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**Federal Act
on the Freezing and the Restitution of Illicit Assets
held by Foreign Politically Exposed Persons
(Foreign Illicit Assets Act, FIAA)**

of 18 December 2015 (Status as of 1 July 2016)

The Federal Assembly of the Swiss Confederation,

based on Article 54 paragraph 1 of the Federal Constitution¹,
and having regard to the Federal Council Dispatch of 21 May 2014²,
decrees:

Section 1 General Provisions

Art. 1 Purpose

This Act governs the freezing, confiscation and restitution of assets held by foreign politically exposed persons or their close associates, where there is reason to assume that those assets were acquired through acts of corruption, criminal mismanagement or by other felonies.

Art. 2 Definitions

Within the meaning of the present Act:

- a. *foreign politically exposed persons* means individuals who are or have been entrusted with prominent public functions by a foreign country, for example heads of State or of government, senior politicians at the national level, senior government, judicial or military officials at the national level, important political party officials at the national level and senior executives of State-owned corporations of national importance;
- b. *close associates* means natural persons who are known to be in close association with the persons defined in subparagraph (a) by reason of a family, personal or business relationship;
- c. *assets* means property of any kind, whether tangible or intangible, movable or immovable.

AS 2016 1803

¹ SR 101

² BBl 2014 5265

Section 2 Freezing of Assets

Art. 3 Freeze for purposes of mutual legal assistance

¹ In order to support future cooperation within the framework of mutual legal assistance proceedings with the country of origin, the Federal Council may order the freezing of assets in Switzerland:

- a. over which foreign politically exposed persons or their close associates have power of disposal;
- b. of which foreign politically exposed persons or their close associates are the beneficial owners; or
- c. which belong to a legal entity:
 1. through which foreign politically exposed persons or their close associates hold direct or indirect power of disposal over those assets, or
 2. of which foreign politically exposed persons or their close associates are the beneficial owners.

² An asset freeze shall be admissible if the following conditions are met:

- a. the government or certain members of the government of the country of origin have lost power, or a change in power appears inexorable;
- b. the level of corruption in the country of origin is notoriously high;
- c. it appears likely that the assets were acquired through acts of corruption, criminal mismanagement or other felonies;
- d. the safeguarding of Switzerland's interests requires the freezing of the assets.

³ Prior to ordering an asset freeze, and barring exigent circumstances, the Federal Council shall inquire into the position of Switzerland's main partner countries, and of international organisations, with regard to freezing orders. As a rule, it shall coordinate the timing and substance of the measures it orders with measures taken by those countries and organisations.

Art. 4 Freeze for purposes of confiscation in the event mutual legal assistance proceedings fail

¹ The Federal Council may order an asset freeze in Switzerland in anticipation of initiating proceedings for the confiscation of assets:

- a. over which foreign politically exposed persons or their close associates have power of disposal;
- b. of which foreign politically exposed persons or their close associates are the beneficial owners; or
- c. which belong to a legal entity:
 1. through which foreign politically exposed persons or their close associates hold direct or indirect power of disposal over those assets, or

2. of which foreign politically exposed persons or their close associates are the beneficial owners.

² An asset freeze shall be admissible if the following conditions are met:

- a. the assets have been made subject to a provisional seizure order within the framework of international legal assistance proceedings in criminal matters instigated at the request of the country of origin;
- b. the country of origin is unable to satisfy the requirements for mutual legal assistance owing to the total or substantial collapse, or the impairment, of its judicial system (failure of state structures);
- c. the safeguarding of Switzerland's interests requires the freezing of the assets.

³ An asset freeze shall also be admissible where, following receipt of a request for mutual legal assistance, cooperation with the country of origin proves to be impossible because there are reasons to believe that proceedings in the country of origin do not satisfy the essential principles of procedure foreseen in Article 2 letter a of the Mutual Assistance Act of 20 March 1981³ and where the safeguarding of Switzerland's interests so requires.

Art. 5 Amendment and publication of list entries

¹ Where the asset freeze ordered pursuant to Article 3 of this Act takes the form of an administrative ordinance (asset freeze ordinance), the Federal Department of Foreign Affairs (FDFA) may amend the list of persons named in the asset freeze, as appended to that ordinance. Following consultation with the other departments concerned, the FDFA may add or remove the names of foreign politically exposed persons or their close associates where international coordination with the main partner countries and international organisations or the safeguarding of Switzerland's interests so requires.

² The FDFA shall immediately remove from that list the names of those persons against whom the freeze is found to be groundless.

³ The list of the names of persons appended to the asset freeze ordinance shall be published in the Official Compilation of Federal Legislation. It may include personal and sensitive data concerning, in particular, current or past membership of a political party or the existence of pending criminal or administrative proceedings or sanctions.

Art. 6 Duration of freeze

¹ A freeze ordered pursuant to Article 3 shall be limited to a maximum duration of four years. The Federal Council may extend the freeze for an additional year, renewable annually, where the country of origin has expressed its willingness to cooperate within the framework of mutual legal assistance proceedings. The maximum duration of the asset freeze is ten years.

³ SR 351.1

² Assets frozen pursuant to Article 4 shall remain frozen until such time as the decision concerning their confiscation becomes enforceable. Where no proceedings for confiscation of the assets have been instigated within a period of 10 years from the date the freezing order issued pursuant to Article 4 becomes enforceable, the freeze on the assets shall be lifted.

Art. 7 Duty to report and to provide information

¹ Persons or institutions who hold or manage in Switzerland assets of persons affected by an asset freeze within the meaning of Article 3 must immediately report these assets to the Money Laundering Reporting Office Switzerland (MROS).

² Persons or institutions that neither hold nor manage such assets in Switzerland, but who have knowledge thereof by virtue of the functions they perform, must report the assets immediately to MROS.

³ Based on reports received pursuant to paragraph 2, MROS may request information from any person or institution that may hold or manage assets covered by a freeze ordered under the provisions of the present Act.

⁴ Persons or institutions subject to the terms of paragraphs 1 to 3 have the further duty to produce, at the request of MROS, all information and documents relating to the reported assets as may be required for the enforcement of the present Act, to the extent that they possess any such information.

⁵ Lawyers and notaries are not subject to the duty to report and inform where they are constrained by the duty of professional confidentiality within the meaning of Article 321 of the Swiss Criminal Code⁴,

⁶ MROS shall transmit the information received pursuant to the provisions of paragraphs 1 to 3 to the FDFA and the Federal Office of Justice (FOJ). The Federal Council shall determine the procedures for cooperation in the framework of this Act between the FDFA, the FOJ and the MROS.

Art. 8 Administration of frozen assets

¹ Persons and institutions who hold or manage in Switzerland assets that have been made subject to a freezing order pursuant to the terms of this Act shall continue to administer them once the order has been issued. They shall inform the FDFA immediately where the value of the assets is at risk of declining rapidly or the cost of maintaining the assets is excessive.

² Persons and institutions who administer frozen assets pursuant to paragraph 1 shall provide the FDFA, on its request, with all information and documents relating to the freezing and management of the assets in question.

³ The principles that govern the investment of seized assets apply *mutatis mutandis* to the administration of assets frozen under the provisions of this Act.

⁴ The FDFA may order the measures necessary to avoid the risk of a rapid decline in the value of the assets or excessive maintenance costs, including the immediate

⁴ SR 311.0

liquidation of the assets pursuant to the provisions of the Federal Act of 11 April 1889⁵ on Debt Enforcement and Bankruptcy. The terms of paragraph 1 also apply to the liquidation proceeds.

⁵ Where a freeze on the assets has also been imposed within the framework of criminal proceedings or of mutual legal assistance proceedings, management of the assets is the responsibility solely of the authority overseeing the criminal proceedings or the mutual legal assistance proceedings. That authority shall inform the FDFA before ordering the freeze to be lifted.

Art. 9 Release of frozen assets

In exceptional cases, in particular in cases of hardship or where the safeguarding of important Swiss interests so requires, the FDFA may authorise the release of a portion of the frozen assets.

Art. 10 Amicable settlement

¹ Throughout the period in which the asset freeze is in force, the Federal Council may instruct the FDFA to seek an amicable settlement so as to permit the full or partial restitution of the frozen assets. Articles 17 through 19 apply *mutatis mutandis* to this restitution.

² Any amicable settlement is subject to the approval of the Federal Council.

³ If the Federal Council approves the amicable settlement, it shall lift the freeze on the assets.

Section 3 Support Measures

Art. 11 General principle

The Confederation may provide the country of origin with assistance in its efforts to obtain restitution of the frozen assets.

Art. 12 Technical assistance

¹ The FDFA and the FOJ may, after consulting one another, provide the country of origin with technical assistance.

² They may, in particular:

- a. assist in the training of the competent authorities and provide them with legal advice;
- b. organise bilateral or multilateral conferences or meetings;
- c. second experts to the country of origin.

⁵ SR 281.1