

Legislation and supervisory authorities

VP Bank Ltd, Vaduz, is constituted as a joint-stock company under Liechtenstein law. It is the parent company of VP Bank Group. The competent supervisory body in the country of its registered office is the Liechtenstein Financial Market Authority (FMA). As the registered shares A of the parent company are listed on SIX Swiss Exchange, VP Bank is also subject to the rules and regulations issued by SIX on the basis of the legislation pertaining to stock exchanges, in particular, the Financial Market Infrastructure Law. The business activities of VP Bank Group are supervised by the local competent authorities of each country in which the Group is active through subsidiary companies, branches and/or representative offices.

General information

In Liechtenstein, the activities of VP Bank are subject primarily to the Act on Banks and Securities Firms (Banking Act, BankA) of 21 October 1992, as well as the Ordinance on Banks and Securities Firms (Banking Ordinance, BankO) of 22 February 1994. The Banking Act lays down the framework for the supervisory activities of the FMA. The latter - together with the external banking-law auditors, who must in turn possess a licence from the FMA and are also under its supervision - constitutes the primary pillar of the Liechtenstein system of supervision.

Under the Banking Act, banks and securities firms in Liechtenstein can offer a comprehensive array of financial services. The Law on Professional Due Diligence to Combat Money Laundering, Organised Crime and Terrorist Financing (Due Diligence Act, DDA) of 11 December 2008 and its related Ordinance (Due Diligence Ordinance, DDO) of 17 February 2009 - in conjunction with the provision on money-laundering contained in Art. 165 of the Liechtenstein Penal Code - constitute the relevant legal basis governing the entire financial services sector in Liechtenstein subject to the due-diligence requirements. These were revised on repeated occasions and comply with international requirements and standards.

Within the scope of its business activities and the financial services offered by it, VP Bank must observe the following laws and related ordinances in particular:

- Payment Services Act (PSA)
- Ordinance on Certain Undertakings for Collective Investments in Transferable Securities (UCITSA)
- Investment Undertakings Act, (IUA)
- Alternative Investment Fund Managers Act (AIFMA)
- Act on the Disclosure of Information Concerning Issuers of Securities (Disclosure Act, DA)
- Act on the Implementation of Regulation (EU) No. 596/2014 on Market Abuse (EEA Market Abuse Regulation Implementation Act; EWR-MDG)
- Act on Deposit Insurance and Investor Compensation at Banks and Securities Firms (Deposit Insurance and Investor Compensation Act; DIICA)
- Act on the Recovery and Resolution of Banks and Securities Firms (Bank Recovery and Resolution Law; BRRA)
- Persons and Companies Act (PCA)

The following discusses several developments of relevance from the perspective of regulating financial markets and related pertinent legal bases which, during the past financial year, have been revised, enacted or are likely to be of relevance in the future.

Federal Act on Financial Services (FinSA)

In principle, the Financial Services Act (FinSA), which came into force in Switzerland on 1 January 2020, pursues the same goals as MiFID II with regard to investor protection, but it is not identical. VP Bank Group will implement the FinSA-specific provisions which deviate from MiFID II on a Group-wide basis by 31 December 2021 at the latest. This requires that new processes be implemented, especially for VP Bank (Switzerland) Ltd. However, the new FinSA legislation affects not only VP Bank (Switzerland) Ltd but also the servicing of Swiss-domiciled clients of VP Bank Ltd and VP Bank (Luxembourg) SA.

Payment Accounts Directive

On 23 July 2014, the EU issued Directive 2014/92/EU (Payment Accounts Directive), which essentially encompasses the following items:

- Right to access a payment account with basic functions (a so-called "basic account") to guarantee all legitimate consumers access to a payment account (keyword "financial inclusion")
- Transparency and comparability of fees for payment accounts (fee information and fee overview as well as a website with comparative details)
- Provision of payment account exchange services by banks

The EU Directive should be implemented in Liechtenstein through the creation of a new Payment Accounts Law (PAL). This is to enter into force at the same time as the corresponding EEA adoption decision (which will likely happen in mid-2021).

Blockchain law (TTTA)

At the beginning of October 2019, the Liechtenstein Landtag passed the new Tokens and TT Service Providers Act (TTTA).

Due to the high speed of innovation in blockchain technology, the abstract term "transaction systems based on trustworthy technologies (TT systems)" was used to refer to blockchain systems in this law. With the term "token", the law introduces a new legal object to enable mapping of the "real" world onto TT systems on a legally sound basis. The law defines a legal framework for all applications of the token economy to ensure a legally sound basis for many current and future business models and to support the positive development of the token economy in Liechtenstein.

With the TTTA, Liechtenstein is one of the first countries to attempt to create a regulatory framework for blockchain applications. The TTTA entered into force on 1 January 2020.

Mortgage Credit Directive (MCD)

The Mortgage Credit Directive (Directive 2014/17/EU; MCD) took effect in the EU on 20 March 2014 and complements the existing guidelines on consumer protection, misleading and comparative advertising, as well as unfair business practices in the area of residential real estate loans. The directive is designed to enhance information for consumers on mortgages and similar credit products and aims to establish a single market for residential real estate loans.

The EEA legal adoption of the MCD is largely complete. The implementation of the MCD in Liechtenstein (creation of a Mortgage and Real Estate Credit Act, MRECA) was passed by the Landtag on 4 December 2020. The new MRECA is expected to come into force on 1 April 2021.

EBA Guidelines on Lending and Supervision

The EBA Guidelines on Lending and Supervision (2020/06), which will go into force on 30 June 2021, touch on a very wide range of requirements related to supervisory and credit decision-making processes (including internal governance regulations, processes and mechanisms for credit and counterparty risk management, or specified requirements related to consumer creditworthiness). VP Bank is in close contact with the Liechtenstein Bankers' Association in order to analyse and help steer the impact of the requirements on its own credit organisation.

Securities Financing Transactions Regulation (SFTR)

The Securities Financing Transactions Reporting and Re-use Regulation (SFTR, (EU) 2015/2365) aims to make the securities financing transactions market more transparent. Lending and borrowing transactions of securities as well as repurchase transactions are affected in particular. The reporting requirements of the details of securities financing transactions serve to limit risks for financial market stability. The content of the SFTR reports is largely based on the European Market Infrastructure Regulation (EMIR) reporting obligations. Legal adoption of the SFTR by the EEA is currently pending or in preparation.

Insolvency law reform

As part of a fundamental and comprehensive modernisation of insolvency law, the Liechtenstein Bankruptcy Code and other legal enactments have been amended. The concept of reorganisation has now taken centre stage, which is why it has become necessary to distinguish between bankruptcy and reorganisation proceedings.

Due to the unified insolvency proceedings, the previous Bankruptcy Code became the Insolvency Code. In addition, abolition of the previous bankruptcy classes and introduction of private bankruptcy are now planned. The first part of the legal changes went into force on 1 January 2021, and the second part will go into force on 1 January 2022.

Act on Due Diligence (DDA) and the Due Diligence Ordinance (DDO)

In 2020, the 5th Money-Laundering Directive was to be implemented at the European level. This provides for matters including an extension of the list of persons or entities covered by the legislation as well as the scope of application of the directive, and defines enhanced duties of due diligence in relation to high-risk countries and in the use of virtual currencies. The expansion of the powers of central financial intelligence units is also defined. It also provides for the establishment of centralised registers or electronic data retrieval systems which enable the timely determination of all individuals or legal entities which hold or control payment accounts or safety deposit boxes with credit institutions in an EU/EEA country. As a member of the European Economic Area (EEA), Liechtenstein must adopt the implementation of all the minimum requirements provided for in the directive at the latest upon adoption of the decision of the EEA Joint Committee. Since this decision has been delayed, the Landtag decided to implement it separately from the adoption process on 1 April 2021.

As a member of Moneyval, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, Liechtenstein is regularly audited with regard to compliance with international regulations, in particular the recommendations of the Financial Action Task Force (FATF) and the European requirements (directives and regulations). The next so-called Moneyval assessment is planned for 2021.

Basel IV

In the coming years, the revision of the major European regulations within the framework of Basel IV will bring about far-reaching changes. The focus on the calculation of equity requirements and on medium- to long-term liquidity risk will increase. In the case of equity, the emphasis is on the denominator of the capital ratio: In some cases, the calculation of risk exposure in credit, market and operational risk will change significantly. For liquidity risk, the observation period is extended from one month to one year, so that a structural liquidity ratio will finally be rolled out.

Resolution regime

The resolution plan will be prepared by the responsible resolution authority and is expected for VP Bank in 2021. The Bank has a comprehensive obligation to cooperate and provide information. This allows the resolution authority to identify items including the critical functions as well as to ensure financial and operational continuity in the event of resolution by means of a resolution strategy defined in advance. Based on the preferred resolution strategy, the resolution authority determines a minimum amount of liabilities that are capable of being taken into consideration (Minimum Requirement of Own Funds and

Eligible Liabilities, MREL) so that the participation of certain debtor groups (e.g. private individuals, governments) in the financing of the resolution is limited.

Data on real estate loans

The Recommendation of the European Systemic Risk Board to close gaps in real estate data will be implemented in Liechtenstein in 2021. The real estate sector plays an important role in the economy, and trends in this sector can have a significant impact on the financial system. For this reason, it is becoming more and more important to monitor trends in the residential and commercial property markets in order to identify vulnerabilities at an early stage.

Automatic exchange of information (AEOI)

On 1 January 2016, Liechtenstein introduced automatic exchange of information (AEOI). The initial AEOI reporting for the 2016 reporting period took place in 2017 and then continued accordingly in subsequent years.

Starting on 1 January 2021, the relevant data will be exchanged with 114 AEOI partner countries. However, Liechtenstein will unilaterally not provide data to a total of 12 permanently non-reciprocal states.

EU Directive on Administrative Cooperation (DAC 6)

As Liechtenstein is not an EU member state, VP Bank Ltd is not subject to any notification obligations for cross-border tax arrangements as provided for in the sixth amendment to the EU Directive on Administrative Cooperation (DAC) from 1 July 2020. VP Bank Ltd will closely follow developments in this area.

Taxation of the digitalised economy

On 31 May 2019, the Organisation for Economic Co-operation and Development (OECD) published a work programme on the tax challenges associated with the digitalisation of the economy. Taxation even without physical market presence (pillar 1) and minimum taxation (pillar 2) are envisaged. The first decisions are to be taken in mid-2021. VP Bank Ltd will closely follow developments in this area.

Tax compliance guideline of the Liechtenstein Bankers' Association

On 1 January 2021, the updated guideline of the Liechtenstein Bankers Association regarding tax compliance of its clients went into effect. VP Bank Ltd will implement this amended guideline by 1 April 2021 at the latest.

Brexit impact

The Brexit transition period ended on 31 December 2020. The UK has now definitely left the EU single market and the customs union. Shortly before the end of the transition period, the EU and the UK were able to agree on a trade deal, thus preventing a "hard Brexit". However, the trade agreement only provides superficial regulation of financial services. The Freedom of Services Passport, which EEA firms previously used to provide their services in the UK and which UK firms previously used to provide their services in the European Economic Area, will now cease to exist. Negotiations between the UK and the EU on facilitating the provision of cross-border financial services are ongoing, and there is a possibility that mutual equivalence decisions will be taken in future.

EEA firms that were still in possession of the Freedom of Services Passport for the UK at the end of the transition period and which do not wish to apply for a UK licence will be incorporated into the Financial Services Contracts Regime (FSCR), a wind-down regime that allows EEA firms to resolve existing regulated business with UK clients in an orderly manner. New business with UK clients is still permitted under certain restrictions (as per the UK third-country regulation).

UK firms may also continue to provide services to Liechtenstein clients under certain conditions. With the corresponding amendment to the Liechtenstein Banking Ordinance of 1 December 2020, UK firms have the option, after notification of the FMA, to provide or engage in cross-border investment services or activities as well as ancillary services to suitable counterparties or professional clients within the framework set out in Art. 46 MiFIR. This regulation is valid for a limited period of two years or until the EU Commission reaches a Europe-wide equivalence decision.

Important links to legislation and the Liechtenstein Financial Center

Liechtenstein Investment Fund Association	www.lafv.li
Liechtenstein Bankers' Association	www.bankenverband.li
Deposit-Protection and Investor Compensation Foundation SV	www.eas-liechtenstein.li
Liechtenstein Financial Market Authority (FMA)	www.fma-li.li
Official Website of the Principality of Liechtenstein	www.liechtenstein.li
Body of Liechtenstein Laws	www.gesetze.li
Liechtenstein Chamber of Industry and Commerce	www.lihk.li
Liechtenstein National Administration	www.llv.li
Parliament of the Principality of Liechtenstein	www.landtag.li
Liechtenstein Chamber of Professional Trustees	www.thk.li
Association of Non-Profit Foundations and Trusts e.V.	www.vlgest.li
Association of Independent Asset Managers	www.vuvl.li
Liechtenstein Insurance Association	www.lvvl.li
Liechtenstein Economics Chamber	www.wirtschaftskammer.li
Liechtenstein Association of Auditors	www.wpv.li