is only available to the supervisory authority on request. FINMA is recommended to require the responsible actuarial report on a regular basis.</p>
ICP 17	<p>Capital Adequacy</p> <p>The supervisor establishes capital adequacy requirements for solvency purposes so that insurers can absorb significant unforeseen losses and to provide for degrees of supervisory intervention.</p>
Description	<p>Under Swiss insurance regulations the financial condition of supervised entities is ensured both by modern economic instruments, such as the risk-based Swiss Solvency Test (SST) and more traditional instruments in the form of tied assets and solvency margins under Solvency I.</p> <p>The SST uses a total balance sheet approach and adheres to a market-consistent valuation of assets and liabilities (Art. 48 ISO). In order to provide a full economic picture, the SST does not know the concept of off-balance sheet positions. It therefore includes positions which would be termed "off balance" in traditional accounting terminology (Art. 48 paragraph 2 ISO, margin No. 30 SST-Circular), for example contingent assets and liabilities.</p>

In the SST, "Risk bearing capital" or RBC (the SST term for what corresponds to "own funds" in Solvency II) is composed of two layers called core capital and complementary capital (Art. 47 paragraph 1 ISO).

Core capital is defined as market value of assets minus market value of liabilities plus the market value margin (Art. 48 paragraph 1 ISO):

$$\text{Core Capital} = A - (L - \text{MVM}) - \text{Corrections}$$

where liabilities do not include own credit standing, i.e., it is assumed for the purpose of valuation, that the (re)insurer fulfills its financial obligations as they fall due. The reason for deducting the market value margin from the market value of liabilities is preventing implicit equations. As subordinated debt is included in the definition above, it is not part of core capital. Therefore core capital is considered to absorb losses in a going concern as well as in a winding up situation.

"Corrections" in the above formula refer to deductions of (a) foreseen dividend payments to shareholders, (b) own shares, (c) potential immaterial funds, and (d) latent taxes for real estate in Switzerland (Art. 48 paragraph 1 let. a-d ISO).

Complementary capital consists of hybrid instruments, if they meet the following conditions: a) instruments are paid-in, b) instruments cannot be offset against other obligations, c) subordination is contractually fixed and irrevocable, d) the (re)insurer has the right to suspend interest payments, e) the notional debt and interests bear losses of the company without triggering the cessation of the firm, f) notional is not callable by the investor before the date of redemption, except in case of the liquidation of the (re)insurer, and g) redemption prior to maturity needs approval of FINMA (Art. 39 paragraph 1 let. a-g ISO).

Contingent capital is included in the complementary capital. This results from the fact that the SST does not distinguish between off- and on-balance positions. In the SST, there are no off-balance positions, i.e., every position is on the SST balance sheet to provide the full economic picture (Art. 48 paragraph 2 ISO; margin No. 30 SST-Circular). This includes contingent positions. As any other asset or liability, any position that would be off-balance in accounting terms has to be valued market consistently which in many cases is done using a valuation model.

Complementary capital is eligible to cover capital requirements subject to the following limits: the eligible amount cannot be larger than core capital for hybrid instruments with no fixed redemption date. In other cases, the eligible amount cannot be larger than 50 percent of core capital (Arts. 47 paragraph 2, 49 paragraph 1 and 2 ISO).

The classification of core capital and complimentary capital also applies for the entities in the group SST. Complimentary capital has to meet the same limits as in the solo case for each entity of the group.

Capital requirements (the target capital) have to reflect relevant risks (Art. 42 paragraph 1 let. a ISO, margin No. 78 SST-Circular). For the SST, these are at least (1) insurance risks, (2) market risks, and (3) credit risks (margin nos. 79-91 SST-Circular). Operational risk currently is not captured in the target capital (margin No. 93 SST-Circular). It has to be treated qualitatively in the risk management processes of the (re)insurer. FINMA can impose a capital add on to the target capital of an individual (re)insurer if its operational risk has the potential to lead to an insufficient solvency (Art. 98 paragraph 4 ISO).

The target capital is defined by

$$TC = -TailVaR_{1\%} \left(\frac{RBC_1}{r_1} - RBC_0 \right) + MVM$$

as the TailVaR at 1% (or 99%, respectively) of the change of the risk bearing capital plus the Market Value Margin.

The SST requires the (re)insurer to have a risk bearing capital at least equal to the target capital. By doing so, there is enough capital in the firm to absorb annual losses which are not larger than the average of all losses larger than the VaR at 1 percent. This means in other words: there is enough capital at the beginning of the year such that the market value of assets is larger than or at least equal to the market value of liabilities in all situations where the loss is not larger than the average amount of the losses exceeding the VaR at 1 percent.

The market value margin shall be such as to ensure that the value of the technical provisions is equivalent to the amount that insurance and reinsurance undertakings would be expected to require in order to take over and meet the insurance and reinsurance obligations (margin No. 36 SST-Circular) and the market value margin of a portfolio is calculated by determining the capital cost for the risks in each year in the run-off of the portfolio (Art. 41 paragraph 4 ISO) over the whole period until final settlement of the portfolio.

At least annually, each (re)insurer has to determine target capital and risk bearing capital (Art. 51 paragraph 1 ISO) and to send a report together with the results to FINMA (Art. 53 paragraph 1 ISO). FINMA has the right to set the closing date (Art. 53 paragraph 3 ISO), currently this is end of April for the calculations for the annual SST (margin No. 158 SST-Circular). Should the risk situation of a (re)insurer change considerably, the insurance company is obliged to hand in an interim SST report during the period (Art. 51 paragraph 2 ISO).

Each (re)insurer has to report losses during the period of a significant size or losses leading to a SST solvency ratio below 100 percent to FINMA (margin nos. 183-188 SST-Circular).

The solvency of an insurance group is measured by the group SST (Art. 198 ISO) and the group Solvency I. In addition to the consolidated method ("Group Level Focus"), where the group is considered as one single economic entity, the group SST represents a granular approach ("Legal Entity Focus"). Insurance groups under group supervision of FINMA have to determine the target capital (required capital) and the risk bearing capital (available capital) in principle for each legal entity of the group, i.e., to perform an SST for each member of the group (margin No. 76, and Appendix 2, margin Nos. 5 and 9 SST-Circular). This applies for entities in Switzerland as well as in other jurisdictions.

In practice, legal entities which are not insurance legal entities (with at least the exception of non-operating holding companies at the top of the group) are not always asked to determine an SST target capital, i.e., a capital requirement. However, the effects of these entities on insurance entities have to be modeled in the group structure model. This means that the existence of the non-insurance entities has to be modeled in the risk bearing capital and the target capital of insurance entities.

The total balance sheet approach in the group SST means that participations of a parent undertaking (which may be the ultimate parent or an intermediate parent of a subgroup) are on the SST balance sheet of that parent. Usually the subsidiaries are valued at their net asset value based on a market consistent valuation. Total balance sheet approach means in addition that an IGT is on the balance sheets of each entity which is involved in that IGT at its market consistent value.

A parent's holding in a subsidiary is considered as an asset of the parent associated with a value and a risk. These assets are part of the SST balance sheet of the parent; its value therefore contributes to the risk bearing capital, while its risk flows into the target capital of the parent. The SST assumes that this asset can be sold to another party.

In the granular group model, there is a diversification benefit for a parent company which owns at least one subsidiary. On the balance sheet of the parent, the economic net asset value of the subsidiary (therefore its profits and losses over the year) balance naturally with gains and losses of a direct portfolio (assets and liabilities) of the parent. In a group without risk transfer instruments, it is therefore the parent company that gets the benefits for group diversification. Using risk transfer instruments within the group, a subsidiary can participate in this diversification.

Double gearing is not eliminated beforehand as it is attended to differently in a granular group SST. Intra-group creation of capital by circular structures of capital instruments is

not eliminated but represented properly in capital requirements of the entities involved in the circle. The reason for this is the market consistent basis for valuation of subsidiaries and of capital transfer instruments (loans and hybrid loans) and the simultaneous modeling of changes of risk bearing capital over one year of the entities. The capital requirements of entities within the circle totally reflect and absorb the (artificial) creation of capital, such that the SST solvency ratios would not be (artificially) high (“capital charge approach”). In addition, due to the market consistent valuation, the creation of capital within the circle does not appear in the balance sheet of the parent.

In the group structure model, fungibility is one of many matters attended to. Fungibility would be an issue for a subsidiary, if it does not get the support from the group in case it should get it. The subsidiary (as well as any other group entity) shall take intra-group transactions (IGT) into account in its SST target capital calculations, if and only if these are legally binding and enforceable. The subsidiary therefore models in the group SST that amount of group support it would at least get in case of distress.

Group solvency is assessed based on the information provided from the set of SST solvency ratios of those entities. The group can apply to determine a target capital and a risk bearing capital based on group consolidated accounts. FINMA has the right to request such a supplementary calculation from the group (Appendix 2, margin No. 6 SST-Circular).

In principle the granular group SST also leads to an MCR for each entity (33 percent of the target capital). However, FINMA does not have direct supervisory power over subsidiaries in other jurisdictions, and FINMA is not able to withdraw the license of such an entity. It is therefore only possible that FINMA can indirectly influence the financial position of a subsidiary by putting sufficient pressure on the parent entity of the group. In addition, there is no license for the group as a whole. A subsidiary dropping below the MCR would therefore probably lead to a discussion of potential remedial action in a supervisory college. The local supervisor would then take action according to its own and local solvency regime, which can be very different from FINMA’s regime.

In respect of the SST, intervention levels are defined at 100 percent, 80 percent and 33 percent of the SST solvency ratio (Appendix 4, margin Nos. 4-7 SST-Circular). The Minimum Capital Requirement (MCR) is defined as the lowest intervention level (33 percent of the target capital), the Prescribed Capital Requirement (PCR) as the highest level (100 percent of the target capital).

Where an insurance company is above the PCR, FINMA will initiate no action based on the company’s SST solvency situation.

If the SST solvency ratio falls below 100 percent (i.e., the risk bearing capital is less than the target capital), the firm would have to take measures such as increase capital,

decrease risks directly or install a risk mitigation measure (Appendix 4 SST-Circular), where the following differentiations are made:

SST solvency ratio below 100 percent but above 80 percent:

- FINMA will intensify the risk dialogue with the insurance company with the objective of mitigating the risk posed to policyholders.
- FINMA will request that the insurance company performs an analysis of the causes resulting in the RBC dropping below the PCR.
- FINMA will request that the insurance company submits an action plan based on realistic assumptions, said action plan to be submitted as a rule within two months of the underfunding being detected. The action plan—subject to approval by FINMA—shall establish in a binding manner the content and timing of the actions to improve solvency.
- The action plan is to be prepared so that a ratio above 100 percent is generally achieved within one year upon notification by FINMA.
- Resolutions passed by a company leading to dividend payments, capital repayments, voluntary repayments of the company's own loans, intra-group transactions including the issuing of guarantees as well as the distribution of with-profit bonuses to policyholders and similar transactions must be submitted to FINMA in advance for its approval.
- FINMA will perform verifications of adherence to the action plan on a regular basis. Where the action plan is not adhered to, FINMA reserves the right to initiate further measures (for details see. Appendix 4 SST-Circular).

SST solvency ratio below 80 percent but above 33 percent:

- In addition to the points mentioned above, an insurance company must prepare a restructuring plan demonstrating how the insurance company will reach the 80 percent-threshold value within two years upon notification by FINMA and the 100 percent-threshold value within three years.
- The restructuring plan must contain as a minimum the above mentioned action plan and show additionally which of the insurance company's risks will be immediately reduced by which methods. The effectiveness of the restructuring plan is to be assessed by means of various scenarios—including adverse ones.
- Possible additional measures include the prohibition of new and renewal business and of risky and complex transactions where it is not ensured that they serve to improve the capital adequacy.

SST ratio below MCR:

- If the SST ratio falls below the MCR, an insurance company must take immediate steps to protect policyholders. It has to be apparent to FINMA within a short period

of time whether the actions initiated by the insurance company are likely to be successful.

- Where it is not possible for an insurance company to initiate suitable measures and where the measures ordered by FINMA also do not prove successful in the short term, FINMA will revoke the insurance company's license (Appendix 4, margin Nos. 37, 41 SST-Circular).

Under the temporary measures, FINMA allows for relaxing the supervisory intervention ladder and grants the companies longer deadlines to again reach the target threshold values.

Under the new Circular "Temporary Adjustments to the Swiss Solvency Test (SST)", an insurance company with an SST ratio between 80 percent and 100 percent is not requested to seek prior approval from FINMA in order to make dividend payments or distributing surplus participation to policy-holders. Moreover, companies with an SST ratio of over 60 percent may, as outlined in the Circular, continue to write new and renewal business if they adhere to certain conditions.

Thus, the above mentioned intervention levels defined at 100 percent, 80 percent and 33 percent of the SST solvency ratio (Appendix 4, margin Nos. 4-7 SST-Circular) are amended by a further intervention level at 60 percent of the SST solvency ratio as long as the temporary adjustments are in force.

All FINMA-Circulars are subject to a transparent consultation process. A recent example is the new Circular "Temporary Adjustments to the Swiss Solvency Test (SST)" which had been published on the web-site and for which the consultation period had been opened in Q4 2012. After giving due regard to the feedback received during consultation, FINMA brought the circular into force on January 1, 2013.

In determining the target capital, an insurance company is to employ a risk model that reflects its relevant risks in a suitable manner. FINMA provides a standard model that can be used as a modeling approach for determining the target capital. Groups and reinsurance companies must develop an internal model, save for individually approved exceptions (margin No. 100 SST-Circular).

The definition of the target capital does not distinguish between standard model and (partial) internal models (Art. 41 ISO). Therefore, the modeling criteria (risk measure, level of safety and time horizon as well as PCR and MCR) apply equally for (partial) internal models as for the standard model.

(Partial) internal models can be used to quantify the risk of an insurance company, if these models are approved by FINMA (Art. 43 paragraph 3 ISO). (Partial) internal models

can be used on a provisional basis, if the insurer has sent the application for the use of its (partial) internal models before the SST-Circular was put into force (November 28, 2008), and if the FINMA does not restrict the use in individual case for specific reasons (margin No. 137 SST-Circular).

FINMA approves the use of an (partial) internal model if qualitative, quantitative and organizational requirements are met (Art. 43 paragraph 3 ISO). That includes methods and parameters (margin Nos. 115-125 SST-Circular), implementation and documentation (margin nos. 130-135 SST-Circular).

The approval of an internal model constitutes a release of the internal model by FINMA for the purpose of regulatory use of the same. The approval of an internal model does not release the insurance company from its obligation to verify the suitability and appropriateness of the model at regular intervals.

Upon application, FINMA will issue approval where the requirements specified in the SST-Circular regarding the following are satisfied:

- methodology and parameters;
- qualitative aspects and organization, and, in particular, governance;
- implementation; and
- documentation of the internal model.

Applying the definition of materiality given in Section IV of the SST-Circular, FINMA will ascertain whether the simplified assumptions used in modeling are appropriate in an insurance company and are in agreement with the circumstances of that insurance company.

Approval can be made contingent upon specific conditions. The insurance company may use the internal model for which final approval has not yet been issued for the duration of the review process for regulatory purposes unless advised otherwise by FINMA (margin Nos. 110-113 SST-Circular).

An insurance company must submit to FINMA any and all material changes to models for approval and report any material changes in the risk structure of its business immediately upon being detected. It must submit the associated documentation in which the changes have been marked. In the case of material changes to models, their impact on the calculation of risk is to be tested and documented (margin No. 126 SST-Circular).

Approval of an internal model for the group SST follows the same principles, standards and processes within FINMA as applicable to the approval of a stand-alone internal model for SST purposes of solo entities, and the necessary tasks are performed by the same team within FINMA.

Under the SST, the (partial) internal model must pass the methodology and parameter test (which is just another wording for what the IAIS terms “statistical quality test”). The following items in particular must be satisfied for the methodology and parameter test (margin Nos. 116–123 SST-Circular):

An insurance company must model the significant positions and take into account the relevant risks as specified in the SST-Circular. To this end it must show the risks to which it is exposed and which relevant risks result from the individual positions and their interaction.

Unknown parameters such as the value of a risk factor, a position, a financial instrument or the RBC at the end of the year are, in principle, to be modeled by random variables. The risk model is to establish in particular the common distribution function of these risk factors, define the functional dependence between the risk factors and the positions and/or the financial instruments, and enable the probability distribution function of the loss of RBC during the year to be determined.

The methods for determining the probability distribution of loss of RBC have to be based on sound actuarial and finance mathematics methods. The choice of the common distribution function of the risk factors and the calibration of this distribution function has to be based on realistic, credible assumptions. The modeling of dependencies between the risk factors has to be taken into account. The change in the market-consistent valuation of assets and liabilities in relation to the risk factors has to be comprehensible. The risk factors and estimation methods used for their distribution parameters must be shown.

When modeling is done in sub-modules, the aggregation of the sub-modules or the results from the sub-modules are to be explained.

Where possible and appropriate, the model parameters are to be determined applying sound statistical estimation methods. The data used must be complete, correct and timely. Where too little in the way of relevant data is available, expert opinions may also be consulted. FINMA may demand that an insurance company apply more prudent parameters, where the parameters used previously are not sufficiently suitable for modeling risks. The dataset used and the parameters derived from it must be verified at least once a year prior to computing the SST, taking into account materiality, and be updated as needed.

To mitigate risk concentrations, the SST foresees a scenario concept: an insurance company is to analyze in particular whether and to what extent the model used understates the impact of risk concentrations on capital requirements. Where this is the case, specific scenarios are to be defined and evaluated and taken into account in

	<p>determining the target capital (margin No. 99 SST-Circular).</p> <p>To mitigate model risk at least partially, in the SST scenarios are to be used: In addition to the scenarios specified by FINMA, an insurance company is to define and evaluate its own scenarios tailored to its individual risk situation. The scenarios are to be appropriately documented and reviewed on an annual basis. Valuation of the relevant positions is to be done in the scenarios applying a revaluation. The results of the scenarios are to be analyzed and taken into account in risk management.</p> <p>An insurance company is to analyze in particular whether and to what extent the model used understates the probability of extreme events due to its specification. Where this is the case, the insurance company is to define and evaluate appropriate scenarios and take them into account in determining its target capital (margin Nos. 97-98 SST-Circular). Additionally, under the SST several "marking to model" criteria apply to all users of models (margin Nos. 39-47 SST-Circular), whether standard model or (partial) internal models, including to base the modeling as much as possible on the basis of objectively observable data (margin No. 42 SST-Circular) and to apply basically sound finance mathematics and actuarial methods for assets and liabilities (margin No. 40 SST-Circular). Under the SST, the (partial) internal model must pass the calibration test which establishes a minimum framework to which insurance companies must adhere in employing risk models and performing valuation in a market-consistent balance sheet. The following items in particular must be satisfied for the calibration test (margin Nos. 141-143 SST-Circular)</p> <p>Measure of risk: The relevant measure of risk is formed by the TailVar of the change in the RBC in terms of Appendix 2 to the ISO and section II of the SST-Circular with a confidence level of 99 percent and a time horizon of one year.</p> <p>Yield: The yield over the counterparty risk-free yield curve for determining the risk margin is published on the FINMA website.</p> <p>Yield curves: The counterparty risk-free yield curves specified in the standard model or the independently determined counterparty risk-free yield curves as provided for in section V.C of the SST-Circular are to be used for valuation in a market-consistent balance sheet in the context of the SST, where yield curves are required for valuation in the respective currency. Valuation employing these counterparty risk-free yield curves is to be done irrespective of how the interest risk is modeled (margin No. 143 SST-Circular). Under the group SST, the definition of the target capital does not distinguish between the legal entities of the group. Therefore, the modeling criteria (risk measure, level of safety and time horizon as well as yield and yield curves) apply equally for each entity which is asked to determine the SST.</p>
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Under the SST, the (partial) internal model must pass the use test which establishes a minimum framework to which insurance companies must adhere in employing risk models and performing valuation in a market-consistent balance sheet. The following items in particular must be satisfied for the use test (margin Nos. 146-148 SST-Circular): In the use test an insurance company is to ensure that it applies the risk model in a suitable manner.

An insurance company must ensure that the exposure limits established at the company level are consistent with the risk model.

Senior management and the board of directors must have a sufficient understanding of the risk model, its outputs and its limitations in order to be able to gauge the implications of the risk model with regard to an insurance company's risk management and capital requirements. They must know and take into account the results of the risk model in their decision-making.

Furthermore, the responsibility for employing a suitable risk model lies with a company's board of directors. Where the standard model is not used, the board may delegate responsibility for the development of an internal model and the implementation and continued use thereof to senior management (margin No. 144 SST-Circular).

In groups, the governing bodies of the company designated pursuant to Article 191 sector 3 ISO are to ensure that the use-test and validation on a regular basis regarding the group SST are accordingly implemented within the company managing the group from Switzerland (margin No. 45 SST-Circular).

Each group must show how its group model is embedded in risk management so as to safe-guard the financial stability of the group and the interests of policyholders (Appendix 2, margin No. 28 SST-Circular).

Under the SST, the documentation of (partial) internal model must fulfill requirements which establish a minimum framework to which insurance companies must adhere in employing risk models and performing valuation in a market-consistent balance sheet. The following items in particular must be satisfied (margin Nos. 130-135 SST-Circular): An insurance company must supply FINMA with a documentation of the various modules of the internal model and the interactions between these modules. The documentation must be self-contained. It should enable a knowledgeable third party to ascertain in a reasonable amount of time whether the regulatory requirements for approval of the internal model are satisfied.

Furthermore, the documentation must:

- Explain the methodology (theories and assumptions) on which the internal model is

	<p>based and its implementation within the insurance company. It must describe the limitations and weaknesses of the internal model. The documentation must indicate which positions and financial instruments or which risks have not been taken into account.</p> <ul style="list-style-type: none"> • Delineate the empirical basis of the internal model. In particular, it must describe the manner in which the model parameters were estimated, and the datasets and other information sources used in the process. • Show whether the insurance company, based on its own assessment, is in line with the calibration test as well as with the methodology and parameter test. • Show the manner in which the data quality and, in particular, the quality of information pertaining to positions and exposures is ensured. <p>To assess the internal model, FINMA may demand that an insurance company evaluates certain predefined scenarios and consider shocks applied to certain parameters. Requirements on the documentation of an internal model for the group SST follow the same principles and standards within FINMA as applicable to the documentation of a stand-alone internal model for SST purposes of solo entities.</p> <p>An insurance company must ensure that adherence to the regulatory requirements of the SST is reviewed in regular intervals and that the findings of this review are made known to the board of directors or senior management. Adherence to regulatory requirements is to be validated in particular when preparing the (bi) annual SST report (margin No. 151 SST Circular).</p> <p>An insurance company is further to examine the following in particular:</p> <ul style="list-style-type: none"> • The suitability and appropriateness of the risk model employed and the company's individual scenarios. • Compliance with qualitative and organizational requirements. • Requirements applicable to implementation. <p>Where the risk model of an insurance company changes or where methodological shortcomings are detected, the insurance company must adapt the risk and valuation model accordingly (margin Nos. 152-153 SST Circular).</p> <p>An insurance company must submit to FINMA any and all material changes to models for approval and report any material changes in the risk structure of its business immediately upon being detected. It must submit the associated documentation in which the changes have been marked. In the case of material changes to models, their impact on the calculation of risk is to be tested and documented (margin No. 126 SST Circular). FINMA will approve material changes to models provided that the above mentioned qualitative, quantitative and organizational requirements pertaining to internal models are satisfied (margin No. 127 SST Circular). That includes methods and parameters</p>
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	<p>(margin nos. 115-125 SST-Circular), implementation and documentation (margin Nos. 130-135 SST-Circular). The approval of material changes follows the same principles, standards and processes within FINMA as applicable to the initial approval of an internal model for SST purposes, and the necessary tasks are performed by the same team within FINMA.</p> <p>In addition, FINMA will verify on a regular basis whether general advances in modeling methods have been taken into account in an internal model. If necessary, FINMA may require that the internal model be adapted in line with the state of the art (margin No. 128 SST Circular).</p> <p>An insurance company may not replace an approved internal model with the standard model unless it has submitted sufficient justification for this to FINMA and FINMA has approved said replacement (margin No. 129 SST Circular).</p> <p>FINMA may demand that an insurance company that has been called upon to develop a suitable internal model apply an appropriate capital add-on until the internal model has received approval (margin No. 138 SST-Circular).</p>
Assessment	Observed
Comments	<p>The solvency regime set up by FINMA is risk sensitive, comprehensive having due regard of all risks insurers at the solo and group level are taking and provides appropriate degrees for supervisory intervention.</p> <p>The use and approval of models is well controlled and sophisticated.</p> <p>The capital requirements are transparent, objective and in line with the level of risk run by the institution. The permissible capital resources allow for the absorbance of unforeseen losses, under both, going and gone concern, with the exception when the APLIEMs are used. There, the additional capital resource created by the difference in the discounted liabilities does not have the required loss absorbance property, but is treated as a temporary measure.</p> <p>Consideration should be made if allowing for a lower capital requirement but maintaining the risk free curve as the discount curve would provide the same alleviation of the sector during the extreme low interest rate environment and at the same time maintain the SST framework free from distortions.</p> <p>Under the temporary measures, FINMA allows for relaxing the supervisory intervention ladder and grants the companies longer deadlines to again reach the target threshold values. This approach will reduce the effectiveness of supervision and deviating further the supervisory actions from the original SST framework. While in line with the ICP</p>

	<p>requirements, FINMA should consider not relaxing or changing the SST trigger points of intervention also while the measures remain in place to maintain supervisory action's comparability with the original SST framework.</p> <p>Operational risk currently is not captured in the target capital but it is treated qualitatively in the risk management processes of the (re)insurer. FINMA can impose a capital add on to the target capital of an individual (re)insurer if its operational risk has the potential to lead to an insufficient solvency. FINMA approach has its merits, since operational risk can hardly be managed by capital, but as relevant data is gathered in the coming years, FINMA is advised to consider incorporating the quantification of operational risk into the SST.</p> <p>The SST standard model for life insurers should be more actively used as a benchmark. The discussions of deviations from a baseline can be a useful tool to check on the effectiveness and of the internal model to replicate the insurers' risks. FINMA is recommended to enhance its scrutiny of the internal models of life insurers by verifying outcomes with the standard model.</p> <p>The provision of a standard model or the approval of internal models by the supervisor each carries with it a certain degree of risk to the supervisor. With regard to internal models' considerations should be given to reemphasizing further to insurers that the board of directors bears responsibility for the approval of the internal model, even if subsequently it is to FINMA's objection rights. FINMA should maintain the strong level of supervisory checks on the internal.</p> <p>Going forward, concerning the model approval process, further development of the insurance risk sensitivity methodology is encouraged when assessing internal models using portfolio replication methods and onsite verification of the appropriateness of the stochastic scenarios used in internal models is recommended.</p>
<p>ICP 18</p>	<p>Intermediaries The supervisor sets and enforces requirements for the conduct of insurance intermediaries, to ensure that they conduct business in a professional and transparent manner.</p>
<p>Description</p>	<p>Insurance agents and brokers are prohibited from conducting business on behalf of unlicensed insurers. Independent insurance intermediaries (i.e., those who are not tied to an insurer in any way) are required to register with FINMA prior to commencement of their activities. An intermediary is not considered independent if majority of his income is derived from one or two insurers. Registration is voluntary for non-independent intermediaries. Carrying on activities without the required registration is a criminal offence, subject to FDF criminal actions.</p>

Registration applies to both natural and legal persons. Maintained by FINMA, the register is open to public access and contains information on the identity of the intermediary, his professional qualification, and his professional liability insurance coverage of minimum CHF 2 million (Arts. 41 to 44 of ISA). Professional qualification refers to the insurance certificates examined by insurance association under a private public partnership with FINMA in the case of natural persons. In case of legal persons, it refers to sufficient staff with the requisite qualifications. There is no continuing education requirement after registration. FINMA verifies the accuracy of the information before entering the persons into the register.

There are 600 to 800 new applications to be entered into the register each year. Some were rejected on ground of qualification or indebtedness or criminal background. Of the 13,000 registered persons, 6,000 to 7,000 are employees of insurers who are volunteer registrants, and about 1,300 are insurance broking firms with 5,300 broking representatives. Intermediaries are obligated to inform FINMA of changes to their particulars. Upon notification, FINMA verifies the changes, and re-assess the person's qualification to be registered.

FINMA mainly relies on the intermediary's notification to ensure information in the register is up-to-date, with the exception of the professional liability cover. Insurers providing the professional liability cover to intermediaries have agreements to report to FINMA when the cover is lapsed. In addition, inaccuracies may be discovered through whistle-blowing (about 50 to 60 cases a year), and onsite inspections. If errors or deficiencies are not rectified, the registration may be withdrawn.

The Markets Division in FINMA supervises insurance brokers and maintains the intermediary register. FINMA holds insurers responsible for tied agents and assesses their control as part of onsite supervision of insurers. Within the Markets Division, four full time equivalents are dedicated to insurance intermediaries, handling 800 new registration applications, 2,500 changes to particulars of registrants, assistance to insurance supervisors on inspection, and conducting 10-20 inspections of brokers each year. Areas covered during an inspection of brokers include contracts with insurers, information provided to clients, and financial statements. (There are no ongoing requirements for brokers to submit financial statements to FINMA.)

An intermediary must disclose to his clients the following information at the point of sale (Art. 45 of ISA):

- his name and address;
- whether the policy offered is from one or several insurers, and the identity of the insurer(s);
- the nature of his contractual relationship with the insurer(s) for which his is acting and the identity of the insurer(s) in question;

	<ul style="list-style-type: none"> • that he may be held liable for negligence, errors or misinformation relating to the intermediation activity; and • how personal data is used and kept. <p>There is no disclosure of commissions or kick-backs received by intermediaries.</p> <p>As a general rule, insurance intermediaries do not handle money in Switzerland; premiums are paid directly to the insurers. If an intermediary handles clients' monies, he is considered a financial intermediary and must have a separate license according to the Anti-Money-Laundering Act. Aside from the money-laundering concerns, there are no other required safeguards to protect clients' funds.</p>
<p>Assessment</p>	<p>Partly observed</p>
<p>Comments</p>	<p>Supervision of insurance intermediaries is through the mandatory registration of independent intermediaries and voluntary registration of non-independent intermediaries. Through FDF, FINMA takes action against unregistered intermediaries when it becomes aware of their illegal activities.</p> <p>Since registration by non-independent intermediaries is voluntary (this includes brokers who are deemed not-independent based on the source of income test), the register is only a partial roster of intermediaries practising in Switzerland. However, FINMA observes that increasingly insurers require their tied agents to be registered, and that insurers are reluctant to deal with brokers who are not registered.</p> <p>Registration requirements include professional competence and personal attributes. FINMA relies mainly on registrants' notification to ensure continuing accuracy of information kept in the register. There are no on-going reporting requirements for intermediaries. Supervision of tied agents is indirectly through insurers. Supervision of brokers is minimal.</p> <p>It is recommended that FINMA consider the following:</p> <ul style="list-style-type: none"> • Require registration of all intermediaries, to eliminate the current gap in the register. For tied agents, make the insurers responsible for ensuring the data is kept up to date. • Broaden the on-going supervision of brokers to include offsite review (financial statements and auditor's opinion where applicable, ownership structure), and onsite inspection (corporate governance and internal controls, basis of placing business, complaint handling). • Strengthen indirect supervision of agents by including in the on-going supervisory review of insurers how they control the behaviour of their agents and the disciplinary action against errant agents. • Require independent intermediaries to put in place safeguards in handling client

	<p>monies, and assess these safeguards during onsite inspections.</p> <ul style="list-style-type: none"> • Require disclosure of intermediaries' financial interest in the transaction where a potential conflict exists. • Apply appropriate CG standard to legal entity intermediaries.
ICP 19	<p>Conduct of Business</p> <p>The supervisor sets requirements for the conduct of the business of insurance to ensure customers are treated fairly, both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.</p>
Description	<p>Traditional health, pension and natural hazard insurance products require FINMA approval. In granting approving, FINMA reviews the terms and conditions of these products and assesses the adequacy of premium rates.</p> <p>Supervisory Framework</p> <p>FINMA has the statutory responsibility to protect policyholders under FINMASA and ISA. Article 46 of ISA specifically requires FINMA to protect policyholders from abuses by insurers and intermediaries, and to intervene when such abuses threaten the interests of the policyholders.</p> <p>Article 117 of ISO defines "abuse" to include:</p> <ul style="list-style-type: none"> • actions to the detriment of policyholders or beneficiaries; • actions that are calculated to bring significant harm to policyholders or beneficiaries; • the use of contract provisions that violate the mandatory norms of the ICA or violate the mandatory norms or regulations that are applicable to the contract; and • the use of contract provisions that provide for an allocation of rights and obligations that is significantly contrary to the nature of the agreement. <p>It is also an abuse to disadvantage a policyholder or beneficiary through significant unequal treatment that cannot be justified legally or for technical insurance reasons.</p> <p>The Unfair Competition Act has a general prohibition against unfair contract terms that apply to insurance contracts.</p> <p>While FINMA does not have explicitly stated expectation that insurers and intermediaries must act with due skill, care and diligence when dealing with customer and that they must treat customers fairly, FINMA's supervisory objective is to ensure that promises to policyholders are kept, legal duties are met, no abusive practice, and sufficient information for clients to make informed decisions.</p> <p>Point of Sale Disclosure</p> <p>Aside from the point of sale disclosure requirement in Article 45 of ISA (see ICP 18), the insurer must provide the following information, in writing, to the prospective policyholder</p>

before he accepts the policy (Art. 3 of ICA):

- the insured risks;
- the extent of insurance coverage
- the premium payable and other obligations of the policyholder;
- term and termination of the insurance contract;
- applicable actuarial assumptions and distribution principles and methods for the determination of net income and profit sharing (for participating life policies);
- the redemption and conversion values; and
- the handling of personal data, including the purpose and nature of data collection and recipient and storage of data.

Under Article 3a of ICA, the policyholder has the right to cancel the policy if the insurer did not inform him as required by law in the first year of policy inception.

Disclosure and other duties for life insurance are set out in FINMA Circular 2008/40, including in respect of investment projections and surrender values.

Advice

There are no explicit requirements on the basis of giving advice. If a policyholder feels that he was inappropriately advised, he may bring the matter to the insurance ombudsman, or take civil action against the advisor.

Continuous Disclosure

Insurers must notify customers of contractual changes (Art. 2 of ICA). The policyholder has the right to reject the contractual change within 14 days, after which the change becomes binding.

Claims

FINMA expects insurers to pay legitimate claims timely. Periodically FINMA conducts on-site inspections on claim handling preventively or when concerns in this area are identified.

For motor insurance, FINMA monitors the implementation of the claims handling regulations under the Road Transportation Act, which requires claims to be paid within 30 days.

Complaint handling

FINMA does not prescribe how insurers and intermediaries should handle complaints, although it requires insurers to have effective complaint handling procedures, which are reviewed as part of the assessment of an insurer's claims management process.

The Swiss Ombudsman of Insurance is a non-governmental foundation established by

the Swiss Insurance Association (SIA) in 1972. It has 81 members currently, as insurers are not required to join the Ombudsman. However, membership will be required under the proposed new legislation. (See section on “legislative initiative” below.)

The main functions of the Ombudsman are to:

- receive from the public communications in respect of complaints, disputes and claims in connection with or arising out of private insurance contracts;
- provide guidance and advice to insurance customers;
- facilitate the settlement of claims and the resolution of disputes; and
- help obtain fair and reasonable outcomes.

The Ombudsman is a mediation body; it has no power to make binding decisions. The service is provided at no charge to policyholders. In 2012, the ombudsman received 3,892 cases, of which 3,365 queries and complaints fell within its purview.

Handling of Client Data

The Federal Data Protection Act has extensive coverage on protecting the privacy of personal data that apply to data collected from insurance customers. FINMA requires the insurers and intermediaries to comply with applicable laws, including those on the data protection.

FINMA expects the insurers and intermediaries to take operational and organizational measures (including in the compliance function) for the protection of private information of customers. In addition, FINMA expects insurers to cover data protection /security risks in their risk management and compliance procedures.

Legislative Initiative

In a discussion paper issued in October 2010, FINMA expressed the view that clients were neither sufficiently informed nor adequately warned about products that are not appropriate for them. In February 2012, FINMA issued a position paper advocating a new financial services legislation to reduce the asymmetrical power relationship between financial services providers and clients.⁵

At the core of the proposed package of measures are standardized, cross-sector rules of business conduct for banks, insurers and portfolio managers relating to the way they deal with clients. The focus is on the obligation to inform clients about the content of a service and the characteristics of financial products in readily understandable language, and to warn them about the risks involved.

⁵ FINMA press release, <http://www.finma.ch/e/aktuell/pages/mm-vertriebsbericht-20120224.aspx>

	<p>To ensure that retail clients are better able to understand complex products such as unit-linked life insurance policies, and are informed about the direct and indirect costs these products entail, FINMA is proposing brief (two to three pages) product descriptions.</p> <p>On March 28, 2012, the Federal Council instructed FDF, in cooperation with the Federal Department of Justice and Police and FINMA, to prepare a consultation draft for a Federal Financial Services Act (FFSA) to address, among other things, consumer protection.</p>
Assessment	Partly observed
Comments	<p>Swiss laws clearly stipulate the intention to protect policyholders and entrust FINMA to intervene on behalf of the policyholders and their beneficiaries. Life insurers have ongoing duties to disclose certain information to policyholders, including investment performance and surrender values. However, other than as indicated, FINMA has yet to articulate additional specific rules on business conduct. Without additional explicit rules, it is difficult to have consistent implementation of the expectation of treating customer fairly. Recognizing the shortcomings, FINMA has taken steps to introduce the FFSA to address the following key areas:</p> <ul style="list-style-type: none"> • documentation of products characteristics; • selling practice: implement “Know Your Customer”, review of appropriateness and suitability of products, documentation and accountability, disclosure of third-party remuneration; • training of intermediaries who provide advice to ensure they are proficient of knowledge on an continuing basis; and • reversing the burden of proof in cases of mis-selling. <p>It is recommended that FINMA press on with the legislative effort to improve policyholder protection, particularly fair treatment of customers, after sales disclosure, avoidance of conflict of interest by intermediaries, and timely payment of claims.</p>
ICP 20	<p>Public Disclosure</p> <p>The supervisor requires insurers to disclose relevant, comprehensive and adequate information on a timely basis in order to give policyholders and market participants a clear view of their business activities, performance and financial position. This is expected to enhance market discipline and understanding of the risks to which an insurer is exposed and the manner in which those risks are managed.</p>
Description	<p>Switzerland has a two-tiered disclosure system.</p> <p>Public disclosure by supervised entities</p> <p>An insurer must publicly disclose its financial statements and audit reports if it has outstanding debentures or has equity securities listed on a stock exchange (Art. 958e of CO). Insurance co-operative societies are subject to the same public disclosure requirement (Art. 958 paragraph 2 of CO).</p>

Furthermore, insurance companies or their holding companies listed on the SIX Swiss Exchange are subject to additional disclosure requirements of the Swiss stock exchange regulation and its directive on financial reporting (DFR) and on information relating to Corporate Governance (DCG). These reports must in particular be published on the website of the companies.

Disclosure of the nature and extent of risks arising from insurance contracts is addressed in IFRS 4 for instance.

FINMA Circular 2010/1 on remuneration introduced addition requirement for every financial institution with a regulatory capital above CHF 2 billion to disclose information regarding the characteristics and functioning of the remuneration system. This applies to the annual reports from 2010 onward.

Public disclosure on individual entities by FINMA

FINMA is required to publish the annual accounts of insurance companies (Art. 25.5 of ISA). FINMA is also required to inform the public of its supervisory activity, practices and decisions (Art. 22.1 of FINMASA and Art. 49 of ISA). It does not provide information on individual proceedings as a general rule, unless there is a particular need to do so if the information is necessary for the protection of market participants, or to correct false or misleading information, or to safeguard the reputation of Switzerland's financial centre (Art. 22.2 of FINMASA).

Other than the above, data provided to FINMA are subject to official secrecy (Art. 14 of FINMASA).

As a result, FINMA publishes the following documents:

- Annual report of FINMA and Bulletin of FINMA.
- Report on the Swiss insurance market with aggregated data, accompanied by electronic tables with company-specific accounting figures.
- Financial report on Swiss occupational pension schemes covering occupational benefit activities of life insurers.

Contents of the report of the Swiss insurance market

The report on the Swiss insurance market discloses aggregate data for the overall insurance market and the life, non-life and reinsurance sectors, including:

- balance sheets;
- income statements;
- premiums;
- investments;
- tied assets, in the lines of business where they are prescribed by law; and
- solvency figures according to the SST and Solvency I.

	<p>The report also provides insights on the market share of the major life and non-life insurers.</p> <p>Contents of the electronic tables</p> <p>Company-specific data is provided by FINMA in the Electronic Tables, except for solvency figures for which no break-down is disclosed. The navigable electronic tables (in German and French) provide public access to key figures of the Swiss insurance market, broken down to individual solo insurers including Swiss branches of foreign insurers. Any view can be sorted and exported into Microsoft Excel, Adobe PDF or HTML for further analysis.</p> <p>The top-level navigation is organized by accounting year and then by line of business (life, non-life, health and reinsurance) and topic. The topics cover all relevant aspects of a life, non-life, health or reinsurance company. (The complete list of topics can be found online under Electronic Tables.) Expanding a topic provides the relevant data points in aggregate by line of business and in the relevant sub-lines.</p>
<p>Assessment</p>	<p>Partly observed</p>
<p>Comments</p>	<p>The information published by the insurers and by FINMA does not provide sufficient details on the insurer's:</p> <ul style="list-style-type: none"> • policies and processes for managing capital; • investment objectives, processes and sensitivity to market variables; • technical provisions by appropriate segment, the rationale for the choice of discount rates, and description of the method used to determine technical provisions; • information on ERM and ALM; • financial performance: earnings analysis, claims statistics including claims development, pricing adequacy, information on returns on investment assets and components of such returns; • nature of risk, reinsurance and other risk transfer arrangement, risk concentration; and • nature of its business, key products, the external environment in which it operates, and its business objectives and the strategies in place to achieve them. <p>It is noted that FINMA has started a review of the possibility of expanding public disclosure requirements in 2012, taking into account international standards and practices. It is recommended that FINMA completes its review and institute the necessary regulatory changes to be more in line with international standards.</p>
<p>ICP 21</p>	<p>Countering Fraud in Insurance</p> <p>The supervisor requires that insurers and intermediaries take effective measures to deter, prevent, detect, report and remedy fraud in insurance.</p>
<p>Description</p>	<p>Fraudulent acts are subject to criminal sanctions under the Swiss Criminal Code, Articles 138 (misappropriation), 146 (fraud), 251 (forgery of a document), and 286</p>

(obstruction of official duties).

Actions that insurers may take against policyholders and employees who commit fraud include:

- non-payment of claims;
- cancellation of the insurance policy;
- seeking recovery of costs incurred (such as engaging experts in assessing the claim); and
- reporting of the case to the police for further investigation.

FINMA monitors insurers' fraud prevention measures as part of their risk management framework in its on-going supervision. SQA II specifically assessed internal fraud as one of the 11 indicators of effective internal controls.

While SQA II found many good practices, it also found that at some insurers the responsibility for internal fraud prevention in some insurers lies with a function that itself is exposed to internal fraud (such as Finance), or that otherwise has business operational responsibilities. The latter could give rise to conflicts of interest and diminish the effectiveness of the internal fraud prevention efforts. For example, some insurers assign the operational responsibility for internal fraud prevention to Internal Audit, which creates the uncomfortable situation of Internal Audit having to audit its own efforts on internal fraud prevention.

SQA II identified some areas where more improvement may be needed at some insurers:

- inclusion of external claims fraud risks in operational risk management;
- programs to increase employee awareness of internal fraud;
- risk assessments to identify areas, units and personnel that may be more susceptible to internal fraud;
- developing forward-looking internal fraud risk indicators;
- data-mining to identify potential risk trends;
- better internal exchange of information and coordination on internal fraud among different parts of the insurer;
- better reporting on internal fraud to management and to the BOD; and
- more effective controls, including detective controls.

FINMA's latest efforts include a survey of selected insurers on insurance fraud to better understand how the insurers deal with fraud, the success of their efforts, and the amount of resources devoted to fraud prevention. As a result of the survey and SQA II, insurers were asked to implement improvement where gaps or weaknesses were found.

FINMA does not receive data on fraud, except on an ad-hoc request basis.

	FINMA has the necessary legal authority and mechanisms to cooperate, coordinate and exchange information domestically and internationally to detect and remedy insurance frauds. (See also ICP 3 and 25).
Assessment	Largely observed
Comments	<p>There is an established legal framework enabling criminal authorities to investigate and apply sanctions in cases of insurance frauds. Fraud prevention is included in FINMA’s on-going supervisory process, and the SQA. The recent SQA II has made a number of insightful observations relating to insurers’ fraud (both external and internal) prevention controls.</p> <p>There are no explicit anti-fraud requirements. While FINMA includes fraud prevention in its on-going review of an insurer’s risk management and compliance procedures, the source of information on insurer’s fraud prevention practice appears to be limited to the ad hoc survey and SQA II. The survey is ad hoc and on a sampling basis. SQA is done pursuant to a time cycle and covers groups and the insurers in the highest risk categories. To ensure a consistent standard of fraud prevention in the insurance industry, FINMA should issue anti-fraud guidance to insurers and intermediaries, clearly stating FINMA’s expectation with respect to anti-fraud policy, procedures and controls in place to deter, detect, prevent, report and remedy frauds. FINMA should include insurers’ anti-fraud procedures in its offsite review and require insurers to report fraud cases to FINMA as part of FINMA’s assessment of the effectiveness of insurer’s anti-fraud procedures.</p> <p>It is recommended that FINMA consider the risk of fraud by intermediary in relation to misrepresentation of insurance cover to a customer in its current review of policyholder protection. (See ICP 19).</p>
ICP 22	<p>Anti-Money Laundering and Combating the Financing of Terrorism</p> <p>The supervisor requires insurers and intermediaries to take effective measures to combat money laundering and the financing of terrorism. In addition, and the supervisor takes effective measures to combat money laundering financing of terrorism.</p>
Description	<p>Legal basis for the regulation and supervision of anti-money laundering and combating the financing of terrorism (AML/CFT) in Switzerland is set out in federal Anti-Money Laundering Act (AMLA).</p> <p>AMLA applies to “financial intermediaries”, defined as banks, fund managers, investment companies, insurance institutions, securities dealers and casinos, but also all persons who on a professional basis accept or hold on deposit assets belonging to others or who assist in the investment or transfer of such assets. The covered insurance institutions are limited to those that deal in (a) direct life insurance, (b) offering or distributing shares in collective investment schemes, and (c) credit transactions (such as mortgage business). The AMLA requirements apply to foreign branches and subsidiaries of Swiss entities as well. Financial intermediaries are required to identify, mitigate and monitor the legal and</p>

reputation risks associated with ML/TF on a global basis.

The Money Laundering Reporting Office of Switzerland (MROS) is an office under the Federal Office of Police. It is responsible for receiving and analyzing suspicious transaction reports, publishes annual statistics on AML/CFT, and identifies typologies that are useful for training the financial institutions. MROS is an administrative unit, not a police authority. It must refer suspected cases to law enforcement agencies for further investigation. MROS received 1,585 suspicious transaction reports in 2012, nine of which related to insurance.

AMLA designates FINMA as the competent authority for AML matters relating to financial institutions with the exception of casinos. For those financial institutions that are affiliated with a recognized self-regulatory organization (SRO), the supervisory responsibility is delegated to the recognized SRO. There is one such recognized SRO for the insurance sector, the SIA, whose membership consists of about 90 percent of the licensed insurers. Insurers who are not members of SIA must apply a license from FINMA's Insurance Division. AML/CFT rules issued by SIA are binding on its members.

Under AMLA, FINMA has the following responsibility for SROs:

- it recognizes the SROs or withdraws such recognition;
- it supervises the SROs and the financial intermediaries affiliated with them;
- it approves the regulations issued by the SROs;
- it ensures that the SROs enforce their regulations;
- it specifies in detail the duties of AML/CFT due diligence and stipulates how these duties must be fulfilled;
- it maintains a register of licensed financial intermediaries for AML purposes, (including SIA members); and
- It may carry out onsite inspections of SROs or appoint an audit firm to do so.

FINMA has issued the Anti-Money Laundering and Terrorism Financing Ordinance (AMLO), which specifies in greater details the statutory duties of due diligence. AMLO specifies that branches and group companies abroad are subject to AMLA and AMLO. AMLO also specifies a risk-based approach to AML, where greater due diligence must be conducted under increased risk circumstances, or when due diligence may be waived if there are no ML/FT risks.

Either SIA or audit firms conduct annual audits of insurers that are subject to AMLA to verify their compliance with due diligence obligations. Audit reports are submitted to and reviewed by FINMA and SIA. In 2012, SIA reviewed the AML/CFT practices of 18 (out of 23) life insurers. SIA found room for improvements at five insurers. Weaknesses identified include: internal policy to combat AML includes no rules on politically exposed persons; no clear responsibilities on freezing assets; policy was not communicated to staff in

	<p>charge; inconsistent documentation of nationality and date of birth of beneficial owners; poor quality (i.e., illegibility) of identification document; no flagging of business relationship that would increase risk.</p> <p>FINMA reviews annually the SIA’s supervision activities relating to AML/CFT by conducting annual onsite inspections. Furthermore, FINMA also carries out onsite inspections of insurers on a risk-based basis. SQA II concluded that there are signs of more AML/CFT activities, particularly among larger insurers. While some insurers in non-life sectors recognize potential exposures and are taking voluntary measures, some other insurers should improve their AML controls, such as removal of the reporting line of the AML Officer to a business line manager. Areas where improvement is needed include:</p> <ul style="list-style-type: none"> • Better group-wide coordination and oversight of AML/CFT efforts, particularly in companies with cross-border activities. • Reporting on AML/CFT to the BOD is limited. For example, even among larger insurers only about half report to the BOD statistical data on trends in suspicious transactions and the relative exposures of the insurer’s units and products. • Better training of staff in the AML/CFT area to heighten awareness. <p>Both AMLA and FINMASA provide the basis for exchange of information between FINMA, MROS and relevant law enforcement agencies.</p> <p>FINMA conducts periodic talks on AML/CFT to ensure the knowledge of its staff is up to date.</p> <p>As part of its SQA process, FINMA reviews the preparedness by the insurer to deal with AML/CTF risk and obligations, including in terms of policies, processes, resources, and overall effectiveness.</p>
Assessment	Observed
Comments	<p>FINMA is the designated competent authority for AML matters relating to financial institutions. MROS is the financial intelligence unit responsible for receiving and analysing suspicious transaction reports. There is a mechanism in place for FINMA to cooperate, coordinate and exchange information with MRO and other relevant law enforcement agencies.</p> <p>FINMA delegates the AML/CFT supervisory responsibility to recognized SRO. AML/CFT rules issued by SROs with approval from FINMA are binding on members. FINMA assesses the effectiveness of SROs on an annual basis.</p>
ICP 23	<p>Group-wide Supervision</p> <p>The supervisor supervises insurers on a legal entity and group-wide basis.</p>
Description	A group of two or more companies is considered an insurance group if (a) at least one of

them is an insurance company; (b) they operate as a whole primarily in the insurance sector; and (c) they constitute an economic unit, or are otherwise interlinked through influence or control (Art. 64 of ISA).

This ensures that group supervision includes all entities in a group regardless of their activities:

- insurers;
- operating and non-operating holding companies (including intermediate holding companies);
- other regulated entities (such as banks and securities firms); and
- non-regulated entities (including parent companies, their subsidiary companies and companies substantially controlled or managed by entities within the group, special purpose entities, etc.).

An insurance conglomerate is a group of two or more companies if:

- at least one of them is an insurance company, the other a bank or a securities broker of substantial economic significance;
- they operate as a whole primarily in the insurance sector; and
- they constitute an economic unit or are otherwise interlinked through influence or control (Art. 72 of ISA).

FINMA may place an insurance group or an insurance conglomerate operating in Switzerland under group or conglomerate supervision, which is complementary to solo supervision on legal entity basis. As a prerequisite, the insurance group or conglomerate is managed from Switzerland, or from a foreign country, but no equivalent group or conglomerate supervision is exercised in that foreign country. (Arts. 65 and 73 of ISA).

FINMA has issued Guidelines on the placement of insurance companies under group or conglomerate supervision in December 2010 to articulate the criteria for placing insurance groups and conglomerates under group- or conglomerate-supervision.

Insurance Groups

There are currently six insurance groups under FINMA's group supervision. Objectives in placing insurance groups under supervision are: securing solvency, securing financial stability, and preventing market and competition distortions. Insurance groups are therefore placed under supervision if they fulfil at least one of the following criteria:

- International groups- In the case of large, internationally active insurance groups, the supervisory authority can only comprehensively perform its duties if, in addition to information on the legal entities in its home country, it also obtains an overview of the interaction of all the companies within a group.
- Complex group structures- Additional supervision is necessary and appropriate if the group has a complex structure. Complex structures arise from the number and

nested relationships of the involved companies, and from the broadness of business areas covered.

Insurance Conglomerates

There are currently two insurance conglomerates under FINMA's group supervision. To place an insurance conglomerate under supervision, there must be apparent and substantial economic significance of the financial segment of the conglomerate reaching or exceeding the following thresholds:

- the total balance sheet of the financial segment must be more than 10 percent of the total balance sheet of the group.
- The capital requirements for the financial segment must be more than 10 percent of the solvency requirements at group level.

An insurance conglomerate may also be placed under supervision if:

- the total balance sheet of the financial segment is greater than CHF 5 billion; or
- there are other justifications for placing the group under conglomerate supervision.

Insurance groups and conglomerates are subject to the same degree of supervision. From here on, the word "group" is used to include both insurance groups and conglomerates.

There is a legal obligation by the insurance group to submit a complete group structure chart in which all entities of the group are identified, within three months after the close of the financial year. Furthermore, an insurance group must report to FINMA, no later than the conclusion of the contract, the creation, acquisition or the sale of a significant ownership interest. (Art. 192 of ISO).

If the structure of the insurance group might impair the solvency position of the group or endanger policyholders' interests, FINMA may take necessary supervisory actions to ensure or restore an adequate and orderly structure.

Group-Wide Supervision

The group-wide supervision framework of FINMA consists of (Art. 191 of ISO):

- Organization
- Group structure
- Group internal transactions
- Corporate governance and risk management
- Group-wide risks and risk concentration
- Liquidity risk
- Risk-based solvency (SST)
- Solvency (Solvency I)

FINMA has regular interaction with insurance groups, including regular reporting (e.g., financial statements of legal entities and group, risk report, biennial SST report), thematic

	<p>reporting (e.g., solvency update, bond exposure, liquidity report, ABS portfolio), onsite reviews, scheduled contacts (e.g., monthly phone calls, meeting with internal audit, earnings calls), and high level meetings with BOD and senior management.</p> <p>These requirements are further defined in the following circulars:</p> <ul style="list-style-type: none"> • Circular 08/27 Reporting on the organization of insurance groups and insurance conglomerates. • Circular 08/28 Reporting on the structure of insurance groups and insurance conglomerates. • Circular 08/29 Reporting on internal business transactions of insurance groups and insurance conglomerates. • Circular 08/30 Solvency I for insurance groups and insurance conglomerates. • Circular 08/31 Business report for insurance groups and insurance conglomerates. • Circular 08/32 Corporate governance, risk management and the internal control system within the insurance sector (applicable to both solo entities and groups). • Circular 08/44 Swiss Solvency Test (applicable to both solo entities and groups). • Circular 2013/5 Basic principles for recording liquidity risks and liquidity reporting for insurers (applicable to both solo entities and groups). <p>Article 191 of ISO and Article 29 of FINMASA require the insurance groups to provide to FINMA all information that is required to fulfill its supervisory responsibility.</p>
Assessment	Observed
Comments	FINMA has a clear and transparent approach to identifying entities subject to its group-wide supervision. The scope of the group covers all entities, whether regulated or not, within the group. FINMA's group supervision is complementary to solo supervision, based on coordinated cooperation with solo supervisors and the involvement of specialist functions (such as SST, SQA).
ICP 24	<p>Macroprudential Surveillance and Insurance Supervision</p> <p>The supervisor identifies, monitors and analyses market and financial developments and other environmental factors that may impact insurers and insurance markets and uses this information in the supervision of individual insurers. Such tasks should, where appropriate, utilize information from, and insights gained by, other national authorities.</p>
Description	<p>FINMA monitors and publishes market and financial developments regularly:</p> <ul style="list-style-type: none"> • The daily publication "Capital Markets Overview" presents in a nutshell a review of the latest trends in the financial markets, an overview of the performance of the main asset categories and a selection of the most important headlines. • The monthly Fixed Income Monthly takes a broader look at the development of financial markets. The first part of the report is dedicated to an analysis of the current international economic and financial market situation or to a special topic. The second part illustrates the recent developments for credit markets, rates, funding

	<p>spreads, exchange rates and commodities/precious metals.</p> <ul style="list-style-type: none"> • The “Immobilienmonitoring” monitors the Swiss real estate market and the possible buildup of a real estate bubble. On a semi-annual basis the latest developments of mortgage interest rates, domestic mortgage claims, real estate prices, rents and housing construction are analyzed in depth. • The evaluation of the current macroeconomic and financial market conditions and prospects with a qualitative assessment of the impact on the supervised firms (banks and insurances) is undertaken semi-annually within the “Risikobarometer”-process. Discussions with supervision staff allow assessing the possible impact of the identified risks and to implement measures effective in improving the resilience of the financial sector. The impact analysis is shared with FINMA’s executive board and is an internal document. <p>Data covering among others solvency, asset allocation, liabilities, shareholder-equity and valuation are quarterly collected for insurances and insurance groups. Depth and frequency of data collection take into account scale and complexity of the supervised entity. During the 2008 crisis certain monthly data was required and received. Data are analyzed systematically in respect of risk. Systemic risk analysis over the sector is performed and documented in a sectorial report. This report started with an analysis on the tied assets in 2008 to expand the scope today to include asset mix, bond exposure, etc.</p> <p>FINMA has developed within the scope of solo and group insurance supervision a Business Indicators Cockpit and a Group Indicators Cockpit, respectively. These instruments allow monitoring market trends and identifying potential risk and adverse market developments. The Group Indicators Cockpit is analyzed on a semi-annual basis. Reports are used as a support in discussions at executive meetings and in the preparation of risk rating decisions.</p> <p>Quantitative analysis: In the SST vulnerabilities are assessed by means of stress scenarios. The SST distinguishes between the following financial market scenario classes:</p> <ul style="list-style-type: none"> • Synthetic scenarios: In these scenarios only a single variable category (e.g., equity indexes, real estate prices) is stressed, whereas all other risk factors are held constant. This class of scenarios performs an analysis conceptually similar to the sensitivity analysis. Examples of scenarios belonging to this category are the real estate scenario and the deflation scenario. The synthetic scenarios are specified in the SST template. The template is available on FINMA’s website: Swiss Solvency • Historical financial market scenarios: These scenarios replicate the prevailing conditions during the most important financial crises. The following scenarios are considered: (i) the stock market crash of 1987; (ii) the Nikkei crash in 1989/90; (iii) the European currency crisis (1992); (iv) the U.S. interest rate crisis (1994); (v) the LTCM/Russian crisis (1998), (vi) the stock market crash in 2000/2001; and (vii) the financial
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	<p>crisis of 2008. The historical financial market scenarios are specified in the SST template. The template is available on FINMA’s website: Swiss Solvency</p> <ul style="list-style-type: none"> • Combined insurance and financial scenarios: These scenarios integrate financial market specific events with the effects on the insurance market and vice versa. Two combined scenarios are currently in use (i) the financial distress scenario and (ii) the pandemic scenario. The financial distress scenario describes an extreme financial market event with plummeting stock, real estate and hedge fund prices and contemporaneously increasing interest rates. The financial crisis hits the insurance market as lapse rates increase, new business activity collapses and insurance companies are downgraded. By contrast the pandemic scenario starts with a severe pandemic event that spreads out to the financial market with stock markets collapsing and interest rate spreads widening. The combined insurance and financial scenarios are specified in the Technical document on the Swiss Solvency Test. The Technical document is available on FINMA’s website: Swiss Solvency <p>Overall, financial market effects are taken into account in thirteen scenarios. The synthetic and historical financial market scenarios are specified for the 81 market risk factors considered in the standard SST-template. By contrast, the combined insurance and financial scenarios consider a different set of market and insurance risk factors. For 2013 the results of the global deflation and of the global inflation scenario are not taken into account in the determination of the target capital but are used for forward looking risk management considerations.</p> <p>Aggregated results for insurance branches (life, non-life, health and reinsurance) for all scenarios relevant for target capital are published in the annual SST Survey. The report is available on FINMA’s website: Swiss Solvency.</p> <p>FINMA actively participates in the IAIS process designed to evaluate potential G-SII’s. The final designation will be decided by the FSB and FINMA after consultation of the IAIS.</p> <p>In Switzerland, the too big to fail discussions have produced a different result for banks and insurances: two banks (Credit Suisse and UBS) but none of the insurance companies have been identified as systemically relevant.</p>
<p>Assessment</p>	<p>Largely Observed</p>
<p>Comments</p>	<p>FINMA has established periodic monitoring and analysis of market and financial developments and other environmental factors that may impact insurers and insurance markets. Information capture in the Risikobarometer process is used to assessing the possible impact of the identified risks and to implement measures effective in improving the resilience of the financial sector. The impact analysis is shared with FINMA’s executive board and is an internal document. Also the recently developed tools, the Business Indicators Cockpit and a Group Indicators Cockpit allow monitoring market trends and</p>

	<p>identifying potential risk and adverse market developments. The Group Indicators Cockpit is analyzed on a semi-annual basis. Reports are used in the preparation of risk rating decisions of insurers, as well as an early warning tool.</p> <p>The historical financial market stress scenarios required under SST are used to assess resilience of the sector to financial crisis; however there are no clear requirements to consider feedback loops and spillover effects.</p> <p>The D-SII designation process in Switzerland has excluded insurers. However FINMA's highest risk rated insurers are subject to intense supervision.</p> <p>Notwithstanding the absence of a Swiss insurer in the FSB G-SIIs list, the strong participation of FINMA at the FSC IAIS committee continues and, in preparation of a possible G-SII designation of an Swiss insurer or reinsurer, FINMA has implemented a FINMA Insurance Bankruptcy Ordinance (IBO) and is further drafting regulation to comply with the FSB recommendations applicable to G-SIIs.</p> <p>The existing of current tools used by FINMA to identify systemic risk, including shocks, interconnectedness and feedback effects; need to be developed and implemented into a comprehensive surveillance framework that ultimately will reduce the likelihood of systemic risk and mitigate spillover effects within the financial system and into the real economy.</p>
<p>ICP 25</p>	<p>Supervisory Cooperation and Coordination</p> <p>The supervisor cooperates and coordinates with other relevant supervisors and authorities subject to confidentiality requirements.</p>
<p>Description</p>	<p>FINMA may exchange information with foreign authorities responsible for financial market supervision (Art. 42 FINMASA). Cooperation with foreign authorities are e.g., foreseen with cross-border audits (Art. 43 FINMASA) or lead or participation in supervisory colleges</p> <p>http://www.finma.ch/e/beaufsichtigte/versicherungen/gruppen_konglomerate/pages/default.aspx.</p> <p>FINMA has entered in various MoUs with foreign supervisory authorities in order to get or contribute to the oversight of legal entities and groups. Further, FINMA is signatory of the IAIS MMoU (since September 22, 2011). Additionally, FINMA established several group specific confidentiality agreements for the purpose of exchanging information in a supervisory college.</p> <p>In MoUs and the IAIS MMoU, coordination aspects are included. In order to further strengthen the cooperation for all FINMA colleges, coordination agreements have been developed and shared with all involved supervisors.</p>

FINMA supervisory colleges are in place and led by FINMA as group-wide supervisor for six insurance groups. Additionally, FINMA participates in many foreign led supervisory colleges where a substantial subsidiary or branch is domiciled in Switzerland.

Basis for FINMA to take up the role as group-wide supervisors is stated in Article 65 ISA. If the group is managed out of Switzerland, or the country of group management does not exercise effective group supervision, FINMA may place a group under Swiss group supervision. A consultation mechanism with other supervisors involved is foreseen for responsibilities, modalities and scope (Art. 65 paragraph 2 ISA). In making its decision, FINMA considers in particular the following elements:

- International character of the group and its links to Switzerland are specified. In the case of large, internationally operating insurance groups, the supervisory authority can only adequately perform its role if, in addition to information on the individual companies in their countries, it also can assess group interactions. The links to Switzerland have to be sufficiently close.
- Complexity of group structures: Additional supervision is necessary and appropriate if the group has a complex structure. Complex structures stem from the number and intra-group relationship of the involved undertakings, and from the range and nature of businesses pursued.

If a foreign authority claims concurrent supervision of the insurance group either in full or in part, FINMA is to, whilst preserving its authority and with due regard to any possible conglomerate supervision, come to an agreement with the former on responsibilities, procedures and content of the group supervisory arrangements. Prior to its decision, it would consult with those companies in the insurance group domiciled in Switzerland. To date no such arrangements have had to be made.

Article 42 FINMASA covers information flow. Organization of information flow, communication with the management of the group, supervisory college meetings and assessment of the group are covered in

http://www.finma.ch/e/beaufsichtigte/versicherungen/gruppen_konglomerate/pages/default.aspx.

The FINMA coordination of colleges agreement sets out the following points:

- Objectives (lays out the basis for cooperation between college members and FINMA, as well as practical aspects of supervisory activities).
- Membership (one-tier structure).
- Specialized teams, if needed (used as a platform to coordinate specific aspects in more depth).
- Rules and responsibilities (FINMA's role as group-wide supervisor and the role of college members).

- Confidentiality (as an integral part of the coordination agreement).
- Operational aspects.
- Organization, agenda, and meeting minutes (Work plan, specialized teams, voluntary attribution of tasks and joint activities).
- Establishing a holistic group-wide assessment (Based on the information disseminated, the presentations and information received by the group, and the discussions held, the supervisory college will collectively establish a holistic group-wide assessment. The group-wide supervisor will summarize this view at the supervisory college meeting).
- The annex of the document includes: the list of college members, a simplified structure of the group, the emergency plan and the contact list

According to FINMA Policy on Insurance Supervisory Colleges, FINMA colleges are to focus on the following tasks:

- sharing of confidential information;
- coordination of supervisory activities with a view to enhancing the effectiveness and efficiency of supervision and to avoiding unnecessary duplication;
- holistic assessment on a group-wide basis of the:
 - a. strategy and financial position, including financial soundness and capital adequacy;
 - b. governance, including risk management and internal control;
 - c. intra-group transactions and exposures;
 - d. any related risks.
- assessment of risks arising from the macro-prudential perspective of surveillance;
- appropriate actions to mitigate risks identified;
- cooperation on model validation, e.g., in specialized college teams;
- interaction and liaison with group management;
- planning and coordination of supervisory activities during emergency situations (crisis management); and
- voluntary attribution of tasks.

FINMA applies flexibility towards supervisory colleges. For two groups which are under group supervision by FINMA, there is no supervisory college in place as the two groups are only active in Switzerland and Liechtenstein where the cooperation is ensured through the Agreement between the Swiss Confederation and the Principality of Liechtenstein on direct insurance and insurance intermediation (SR 0.961.514).

For the groups only active in Europe, FINMA has established supervisory colleges which are similar to the form of the European Colleges of Supervisors.

For groups active globally, FINMA has established worldwide supervisory colleges.

For conglomerates, banking activities are included in the supervision and the respective supervisors are participating in the college as well.

	<p>Applying the proportionality principle, the number of college meetings and the number of interactions/data exchanges varies between the different sizes of the college. College meetings are held at least once a year physically for all colleges. Additionally, with larger groups and depending on specific issues, interim colleges are performed physically and/ or by telephone conferences.</p> <p>As group-wide supervisor, FINMA reviews regularly the group structure in respect to potential changes to the supervisory college, including the appropriateness of FINMA being the group-wide supervisor. Ad hoc changes in the group structure and/or operations are normally first analyzed and views exchanged in regard to the appropriateness and the risks involved on a bilateral basis, FINMA as group-wide supervisor with the supervisor of the affected jurisdiction. Further, a regulatory action plan is presented and discussed at college meetings.</p>
Assessment	Observed
Comments	<p>FINMA has the authority to enter information and coordination agreements with foreign authorities responsible for financial market supervision. FINMA is signatory to various MoUs that allow for smooth information sharing and coordination in supervisory matters. FINMA has a vast experience in organizing and effectively running colleges. It has created colleges for the relevant Swiss insurance groups and it also participates in several international colleges that are relevant for the Swiss policyholders as the host supervisor. Notwithstanding being the home supervisor it takes the pragmatic approach in the determination of the group supervisor to be the national authority where the decision management of the group is located.</p> <p>To enhance the information exchange, FINMA is recommended to develop for their colleges a secure information exchange platform.</p>
ICP 26	<p>Cross-border Cooperation and Coordination on Crisis Management</p> <p>The supervisor cooperates and coordinates with other relevant supervisors and authorities such that a cross-border crisis involving a specific insurer can be managed effectively.</p>
Description	<p>Cooperation with foreign financial market supervisory authorities is regulated in Article 42 FINMASA. This has allowed FINMA to issue an insurance college policy. The policy includes emergency plans. The emergency plans contain contact list of the involved supervisors and several key guidelines:</p> <ul style="list-style-type: none"> • The competent authority who becomes aware of the emergence (defined in the document) of a potentially serious financial disturbance or is aware of facts or events that may give rise to significant problems for an insurance group will inform as soon as possible the group-wide supervisor. • The group-wide supervisor will inform all relevant members of the college about the emergence of a potentially serious financial disturbance at group level or any facts

	<p>and events that may give rise to significant problems for the group or any of its entities.</p> <ul style="list-style-type: none"> • The group-wide supervisor assess the nature of the financial crisis and its implications in cooperation with the college members concerned in order to reach a common understanding of the crisis in the cross border context within the supervisory college. • The objective of the assessment phase is to assess the overall impact of the crisis, including systemic implications, and provide a basis for the decision of whether to intervene, and if so, how to intervene. • The intensive and regular exchange of information between the group-wide supervisor and the college members concerned is essential during the assessment of the crisis and to take into account confidentiality, information can only be exchanged via the secure communication channel. This channel is to be tested regularly by the group-wide supervisor and the supervisory authorities of the individual undertakings. All members of the college and the group-wide supervisor should be able to produce updated information on short notice. • It is the task of the group-wide supervisor to plan and coordinate the supervisory activities in close cooperation with the college members concerned, and to coordinate the management of the situation. • The group-wide supervisor is in charge of coordinating the public communication at each stage of the crisis. • The group-wide supervisor is allowed to test the functioning of this emergency plan once a year in order to constantly improve the process of emergency handling in the supervisory college. The results of this testing will be discussed within the supervisory college. <p>A reporting obligation exists for all entities that belong to a group (Art. 71 ISA). This means that the group must provide FINMA with all information and deliver all information which is required for the fulfillment of its responsibilities (Art. 29 FINMASA).</p> <p>As part of the regular supervision FINMA asked the three largest insurance groups to deliver and elaborate on a Cross Border Crisis Management Plan.</p>
Assessment	Observed
Comments	<p>For colleges lead by FINMA emergency plans compliant with the standards of this principle have been developed. The emergency plans are regularly tested and improved.</p> <p>Using as a guidance the recovery and resolution plans developed for banks, FINMA has requested and discussed resolution plans for the three largest insurers groups. These plans have already produced concrete actions of the groups toward improving the speed of reaction to serious emergency situations that included dialogue with foreign supervisors applicable during such situations.</p>

	<p>Going forward, FINMA is recommended to enter agreements with the relevant foreign supervisors with the colleges for the situations that would require resolution of the supervised entity.</p> <p>To enhance the resolution of complex groups, FINMA is recommended to acquire the power to act as the liquidator also of non regulated entities belonging to the insurance group.</p>
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