February 2024

L-QIF goes live on 1 March 2024

On 31 January 2024, the Federal Council decided to enact on 1 March 2024 the amendments to the Collective Investment Schemes Act and the Ordinance on Collective Investment Schemes that create the basis for the new Limited Qualified Investor Fund (L-QIF). This new structure will allow licensed fund management companies and managers of collective investments to set up a fund for qualified investors without seeking the prior approval of FINMA. In addition to this important development in the regulatory landscape, the Federal Council also enacted new rules on ETFs, liquidity management and side-pockets.

1 INTRODUCTION

The Limited Qualified Investor Fund ("**L-QIF**") is a new regime for collective investment schemes, which allows a fund management company or a manager of collective investments to set up a collective investment scheme that is open only to qualified investors. It is inspired by the Reserved Alternative Investment Fund ("**RAIF**") under Luxembourg law[1].

This regime was introduced by the amendments to the Federal Act on Collective Investment Schemes of 23 June 2006 (SR 951.31; "**CISA**") of 17 December 2021. After a long wait, the Federal Council on 31 January 2024 revised the Ordinance on Collective Investment Schemes of 22 November 2006 (SR 951.311; "**CISO**") and set the entry in force for these revisions for 1 March 2024.

The revision of the CISO also provided an opportunity to amend or include other provisions not related to the L-QIF to comply with international standards, follow market developments or to increase legal certainty.

[1] Botschaft zur Änderung des Kollektivanlagengesetzes (Limited Qualified Investor Fund; L-QIF) 19 August 2020, BBl 2020 6885 ff. (cit. Botschaft KAG), p. 6886, 6890, 6896 f.

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2 OVERVIEW

2.1 Legal forms

The L-QIF is a collective investment scheme open exclusively to qualified investors. The L-QIF is not a new legal form, but rather builds on the existing types of collective investment schemes and can, therefore, be structured as:

- a contractual investment fund,
- a SICAV, or
- a limited partnership for collective investments (article 118c CISA).

By contrast, it will not be possible to set up an investment company with a fixed capital (SICAF) as an L-QIF (article 118c CISA). This restriction has no practical consequence as investment companies that are open exclusively to qualified investors continue to remain out of scope of the CISA (article 2 (3)(a) CISA) and, accordingly, the applicable regime remains more flexible than the L-QIF.

2.2 Qualified Investors

The main defining feature of an L-QIF is that it is open only to "qualified investors" (article 118a (1)(a) CISA). This term includes **professional clients**, **institutional clients** under article 4 (3) and (4) and 5 (1) and (4) of the Federal Act on Financial Services of 15 June 2018 (SR 950.1; "**FinSA**"), including, in principle, **high-net-worth individuals** and their private investment structures who declare that they wish to be treated as professional clients (article 5 (1) FinSA).

In addition, retail clients are deemed to be qualified investors if they **receive portfolio management or investment advice** from a bank, a financial institution or, pursuant to the revised CISA, an insurance undertaking unless they declared that they do not wish to be treated as qualified investors (article 10 (3[ter]) CISA).

However, for tax reasons, L-QIFs that invest directly in real estate will only be available to *per se* professional clients under article 4 (3) (a)-(h) FinSA, thus excluding both HNWI who elected to be treated as professional clients and retail clients deemed to be qualified because they benefit from portfolio management or advisory services from a bank, a financial institution or an insurance company.

2.3 Change of status from a supervised investment scheme to an L-QIF

Existing collective investment schemes can change their status from a supervised vehicle to an L-QIF, with the approval – and, for SICAVs and limited partnerships for collective investments, the authorization – of FINMA (article 126c (1) CISO) provided their constitutional documents provide for this possibility.

As part of this process FINMA will in particular assess, among other things, whether the investment scheme complies with all requirements applicable to L-QIFs (article 126c (2)(a) CISO) and that **all remaining investors expressly consented** to the **change of status** (article 126c (2)(d)(1)-(3) CISO). Despite the criticism by the industry in the consultation procedure,[2] the Federal Council insisted on this very stringent requirement[3].

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[2] See for example statement of the Asset Management Association Switzerland of 23 December 2022, available at <https://www.am-switzerland.ch/de/download/lenraekgeiiktbabhcbrpppzo-dxrfxiwgkea> (last visited on 15 February 2024; cit. Statement AMAS), file "Tabelle AMAS final", p. 13; statement of the Swiss Insurance Association of 21 December 2022, p. 17.

[3] Änderung der Kollektivanlagen-verordnung (Limited Qualified Investor Fund, L-QIF), Erläuterungen of 31 January 2024, available at <https://www.newsd.admin.ch/newsd/message/attachments/85902.pdf> (last

By contrast, an L-QIF will not be allowed to engage in a restructuring (e.g. a merger or demerger) with a supervised collective investment scheme and vice versa (article 126*e* CISO).

3 REGULATORY FRAMEWORK

3.1 No authorization or approval by FINMA

A defining feature of an L-QIF is that it does **not require an authorization from FINMA** (article 13 (2bis) CISA) and its documents do not need to be approved by FINMA (article 15 (3) CISA). Similarly, an L-QIF is **exempt from FINMA supervision** (article 132 (3) CISA).

3.2 Indirect supervision

This does not mean that L-QIFs are not regulated. Quite to the contrary, they remain subject to the CISA (article 118a (2) CISA) and the CISO (article 126b (1) CISO), as well as, where the CISO so requires (article 126b (2) CISO), the Ordinance of the Swiss Financial Market Supervisory Authority on Collective Investment Schemes of 27 August 2014 (SR 951.312; "**CISO-FINMA**").

More importantly, L-QIF will be subject to an indirect supervision regime: An L-QIF set up as a contractual investment fund or a SICAV will need to be managed by a fund management company, who will be entitled to delegate investment decisions to licensed managers of collective investments (article 118g (1) and (2) as well as article 118h (1) and (3) CISA).[4] To ensure that a supervised entity is involved in the L-QIF, limited partnerships for collective investments will need to appoint a licensed manager of collective investments as general partner (article 118h (2) CISA). In all cases, the **supervised financial institution will be responsible to ensure that the L-QIF complies with the requirements applicable to L-QIF** as well as with the applicable constitutional documents (the fund agreement for a contractual investment fund, the investment regulations for a SICAV or the partnership agreement for a limited partnership for collective investments) (article 126g CISO).

Separately, the provisions of the Federal Act on Combating Money Laundering and Terrorist Financing of 10 October 1997 (SR 955.0; "**AMLA**") as well as, in respect of L-QIFs investing in real estate, the provisions regarding the acquisition of real estate by persons abroad (so-called "Lex Koller") continue to applicable in a similar fashion as for other Swiss funds.

3.3 Audit

As is also the case for supervised collective investment schemes, L-QIFs will be subject to a **two-tiered audit process**, which will cover, on the one hand, **financial audit** and, on the other, an audit of regulatory matters, which in connection with L-QIFs is called a **supplementary audit** rather than a supervisory audit, to emphasize that they are not subject to direct supervision by FINMA (article $126z^{sexies}$ CISO).[5]

The financial audit is identical to that of supervised investment schemes. The supplementary audit must be performed, as a matter of principle, every two years (article $126z^{octies}$ (2) CISO) and covers the compliance with requirements regarding L-QIFs, and data collection and reporting (article $126z^{octies}$ (1)(a) and (b) CISO).

Furthermore, in the first audit year following the launch of the L-QIF or following an amendment to the fund documents, the

visited on 15 February 2024; cit. Erläuterungen), p. 25 f.

[4] This includes foreign institutions provided that they are subject to appropriate prudential regulation and supervision and that FINMA entered into an agreement on cooperation and the exchange of information, if required by foreign laws (article 118g (2)(b)).

[5] Erläuterungen (fn. 3), p. 39 f.

supplementary audit must also **verify whether the constitutional documents comply with the applicable provisions** regarding the content of these documents and their modification (article 126z^{octies} (3)(a) and (b) CISO). Moreover, if an L-QIF applies a value-at-risk model for risk management, the audit must also assess whether it complies with the applicable provisions (article 126z^{octies} (3)(c) CISO).

Similarly, the audit firm must also verify that the L-QIF **complied in a timely manner with investment policies**, as part of the supplementary audit that is carried out in the year in which the deadline to comply with the investment policies expires (article 126z^{octies} (4) CISO).

As the L-QIF is not supervised by FINMA, the supplementary audit is **not part of the supervisory audit of the institution responsible for managing the L-QIF** and the report on the supplementary audit does not have to be sent to FINMA. **The audit firm must, however, include any significant deficiencies that it identifies** in the course of its supplementary audit of the L-QIF **in the report on the audit of the institution** responsible for managing the L-QIF (article 126z^{tredecies} (1) CISO).[6]

3.4 Statistical Reporting and Regulatory Disclosure

Although L-QIFs do not require an authorization or approval by FINMA, the financial institution responsible for the management of the L-QIF is required to notify the Federal Department of Finance ("**FDF**") if it launches or liquidates an L-QIF, if it assumes the administration of an L-QIF or resigns from this position (article 118f (1) CISA; article 126g CISO).

Moreover, L-QIFs are subject to essentially the same statistical reporting obligations as supervised collective investment schemes (see article 118f CISA and article 126g (6) CISO). However, it is expected that the FDF will delegate the collection of statistical data to the Swiss National Bank ("**SNB**"), which will collect the data together with the existing collective investment schemes statistics.[7]

Finally, FINMA and the SNB retain their existing authority to seek information from supervised institutions, including L-QIFs, under applicable laws (*see* e.g. article 144 CISA and article 29 FINMASA).

4 INVESTMENT POLICIES AND RISK DISCLOSURE

4.1 Open-Ended Collective Investment Schemes

L-QIFs were designed to offer flexibility for vehicles aimed at sophisticated investors. Hence, the usual risk diversification rules and investment restrictions applicable to a regulated fund do not apply for an L-QIF. However, L-QIFs are required to define their investment policy and investment techniques in their constitutional documentation. Similarly, the constitutional documents must disclose the specificities and risks of permissible investments, as well as their characteristics and valuation (article 36 (2) CISO).

Nevertheless, the final project falls short of the expectation of market participants who hoped that the L-QIF would be subject to a more liberal and flexible regime regarding its investment policies, provided these are clearly disclosed in the constitutional documentation.[8] Instead, the CISO subjects L-QIFs set up as contractual investment funds or SICAVs to the **same investment restrictions regarding leverage and collateralization as so-called other funds for alternative investments**, which can be offered to retail clients, and only opted not to subject them to the restrictions

6 Erläuterungen (fn. 3), p. 40.
7 Erläuterungen (fn. 3), p. 30.
8 Statement AMAS (fn. 2), file "Tabelle AMAS final", p. 18 f.

applicable to short-selling (article 126p (1) and (3) CISO).

Similarly, L-QIFs are also **subject to the investment restrictions applicable to securities lending, repurchase transactions, the use of financial derivatives and collateral management** provided for by the CISO-FINMA, which apply by analogy to the L-QIF (article 126p (4) CISO) as is the case for so-called other funds for alternative investments (see article 65 CISO-FINMA). As a minor concession, L-QIFs are allowed to elect at their discretion to manage their investments using a value-at-risk model, which will be reviewed *ex post* in the regulatory audit (article 126z^{octies} (3)(c) CISO).[9]

4.2 Limited partnership for collective investment

By contrast, L-QIFs in the form of a limited partnership for collective investment are not subject to specific restrictions to their investments and investment techniques, as is already the case for a supervised limited partnership for collective investment, which is, in any case, also only available to qualified investors.

4.3 Investments in real estate

As mentioned above, L-QIFs investing in real estate are not available to qualified investors who are retail investors nor to their private investment structures (see sect. 2.2 above; article 118a (1)(b) CISA). Moreover, they may not be named "real estate fund" (article 118e (3) CISA).

At the same time, L-QIFs will profit from a substantially **more flexible regime** than real estate funds pursuant to article 58 ff. CISA ("**Supervised Real Estate Funds**"): provided that the constitutional documents foresee such investments, L-QIFs will have the possibility to invest in undeveloped land (article 126t CISO) and in real estate held in joint-property (article 126u CISO). They will be allowed to charge their property up to 50% of its market value (article 126v CISO), while Supervised Real Estate Funds are subject to a cap at 1/3 of such value (article 96 (1) CISO). However, the constitutional documentation of L-QIFs investing in real estate must, *inter alia*, set out certain diversification rules (e.g. minimum number of real estate).

They will also benefit from a **more flexible regime for related-party transactions**, subject to certain safeguards: L-QIFs will be allowed to purchase or sell real estate from related parties, subject to the approval of the transaction by a majority of investors and an appraisal of the property by an independent appraiser confirming that the purchase price and transaction costs are in line with the market (art. 126x (1) and (2) CISO and, for limited partnerships for collective investments, article 126z^{bis} (2) CISO). Limited partnerships for collective investments will, however, remain barred from investing in construction, real-estate or infrastructure projects of the general partner, its directors and officers and investors (article 126z^{bis} (1) CISO).

4.4 Accounting and publications

L-QIFs are subject to the accounting principles of the CISO-FINMA, which apply *mutatis mutandis* (article 126z^{quater} CISO). However, they are not subject to the same obligations regarding regulatory publications pursuant to the CISO-FINMA. Instead, as is already the case in practice for collective investment

[9] Statement AMAS (fn. 2), file "Tabelle AMAS final", p. 19; Statement of the Swiss Banking Association of 19 December 2022, available at <https://www.swissbanking.ch/_Resources/Persistent/5/8/a/e/58aec2d76a1cc3075bf1614c7abdc0b81cee41c7/20221219%20SBVg%20Stellungnahme%20zur%20%C3%84nderung%20der%20KKV%20final.pdf> (last visited on 15 February 2024; cit. Statement Swiss Banking), p. 14; Erläuterungen (fn. 3), p. 6.

schemes for qualified investors, the constitutional documents must state when and how the issue and redemption price and the net asset value are made available to investors, provided that they are published at least once a year (article 126z^{quinquies} (1) CISO).[10]

5 OTHER AMENDMENTS TO THE CISO

The Federal Council also amended a number of other provisions in the CISO not related to the L-QIF, which accordingly apply to supervised collective investment schemes. The Federal Council states in the Explanatory Notes that these amendments are enacted to comply with international standards, to follow market developments or to increase legal certainty.[11]

5.1 Requirements for ETFs

The revision of the CISO contains new rules for exchange traded funds ("**ETFs**"), which aim at **adding legal certainty in this area and codifying FINMA's practice**. Under these new rules, ETFs are defined as shares/units or share/unit classes of an open-ended collective investment scheme that are permanently listed on a Swiss stock exchange and for which at least one market maker ensures that the value of the traded shares/units or share/unit classes does not deviate significantly from the indicative net asset value (article 106 (1) CISO).

The new definition allows collective investment schemes to **issue within the same scheme both ETF and non-ETF classes** of shares and units.[12] At the same time, the revised CISO codifies FINMA's practice limiting the use of the term ETF in the name of a collective investment scheme to schemes that so structured all units or unit classes (article 106 (2) CISO).

Furthermore, the revised CISO requires ETFs to **disclose in their prospectus information on the listing, market-making and risks associated with trading as** well as the right of an investor on the secondary market to redeem its shares/units with an indication of the conditions and costs it implies, in line with the present practice of FINMA in this area (article 106 (3) CISO). Furthermore, the revised CISO also provides for specific disclosure obligations for index-based ETFs that replicate an index (article 106 (4) CISO) and actively managed ETFs (article 106 (5) CISO) and the labeling and disclosure requirements for funds that contain both ETF and non-ETF unit classes (article 106 (6) CISO).

Finally, the new rules **also affect foreign ETFs offered to non-qualified investors in Switzerland** pursuant to article 120 CISA, which will need to be listed in Switzerland to be approved by FINMA (article 127b CISO).

5.2 Liquidity management

The revised CISO includes new rules on liquidity management based on the Recommendations for Liquidity Risk Management for Collective Investment Schemes[13] of the International Organization of Securities Commissions ("**IOSCO**"), as well on article 16 of the AIFMD

[10] Erläuterungen (fn. 3), p. 39.
[11] Erläuterungen (fn. 3), p. 11.
[12] Erläuterungen (fn. 3), p. 19.
[13] IOSCO, Recommendations for Liquidity Risk Management for Collective Investment Schemes, Final Report, February 2018, available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD590.pdf> (last visited on 15 February 2024).

("**AIFMD**")[14] and its implementing regulations.[15]

Under these new rules, fund management companies or SICAVs are required to ensure appropriate liquidity management for every collective investment scheme. This requirement implies a duty to periodically stress test their investments and to draw up a contingency plan to be able to control and manage expected or actual liquidity bottlenecks or other crisis situations in times of high redemptions (article 108a CISO).

In view of the dynamic international developments in the area of liquidity risk management, the Federal Council grants FINMA the power to regulate the details of monitoring and managing liquidity (article 108a (5) CISO).

5.3 Side Pockets

The revised CISO also includes express rules on side pockets, which enable FINMA, in exceptional cases, to approve the segregation of individual illiquid investments of a collective investment scheme (*"side pockets"*) at the justified request of the fund management company or the SICAV if this is in the interests of all investors and if the constitutional documents so provide (article 110a (1) CISO).

This possibility will allow supervised collective investments schemes to create a side pocket to manage their liquidity risk, if a significant, clearly identifiable portion of the investments has become illiquid for an indefinite period of time. At this stage, the rules remain deliberately vague to allow Swiss law to follow developments at international and EU levels.[16] In the consultation procedure, a more liberal approach without the requirement of a FINMA approval had been proposed but was not accepted by the Federal Council.[17]

5.4 Rules of Conduct

With the revision of the CISO, the Federal Council clarifies that the duties of conduct pursuant to article 20 ff. CISA apply not only in connection with Swiss collective investment schemes but also to persons who manage or custody foreign collective investment schemes.[18] Accordingly, the duty of loyalty (articles 31-32 CISO), including the rules on conflicts of interest (article 32b CISO), the duty of care (article 33 CISO), and the disclosure duties (article 34 CISO) also apply in connection with the management of foreign collective investments funds.

Similarly, the revised CISO includes provision on best execution of securities trading transactions and other transactions (article 31a CISO), as the provisions of the FinSA (article 18 FinSA) do not apply to the management of collective investment schemes, which are deemed institutional investors (see article 20 (1) FinSA).

5.5 Reimbursement of ancillary costs

The revised CISO also expands the list of ancillary costs that can be charged to the collective investment scheme, to include, among others, hedging costs, costs to access data

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[14] Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010.

[15] See articles 46 ff. of the Commission delegated Regulation (EU) No. 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision. See also Erläuterungen (fn. 3), p. 21.

[16] Erläuterungen (fn. 3), p. 23.

[17] Statement AMAS (fn. 2), file "Tabelle AMAS final", p. 12.

[18] See for example Statement AMAS (fn. 2), file "Tabelle AMAS final", p. 2 f.; Statement Swiss Banking (fn. 9), p. 7 ff.

and data licensing costs, costs related to certification, listing costs, costs of re-leasing real estate, market-making costs (article 37 (2), (2bis) and (2ter) CISO). While the industry would have welcomed replacing this list with an exemplative list,[19] the Federal Council insisted on an exhaustive list to avoid inappropriate ancillary costs being charged to the fund assets at the expense of the investors.[20]

5.6 Active violation of investment policies

In case of an active violation of the investment policies, the revised CISO provides that the investment must be immediately reduced to the permitted level.

In addition, if investors are not compensated for a loss they incurred as a result of such an active investment violation, the investment violation must be immediately reported to the audit firm and published in the media (article 67 (2bis) CISO).

5.7 Securities lending and repurchase agreements

Implementing a corresponding recommendation of the Financial Stability Board ("**FSB**"), the Federal Council improved the transparency requirements for securities lending and repurchase agreements for investors. The fund contract or investment regulations, the annual and semi-annual reports and the prospectus for open-ended collective investment schemes must now contain specific information on securities lending and repurchase agreements (article 76 (4) and (4) CISO).

6 CHANGES TO THE FINIO

With the revision of the CISO, the Federal Council took the opportunity to also amend the Ordinance on Financial Institutions of 6 November 2019 (SR 954.11; "**FinIO**").

6.1 Fund management companies as trustees

Under the revised FinIO, fund management companies and managers of collective assets must obtain authorization from FINMA if they want to act also as a trustee (article 36a FinIO). This requirement applies because an activity as trustee also requires knowledge of the applicable foreign trust law[21] and accordingly, the authorization to act as trustee is only partially integrated in the authorization chain pursuant to article 6 of the Federal Act on Financial Institutions of 15 June 2018 (SR 954.1; "**FinIA**").

As part of the authorization process, the fund management company or the manager of collective assets will need to prove that it is appropriately organized, that it has qualified management and staff, adequate risk management, appropriate internal controls and adequate own funds. By contrast, they will not be required to join a supervisory organization as they are directly supervised by FINMA (see article 61 (3) FinIA).

6.2 Higher capital requirements for large managers of collective assets

The revised FinIO grants FINMA the right to demand higher minimum capital than the generally applicable CHF 20 million (article 44 (1) FinIO) from managers of collective assets in justified individual cases (article 44 (6) FinIO). Pursuant to the Explanatory Notes, if for example an institution has extremely large assets under management and a correspondingly large number of employees and therefore high fixed costs, a higher minimum capital could be required to ensure investor protection.[22]

[19] See Statement AMAS (fn. 2), file "Tabelle AMAS final", p. 5 f.

[20] Erläuterungen (fn. 3), p. 7.

[21] Erläuterungen (fn. 3), p. 46.

[22] Erläuterungen (fn. 3), p. 47.

6.3 Authorisation for opening and closing additional representative offices

By analogy to the provisions regarding multiple branches of a foreign financial institution (see article 78 (1) FinIO) and regarding the closure of a branch (article 81 FinIO), and in accordance with FINMA practice, the revised FinIO now states that a foreign financial institution must obtain authorization for each representative office that it maintains in Switzerland (article 82 (3) FinIO), and that the closure of a representative office requires approval (article 82 (4) FinIO).

7 OMITTED AMENDMENTS

7.1 Definition of collective investment

In view of the feedback received during the consultation procedure,[23] the Federal Council refrained from stipulating that investors are not independent if they are family members.[24] In the Explanatory Notes, the Federal Council explains that if investors are connected by family ties, this does not necessarily mean that the investment scheme does not satisfy the criteria of collectivity and third-party management required for a collective investment scheme. At the same time, it will not be possible to create a collective investment scheme for single investors (unless the restrictive conditions of article 7 (4) CISA are satisfied).

Therefore, a case-by-case analysis will remain necessary to determine if the criteria of third-party management and collectivity are met in the case of exclusively family-affiliated investors when authorizing and approving collective investment schemes or creating an L-QIF.[25]

7.2 Distinction between collective investment schemes and structured products

The Federal Council also refrained from including a formal legal distinction between collective investment schemes and structured products. The Explanatory Notes explain that although this would have increased legal certainty, it could have led to inappropriate results. It therefore remains the responsibility of the fund management company, SICAV, SICAF, general partner or issuer to decide whether a financial instrument is a collective investment scheme or a structured product.[26]

8 OUTLOOK

With the adoption of the revised CISO, the Federal Council completes the creation of the legal basis for the L-QIF. We expect that the introduction of the L-QIF will create an interesting opportunity for asset managers seeking to offer alternative investments, infrastructure or digital assets to institutional investors and to high-net-worth individuals who opted to be treated as qualified investors.

The comments during the consultation procedure show that the industry would have preferred a more liberal regulation, particularly in view of the model for (and competitor of) the L-QIF, the Luxembourg RAIF. This wish was only partially granted by the Federal Council and it therefore remains to be seen whether the L-QIF can compete with the already established RAIF within this legal framework.

In parallel, the new rules on ETFs will provide additional legal certainty which will also benefit Switzerland as an asset management

[23] See for example Statement Swiss Banking (fn. 9), p. 4; Statement AMAS (fn. 2), file "Tabelle AMAS final", p. 2 f.

[24] Compare article 5 (2) of the draft amendment of 23 September 2022 of the Ordinance on Collective Investment Schemes, available at <https://www.fedlex.admin.ch/filestore/fedlex.data.admin.ch/eli/dl/proj/2021/115/cons_1/doc_1/de/pdf-a/fedlex-data-admin-ch-eli-dl-proj-2021-115-cons_1-doc_1-de-pdf-a.pdf> (last visited on 15 February 2024).

[25] Erläuterungen (fn. 3), p. 5.

[26] Erläuterungen (fn. 3), p. 5.

center, even if more flexibility in this area would have been welcome.

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