Ordinance on the Accounting of the Swiss Financial Market Supervisory Authority

(FINMA Accounting Ordinance, FINMA-AO)

952.024.1
of 31 October 2019 (status as at 1 January 2020)

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Ordinance on the Accounting of the Swiss Financial Market Supervisory Authority 952.024.1

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of 31 October 2019 (status as at 1 January 2020)

The Swiss Financial Market Supervisory Authority (FINMA),
based on Articles 3g, 6b(3) and (4) of the Banking Act of 8 November 1934 (BA),[1] Articles 27(1), 31(2), 32(2), 35(4), 36(3), 37 and 42 Banking Ordinance of 30 April 2014[2] (BO) as well as Articles 48 of the Financial Institutions Act of 15 June 2018[3] (FinIA),
decrees:

Chapter 1: General Provisions

Section 1: Scope of Application, Definitions, Recognized Standards

ARTICLE 1 Scope and object

1 The following institutions are subject to this Ordinance:

a. banks according to Article 1a BA;

b. investment firms according to Articles 2(1)(e) and 41 FinIA;

c. financial groups and financial conglomerates according to Article 3c(1) and (2) BA.

2 This Ordinance shall regulate the preparation of financial statements and the publication of annual reports and interim financial statements.

ARTICLE 2 Definitions

In this Ordinance, the terms shall mean the following:

a. **items:** items in the minimum structure of the annual financial statements pursuant to Annex 1 BO;

[1] SR **952.0**
[2] SR **952.02**
[3] SR **954.1**

b. **expenses:** a decrease in economic benefits during the reporting period in the form of depletions of assets or an increase in liabilities, resulting in a decrease in equity, other than that relating to distributions to equity owners;

c. **revenue:** an economic benefit during the reporting period in the form of increases in assets or decreases of liabilities, resulting in increases in equity, other than those relating to contributions from equity owners;

d. **derivative financial instruments:** financial instruments whose value is derived from the price of one or several underlying assets or reference rates; in contrast to a direct purchase of the underlying, no or only little initial investment is necessary;

e. **financial instruments:** assets pursuant to Annex 1, 1.1-1.8 and 1.11, debt and equity instruments according to Annex 1, 1.9 and liabilities pursuant to Annex 1, 2.1-2.8 BO;

f. **trading operations:** positions that are managed actively in order to benefit from market price fluctuations, or where the intention is to realize arbitrage gains;

g. **fair value:** the amount at which an asset can be traded or a liability settled in an arm's length transaction between knowledgeable, interested and independent parties;

h. **participations:**

   1. equity shares held by the institution pursuant to Article 1(1), intended as permanent investment, as well as shares in companies characterized as infrastructure for the institution according to Article 1(1),

   2. amounts due from companies in which the institution pursuant to Article 1(1) holds a permanent equity interest, if such amounts are deemed to be equity for taxation purposes;

i. **participations with significant influence:** equity interests amounting to at least 20% of the voting capital;

j. **net market value:** the price that can be realized in an arm's length transaction less associated sales expenses;

k. **value in use:** the present value of inflows and outflows of cash, which may be expected from the use of an asset, including any cash flows at the end of the asset's life;

l. **recoverable amount:** the net market value or the value in use, depending which value is higher;

m. **impairment:** an impairment shall exist if the carrying value of an asset is higher than its recoverable amount;

n. **employee participation scheme:** the options offered to governing bodies, as well as employees to participate in capital and the development in the institution according to Article 1(1).

ARTICLE 3 Internationally recognized accounting standards

1 For the purpose of this Ordinance, the following shall be considered internationally recognized accounting standards:

a. the International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB)[4];

b. the United States Generally Accepted Accounting Principles (US GAAP) issued by the Financial Accounting Standards Board[5] (FASB).

2 When using one of the internationally recognized accounting standards pursuant to (1), major deviations from the Accounting Rules for Institutions pursuant to Article 1(1), which this Ordinance is part of, shall be explained in the notes to the financial statements.

3 When preparing financial statements using one of the internationally recognized accounting standards pursuant to (1), its notes shall contain item 31 Breakdown of assets under management and presentation of their development. Article 32(3) shall be applied by analogy.

4 Institutions in accordance with Article 1(1) that use an internationally recognized accounting standard for their true and fair view supplementary single-entity financial statements or consolidated financial statements may also use these for their own statutory single-entity financial statements as well as the statutory single-entity financial statements of other group companies pursuant to Article 1(1)(a) that are consolidated in accordance with Article 34 BO and use the accounting standards applicable to institutions pursuant to Article 1(1) for the following business transactions:

a. account for hedging relationships (hedge accounting);

b. accounting for financial benefits arising from pension schemes and financial obligations towards such institutions;

c. recording of value adjustments for default risks;

d. method for calculating the liquidation value of doubtful receivables and any collateral.

5 When exercising the option rights pursuant to (4), the relevant international accounting standard in accordance with (1) shall be applied to the entire business transaction when it comes to its initial recording, the follow-up valuation and the disclosure.

4 www.ifrs.org
5 www.fasb.org

Section 2: Fundamentals and principles

ARTICLE 4 Fundamentals and principles

In consideration of Article 26 BO, the following fundamentals and principles shall apply:

a. assumption of going concern, as well as cut-off in regard to time and nature;

b. correct recording of business transactions;

c. clarity and understandability;

d. completeness;

e. reliability;

f. significance of information;

g. prudence;

h. consistency in presentation and valuation;

i. prohibition of netting assets with liabilities and expenses with income;

j. substance over form.

ARTICLE 5 Assumption of going concern, as well as cut-off in regard to time and nature

1 Liquidations ordered by a public authority shall be valued at liquidation values.

2 Even if it can no longer be assumed that an institution will be continuing its business activities, it shall nevertheless prepare a complete set of financial statements.

3 Any deviations from the assumptions of a going concern shall be disclosed in the notes to the financial statements, and their impact on the institution's economic situation must be explained.

ARTICLE 6 Correct recording of business transactions

1 All business transactions must be recognized on the day of their occurrence.

2 Spot transactions that have been concluded but not yet settled shall be recognized according to the trade date accounting principle or the settlement day principle. It shall be acceptable to define a recording principle for different categories of products.

ARTICLE 7 Consistency in presentation and valuation

1 Amendments to the accounting and valuation standards defined by the institution in accordance with Article 1(1) and their impact shall be disclosed and explained in the notes to the financial statements.

2 Accounting entries posted into the published interim financial statements may not be canceled or amended in the year-end financial statements.

ARTICLE 8 Netting of assets and liabilities

1 As a general rule, it is not permitted to net assets with liabilities.

2 However, the following may be netted:

a. receivables and payables that

   1. arise from transactions of similar nature with the same counterparty,
   2. become due simultaneously, or if the receivable becomes due earlier than the relevant payable,
   3. involve the same currency, and
   4. do not bear a counterparty risk either on the balance sheet day, or up to the maturity of the netted transactions;

b. positive and negative value adjustments with no income effect that are recorded through the compensation account;

c. deferred tax liabilities on profits and deferred tax assets involving the same taxable entity and the same tax authorities;

d. positive replacement values for derivative financial instruments and cash reserves that have been deposited as collateral with such negative values and cash reserves provided there is a recognized and enforceable agreement with the counterparty in the form of a close-out netting or a netting by novation.

3 Assets shall be netted with liabilities if:

a. own debt instruments and similar instruments are acquired;

b. value adjustments are recognized;

c. the bank acting as lead manager issues sub-participations in a loan.

ARTICLE 9 Netting expenses and income

1 In general, it is not permitted to net expenses with income.

2 However, the following may be netted:

a. newly created value adjustments for default risks as well as losses from interest operations pursuant to item 1.6 Changes in value adjustments due to default risk and losses from interest operations with the relevant recoveries and released value adjustments;

b. newly created provisions and other value adjustments and losses pursuant to item 7 Changes to provisions and other value adjustments, and losses with the relevant recoveries and released provisions and value adjustments;

c. gains from trading operations and from securities transactions valued with the fair-value option with losses on such transactions;

d. positive value adjustments arising from applying the lower of cost or market principle to financial investments with corresponding negative adjustments;

e. real estate expenses and real estate income;

f. refinancing results from trading activities with item 3 Results from trading activities and the fair value option;

g. results from hedging transactions with the corresponding results from the underlying hedged transaction.

Section 3: Valuation and recording

ARTICLE 10 Valuation at fair value

1 «Fair value» shall basically mean the price obtained on a price-efficient and liquid market.

2 If it is impossible to obtain a price pursuant to (1), the fair value shall be determined using a valuation model.

3 When using a valuation model to obtain the fair value, the following conditions shall be met:

a. The internal valuation and risk assessment models must adequately take into account all of the relevant risks.

b. The parameters for the internal valuation and risk assessment models must be complete and appropriate.

c. The internal valuation and risk assessment models, including the associated parameters, must be scientifically sound and robust and applied consistently.

d. The controls must be effective.

e. Persons entrusted with the independent controls and risk management must understand the market and must be knowledgeable in this area.

ARTICLE 11 Securities financing transactions

1 In the case of repurchase and reverse repurchase agreements (repos) as well as securities lending and borrowing, the exchanged amounts of cash shall be recognized in the balance sheet at nominal value.

2 The transfer of securities has no effect on the balance sheet if the transferring party maintains economic ownership of the rights associated with the securities.

3 The subsequent disposal of received securities shall be recognized as a non-monetary commitment at fair value.

4 Should an institution in accordance with Article 1(1) act in its own name in securities lending/borrowing but on behalf of its clients and if it does not assume any liability or provide any guarantee, these transactions shall be treated like fiduciary transactions and disclosed in item 30 Breakdown of fiduciary transactions.

ARTICLE 12 Precious metal assets and liabilities

Assets and liabilities related to precious metal accounts must be valued at fair value, provided the precious metals in question are traded in an efficient and liquid market.

ARTICLE 13 Trading operations

1 As a rule, trading operations shall be valued at fair value.

2 If a fair value valuation is not possible, the institution shall value pursuant to the lower of cost or market principle.

3 The allocation to trading operations shall occur when the transaction is finalized and shall be documented accordingly.

ARTICLE 14 Derivative financial instruments

Derivative financial instruments shall be valued at fair value.

ARTICLE 15 Other financial instruments at fair value

1 The financial instruments that are not part of a trading operations may be valued at fair value if:

a. they are subject to a risk management that is similar to that of a trading operation;

b. there is a negative correlation between the financial instrument's change in value on the asset side and the change in value on the liabilities side that is largely compensated in the income statement with the fair-value valuation;

c. the impact of a change in an institution's own credit rating on the fair value is not recognized after an initial recording and therefore has no influence on the income statement, and

d. the valuation procedure of such financial instruments has been established in an internal policy.

2 Should the conditions of (1) no longer apply, the valuation at fair-value may no longer be used. Financial instruments to be re-allocated shall be transferred at fair value.

3 The following financial instruments shall be excluded from the fair-value option:

a. participations;

b. payables arising from medium-term notes;

c. payables arising from customer deposits, except for the structured products included therein.

ARTICLE 16 Financial investments

1 Financial investments shall be valued as follows:

a. debt instruments held to maturity: amortized cost method;

b. debt instruments available for sale: lower of cost or market principle;

c. equity securities, own portfolio of physical precious metals, real estate and goods repossessed from the lending business and available for sale as well as crypto currencies held without sales intent: lower of cost or market principle.

2 If financial investments pursuant to (1)(a) are sold before their final maturity or repaid early, the realized gains or losses, which correspond to the interest rate component, shall be accrued over the residual term to maturity of the instrument .

3 For financial investments pursuant to (1)(b) and (c), with the exception of (5) and (6), value increases shall only be recognized up to the acquisition cost, provided the fair value which had dropped below the acquisition value has increased again.

4 In the case of financial investments pursuant to (1)(b), the adjusted amortized costs may be used to

determine the lower of cost or market. If using this option, this shall be disclosed in the notes to the financial statements under the accounting and valuation standards.

5 Own physical precious metals pursuant to (1)(c) used to cover commitments arising from precious metal accounts shall be valued at fair value if the precious metals are traded on an efficient and liquid market.

6 Crypto currencies pursuant to (1)(c) held on behalf of clients and which may not be segregated in the event of a bankruptcy of an institution pursuant to Article 1(1) shall be valued at fair value.

ARTICLE 17 Re-allocation of trading transactions, financial investments and participations

1 If financial investments or participations on the one hand and trading operations on the other hand have to be re-allocated, the re-allocated financial instruments shall be transferred at the fair value relevant at the time the decision was made. Any results arising from this shall be treated as results from disposals.

2 In the case of re-allocations between financial investments and participations, financial investments shall be transferred at book value.

ARTICLE 18 Structured products

1 A structured product consists of an underlying instrument (host) and at least one derivative financial instrument, which may not be own shares of the institution pursuant to Article 1(1).

2 A derivative financial instrument shall be separated from its host instrument and valued separately if:

a. the structured product does not meet the conditions to be recognized as trading operation or the fair-value option was not selected; a structured product issued by the institution itself that includes its own debenture component does not fulfill the conditions to allow it to be recorded as a trading operation;

b. there is no close relationship between the economic features and risks of the derivative financial instrument and those of the host instrument; and

c. the separate instrument fulfills the definition of a derivative financial instrument pursuant to Article 2(d).

ARTICLE 19 Hedging relationships

1 Hedging relationships may be disclosed as such in the accounting (hedge accounting) if:

a. the hedged operation consists of a single financial instrument or a group of financial instruments that are also dealt with as a group for internal risk management purpose;

b. it is possible to value the hedged transaction reliably;

c. the hedging transaction is a derivative financial instrument concluded with an external counterparty; and

d. the hedging relationship is effective.

2 At the beginning of the hedging relationship, the institution shall document its basic and long-term risk management strategies as well as any objectives which the hedging relationship is to fulfill.

3 Changes in value of the hedging transaction shall be recorded in the compensation account, as long as no changes in value of the hedged operation is recognized.

4 Assets and liabilities as well as expenses and income from internal transactions shall be eliminated if they have a significant impact on the financial statements.

5 In the case of an early termination of an interest rate hedge that had been recognized in the income statement at the amortized cost method, the provisions of Article 16(2) shall apply by analogy.

ARTICLE 20 Tangible fixed assets

1 Tangible fixed assets shall be valued at purchase value or production costs less cumulated depreciation.

2 Depreciation shall be recognized systematically over the useful life of the tangible fixed assets. Their value shall be reviewed as at balance sheet date.

3 Investments in tangible fixed assets shall be capitalized if:

a. the new tangible fixed assets have a net market value or value in use, they are used for more than one accounting period and exceed the minimum value for capitalization; or

b. they are made for existing tangible fixed assets and their net market value is thus increased or their useful life is significantly extended, and if they thus exceed their minimum threshold for capitalization.

ARTICLE 21 Leases

1 As a rule, a lease is a capital lease if:

a. at the time the contract is concluded, the net present value of the leasing installments as well as any residual payments are more or less equal to the purchase value or the net market value;

b. the expected duration of the lease is not much longer or shorter than the leased item's economically useful life;

c. the ownership of the leased item is transferred to the lessee at the end of the lease; or

d. any residual payment at the end of the lease lies significantly below the net market value at the start of the contract.

2 All leasing transactions which do not qualify as capital leases shall be considered to be operating leases.

3 For finance leases, the institution shall determine the purchase value at the start of the contract, the net market value of the good leased and the net present value of future leasing installments. The lowest value shall be capitalized and a leasing debt of that same amount recognized.

4 The capitalized value shall be amortized in the subsequent periods and the leasing debt shall be reduced by the amount of the relevant repayment component of the leasing installments.

5 Properties used during an operating lease shall not be capitalized. The full amount of the leasing commitment not recognized as well as their maturity structure shall be disclosed in the notes to the financial statements.

6 Profits resulting from the disposal of tangible fixed assets with a redeemed finance lease shall be recognized in the financial statements and released over the duration of the lease contract. Losses arising from such a sale shall have an immediate income effect.

ARTICLE 22 Intangible assets

1 Acquired intangible assets shall be capitalized if they yield a measurable economic benefit over several years.

2 Intangible assets that have been generated by an institution pursuant to Article 1(1) may be capitalized if:

a. they are identifiable and the institution can freely dispose of them;

b. they bring a measurable benefit for several years;

c. the expenses accumulating during their generation are recognized separately; and

d. it is likely that the resources required to complete and market or use the intangible assets for the institution's own purposes are available or will be made available.

3 At most, acquired and self-generated intangible assets shall be valued at their purchase value or production costs, or if the possible recoverable amount is lower, at this value.

4 Where the useful life cannot be clearly determined, in general, an amortization period of five years shall be applied, in justified cases, this may be increased to a maximum of ten years. The amortization period of intangible assets relating to individuals may not exceed five years.

5 The estimated useful life and the amortization method of intangible assets shall be disclosed in the notes to the financial statements.

ARTICLE 23 Impairment

1 In case of impairment, the book values of equity interests, tangible fixed assets and intangible assets shall be tested for impairments as at balance sheet date.

2 In case of impairment, the book value must be reduced to the recoverable amount. The recoverable amount shall be determined individually for each asset.

3 If an asset does not generate cash flows independently of other assets, the recoverable amount of the smallest identifiable group of assets to which the asset belongs shall be determined.

4 In the case of a group of assets, the impairment loss shall be charged appropriately to the other assets on the basis of objective criteria and in consideration of their book values.

5 Where reducing the book value to zero is not sufficient to capture the extent of the impairment, a provision shall be created in the amount of the remainder.

ARTICLE 24 Value adjustments for default risks due to doubtful receivables

1 Loans/receivables shall be considered to be impaired if it seems unlikely that the debtor will be able to fulfill its future obligations.

2 Indications of impaired loans/receivables shall include:

a. the debtor has significant financial difficulties;

b. there has been a breach of contract;

c. the lender has to make concessions to the debtor because of the debtor's economic or legal circumstances related to financial difficulties that would not be granted under normal conditions;

d. there is a high probability that the debtor will go bankrupt or will need restructuring;

e. an impairment was recorded for the relevant asset in a previous reporting period;

f. an active market for this particular financial asset has disappeared due to financial difficulties; or

g. prior experience in connection with debt collection indicates that not the total nominal value of the receivable is recoverable.

3 Impaired loans/receivables shall be valued individually; individual value adjustments shall be created for the impaired loans/receivables. Homogeneous credit portfolios that consist of numerous small loans and where an individual assessment cannot be determined with a reasonable effort may be assessed collectively (collective individual value adjustment).

4 Impaired loans/receivables and any collateral shall be valued at their liquidation value, taking into account the debtor's creditworthiness.

5 Where the recovery of the loan/receivable depends exclusively on the liquidation proceeds of the collateral, the uncovered portion must be covered by a value adjustment.

ARTICLE 25 Value adjustments for default risks on loans/receivables that are non-impaired

1 Value adjustments for default risks on loans/receivables that are not-impaired shall be created as follows:

a. category 1 and 2 banks according to Annex 3 BO: for expected losses;

b. category 3 banks according to Annex 3 BO whose share of item 1.5 *Gross interest income* makes up more than a third of the sum of 1.5 *Gross interest income,* 2.5 *Subtotal commission and service fee activities,* 3 *Result from trading activities and the fair value option* and 4.6 *Subtotal other result from ordinary activities* in at least one of three reporting periods preceding the reference period, and which therefore are primarily active in the interest margin business: for inherent default risks;

c. category 4 and 5 banks according to Annex 3 BO and those category 3 banks according to Annex 3 BO that are not primarily involved in the interest margin business, as well as investment firms: for latent default risks.

2 For categorization purposes, the group and the stand-alone entity shall be viewed separately.

3 Banks according to (1)(b) may create value adjustments for expected losses. Banks and investment firms according to (1)(c) may create value adjustments for inherent default risks or value adjustments for expected losses.

4 Banks that do not use an internationally recognized accounting standard in accordance with Article 3(1) shall use an approach to determine expected losses that is based on long-term average estimates, taking into consideration residual maturities. The following shall apply:

a. Value adjustments for expected losses shall be created on the following items:

   1. item 1.2 *Amounts due from banks;*
   2. item 1.4 *Amounts due from customers;*
   3. item 1.5 *Mortgage loans;*
   4. Item 1.9 *Financial investments* for debt instruments to be held until maturity.

b. Expected losses shall be determined with the help of a model-based approach for portfolios subject to the IRB approach (internal rating based) at a regulatory level. Regulatory calculations may be used for this purpose, however, an adaption shall be taken into consideration for the residual maturity.

c. The simplified approach may be used for portfolios subject to the Standardized Approach at a regulatory level to determine expected losses.

5 The methods and data used to create value adjustments for default risks in (1), (3) and (4), as well as the assumptions made shall be explained in the notes to the financial statements.

6 Category 1 and 2 banks that use internationally recognized accounting standards pursuant to Article 3(1) to create value adjustments for default risks shall apply the Guidance on credit risk and accounting for expected credit losses[6] issued by the Basel Committee on Banking Supervision in December 2015.

7 Value adjustments for expected losses (if these were not created using an internationally recognized accounting standard pursuant to Article 3(1)), as well as value adjustments for inherent default risks, may be used to create individual value adjustments pursuant to Article 24(3). Banks and investment firms shall define the parameters on the nature and type of utilization, as well as the time necessary to replenish them. The parameters shall be disclosed in the notes to the financial statements.

8 Should the use of value adjustments for expected losses or the value adjustments for inherent default risks pursuant to (7) lead to a funding gap, this shall be disclosed in the notes to the financial statements.

9 The provisions in (1)-(8) shall apply accordingly to all other institutions pursuant to Article 1(1).

10 Should value adjustments released be significant for a particular period, this must be explained in the notes to the financial statements.

ARTICLE 26 Non-performing loans/receivables and interest rates

1 Non-performing loans shall be deemed as such once the following payments have not been made in full for more than 90 days after becoming due:

a. payment of interest;

b. payment of commissions;

c. partial repayment of principal;

d. full repayment of principal.

2 The following shall also be deemed non-performing loans:

a. amounts due from debtors in liquidation;

b. loans with special conditions for reasons of creditworthiness.

[6] www.bis.org/bcbs/publ/d350.pdf

3 Interest and lending commissions deemed to be an interest component past due shall not be recognized as interest income.

4 Interest and lending commissions outstanding for more than 90 days shall be deemed as past due. In the case of overdrafts of current accounts, interest and commissions shall be considered past due if the overdraft limit has been exceeded for more than 90 days.

ARTICLE 27 Commitments

1 Commitments where the declared value is lower or higher than the nominal value may be recognized in the balance sheet either at net value or gross value, stating the relevant difference.

2 Commitments arising from crypto currencies held on behalf of clients and which may not be segregated in the event of a bankruptcy of an institution pursuant to Article 1(1) shall be valued at fair value.

ARTICLE 28 Provisions

1 If an outflow of cash whose amount and due date may be estimated reliably is likely because of a past event, provisions shall be created.

2 The amount of the provision shall be determined on the basis of an analysis of the respective past event as well as of events occurring after the balance sheet date.

3 Where the time factor is of significance, the amount of the provision must be discounted accordingly.

4 Restructuring provisions may only be created once the criteria for creating a provision are satisfied. A legally binding decision by the governing body for overall direction, supervision and control of restructuring measures is required.

5 If an expected outflow of cash cannot be estimated reliably, this shall be disclosed accordingly in the notes to the financial statements.

6 For default risks arising from off-balance sheet transactions, for which no provisions pursuant to (1) had been created, provisions shall be created as described in Article 25(1)-(5). Banks pursuant to Article 25(1)(a) that do not use an internationally recognized accounting standard in accordance with Article 3(1), shall create provisions for expected losses in item 3.1 *Contingent liabilities* as well as 3.2 *Irrevocable commitments*.

7 The use of provisions for default risks as well as the disclosure of any funding gaps related to provisions for default risks pursuant to Article 6 shall also be regulated by Article 25(7) and (8).

8 Should provisions released be significant for a particular period, this shall be explained in the notes to the financial statements.

ARTICLE 29 Financial benefits from pension schemes and financial obligations towards such institutions

1 Financial benefits from pension schemes and financial obligations towards such institutions shall be calculated as at the balance sheet date; the impact of the financial obligations shall be recorded.

2 The calculation shall be based on the last annual financial statements of the pension scheme. The closing dates of the institution pursuant to Article 1(1) and the pension scheme may not be apart more than 12 months.

3 If there are specific indications of significant developments since the pension scheme's last annual financial statements, their impact shall be taken into account accordingly.

ARTICLE 30 Taxes

Current income and capital taxes payable on the results of the respective period and the relevant capital shall be calculated in accordance with applicable tax regulations.

ARTICLE 31 Employee participation schemes

1 Share-based remunerations that are part of employee participation schemes shall be valued at the fair value of the equity instruments at the time of the allocation and recognized as personnel expenses over the vesting period.

2 Remunerations shall be deemed as real share-based remunerations if they are undertaken with equity instruments of the institution pursuant to Article 1(1) itself.

3 Cash payments shall be deemed as virtual share-based remunerations if their amount depends on the share price of equity instruments of the institution pursuant to Article 1(1) itself or of equity instruments of another group company, as well as payments made with equity instruments of another group company.

4 A re-valuation shall only be required for real share-based remunerations if the exercise or purchasing conditions change.

5 In the case of virtual share-based remunerations, the commitment shall be re-valued on the balance-sheet date; their value changes shall be recorded in personnel expenses.

ARTICLE 32 Exemption from disclosures in the annual financial statements

1 The following disclosures pursuant to Annex 1 BO shall only be disclosed in the notes to the financial statements if at least 5% of the institution's assets are located abroad:

a. item 24 *Presentation of assets and liabilities by domestic and foreign origin in accordance with the domicile principle*

b. item 25 *Breakdown of all assets by countries or regions (based on their domicile)*

c. item 26 *Breakdown of all assets according to the credit rating of regions (risk domicile principle)*

2 Item 27 *Presentation of assets and liabilities according to the bank's most important currencies* shall only be disclosed in the notes to the financial statements if the entire net position in foreign currencies amounts to more than 5% of the assets of the institution pursuant to Article 1(1).

3 Item 31 *Breakdown of assets under management and presentation of their development* shall only be disclosed in the notes to the financial statements if the balance of item 2.1 *Commission income from securities trading and investment activities* as well as item 2.4 *Commission expenses* exceeds one third of the sum of:

a. item 1.5 *Gross interest income*

b. item 2.5 *Subtotal for commission business and services;* and

c. item 3 *Result from trading activities and the fair value option.*

4 Item 32 *Breakdown of the result from trading activities and the fair value option* shall only be disclosed in the notes to the financial statements if the institution pursuant to Article 1(1) is not subject to the de-minimis rule pursuant to Article 83 Capital Adequacy Ordinance of 1 June 2012[7].

5 Item 38 *Presentation of business results, broken down according to domestic and foreign origin, according to the principle of permanent establishment* shall only be disclosed in the notes to the financial statements if the business abroad of the institution pursuant to Article 1(1) is significant.

6 In order to calculate the thresholds stated in (1)-(3), the average amounts of the last three years prior to the current reporting period shall be used.

Section 4: Interim financial statements

ARTICLE 33 Structure of the interim financial statements

The interim financial statements shall base on the same structure as the annual financial statements. Item 13 *Profit/loss (result of the period)* shall be replaced by the item *Interim profit/loss.*

ARTICLE 34 Abridged notes

The abridged notes to the interim financial statements shall contain at least:

a. disclosures and explanations of the changes of the accounting and valuation policies defined by the institution pursuant to Article 1(1), and any possible correction of errors as well as their impact on the interim financial statements;

b. factors that have influenced the financial situation of the institution pursuant to Article 1(1) during

[7] SR **952.03**

the reporting period, with a comparison to the previous year;

c. disclosure and explanations on extraordinary income or expenses; and

d. disclosure and explanations on significant events after the interim financial statements' closing date.

ARTICLE 35 Presentation of figures from the previous year

In the interim financial statements, the balance sheet shall present the figures from the previous year's annual financial statements; and in the income statement of the interim financial statements those of the previous year's interim financial statements.

Section 5: Publication and submission

ARTICLE 36

1 The annual report as well as the interim financial statements shall be made available to the public in printed form. Printing the electronic document shall be sufficient.

2 The annual report shall be submitted electronically to FINMA no later than 4 months after the closing of the books.

3 If the institution prepares reliable assessment statutory single-entity financial statements and if these are not in its annual report, they shall also be submitted within the deadline stated in (2).

4 The interim financial statements shall be submitted electronically to FINMA within two months after the closing of the accounts.

Chapter 2: Single-Entity Financial Statements

Section 1: Reliable assessment statutory single-entity financial statements

ARTICLE 37 Consistency in presentation and valuation

1 In case of changes in the accounting and valuation policies defined by the institution pursuant to Article 1(1), the adjustment of the figures from the previous year shall generally not be permitted. Simple reclassifications (with the exception of shareholders' equity and profit/loss for the period) shall be permitted.

2 Errors that occurred in the normal course of business in previous periods shall be corrected and recognized through ordinary items in the income statement in the current period.

ARTICLE 38 Hidden reserves

1 Hidden reserves shall only be created by:

a. debiting item 7 *Changes to provisions and other value adjustments, and losses* or item 10 *Extraordinary expenses* in the income statement, if creating other provisions by debiting item 2.11 *Provisions;*

b. converting released provisions which had been created by charging item 7 *Changes in provisions and other value adjustments, and losses,* into other reserves in item 2.11 *Provisions;*

c. reclassifying released value adjustments originally created for default risks into other reserves in item 2.11 *Provisions;*

d. debiting item 6 *Value adjustments on participations as well as depreciations on tangible fixed assets and intangible assets* in the income statement in order to further reduce the book values of participations and tangible fixed assets;

e. an increase in the difference between the book value and the highest legal amount, which arises because of improved market conditions of participations and tangible fixed assets and which is not recognized; or

f. waiving the release of the impairment for equity securities and tangible fixed assets.

2 Hidden reserves shall only be released by:

a. releasing the relevant other provisions using item 9 *Extraordinary income;*

b. revaluation of participations and tangible fixed assets up to the maximum allowed using item 9 *Extraordinary income;*

c. realization through the sale of participations and tangible fixed assets in item 9 *Extraordinary income;* or

d. a reduction of the difference between the book value and the highest legal amount, which arises because of deteriorated market conditions of equity securities and tangible fixed assets and which is not recognized.

3 If the release of hidden reserves is significant, this shall be disclosed in the notes to the financial statements. A release shall be deemed significant if it amounts to at least 2% of disclosed equity or 20% of the results of the respective period.

ARTICLE 39 Revaluation of properties and participations

In the case of banks and investment firms in the form of "Sociétés anonymes/Aktiengesellschaften", properties and exceeding the purchase value shall be revalued pursuant to Article 670 Code of Obligations

(CO)[8] and the FINMA shall be notified before publishing the financial statements.

ARTICLE 40 Currency translation

1 As a rule, assets and liabilities in foreign currencies shall be converted at the exchange rate prevailing at the balance sheet date.

2 Participations, tangible fixed assets and intangible assets in foreign currencies can be converted at historical rates.

3 Postings to the income statement in foreign currencies shall be converted at the daily rate of the transaction or at the average rate of the month in which the transaction took place.

4 When integrating transactions made by branch offices in foreign currencies, the average rate of the reporting period may be used.

5 Conversion differences shall be recorded in the income statement.

ARTICLE 41 Impairment

1 An impairment recorded in previous periods shall be reversed if the factors considered for determining its recoverable value have improved significantly. This shall not apply to intangible assets.

2 Article 38(1)(f) shall remain applicable.

ARTICLE 42 Value adjustments for default risks

Value adjustments for default risks that are no longer necessary shall be reversed through the income statement, unless they are necessary for other needs similar to the original needs. Article 38(1)(c) shall remain applicable.

ARTICLE 43 Provisions

Provisions no longer necessary shall be reversed through the income statement, unless they are necessary for needs similar to the original needs. Article 38(1)(b) shall remain applicable.

ARTICLE 44 Financial benefits from pension schemes and financial obligations towards such institutions

An economic benefit from pension schemes may be capitalized. The capitalization shall be disclosed in the notes to the financial statements.

ARTICLE 45 Taxes

1 Deferred tax liabilities on profits may be recognized in the balance sheet. Deferred tax assets on

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temporary differences arising from values determined according to the reliable assessment statutory single-entity financial statements and those determined according to fiscal principles may be recorded if it is likely that they can be realized with the help of taxable profits.

2 The calculation of deferred taxes shall be based on the balance sheet perspective and consider all future income tax effects.

3 Actual tax rates to be expected shall be used to calculate deferred tax effects. Calculating these based on tax rates available at the time when preparing the balance sheet shall be permitted if the actual tax rates to be expected are not known.

4 Tax effects arising from accumulated losses brought forward shall not be recorded.

ARTICLE 46 Reserves for general banking risks

Reserves for general banking risks shall be created with an income effect or by reclassifying hidden reserves with no income effect.

ARTICLE 47 Transactions with shareholders

1 The purchase of own shares shall be recorded at fair value of the consideration prevailing at the time of purchase.

2 Results arising from the sale of own shares shall be recorded either in item 2.15 *Statutory retained earnings reserve or recorded* with income effect. The selected recording approach shall be disclosed in the notes to the financial statements under accounting and valuation standards. Profits and losses shall be disclosed in the notes to the financial statements, differentiating between own shares held for trading and own shares held for other purposes.

3 Dividends on own shares shall be recorded in item 2.15 *Statutory retained earnings reserve.*

ARTICLE 48 Costs related to equity transactions

Shareholders' equity transaction costs shall be recognized in the income statement.

ARTICLE 49 Employee participation schemes

Real and virtual share-based compensation of employees in the framework of the employee participation scheme shall be recorded in item 2.9 *Accrued expenses and deferred income.*

ARTICLE 50 Appropriation of profit

The reliable assessment statutory single-entity financial statements shall contain instructions on the appropriation of profit or the compensation of losses pursuant to Annex 1 of the present Ordinance.

Section 2: True and fair view statutory single-entity financial statements

ARTICLE 51 Consistency in presentation and valuation

The requirements regarding consistency in presentation and valuation shall be based on Article 37.

ARTICLE 52 Revaluation of properties and participations

Article 39 shall apply to the treatment of the revaluation of properties and participations.

ARTICLE 53 Currency translation

Currency translations shall be based on Article 40.

ARTICLE 54 Impairment

Article 41(1) shall apply to the treatment of impairment.

ARTICLE 55 Value adjustments for default risks

Value adjustments for default risks that are no longer necessary shall be reversed through the income statement, unless they are necessary for other needs similar to the original needs.

ARTICLE 56 Provisions

Provisions no longer necessary shall be reversed with income effect, unless they are necessary for needs similar to the original needs.

ARTICLE 57 Financial benefits from pension schemes and financial obligations towards such institutions

An economic benefit from pension schemes shall be recognized.

ARTICLE 58 Taxes

1 Deferred tax liabilities on profits shall be recognized. Deferred tax assets on temporary differences arising from values determined according to the true and fair view statutory single-entity financial statements and those determined according to fiscal principles shall be recorded if it is likely that they can be realized with the help of taxable profits.

2 Article 45(2) and (3) shall apply to the recording of deferred tax assets on temporary differences arising from values determined according to the true and fair view statutory single-entity financial statements and those determined according to fiscal principles.

3 Tax effects arising from accumulated losses brought forward shall not be recorded.

ARTICLE 59 Reserves for general banking risks

1 Reserves for general banking risks shall be recorded with tax effect.

2 The institution must take into consideration deferred taxes for already existing and new additions to reserves for general banking risks.

ARTICLE 60 Transactions with shareholders

Article 47 shall apply to transactions with shareholders.

ARTICLE 61 Costs related to equity transactions

Article 48 shall apply to the recording of equity transaction costs.

ARTICLE 62 Participations with significant influence

For participations with significant influence, the institution shall disclose the impact of the theoretical use of the equity method in the notes to the financial statements.

ARTICLE 63 Employee participation schemes

Article 49 shall apply to the recording of employee participation schemes.

ARTICLE 64 Appropriation of profit

The true and fair view statutory single-entity financial statements shall contain information on the appropriation of profits or the compensation of losses pursuant to Annex 1 of the present Ordinance.

Section 3: True and fair view supplementary single-entity financial statements

ARTICLE 65 Accounting principles

1 True and fair view supplementary single-entity financial statements shall be prepared according to the accounting principles applicable to institutions pursuant to Article 1(1) or internationally recognized accounting standards mentioned in Article 3(1).

2 Articles 66-80 shall apply to financial statements that have been prepared in accordance with Article 1(1). Alleviations pursuant to Article 68 shall also be applicable if the true and fair view supplementary single-entity financial statements have been prepared in accordance with an internationally recognized accounting standard pursuant to Article 3(1).

ARTICLE 66 Audit report and submission to the supreme governing body

The true and fair view supplementary single-entity financial statements shall be audited and submitted to the supreme governing body at the time it also has to approve of the annual financial statements.

ARTICLE 67 Minimum structure

Annex 1 BO in conjunction with the derogations in Annex 2 of the present Ordinance shall apply to the minimum structure.

ARTICLE 68 Alleviations applicable to the statutory single-entity financial statements

Should a bank prepare and publish a true and fair view supplementary single-entity financial statements, the alleviations pursuant to Article 86 shall apply to the statutory single-entity financial statements.

ARTICLE 69 Consistency in presentation and valuation

In case of changes in the accounting and valuation standards defined by the institution pursuant to Article 1(1) as well as the correction of errors from previous periods, the figures from the previous period shall be adjusted. The adjustments shall be explained in the notes to the financial statements.

ARTICLE 70 Currency translation

Currency translations shall be based on Article 40.

ARTICLE 71 Impairment

Article 41(1) shall apply to the recognition of an impairment.

ARTICLE 72 Value adjustments for default risks

Article 55 shall apply to the recording of value adjustments for default risks.

ARTICLE 73 Provisions

Article 56 shall apply to the recording of provisions.

ARTICLE 74 Financial benefits from pension schemes and financial obligations towards such institutions

Article 57 shall apply to the recording of the economic impacts from pension schemes.

ARTICLE 75 Taxes

1 Article 58(1) and (2) shall apply to the recognition of taxes.

2 Tax effects arising from accumulated losses brought forward shall be recognized.

ARTICLE 76 Reserves for general banking risks

Article 59 shall apply to the recording of reserves for general banking risks.

ARTICLE 77 Transactions with shareholders

1 As a rule, transactions with shareholders shall be valued at fair value.

2 If no valuation pursuant to (1) is possible, another valuation approach may be selected if this is justified. The approach shall be disclosed.

3 Results from the sale of own shares and dividends paid on own shares shall be recognized as *Capital reserves.*

ARTICLE 78 Costs related to equity transactions

Costs related to equity transactions shall be recognized as *Capital reserves.*

ARTICLE 79 Equity interests with significant influence

1 Equity interests with significant influence shall be recognized with the equity method.

2 The goodwill that resulted from the acquisition of equity interests with significant influence shall be segregated and recognized in item 1.13 *Intangible assets.*

ARTICLE 80 Employee participation schemes

Real share-based payments to employees in the framework of employee participation schemes shall be recognized in *Capital reserves* and virtual share-based payments in item 2.9 *Accrued expenses and deferred income.*

Chapter 3: Consolidated financial statements

ARTICLE 81 Accounting standards and mandatory approval

1 The consolidated financial statements shall be prepared according to the accounting standards for institutions pursuant to Article 1(1) or according to an internationally recognized accounting standards pursuant to Article 3(1). It shall be approved by the supreme governing body.

2 Articles 82-97 shall apply to financial statements that have been prepared in accordance with Article 1(1). Alleviations pursuant to Article 86 shall also be applicable if the consolidated financial statements have been prepared in accordance with an internationally recognized accounting standard pursuant to Article 3(1).

ARTICLE 82 Consolidation principles

1 The group companies' financial statements which are to be consolidated shall conform to the group's consolidation principles and rules.

2 Group-internal assets and liabilities as well as expenses and income from intercompany transactions shall be eliminated; the same applies to results generated within the group.

3 Capital consolidations shall be recognized using the purchase method.

ARTICLE 83 Participations with significant influence

Article 79 shall apply to the treatment of participations with significant influence. The equity method shall be applied to participations in joint ventures of 50%.

ARTICLE 84 Goodwill and negative goodwill

1 The assets and liabilities of business divisions and companies acquired shall be valued at market value.

2 Goodwill shall be capitalized in item 1.13 *Intangible assets* and disclosed separately in the notes to the financial statements.

3 Goodwill shall be amortized using the straight-line method unless another amortization method is more appropriate in certain cases. A justification for this shall be disclosed in the notes to the financial statements under accounting and valuation standards. The relevant amortization period shall be based on Article 22(4).

4 Negative goodwill to be expected for cash outflows in connection with a takeover of control of business units or entities shall be accrued and released according to conformity with its purpose. It shall be disclosed separately in the financial statements.

5 Negative goodwill not used for cash outflows pursuant to (4) and that actually corresponds to a bargain purchase, shall be recognized immediately in item 9 *Extraordinary income.*

ARTICLE 85 Currency translation

1 As a rule, annual and interim financial statements to be consolidated in foreign currencies shall be converted into the group's currency at the daily rate prevailing on the balance sheet date.

2 Investments, tangible fixed assets and intangible assets shall be converted at historical rates.

3 Recognitions in the income statement shall be made at the daily rate of the transaction or converted at the average rate over the reporting period. Conversion differences shall be recognized in equity.

ARTICLE 86 Alleviations applicable to the statutory single-entity financial statements

1 If a financial group publishes consolidated financial statements, the institutions pursuant to Article 1(1) consolidated therein may waive publishing the following information in their notes to annual financial statements:

a. Item 6 *Presentation of participations;*

b. Item 7 *Companies in which the bank permanently holds direct or indirect participation of significance;*

c. Item 8 *Presentation of tangible fixed assets;*

d. Item 9 *Presentation of intangible assets;*

e. Item 15 *Presentation of outstanding bonds and mandatory convertible bonds;*

f. Item 23 *Presentation of maturity structure of financial instruments;*

g. item 24 *Presentation of assets and liabilities by domestic and foreign origin in accordance with the domicile principle;*

h. item 25 *Breakdown of all assets by countries or regions (based on their domicile);*

i. Item 27 *Presentation of assets and liabilities according to the bank's most significant currencies;*

j. Item 28 *Breakdown and explanations on contingent assets and liabilities;*

k. Item 29 *Breakdown of credit commitments;*

l. Item 38 *Presentation of operating results, broken down according to domestic and foreign origin, according to the principle of permanent establishment;*

m. Item 40 *Disclosures and explanations of the earnings per equity security for listed banks.*

2 For institutions pursuant to Article 1(1) whose shares are listed, (1) does not apply.

ARTICLE 87 Consistency in presentation and valuation

The requirements regarding consistency in presentation and valuation shall be based on Article 69.

ARTICLE 88 Minimum structure

Annex 1 BO in conjunction with the derogations in Annex 3 of the present Ordinance shall apply to the minimum structure.

ARTICLE 89 Impairment

Article 41(1) shall apply to the recognition of an impairment.

ARTICLE 90 Value adjustments for default risks

Article 55 shall apply to the recording of value adjustments for default risks.

ARTICLE 91 Provisions

Article 56 shall apply to the recording of provisions.

ARTICLE 92 Financial benefits from pension schemes and financial obligations towards such institutions

Article 57 shall apply to the recording of the economic impacts from pension schemes.

ARTICLE 93 Taxes

Article 75 shall apply to the recording of taxes.

ARTICLE 94 Reserves for general banking risks

Article 59 shall apply to the recording of reserves for general banking risks.

ARTICLE 95 Transactions with shareholders

Article 77 shall apply to the recording of transactions with shareholders.

ARTICLE 96 Costs related to equity transactions

Article 78 shall apply to the recording of equity transaction costs.

ARTICLE 97 Employee participation schemes

Article 80 shall apply to the recording of employee participation schemes.

Chapter 4: Final provisions

ARTICLE 98 Transitional provisions

1 The legal provisions applicable to the creation of value adjustments for default risks pursuant to Article 25 and provisions for default risks for off-balance sheet transactions pursuant to Article 28(6) shall become applicable at the latest for annual financial statements beginning on 1 January 2021 or later in the course of 2021.

2 An early application shall be possible.

3 Institutions pursuant to Article 1(1) shall now have to create value adjustments for expected losses and inherent default risks using a straight-line method at the latest by six business years after this Ordinance has entered into force. A full recognition during the first financial year of implementation as well as a full recognition during the following financial years of the amount that has not yet been entirely recognized on a straight-line basis shall be permitted up to the end of the 2025 business year.

4 Those adjustments may be posted with or without income statement effect.

ARTICLE 99 Entry into force

This Ordinance shall enter into force on 1 January 2020.

Annex 1

(ARTICLES 50, 64)

Disclosure on appropriation of profits or the compensation of losses in statutory financial statements

1. Presentation

In the statutory single-entity financial statements, the appropriation of profits or the compensation of losses shall be presented as follows:

1.1 Profit/loss

1.2 +/- Profits/losses brought forward from the previous year

1.3 = Profit / accumulated loss

1.4 Appropriation of profits / compensation of losses

1.5 Profits/losses brought forward to new financial statements

2. Appropriation of profits

2.1 In the case of an appropriation of profits, the following shall be disclosed in the statutory single-entity financial statements, where appropriate:

a. the amount to be allocated to item 2.15 Statutory retained earnings reserve;

b. the amount to be allocated to item 2.16 Voluntary retained earnings reserves;

c. distributions from net retained profits;

d. other uses of profit.

2.2 This then results in profits/losses brought forward to the new financial statements.

3. Compensation of losses

3.1 In the case of a compensation of losses, the following shall be disclosed in the statutory single-entity financial statements, where appropriate:

a. the amount to be withdrawn from item 2.15 *Statutory retained earnings reserve;*

b. the amount to be withdrawn from item 2.16 *Voluntary retained earnings reserves*

3.2 This then results in profits/losses brought forward to the new financial statements.

4. Distributions

Any distributions which were not distributed from retained earnings must be disclosed.

Annex 2

(ARTICLE 67)

Deviations in the true and fair view supplementary single-entity financial statements from the minimum structure pursuant to Annex 1 BO

1. Balance sheet

The balance sheet in the true and fair view supplementary single-entity financial statements shall deviate as follows from the minimum structure pursuant to Annex 1 BO:

a. Item 2.14 *Statutory capital reserve* shall be replaced with the item *Capital reserves.*

b. The items 2.15 *Statutory retained earnings reserve,* 2.16 *Voluntary retained earnings reserves* and 2.18 *Retained earnings/losses brought forward* shall be summarized in the item *Retained earnings reserve.*

2. Income statement

Item 4.2 *Income from participations* in the income statement shall be broken down into:

a. income from participations accounted for with the equity method;

b. income from other non-consolidated participations.

Annex 3

(ARTICLE 88)

Deviations in the consolidated financial statements from the minimum structure pursuant to Annex 1 BO

1. Balance sheet

The balance sheet in the consolidated financial statements shall deviate as follows from the minimum structure pursuant to Annex 1 BO:

a. Item 1.11 *Participations* shall be replaced by the item *Non-consolidated participations.*

b. Item 2.14 *Statutory capital reserve* shall be replaced with the item *Capital reserves.*

c. The items 2.15 *Statutory retained earnings reserve,* 2.16 *Voluntary retained earnings reserves* and 2.18 *Retained earnings/losses brought forward* shall be summarized in the item *Retained earnings reserve.*

d. Furthermore, there shall be a new item *Currency translation reserve.* It shall be added just after the item *Retained earnings reserve.*

e. Furthermore, there shall be a new item *Minority holdings in equity.* It shall be added just after the item *Own shares.*

f. Item 2.19 *Profit/loss (result of the period)* shall be replaced by item *Group profit/loss.* Minority holdings in *Group profit/loss* shall be disclosed separately.

2. Income statement

Income from equity securities in the income statement shall be broken down into:

a. income from participations accounted for with the equity method;

b. income from other non-consolidated participations.

3. Notes to the consolidated financial statements

3.1. The following items shall not be contained in the consolidated financial statements:

a. Item 17 *Presentation of share capital;*

b. Item 20 *Disclosure of significant shareholders*

c. Item 22 *Disclosures in accordance with the Ordinance against Excessive Compensation in Listed Stock Corporations of 20 November 2013*[9] *and Article 663c (3) CO*[10] *for banks whose equity securities are listed*

3.2 The components of share capital (especially details on the individual categories and the amount of non-distributable reserves) shall not be disclosed in item 21 *Information on treasury shares and the equity's composition.*

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Contacts

Philipp Rickert
Partner, Head of Financial Services,
Member of the Executive Committee
Zurich
Tel. +41 58 249 42 13
prickert@kpmg.com

Helen Campbell
Partner, Banking Transformation
Tel. +41 58 249 35 01
hcampbell@kpmg.com

Thomas Dorst
Partner, Assurance & Regulation
Tel. + 41 58 249 54 44
tdorst@kpmg.com

Nicolas Moser
Partner, Geneva Office
Tel. +41 58 249 37 87
nmoser@kpmg.com

www.kpmg.ch