

Client Alert

NKF

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New Rules for the Distribution of Collective Investment Schemes in Switzerland

The Swiss Financial Markets Supervisory Authority (FINMA) has recognized two industry guidelines on collective investment schemes as minimum standard. The new SFAMA Guidelines have entered into force on July 1, 2014 and will have a strong impact on fund management companies and distributors of collective investment schemes with respect to the drafting of fund distribution agreements and the product documentation. This client alert provides a brief overview on key points of the new Guidelines and sets out their potential effects on financial product providers in Switzerland.

1. Introduction

Due to recent decisions of the Swiss Federal Supreme Court and the revision of the Collective Investment Schemes Act (CISA) and the Collective Investment Schemes Ordinance (CISO) the requirements for the distribution of collective investment schemes and the disclosure of fees and costs charged have been raised. Now, the new rules have been implemented and specified on the level of self-regulation by the Swiss Fund & Asset Management Organisation (SFAMA).

2. New SFAMA Distribution Guidelines

■ Scope of the new Guidelines

The new Guidelines on the Distribution of Collective Investment Schemes ("**SFAMA Distribution Guidelines**") target an enhanced regulation of distributors of collective investment schemes. They regulate the selection, cooperation and supervision of fund distributors.

■ Key Points

The SFAMA Distribution Guidelines cover the following key points:

1. Transitory provisions
2. New definition of distributors
3. Rules on the distribution to qualified and non-qualified investors
4. Rules on the conclusion of distribution agreements (including sub-distribution)
5. Monitoring obligations for fund providers
6. Regulation of cross-border distribution activities into Switzerland

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■ Indicative Timetable

The following timetable represents an indicative schedule for the implementation of the SFAMA Distribution Guidelines. Fund providers should be aware that the actual implementation process may differ from the dates set out below.

Timetable regarding the implementation of the SFAMA Distribution Guidelines						
2014			2015			
Q2	Q3	Q4	Q1	Q2	Q3	Q4
Entry into force of the SFAMA Guidelines	Assessment of effected distribution agreements	Drafting of revised distribution agreements	Signing of revised distribution agreements	End of deadline	-	

■ Possible Effects on Financial Product Providers

The SFAMA Distribution Guidelines will have a strong impact on fund management companies and distributors of collective investment schemes, in particular with respect to updating/drafting of consisting distribution agreements.

3. New SFAMA Transparency Guidelines

■ Scope of the new Guidelines

The purpose of the SFAMA Guidelines on Duties Regarding the Charging and Use of Fees and Costs ("**SFAMA Transparency Guidelines**") is to enhance the transparency of the product documentation with respect to fees and costs.

■ Key Points

The SFAMA Transparency Guidelines set out rules on the following key aspects:

1. Transitory provisions
2. Disclosure of type of fees and costs
3. Disclosure of amount of fees and costs
4. Disclosure of recipients of fees and costs
5. Specific rules on retrocessions and rebates

■ Indicative Timetable

The following timetable represents an indicative schedule for the implementation of the SFAMA Transparency Guidelines. However, the upcoming process may differ from this indicative schedule and readers should be aware that the below stated dates may not be accurate.

Timetable regarding the implementation of the SFAMA Transparency Guidelines						
2014			2015			
Q2	Q3	Q4	Q1	Q2	Q3	Q4
Entry into force of the SFAMA Guidelines	Assessment of effected fund documents	Drafting of revised fund documents	Filing of updated product documentation with FINMA	-		

■ Possible Effects on Financial Product Providers

The SFAMA Transparency Guidelines will affect the product documentation of Swiss funds and foreign funds that are registered with FINMA. The fund documents (fund agreements, investment regulations or prospectuses) may have to be updated, or refiled with FINMA, respectively.

4. Conclusion

The SFAMA Distribution Guidelines and the SFAMA Transparency Guidelines require swift implementation. Fund management companies, promoters and distributors need to assess whether and to what extent, their distribution agreements and product documentation are affected.

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