

## Time stamps and qualified electronic signature

Dear Business Partner,

We are pleased to inform you regarding a significant change to the statutory framework relating to the use of electronic signatures.

On 1 January 2017, the fully revised Federal Act on Electronic Signatures (ZertES) and the Ordinance on Electronic Signatures (VZertES) will take effect. In addition, a large number of statutory and regulatory provisions concerning electronic signatures throughout other parts of the legal system will be amended.

The texts were published on 13 December 2016 in the Official Compilation of Federal Legislation (cf. [AS 2016 4651](#) and [AS 2016 4667](#)) and will be integrated in the Systematic Compilation of Federal Legislation from 1.1.2017 (cf. ZertES in [SR 943.03](#) and VZertES in [SR 943.032](#); until the end of 2016 the version valid until the end of the year will still be found here).

In practice, the new Article 14(2<sup>bis</sup>) of the Swiss Code of Obligations will be of central significance.

*A qualified electronic signature **associated with a qualified time stamp** under the Federal Act of 18 March 2016 on Electronic Signatures shall be regarded as equivalent to a handwritten signature.*

A **time stamp** will thus be **mandatory** where the qualified electronic signature is regarded as equivalent to a handwritten signature for the purposes of compliance with the requirement of writing. This shall only apply to signatures affixed after 1 January 2017.

Comparable provisions are contained e.g. in the Publications Ordinance, the Land Register Ordinance, the Commercial Register Ordinance and the Ordinance on Electronic Public Certification.

### What is a digital time stamp needed for?

Time stamps are electronically signed certifications that electronic data and documents were available in this form *at a particular point in time*. As an officially recognised provider of certification services (Time Stamp Authority, TSA), SwissSign fulfils the prerequisites of the ZertES. The time when the signature was affixed is thus guaranteed by a neutral third party.

The time stamp service of SwissSign (<http://tsa.swissign.net>) offers electronic time stamps according to the Federal Act on Electronic Signatures (ZertES).

We recommend that, if you do not already do so, you give consideration to this matter when signing or receiving signed documents.

A qualified time stamp will be mandatory for qualified electronic signatures affixed as of 1 January 2017 that are to be regarded as equivalent to a handwritten signature pursuant to Article 142<sup>bis</sup> CO. For signatures affixed until 31 December 2016 the previous rule will continue to apply, and they will thus be valid if they complied with the formal statutory requirements applicable at the time the signature was affixed.

In short: if in doubt, use a time stamp!

Further detailed information concerning the issue of TSA/time stamps and configuration for Adobe products and SwissSigner may be found at:

- <https://www.swissign.com/de/signing/time-stamping-services>
- <https://postsuisseid.ch/en/support/instructions-and-documentations/suisseid-owners>

### **Document review - Validator**

We also draw your attention to Validator. Validator is a service offered by the federal administration, which examines whether a document has been validly signed with a qualified certificate and a time stamp from a recognised provider under the ZertES.

<https://www.e-service.admin.ch/validator/upload/FullQualified/?1-1.ILinkListener-languages-3-languageLink>

Please do not hesitate to contact us with any queries.

Yours faithfully,  
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