

## Client Alert



December 19, 2014

### **Asset Managers of Foreign Collective Investment Schemes: Expiration of Deadline to Apply for FINMA License**

The revision of the Swiss Federal Act on Collective Investment Schemes (CISA) introduced a new license requirement for asset managers of foreign collective investment schemes (CIS) as well as certain exemptions thereof. This deadline will be expiring shortly and could require immediate action for asset managers that are subject to the new rules.

#### **1. Introduction**

In order to align Swiss law with international standards, in particular with the European Directive 2011/61 on Alternative Investment Fund Managers (AIFMD), the CISA and its implementing Ordinance were revised. The revised CISA not only confronts the Swiss fund industry in general but also asset managers with fundamental regulatory changes.

#### **2. Key Points**

##### **■ Duty to obtain a FINMA License**

The revised version of the CISA that entered into force on March 1, 2013 demands that asset managers of foreign CIS obtain a license from the Swiss Financial Market Supervisory Authority (FINMA), unless an exemption applies. So far, only asset managers of Swiss CIS were obliged to be licensed by FINMA. The transitional period to submit an application to FINMA will end on February 28, 2015.

##### **■ Exemptions from the license requirement**

Asset managers of foreign CIS whose investors are „qualified“ within the meaning of the CISA may benefit from an exemption if

1. the assets under management amount to no more than CHF 100 million; or
2. the assets under management amount to no more than CHF 500 million and consist of unleveraged CIS that cannot be redeemed by investors for at least five years after their first investment is made in each of these CIS; or
3. the investors are exclusively group companies of the group to which the asset manager belongs.

A Swiss asset manager of foreign CIS benefiting from an exemption may voluntarily submit an application for authorisation to FINMA if it has its registered office in Switzerland and the applicable Swiss or foreign law provides that the asset management of CIS may only be delegated to a regulated asset manager of CIS. It must meet the same requirements of authorisation as the asset manager of Swiss collective investment schemes.

According to FINMA Newsletter 48 (2013), asset managers of Swiss CIS cannot benefit from the exemptions.

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## ■ Indicative Timetable

The following timetable represents an indicative schedule for the submission of an application to FINMA in order to meet the license requirement.

Timetable regarding the application to FINMA	
2014	2015
Q4	Q1
Verify whether an exemption applies (if so, the further steps are not necessary)	28 February: <b>deadline</b> to submit application to FINMA
Prepare application to FINMA and adapt to the requirements to obtain a FINMA license	

## 3. Conclusion

Asset managers of foreign CIS need to assess whether an exemption applies and, if not, timely submit an application to FINMA.

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