

NEXT GENERATION INTERNET

The FINMA Sandbox Exception

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Rethinking Money Symposium

FINMA Licenses

“An activity pursuant to Art. 1b Banking Act may only be carried out after FINMA has granted a license.”

- ▶ Full banking license (10M capital, major paperwork)
- ▶ FinTech license (1M capital, no loans)
- ▶ **Sandbox exception**

<https://www.finma.ch/en/documentation/dossier/dossier-fintech/entwicklungen-im-bereich-fintech/>

The BankV Art. 6

1. Gewerbsmässig im Sinne des BankG handelt, wer:
 - a. dauernd mehr als 20 Publikumseinlagen oder sammelverwahrte kryptobasierte Vermögenswerte entgegennimmt; oder
 - b. sich öffentlich zur Entgegennahme von Publikumseinlagen oder sammelverwahrten kryptobasierten Vermögenswerten empfiehlt (...)
2. Nicht gewerbsmässig im Sinne des BankG handelt, wer dauernd mehr als 20 Publikumseinlagen oder sammelverwahrte kryptobasierte Vermögenswerte entgegennimmt (...), wenn er:
 - a. Publikumseinlagen oder sammelverwahrte kryptobasierte Vermögenswerte von gesamthaft höchstens 1M CHF entgegennimmt;
 - b. kein Zinsdifferenzgeschäft betreibt; und
 - c. die Einlegerinnen und Einleger, bevor sie die Einlage tätigen, schriftlich oder in einer anderen Form, die den Nachweis durch Text ermöglicht, darüber informiert, dass: (1) er von der FINMA nicht beaufsichtigt wird, und (2) die Einlage nicht von der Einlagensicherung erfasst wird.

The GwG Art. 2

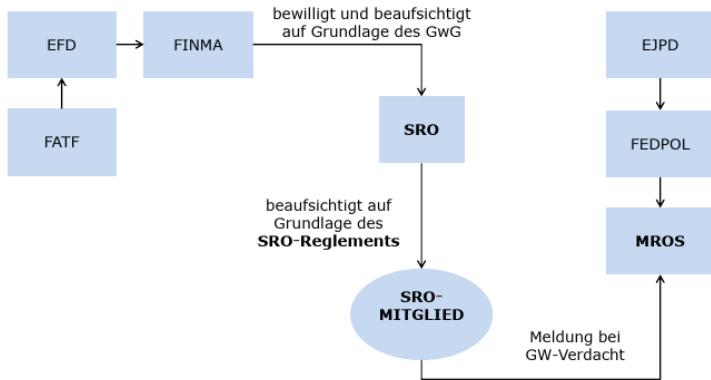
Finanzintermediäre sind:

- 3 Finanzintermediäre sind auch Personen, die berufsmässig fremde Vermögenswerte annehmen oder aufbewahren oder helfen, sie anzulegen oder zu übertragen; insbesondere Personen, die:
 - b. **Dienstleistungen für den Zahlungsverkehr** erbringen, namentlich für Dritte elektronische Überweisungen vornehmen oder **Zahlungsmittel** wie Kreditkarten und Reiseschecks **ausgeben oder verwalten**;
 - c. für eigene oder fremde Rechnung mit Banknoten und Münzen, Geldmarktinstrumenten, Devisen, Edelmetallen, Rohwaren und Effekten (Wertpapiere und Wertrechte) sowie deren Derivaten handeln;

The GwG Art. 14

1. Finanzintermediäre nach Artikel 2 Absatz 3 müssen sich einer Selbstregulierungsorganisation anschliessen.

Supervision via SROs (example: VQF)



(from VQF training materials)

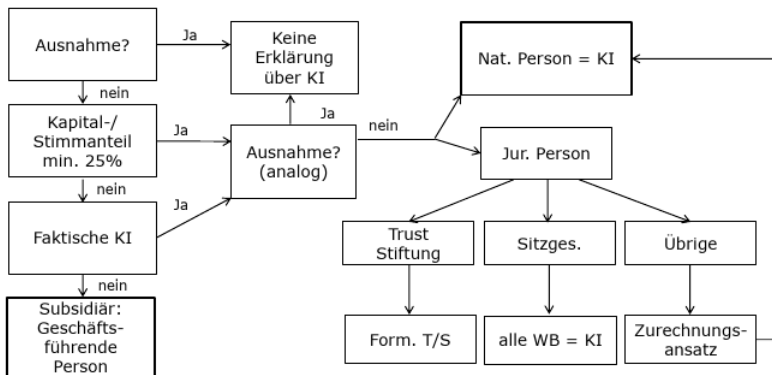
Compliance processes

- ▶ Customer identification (know-your-customer (KYC) and know-your-business (KYB)), including risk classification
- ▶ Transaction monitoring, plausibilization and reporting of suspicious activities
- ▶ Enforcement of financial sanctions

Know-Your-Customer

Identification process of the economic beneficiary

Abklärungskaskade



(from VQF training materials)

Who is a customer?

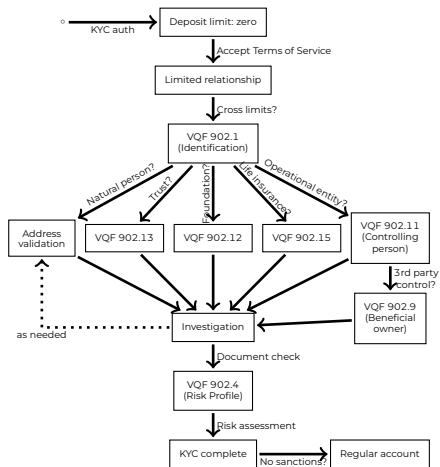
A high-level approach is to restrict the business model to minimize customer identification. For example, do not accept:

- ▶ Customers from outside of Switzerland
- ▶ Customers without Swiss bank accounts, phone numbers or addresses
- ▶ Customers to withdraw significant amounts
- ▶ Customers to receive significant P2P transfers
- ▶ Large transactions

What are “large” transactions?

Operation	Amount	Period
Withdraw	≤ 2.500 CHF	per month
Withdraw	≤ 15.000 CHF	per year
P2P receive	≤ 2.500 CHF	per month
P2P receive	≤ 15.000 CHF	per year
Deposit	≤ 2.500 CHF	per month
Deposit	≤ 15.000 CHF	per year
Transact	≤ 1.000 CHF	per transaction

VQF KYB process



Information to be collected

- ▶ Business register excerpt;
- ▶ Contact person identity;
- ▶ List of beneficial owners with names and IDs;
- ▶ Proof of ownership / authorization to act on behalf of the business

Based on this, you need to make a risk-assessment of each customer:

- ▶ Establish if customer is a PEP
- ▶ Establish additional risk factors (business domain, country risk, etc.)

There is no official list of PEPs, only rules for establishing if someone is a PEP! ⇒ Consult <https://opensanctions.org/datasets/peps/>

Digital records: OK!

Exchange

Dashboard

Accounts

Transfers

Search

Profile

Case details

Previous event

Next event

Identification form (basic customer information)

Information on customer

The customer is the person with whom the member concludes the contract with regard to the financial service provided (full text). Does the member act as director of a domiciliary company, this domiciliary company is the customer.

Information on customer

Applicable if customer is a natural person

Customer type

Natural person (incl. sole proprietors)

Legal entity

Full name

Residential address in Switzerland

Telephone

Email

Date of birth

15/01/1980

Nationality

Swiss

Digital records: OK!

The screenshot shows a web interface for a digital identification form. The header is blue with the 'iStock' logo and the word 'Exchange'. A left sidebar contains navigation links: Dashboard, Accounts, Transfers, Search, and Profile. The main content area has three tabs: 'Case details' (selected), 'Previous event', and 'Next event'. Below the tabs is the title 'Identification form (basic customer information)'. The form is divided into two main sections. The first section, 'Information on customer', includes a definition of the customer and a dropdown for 'Customer type' with options 'Natural person (incl. sole proprietors)' and 'Legal entity'. The second section, 'Information on customer', includes a note about natural persons and several input fields: 'Full name', 'Residential address in Switzerland', 'Telephone', 'Email', 'Date of birth' (with a calendar icon), and 'Nationality' (with a dropdown menu showing 'Swiss').

Exchange

Dashboard
Accounts
Transfers
Search
Profile

Case details Previous event Next event

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Information on customer
The customer is the person with whom the member concludes the contract with regard to the financial service provided (full text). Does the member act as director of a domiciliary company, this domiciliary company is the customer.

Information on customer
Applicable if customer is a natural person.

Customer type
Natural person (incl. sole proprietors)
Legal entity

Full name

Residential address in Switzerland

Telephone

Email

Date of birth
15/01/1980

Nationality
Swiss

But: you still must have either seen the originals or received certified copies on paper!

Address validation: required!

Enter contact details

You will receive an message with a TAN code that must be provided on the next page.

Contact name *

Ursula von der Leyen

Address *

Rue de la Loi 200
B-1049 Brussels

Transaction monitoring

- ▶ You **must** monitor for “suspicious” transactions
- ▶ There is no legal definition of what is “suspicious”
- ▶ You **must** write your own risk-based rules!

Attributes

Add more information about the customer

Rules

Set the limit of the operations

Properties

Flag the current account state.

Events

Trigger notifications.

Measures

Ask the customer to take action.

Justification

Describe the decision.

Summary

Review and submit.

Prev

Next

Check rules

The account is bank account and there are bank operation's limits which are not limited: DEPOSIT,AGGREGATE,WITHDRAW,CLOSE,REFUND,TRANSACTION

New rules

Operation	Threshold	Escalation	
TRANSACTION	Fr. 1000 every 1 day	verboden	
WITHDRAW	Fr. 200 every 30 days	sms-registration	
WITHDRAW	Fr. 2500 every 30 days	verboden	
WITHDRAW	Fr. 15000 every 1 year	verboden	
DEPOSIT	Fr. 0 every 1 day	custom-address-investigation	
AGGREGATE	Fr. 2500 every 30 days	custom-address-investigation	
AGGREGATE	Fr. 15000 every 1 year	custom-address-investigation	

Reset rules

Freeze account

Basic plan

Premium

On expiration behavior

Expiration

In a week

In a month

In a year

Never

Predefined shortcuts

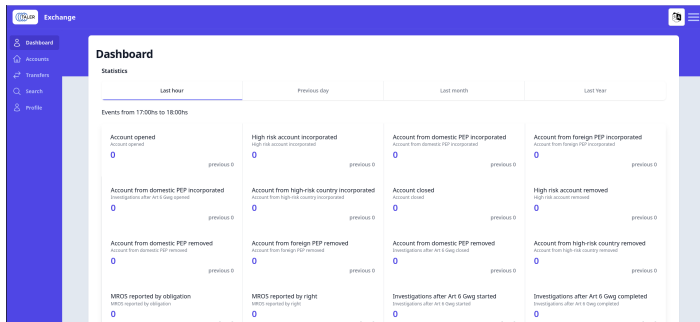
Expiration date

Sanction list enforcement

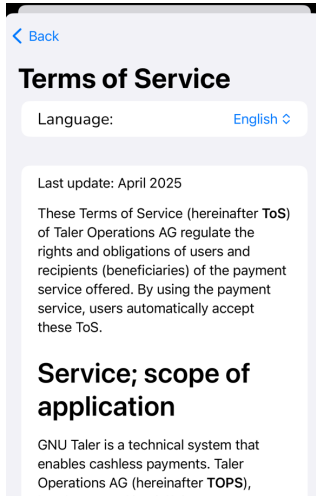
- ▶ There is an official sanctions list you can download
 - ▶ The list is machine readable, but contains sometimes only approximate information
- ⇒ Manual checks required in some cases

VQF requirements

- ▶ GwG trained staff
- ▶ Independent audits (GwG + finances)
- ▶ Statistical reports



Onboarding: Terms of Service



Hosting

- ▶ In Switzerland

Compliance cost

- ▶ VQF membership + training: ≈ 2000 CHF/year
- ▶ GwG paperwork: ≈ 4000 CHF/year
- ▶ External audit: ≈ 5000 CHF/year

Note that these are minimal costs for a tiny operation, they increase with customer and transaction volume!

Final Remarks

- ▶ This is not legal advice.
- ▶ I am not a lawyer.

Acknowledgements

Funded by the European Union (Project 101135475).



**Co-funded by
the European Union**

Funded by SERI (HEU-Projekt 101135475-TALER).

Project funded by



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Department of Economic Affairs,
Education and Research EAER
**State Secretariat for Education,
Research and Innovation SERI**

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