



## IT and Internet Newsletter Switzerland

### Reduced Barriers for Fintech Companies

The Swiss Federal Council wishes to reduce the barriers to market entry for fintech companies and prepares a draft amending applicable laws in the banking sector, while anti-money laundering regulations will remain unchanged.

It began by the observation that digital financial technology, including mobile payment systems, virtual currencies, peer-to-peer lending and crowdfunding, become more widely used and is not provided only by established financial service providers but also by small innovative companies. However, such companies face the high market entry barriers primarily aimed at banking activities with the corresponding risk exposure and need for strict regulation and oversight an interesting legal environment for innovative financial service providers.

This led the Federal Council to review the requirements for new market players and concluded that a three pillars approach would best take account of the new needs.

The first pillar consists of specific regulatory adjustments. In particular, the maximum time period for holding money in settlement accounts, which currently is of 7 days, will be extended to 60 days. This is particularly important for providers of crowdfunding services, as crowdfunding projects usually last longer than 7 days, which used to be sufficient for security dealers, traders or asset managers, etc.

The second pillar foresees a sandbox ("innovation area"). In this innovation area, a provider can accept public funds up to a total value of CHF 1 million, whereas the actual legislation foresees a limit of

twenty persons. These activities must be disclosed but do not have to be authorised and are not supervised by the Financial Market Supervisory Authority FINMA.

The third pillar will be a new fintech licence model granted by FINMA. Reduced regulatory requirements should apply to institutions which are restricted to the deposit-taking business (acceptance of public funds) and thus do not operate in the lending business. The public funds accepted by providers with a fintech licence may not exceed the overall value of CHF 100 million. FINMA could even authorise a higher threshold if the protection of the investor is secured by specific conditions. The minimum capital requirement foreseen amount to 5% of the accepted public funds, but no less than CHF 300,000.

With the new regulation, the Federal Council fosters the digital economy in the financial sector and supports the Switzerland's financial economy in general. Thus we welcome the new regulation and are eager to present the new project which creates an interesting environment for innovative financial service providers. Combined with the attractive Swiss tax regime, it is expected that the changed regime will help innovative companies to establish in Switzerland.

3 November 2016

Katia Favre  
David Känzig

This newsletter is available on our website  
[www.thouvenin.com](http://www.thouvenin.com).



Thouvenin Rechtsanwälte  
Klausstrasse 33  
CH - 8024 Zürich  
www.thouvenin.com

---

For further information, please contact Katia Favre or David Känzig.



Dr. Katia Favre, Inf. NDL  
Attorney at law  
k.favre@thouvenin.com



David Känzig, M.C.J.  
Partner, Attorney at law  
d.kaenzig@thouvenin.com

---

**THOUVENIN rechtsanwälte compact**

THOUVENIN rechtsanwälte is an innovative and partner-centered law firm with more than three decades of experience in business law.