

Newsletter

New FINMA Circular 2025/4 on Consolidated Supervision of Financial Groups



Luca Bianchi

Attorney at Law, Partner, lic. iur.,
LL.M., MBA, MAS UZH in Finance



Armin Kühne

Attorney at Law, Partner, Dr. iur.



Dominik Oberholzer

Attorney at Law, Partner, Dr. iur., LL.M.



Sarah Mostafa

Attorney at Law, Counsel
lic. iur., LL.M.



Michael Kremer

Attorney at Law, Senior Associate
lic. iur., LL.M.



Yusuf Sume

Attorney at Law, Associate
MLaw

The Swiss Financial Market Supervisory Authority FINMA has published the new Circular 2025/4 „Consolidated supervision of financial groups under the BA and FinIA“ („Circular“). In it, FINMA sets out its supervisory practice on the scope and content of consolidated supervision. The Circular will enter into force on July 1, 2025.

1. Introduction

With the new Circular, the Swiss Financial Market Supervisory Authority FINMA is specifying its long-standing practice of consolidated supervision of financial groups in accordance with the Banking Act („BA“; SR 952.0) and the Financial Institutions Act („FinIA“; SR 954.1). Consolidated supervision is a central component of prudential supervision and aims to comprehensively record and effectively manage all risks to which institutions within a financial group are exposed.

A legal framework for consolidated supervision has been in place for around 18 years. Until now, FINMA's application of this framework has been based on individual case decisions and the occasional publication of FAQs. By transferring this established practice in a circular, FINMA is now creating greater transparency, legal certainty and uniform application in practice and in the audits carried out by the regulated audit firms.

When it comes into force on July 1, 2025, the Circular will set a new standard for supervisory practice – both at national level and in line with international standards, such as those of the Basel Committee on Banking Supervision (BCBS).

2. Subject matter and scope of application

The Circular sets out the supervisory practice for the consolidated supervision of financial groups in accordance with Art. 3b-3g BA and Art. 21-24a of the Banking Ordinance („BO“; SR 952.02). It specifies the conditions under which corporate groups are subject to consolidated supervision, which companies are to be included in the so-called regulatory scope of con-

solidation and which regulatory requirements apply at group level.

The addressees of the Circular are financial groups pursuant to Art. 3c BA and Art. 49 FinIA and financial groups dominated by persons pursuant to Art. 1b BA as well as banks, investment firms and persons pursuant to Art. 1b BA themselves that are part of such financial groups. Banks, investment firms and persons pursuant to Art. 1b BA are summarized under the term „institutions“ in the Circular.

FINMA's aim in exercising consolidated supervision is to ensure that the risks associated with a group structure can be identified, monitored and managed holistically – particularly with regard to the protection of creditors and the functioning of the financial markets. This applies in particular to cross-border groups, where FINMA is dependent on cooperation with foreign supervisory authorities.

3. Subordination to consolidated supervision – scope of application

FINMA generally subjects financial groups pursuant to Art. 3c para. 1 BA and financial conglomerates dominated by banks or securities firms pursuant to Art. 3c para. 2 BA to consolidated supervision (financial groups and conglomerates are summarized under the term „financial groups“ in the Circular). Consequently, if a financial group exists in the legal sense, Art. 3b and 3d of the BA apply.

However, in application of Art. 3b and Art. 3d BA, FINMA may in individual cases waive the requirement for consolidated supervision and demand ring-fencing measures – particularly in the case of foreign financial groups where consolidated supervision abroad is not or only insufficiently guaranteed – and/or other measures (e.g., adjustment of the group structure). Specifically, the following measures may be applied: (i) corporate governance measures to strengthen the independence of the institution's management and decision-making bodies from the financial group; (ii) financial measures to protect client assets or to limit the

institution's financial interdependencies with the financial group; (iii) structural measures with an impact on the financial group structure; (iv) the reduction of business interdependencies, access to group systems, customer referrals or requirements for business activity; (v) specific information and reporting obligations to FINMA. However, given their comparatively lower effectiveness compared to consolidated supervision, ring-fencing or other measures are the exception rather than the rule.

4. Scope of consolidated supervision (regulatory scope of consolidation)

a) General

The prerequisite for the existence of a financial group is always a group of at least two companies, of which one is at least an institution. This is based on an economic approach: The legal form of the company is irrelevant.

b) Activity in the financial sector

A company is included in the scope of consolidation if it is mainly active in the financial sector. The activities listed as examples in Art. 4 BO are not exhaustive. In addition to traditional financial services, they also include areas such as:

- Finance leasing;
- Factoring;
- Credit card business;
- Participation in issues and the custody of securities;
- Payment Services and the custody and issue of payment instruments (incl. payment tokens).

In contrast, purely industrial, commercial or administrative activities are considered non-financial. The classification is always made in the light of economic reality and taking into account technological developments (e.g., FinTech).

c) Interconnected system and economic unit

According to Art. 3c para. 1 lit. c BA, in order for an interconnected system to be assumed, the companies operating in the financial sector must form an economic unit or be linked by a legal duty to provide support or a *de facto* obligation to provide support (Art. 22 BO).

According to Art. 21 para. 1 of the BO, an economic unit exists if a company directly or indirectly holds more than half of the votes or capital in other companies or controls them in some other way.

„Control by other means“ may exist in particular through

- The control of voting rights on the basis of an agreement (e.g., shareholders' agreements);
- The direct or indirect right to appoint or remove a majority of the members of the supreme management or administrative body;
- a significant influence on the management (e.g., through the power to exert a significant influence on the management or business policy).

Even without direct participation, a legal or *de facto* obligation to provide support may exist if third parties have the impression that there is an economic unit or an interconnected system. In this respect, a legal or *de facto* obligation to provide support may arise, for example, (i) from strategic, personnel, organizational or financial interdependencies; (ii) from cooperations and dependencies; (iii) from the use of a joint company; (iv) from a uniform market presence or (v) from letters of comfort, keep-well agreements or similar guarantees.

d) Financial group structures

FINMA distinguishes between the following typical structures:

- Parent company structure: An institution (parent company) is at the head of a group of companies. In this case, the scope of consolidation includes the parent company and one or more group companies active in

the financial sector.

- Holding structure: At the top is a holding company that controls an institution and possibly other financial companies. This holding company is generally included in the scope of consolidation unless it cumulatively fulfills four immateriality criteria (no own business activities in the financial sector, no influence on the business activities of the institution, no external financing/leverage, control of only one institution).
- De facto financial groups (parallel controlled structures): This is not a typical structure. One or more natural persons (e.g., entrepreneurial families) directly or indirectly control – in addition to an institution domiciled or effectively managed in Switzerland – other companies active in the financial sector.
- Sub-groups of foreign financial groups: These are also consolidated if institutions domiciled in Switzerland are integrated into a foreign financial group and foreign supervision is not considered appropriate.

e) Special purpose vehicles (SPVs)

Special purpose vehicles (SPVs) are to be included in the regulatory scope of consolidation regardless of their legal form if the requirements of Art. 3c para. 1 BA in conjunction with Art. 4 para. 1, Art. 21 and Art. 22 BO are met. Conversely, SPVs generally do not have to be included in the regulatory scope of consolidation if these requirements are not met.

f) Differentiation from the consolidated financial statements

The regulatory scope of consolidation is not the same as the scope of consolidation according to group accounting. While the latter is determined according to accounting standards such as the Swiss Code of Obligations, IFRS or US GAAP, the regulatory scope is based on a regulatory risk perspective.

This means that the regulatory scope of consolidation may differ from that used for the consolidated financial statements.

5. Content of consolidated supervision: Group-wide regulations

In the context of consolidated supervision, the same regulatory requirements apply to financial groups as to individual institutions. The relevant requirements arise primarily from Art. 3f and 3g BA in conjunction with Art. 24 para. 1 BO. These requirements can be divided into the categories of qualitative and quantitative elements.

The qualitative requirements cover in particular the regulatory areas of organization, internal control system, risk management, anti-money laundering, „fit and proper“ requirements, corporate governance and auditing of the financial group. The quantitative requirements relate to capital adequacy and risk diversification requirements, interest rate risk reporting on a consolidated basis, liquidity requirements and financial reporting standards.

A central element is the possibility of exempting immaterial group companies from the quantitative requirements upon request. For example, the exemption of the institution from the consolidated capital adequacy requirements can be justified if the capital adequacy requirements on an individual basis and on a consolidated basis differ only insignificantly. FINMA examines such exemptions on a case-by-case basis.

6. Conclusion

FINMA has published its practice regarding consolidated supervision of financial groups in the form of a comprehensive new circular. It creates greater transparency, uniformity and legal certainty – both for the institutions concerned and for audit firms. Concerned institutions must ensure that they comply with the requirements of the new Circular.

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Autoren und Autorinnen:

Luca Bianchi

Attorney at Law, Partner, lic. iur., LL.M., MBA, MAS UZH
in Finance

Armin Kühne

Attorney at Law, Partner, Dr. iur.

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