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FINMA Consults on Revised Rules for Direct Transmission

On 30 September 2026, the Swiss Financial Market Supervisory Authority FINMA opened a consultation on a partial revision of FINMA Circular 2017/6 "Direct Transmission". The revision reflects the amendment of article 42c FINMASA that was passed into law by Parliament on 19 June 2026. It aims to strengthen legal certainty for supervised institutions transmitting non-public information directly to foreign authorities and bodies. The consultation runs until 27 November 2026; entry into force is planned for 1 May 2027.

Clearer distinction between transmission purposes

The revised Circular separates transmissions for financial market supervisory purposes under article 42c (1) FINMASA from transmissions under article 42c (3) FINMASA that do not serve such a purpose. Financial market supervision includes licensing, ongoing supervision, enforcement, crisis measures and measures in the event of a risk of insolvency. Authorities acting exclusively in criminal, tax or competition matters are not covered by article 42c (1) FINMASA.

Statutory presumption replaces FINMA list

In line with the text of the revised article 42c (2) FINMASA, supervised institutions can generally presume that a foreign recipient satisfies the confidentiality and specialty requirements, unless it is manifestly clear that the foreign recipient will not comply with these requirements. The existing FINMA list of foreign supervisory authorities eligible for administrative assistance can therefore be abolished.

Based on the revised circular, if the presumption does not hold, the institution will either have the choice of making appropriate enquiries or obtain safeguards to assuage its concerns or refrain from

direct transmission. The revised circular explains that the institution can seek comfort by obtaining legal advice from local counsel or an international law firm or rely on the expertise of internal specialists. If doubts remain, the information must not be transmitted.

If an institution considers that it is manifestly clear that confidentiality or specialty cannot be satisfied, based, e.g. on the publication of confidential information in the media, it should inform FINMA.

Upon transmitting information, the institution needs to put the recipient on notice, in a form permitting textual evidence, that the information is confidential and restricted to financial market supervisory purposes.

Narrower notification duty

As part of the revision of the FINMASA, FINMA will only need to be notified under article 42c (4) FINMASA of transmission of material information for supervisory purposes under article 42c (1) FINMASA. By contrast, institutions would no longer have to inform FINMA of transmissions of information that do not serve supervisory purposes under article 42c (3) FINMASA, such as certain transaction-related reports required by foreign law.

The revised circular reflects these changes. At the same time, it continues to emphasize that the supervised institution will remain responsible for assessing the statutory conditions and safeguarding the rights of clients and third parties, even if they notify FINMA of a request for information.

Finally, FINMA's power to restrict direct transmissions and reserve the administrative assistance route, including in a general and abstract manner, remains unchanged.

Practical implications

The circular is still in consultation. However, to the extent it largely reflects legislative changes that were already decided, it is unlikely to see any major change in the hearing process. Supervised institutions should update their cross-border transfer policies, distinguish clearly between the purposes under paragraphs 1 and 3, remove references to the FINMA list, document any obvious confidentiality or specialty concerns and adjust FINMA notification workflows.

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