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Ordinance of the Federal Audit Oversight Authority on Electronic Access to Non-Publicly Accessible Data (Data Ordinance FAOA, DatO-FAOA)

of 14 November 2008 (Status as on 23 January 2023)

*The Federal Audit Oversight Authority,
based on Article 25 paragraph 2 of the Auditor Oversight Ordinance
of 22 August 2007¹ (AOO),
ordains:*

Section 1 General Provisions

Art. 1² Subject matter

This Ordinance shall regulate electronic access to non-publicly accessible data by other Swiss oversight authorities, pursuant to Article 22 of the Auditor Oversight Act of 16 December 2005³ (AOA).

Art. 2 Non-publicly accessible data

¹ Non-publicly accessible data is data that is not included in the register of auditors (Art. 19 ff. AOO) and that arises from licence applications, the documents submitted with these applications or the decisions on the granting of licences, or that is collected in another way in application of the AOA⁴.

² The non-publicly accessible data and the level of access permitted to this data are set out in the Annex.

AS 2008 5259

¹ SR 221.302.3

² Amended by Annex No 2 of the Health Insurance Oversight Ordinance of 18 Nov. 2015, in force since 1 Jan. 2016 (AS 2015 5165).

³ SR 221.302

⁴ SR 221.302

Section 2

Requirements for Electronic Access to Non-Publicly Accessible Data

Art. 3 Applicable law

Electronic access to non-publicly accessible data is governed by the applicable provisions on administrative and mutual assistance contained in the Federal Act of 19 June 1992⁵ on Data Protection, in the AOA⁶ and in the relevant implementing provisions.

Art. 4 Application for electronic access

¹ Other Swiss oversight authorities may submit an application to the Oversight Authority for electronic access to non-publicly accessible data.⁷

² This application shall contain the following details:

- a. confirmation that the requirements for allowing access to non-publicly accessible data are met;
- b. the type of information or documents for which access is being requested, together with the purpose of such access;
- c. the individuals and audit firms concerned; and
- d. the surnames, first names and addresses of the persons who will receive access authorisation.

³ Other Swiss oversight authorities must also satisfy the technical requirements stipulated by the Oversight Authority and must bear the costs of installing electronic access.⁸

Art. 5 Persons with access authorisation

¹ Other Swiss oversight authorities shall designate two persons to receive electronic access to the non-publicly accessible data.⁹

² These two persons shall not be permitted to pass on their personal access authorisation to third parties.

Art. 6 Cancellation or interruption of access

Electronic access to non-publicly accessible data may be cancelled or interrupted at any time if the requirements of Articles 4 and 5 are no longer met.

⁵ SR 235.1

⁶ SR 221.302

⁷ Amended by Annex No 2 of the Health Insurance Oversight Ordinance of 18 Nov. 2015, in force since 1 Jan. 2016 (AS 2015 5165).

⁸ Amended by Annex No 2 of the Health Insurance Oversight Ordinance of 18 Nov. 2015, in force since 1 Jan. 2016 (AS 2015 5165).

⁹ Amended by Annex No 2 of the Health Insurance Oversight Ordinance of 18 Nov. 2015, in force since 1 Jan. 2016 (AS 2015 5165).

Section 3 Commencement

Art. 7

This Ordinance comes into force on 1 January 2009.

Annex¹⁰
(Art. 2 para. 2)

List of non-publicly accessible data to which other Swiss oversight authorities are permitted to have electronic access

Key

Level of access:

A: Review

List of non-publicly accessible data and access authorisations

Categories of non-publicly accessible data	Level of access
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1. Data relating to individuals

1.1. Data contained in the licence application

Address and place of residence	A
Telephone number and e-mail address	A
Language requested for correspondence	A
Date of birth	A
If applicable, corporate name or name according to the entry in the Commercial Register, address and Commercial Register number of the audit firm at which the individual holds a position on the highest supervisory or governing body or executive body	A
Type of course of studies followed and date of completion	A
If applicable, the list of activities during which professional experience was acquired under oversight, with an indication of the following information:	A
– Corporate name or name of the employer	
– If applicable, the department in which the activity was carried out	
– Date on which the activity started and finished	
– Employment situation (primarily full time or part time)	
– Indication of whether the activity was primarily carried out in the fields of accounting and auditing	
– Surname, first name and, if applicable, register number of the person under whose oversight the activity was carried out	
In the case of applications for licensing as an audit expert, if applicable, the list of activities during which professional experience was acquired that was not under oversight, with an indication of the following information:	A
– Corporate name or name of the employer or corporate name or name of the audit firm of which the individual in question is or was the owner or partner	
– If applicable, the department in which the activity was carried out	
– Date on which the activity started and finished	

¹⁰ Revised by Annex No 2 of the Health Insurance Oversight Ordinance of 18 Nov. 2015 (AS 2015 5165) and No II of the FAOA O of 18 Nov. 2022, in force since 23 Jan. 2023 (AS 2022 724).

Categories of non-publicly accessible data	Level of access
– Employment level (i.e. full time or part time) – Indication of whether the activity was primarily carried out in the fields of accounting and auditing	
If applicable, date on which a recognised course was completed to demonstrate the necessary knowledge of Swiss law	A
Criminal or administrative criminal proceedings that were concluded by means of a legally-binding judgment within the ten years preceding the submission of the application	A
Proceedings relating to civil or administrative liability and proceedings before oversight authorities under special law, bodies authorised to impose sanctions under stock exchange law or professional disciplinary bodies that were concluded by means of a legally-binding judgment within the ten years preceding the submission of the application and connected with legally prescribed audit services	A
Existing certificates of unpaid debts	A
<i>1.2. Data contained in the documents submitted</i>	
Valid passport or valid identity card	A
Diploma or equivalent attestation of the completion of a course of studies in the sense of Article 4 paragraph 2 AOA ¹¹	A
If applicable, the written attestations from employers concerning professional experience acquired under oversight	A
If applicable, demonstration of the necessary knowledge of Swiss law in the form of an attestation of the successful completion of a recognised course	A
Current extract from the VOSTRA Criminal Records Register Information System in accordance with the Criminal Records Register Act of 17 June 2016 ¹² (no more than three months old at the time the application is submitted) and, if applicable, the underlying judgments; individuals who have been resident abroad for more than two years must supply a corresponding extract or proof from their state of residence	A
If applicable, decisions or judgments in proceedings relating to civil or administrative liability and proceedings before oversight authorities under special law, bodies authorised to impose sanctions under stock exchange law or professional disciplinary bodies, that concluded the proceedings and were connected with legally prescribed audit services	A
Current extract from the debt collection and bankruptcy register (no more than three months old at the time the application is submitted); individuals who are resident abroad must supply a corresponding extract or proof of their state of residence. (In the event that an individual's place of residence has changed, the Oversight Authority reserves the right to demand extracts or proof from earlier places of residence.)	A
If applicable, documents demonstrating professional experience that was not acquired under oversight	A
2. Data relating to audit firms	
<i>2.1 Data contained in the licence application of all audit firms</i>	
If applicable, website address	A
Language requested for correspondence	A

¹¹ SR 221.302

¹² SR 330

Categories of non-publicly accessible data	Level of access
Number of members constituting the firm's highest supervisory or governing body and executive body	A
Declaration that all auditors in charge hold a licence corresponding to the one that the audit firm is requesting	A
Number of persons involved in the provision of audit services, broken down into: – Persons who hold a licence corresponding to the one that the audit firm is requesting; – Persons who do not hold a corresponding licence	A
Surname, first name and address of the signatory of the application and surname, first name, address, telephone number and e-mail address of the contact person and, if applicable, of the contact person's deputy	A
Indication of whether a quality assurance system is in place and, if applicable, what type it is, or of whether the audit firm has undertaken to introduce a system by no later than 31 August 2010 whereby its audit services will be assessed on a regular basis by professional peers	A
Criminal or administrative criminal proceedings that were concluded by means of a legally-binding judgment within the ten years preceding the submission of the application	A
Proceedings relating to civil or administrative liability and proceedings before oversight under special law, bodies authorised to impose sanctions under stock exchange law or professional disciplinary bodies that were concluded by means of a legally-binding judgment within the ten years preceding the submission of the application and connected with legally prescribed audit services	A
<i>2.2 Data contained in the licence application of audit firms applying for a licence as an audit firm under state oversight</i>	
Indication of whether there is sufficient insurance against liability risks or equivalent financial security	A
List of legal and administrative criminal proceedings against the audit firm or its employees that are pending or were concluded within the ten years preceding the application and are connected with audit services	A
If applicable, list of the public companies whose annual or consolidated financial statements are audited, with an indication of the following information: – Corporate name or name, registered office and Commercial Register number of the public company – Type of public company (Art. 727 para. 1 Code of Obligations¹³) – If applicable, name and location of the stock exchange on which the public company's equity securities or bonds are listed – Accounting standard in accordance with which the public company prepares its annual and, if applicable, consolidated financial statements – Surname, first name and register number of the auditor in charge – Date on which the auditor in charge assumed this role	A
If applicable, name and address of the foreign audit oversight authority and the foreign licence or register number, if the audit firm is subject to the oversight of a foreign audit oversight authority that is recognised by the Federal Council	A
<i>2.3 Data contained in the documents submitted by all audit firms</i>	
Current extract from the Commercial Register; in the case of an audit firm that has its registered office abroad: extract for branch office in Switzerland (no more than three months old at the time the application is submitted)	A

13 SR 220

Categories of non-publicly accessible data	Level of access
List of members of the executive body, stating surname, first name, place of residence, place of origin, date of birth, occupation and, if applicable, register number	A
Description of the quality assurance system in accordance with the Oversight Authority's requirements, with an indication of the standard applied	A
If applicable, decisions or judgments that concluded criminal or administrative criminal proceedings	A
If applicable, decisions or judgments in proceedings relating to civil or administrative liability and proceedings before oversight authorities under special law, bodies authorised to impose sanctions under stock exchange law or professional disciplinary bodies, that concluded the proceedings and were connected with legally prescribed audit services	A
Current extract from the debt collection and bankruptcy register (no more than three months old at the time the application is submitted)	A
<i>2.4 Data contained in the documents submitted by audit firms applying for a licence as an audit firm under state oversight</i>	
Current articles of association or current partnership agreement, as well as organisational and operational regulations or equivalent documents	A
Description and graphical depiction of the ownership structure, including agreements among owners and other arrangements making it possible to exercise control or significant influence in another way	A
List of members of the highest supervisory or governing body and of the executive body, stating surname, first name, place of residence, place of origin, date of birth and, if applicable, register number and occupation, with the enclosure of a current extract from the VOSTRA Criminal Records Register Information System in accordance with the Criminal Records Register Act of 17 June 2016 and the debt collection and bankruptcy register (no more than three months old at the time the application is submitted in each case) for those members who do not hold a licence as an auditor or audit expert	A
Description and graphical depiction of the external company structure (group and investment structure), including domestic and foreign subsidiaries, branch offices and all direct and significant indirect participations, an indication of the activities carried out and the relevant annual financial statements	A
Description and graphical depiction (organisational chart) of the internal company and management structure, stating the names of the persons responsible for individual areas	A
If available, annual reports for the last three financial years, including any consolidated financial statements and corresponding audit reports	A
Insurance contract or documentation and attestations relating to equivalent financial security	A
For each public company, a list of the total fees received for the services provided over the last two years, broken down into audit services and other services	A
Description of the measures taken to ensure the independence of the audit firm	A
Description of the measures taken to ensure compliance with the requirements relating to documentation and the retention of records	A
Description of company-specific and assignment-specific measures taken to ensure the quality of the audit services (Art. 12 AOA)	A

Categories of non-publicly accessible data	Level of access
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3. Other data

Other data that is collected in application of the AOA
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