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**Ordinance
of the Swiss Financial Market Supervisory Authority
on Collective Investment Schemes
(FINMA Collective Investment Schemes Ordinance, CISO-FINMA)**

of 27 August 2014 (Status as of 1 January 2015)

*The Swiss Financial Market Supervisory Authority (FINMA),
based on Articles 55 paragraph 3, 56 paragraph 3, 71 paragraph 2, 91 and 128
paragraph 2 of the Collective Investment Schemes Act of 23 June 2006¹ (CISA),
decrees:*

Title 1 Collective Investment Schemes

Chapter 1 Securities Funds

Section 1 Securities Lending

(Art. 55 para. 1 let. a CISA; Art. 76 CISO²)

Art. 1 Definition

Securities lending means: a legally binding transaction in which the fund management company or investment company with variable capital (SICAV), acting as lender, undertakes to temporarily transfer to the borrower ownership of specific securities, and where:

- a. the borrower is obliged to return to the lender securities of the same type, quantity and quality at the end of the securities lending period and to transfer any income earned during that period to the lender; and
- b. the lender bears the price risk of the securities for the duration of the securities lending.

Art. 2 Principles

¹ The fund management company or SICAV may lend securities in its own name and for its own account to a borrower («principal»).

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¹ SR 951.31

² Collective Investment Schemes Ordinance of 22 Nov. 2006 (SR 951.311).

² The fund management company or SICAV may also appoint an intermediary to put the securities at the disposal of the borrower either on a fiduciary basis («agent») or directly («finder»), in accordance with the provisions of this section.

³ The fund management company or SICAV shall conclude a standardised framework agreement governing securities lending with each borrower or intermediary in accordance with Article 7.

Art. 3 Authorised borrowers and intermediaries

¹ The fund management company or SICAV shall conduct securities lending transactions exclusively with first-class supervised borrowers and intermediaries which are specialised in transactions of this type, such as banks, brokers and insurance companies, as well as licensed and recognised central counterparty clearing houses and central securities depositories that guarantee the proper execution of such transactions.

² The fund management company or SICAV must obtain the custodian bank's written consent should the latter not be participating in the securities lending transaction as either borrower or intermediary.

³ The custodian bank may only withhold its consent if there is no guarantee that it can meet its statutory and contractual duties with regard to settlement, safekeeping, provision of information, and control.

Art. 4 Securities eligible for lending

¹ The fund management company or SICAV may lend all types of securities that are traded on an exchange or other regulated market open to the public.

² It may not lend securities acquired under a reverse repo transaction.

Art. 5 Termination dates and notice periods

¹ It must be possible to terminate individual transactions and the standardised framework agreement for the securities lending transaction at any time.

² Where the observation of a notice period has been agreed, that period may not exceed seven banking days.

Art. 6 Scope and duration

¹ If the fund management company or SICAV is required to observe a notice period before it may again have legal control of the loaned securities, it may not lend more than 50 percent of the eligible holding of a particular security.

² If, however, the borrower or intermediary provides a contractual guarantee to the fund management company or SICAV that the latter may again legally dispose of the loaned securities on the same or following banking day, the fund management company or SICAV may lend the entire eligible holding of a particular security.

Art. 7 Minimum contents of the standardised framework agreement

¹ The standardised framework agreement must meet the relevant international standards.

² The standardised framework agreement must indicate those securities funds whose securities are in principle eligible for securities lending, in addition to the securities which are excluded from securities lending.

³ The fund management company or SICAV shall stipulate in the standardised framework agreement with the borrower or intermediary that they:

- a. pledge or transfer collateral to the fund management company or SICAV for the purposes of guaranteeing restitution in accordance with Article 51;
- b. are liable vis-à-vis the fund management company or SICAV for:
 1. the prompt, unconditional payment of any income accruing during the securities lending period,
 2. the assertion of other proprietary rights such as conversion and subscription rights, and
 3. the contractually agreed return of securities of the same type, quantity and quality;
- c. assign all securities available for the securities lending transaction to the individual lenders on the basis of objective and transparent criteria.

⁴ The framework agreement should also set out:

- a. agreement of an appropriate collateral value that at all times should amount to at least 100 percent of the market value of the loaned securities;
- b. the loaned securities are excluded from the claims of the borrower or intermediary.

Art. 8 Special duties of the custodian bank

The custodian bank has the following special duties in connection with the settlement of the securities lending transaction:

- a. It shall inform the fund management company or SICAV on a regular basis of the lending transactions conducted.
- b. It shall, at least once a month, account for any income earned on the securities lending.
- c. It shall ensure that the securities lending transactions are settled in a secure manner, in line with the agreements and, in particular, it shall monitor compliance with the requirements relating to collateral.
- d. In addition, it shall carry out the administrative duties assigned to it under the safe-custody regulations during the term of the lending transaction and assert all rights associated with the loaned securities, unless such duties have been ceded under the terms of the standardised framework agreement.

Art. 9 Inventory and statement of net assets, or balance sheet, inclusion in investment limits

¹ Loaned securities must be denoted as being «lent» in the securities fund's inventory and must continue to be included in the statement of net assets, or the balance sheet.

² Loaned securities must continue to be taken into account when ensuring compliance with the statutory and regulatory investment restrictions.

Section 2 Securities Repurchase Agreements (Repo, Reverse Repo)

(Art. 55 para. 1 let. b CISA; Art. 76 CISO³)

Art. 10 Definitions

The terms below are defined as follows:

- a. «securities repurchase agreement» means a repo (or sale and repurchase agreement) and reverse repo (or reverse sale and repurchase agreement);
- b. «repo» means a legally binding transaction in which one party (the borrower or repo seller) temporarily transfers ownership of securities to another party (the repo buyer), and where:
 1. the repo buyer undertakes to return to the repo seller securities of the same type, quantity and quality at the end of the repo term together with any income earned during such term;
 2. during the term of the repurchase agreement, the price risk associated with the securities shall be borne by the repo seller;
- c. «reverse repo» means a repo from the perspective of the lender;
- d. «repo interest» means the difference between the selling price and purchase price of the securities.

Art. 11 Principles

¹ The fund management company or SICAV may conclude repurchase agreements in its own name and for its own account with a counterparty («principal»).

² It may appoint an intermediary to conclude repurchase agreements with a counterparty either indirectly on a fiduciary basis («agent») or directly («finder»), in accordance with the provisions of this section.

³ The fund management company or SICAV shall conclude a standardised framework agreement governing repurchase agreements with each counterparty or intermediary in accordance with Article 17.

Art. 12 Authorised counterparties and intermediaries

¹ The fund management company or SICAV shall conduct repurchase agreements exclusively with first-class supervised counterparties and intermediaries that specialise in these types of transactions, such as banks, brokers and insurance companies, as well as licensed and recognised central counterparty clearing houses and central securities depositories that can guarantee the execution of transactions in a due and proper manner.

² The fund management company or SICAV must obtain the written consent of the custodian bank if the latter is not to be involved in the repurchase agreement as either counterparty or intermediary.

³ The custodian bank may only deny its consent if there is no guarantee that it can meet its statutory and contractual duties with regard to settlement, safekeeping, provision of information, and control.

Art. 13 Securities eligible for repurchase agreements

¹ For repo transactions, the fund management company or SICAV may use all types of securities that are traded on a stock exchange or other regulated market open to the public.

² For repo purposes, it may not use securities acquired under a reverse repo.

Art. 14 Termination dates and notice periods

¹ It must be possible to terminate individual transactions and the standardised framework agreement for the repurchase transaction at any time.

² Where the observation of a notice period has been agreed, such period may not exceed seven banking days.

Art. 15 Scope and duration of the repo

¹ If the fund management company or SICAV must observe a notice period before it can again have legal control of the securities under the repurchase agreement, it may not use more than 50 percent of its holdings of a particular security eligible for repo transactions.

² If, however, the counterparty or intermediary provides the fund management company or SICAV with a contractual guarantee that the latter may again have legal control of the securities under the repurchase agreement on the same or following banking day, its entire holding of a particular security eligible for repo transactions may be used.

Art. 16 Securing claims for money and securities

¹ In order to secure claims for money and securities arising from repurchase agreements, the claims and obligations must be valued daily at the current market price, taking account of accrued interest and the income due to the borrower, and the difference must be marked to market daily.

² Compensation must be in cash or in securities. The latter must be comparable in type and quality to the securities used for the repurchase agreement.

Art. 17 Minimum contents of the standardised framework agreement

¹ The standardised framework agreement must meet the relevant international standards.

² The standardised framework agreement must indicate both the securities funds for which repurchase agreements may in principle be conducted and the securities which are excluded from the repurchase agreement.

³ The fund management company or SICAV shall stipulate in the standardised framework agreement with the counterparty or intermediary that:

- a. the lender is liable vis-à-vis the borrower for:
 1. the prompt, unconditional payment of any income accruing during the repurchase agreement and the compensating payments to be made pursuant to Article 16,
 2. the assertion of other proprietary rights such as conversion and subscription rights, and
 3. the contractually agreed return of securities of the same type, quantity and quality;
- b. the borrower is liable vis-à-vis the lender for:
 1. the prompt, unconditional payment of any compensating payments to be made during the term of the repurchase agreement pursuant to Article 16, and
 2. the repurchase of the securities under the repo transaction in compliance with the terms of the agreement;
- c. claims for money and securities arising from repurchase agreements may not be netted with claims of the counterparty or intermediary.

Art. 18 Special duties of the custodian bank

The custodian bank has the following special duties in relation to the settlement of the repurchase transaction:

- a. It ensures that the repurchase transaction is settled in a secure and contractually agreed manner.
- b. It ensures that fluctuations in the value of the securities used in repo transactions are compensated for in cash or securities (marked to market).
- c. For the duration of the repurchase transaction it shall, in addition, carry out the administrative duties assigned to it under the safe-custody regulations and assert all rights associated with the securities used in the repo transaction, unless such duties have been ceded under the standardised framework agreement.

Art. 19 Raising loans via repo agreements

¹ Pursuant to Article 77 paragraph 2 CISO⁴, a repurchase agreement represents the raising of a loan by the securities fund.

² The money obligations arising from repos, together with all other loans taken, must comply with the statutory and regulatory limits on borrowing.

³ If, when conducting a repo transaction, the fund management company or SICAV uses the money received to acquire securities of the same type, quality, credit rating and maturity in conjunction with the conclusion of a reverse repo, this is not deemed to be taking a loan.

Art. 20 Distinction between reverse repos and the granting of loans

¹ Pursuant to Article 77 paragraph 1 letter a CISO⁵, reverse repos do not represent the granting of a loan.

² Pursuant to Article 75 CISO, money claims in connection with the conclusion of reverse repos are deemed liquid assets.

Art. 21 Inclusion in investment limits

¹ Securities sold through repos must continue to be taken into account when ensuring compliance with the statutory and regulatory investment restrictions.

² Money claims acquired through reverse repos must continue to be taken into account when ensuring compliance with the statutory and regulatory investment restrictions.

Art. 22 Inventory, statement of net assets, or balance sheet and profit and loss account

¹ Securities sold through repos must be denoted as being «used in repo» in the inventory of the securities fund's assets and must continue to be included in the statement of net assets, or the balance sheet.

² Money obligations arising from repos must be disclosed in the statement of net assets, or the balance sheet, under «Liabilities from repurchase agreements» at the value assigned on the calculation date based on the assumption of a linear development in value.

³ In the case of repos, repo interest must be disclosed in the profit and loss account under «Interest payable».

⁴ Securities purchased through reverse repos are not included in the inventory of the securities fund's assets, nor in the statement of net assets, or the balance sheet.

⁵ Money claims arising from reverse repos must be disclosed in the statement of net assets, or the balance sheet, under «Claims from repurchase agreements» at the

⁴ SR 951.311

⁵ SR 951.311

value assigned on the calculation date based on the assumption of a linear development in value.

⁶ In the case of reverse repos, repo interest must be disclosed in the profit and loss account under «Income from reverse repos».

Section 3 Derivative Financial Instruments

(Art. 56 para. 3 CISA; Art. 72 CISO⁶)

Art. 23 Definitions

¹ The terms below are defined as follows:

- a. «basic type of derivative»:
 1. a call or put option, the expiration value of which is linearly dependent on the positive or negative difference between the market value of the underlying and the strike price and is zero if the difference is preceded by the opposite algebraic sign,
 2. a credit default swap (CDS),
 3. a swap, the payments of which are dependent on the value of the underlying or on an absolute amount in both a linear and a path-independent manner,
 4. a future or forward transaction the value of which is linearly dependent on the value of the underlying;
- b. «exposure-increasing»: derivative exposure, the financial effect of which is similar to the purchase of an underlying (e.g. the purchase of a call option, purchase of a future, sale of a put option, exchanging of variable for fixed interest payments or the conclusion of a credit default swap as protection seller);
- c. «exposure-reducing»: a derivative exposure the financial effect of which is similar to the sale of an underlying (in particular, the sale of a call option, sale of a future, purchase of a put option, exchanging of fixed for variable interest payments or the conclusion of a credit default swap as secured party);
- d. «exotic derivative» means a derivative with a mode of operation that cannot be described as a basic form of derivative or a combination of basic forms of derivatives (for instance, a path-dependent option, an option with several factors or an option with contract modifications);
- e. «contract size»: number of underlying securities or nominal value of a derivative contract;
- f. «contract value»:
 1. in the case of a swap, the product of the nominal value of the underlying and the contract size,

⁶ SR 951.311

2. in the case of all other derivatives, the product of the underlying's market value and the contract size;
- g. «OTC (over the counter)»: the conclusion of transactions off an exchange or any other regulated market which is open to the public;
- h. «synthetic liquidity»: underlyings whose market risk and potential credit risk are hedged with derivatives that have a symmetric payment profile;
- i. «overall exposure»: exposure to the fund's net assets, the net overall exposure to derivatives and investment techniques under Article 55 CISA, including short-selling;
- j. «gross overall exposure to derivatives»: total amount of capital requirements eligible from derivatives, including derivative components;
- k. «net overall exposure to derivatives»: total amount of capital requirements eligible from derivatives, including derivative components, taking account of permissible netting, hedging transactions and other rules set out in Articles 35 and 36;
- l. «leverage»: effect of derivatives, derivative components investment techniques, including short-selling on the fund's net assets, by building up over-proportionally high positions in an underlying when compared to the capital invested.

Art. 24 Principles

Derivatives may be used only where, even in exceptional market conditions, the effect of using derivatives does not result in a deviation from the investment objectives set out in the fund regulations, prospectus and important information for investors, or in a change in the investment character of the securities fund.

Art. 25 Umbrella funds

The provisions in this section apply to the individual securities funds or, in the case of an umbrella fund, to each individual sub-fund.

Art. 26 Structured products, derivative components and warrants

¹ In order to comply with the statutory and regulatory provisions for risk diversification, the underlying and the issue of a structured product must be taken into account.

² If a structured product has one or more derivative components, these must be treated in accordance with the provisions in this section.

³ To establish the amount eligible for the overall exposure and the risk diversification requirements, the structured product is to be broken down into its components, if it has leverage. The components are to be considered individually. The breakdown is to be documented.

⁴ If structured products that cannot be broken down are used as a not negligible part of the fund's assets, the model approach as a risk measurement procedure is to be applied.

⁵ Derivative components of a financial instrument must be taken into account in compliance with statutory and regulatory risk diversification provisions, and are eligible for the overall exposure to derivatives.

⁶ Warrants must be treated as derivatives in accordance with the provisions of this section. An option belonging to a warrant bond is deemed a warrant.

Art. 27 Credit derivatives

¹ As defined in Article 77 paragraph 1 letter a CISO⁷, an exposure-increasing credit derivative is not deemed a guarantee.

² The debtor of reference of a credit derivative must have outstanding equity or debt securities or rights to equity or debts that are traded on an exchange or another regulated market open to the public.

Art. 28 Exotic derivatives

¹ The fund management company or SICAV may only use an exotic derivative if:

- a. it can calculate the minimum and the maximum delta across the entire price spectrum of the underlyings; and
- b. it understands the derivative's mode of operation, as well as the factors that influence its pricing.

² In the case of securities funds, where the commitment approach II is applied, the exotic derivative must be weighted according to its maximum possible delta (absolute value) when converted to its underlying equivalent pursuant to Article 35 paragraph 2.

³ The risk assessment model used risk must be capable of reflecting the exotic derivative in accordance with its risk.

⁴ If the maximum delta of the exotic derivative is positive, it must be weighted by such maximum delta in order to comply with the statutory and regulatory maximum limits. If the minimum delta is negative, it must be weighted by this minimum delta in order to comply with the regulatory minimum limits.

Art. 29 Conclusion of the contract

¹ The fund management company or SICAV shall conclude derivative transactions on an exchange or other regulated market which is open to the public.

² Transactions with OTC derivatives (OTC transactions) are permitted, provided the conditions stipulated in Articles 30 and 31 are met.

⁷ SR 951.311

Art. 30 OTC transactions

¹ OTC transactions may only be concluded on the basis of a standardised framework agreement which complies with the pertinent international standards.

² The counterparty must:

- a. be a regulated financial intermediary specialised in such types of transactions;
- b. ensure proper execution of the contract; and
- c. meet the credit rating requirements stipulated in Article 31 paragraph 1.

³ It must be possible to reliably and verifiably value an OTC derivative on a daily basis and to sell or close out the derivative at market value at any time.

⁴ If the market price for an OTC derivative is not available, it must be possible at all times to determine the price at any time using appropriate valuation models that are recognised in practice, based on the market value of the underlyings from which the derivative was derived;

⁵ Before concluding a contract for a derivative under paragraph 4, specific offers must be obtained from at least two potential counterparties. The contract is to be concluded with the counterparty providing the most favourable offer in terms of price. A deviation from this principle is possible for reasons relating to risk diversification, or where other parts of the contract such as credit rating or the range of services offered by the counterparties in another offer seem are more advantageous overall for the investors.

⁶ If it is in the investors' best interests, obtaining offers from at least two potential counterparties may be dispensed with. The reasons for doing so must be clearly documented.

⁷ The conclusion of the transaction and pricing must be clearly documented.

Art. 31 Credit rating

¹ In the case of OTC transactions, the counterparty or its guarantor shall have a high credit rating.

² This requirement does not apply to the custodian bank of the securities fund.

Art. 32 Valuation

¹ Derivatives for which market prices are available shall be valued at the current prices paid on the main market. Prices are to be obtained from an external source specialising in this type of transaction and which operates independently of the fund management company or SICAV and its agents.

² If no current market price is available for derivatives, it must be possible to determine the price at any time using appropriate valuation models that are recognised in practice, based on the market value of the underlyings. Valuations are to be documented clearly.

Art. 33 Risk measurement procedure

¹ The fund management company or SICAV shall apply commitment approach I or II, or the model approach.

² The model approach requires the approval of FINMA.

³ The fund management company or SICAV shall align the risk assessment process selected with the investment objectives.

⁴ The model approach must be used where:

- a. the overall exposure of the securities fund using commitment approach I or II cannot be appropriately recorded and measured;
- b. a not negligible amount is being invested in exotic derivatives; or
- c. complex investment strategies of a not negligible amount are being used.

Art. 34 Commitment approach I

¹ For a securities fund applying commitment approach I, only basic derivative types are permitted. They may only be used where account is taken of the necessary coverage set out in this article and their use does not result in a leverage effect on the fund's assets nor does it involve short-selling.

² Exposure-reducing derivatives must at all times be covered by the relevant underlyings. If the delta has been calculated, it may be taken into account when calculating the necessary underlyings. Article 44 paragraph 3 also applies *mutatis mutandis*.

³ Covering with other investments is permitted if the exposure-reducing derivative is indexed by an independent external office. The index must be representative of the underlyings and there must be an adequate correlation between the index and such investments.

⁴ The underlying equivalents (Art. 35 para. 2) of exposure-increasing derivatives must at all times be covered by highly liquid assets.

⁵ The following assets are considered highly liquid:

- a. liquid assets as defined in Article 75 CISO⁸;
- b. money market instruments as defined in Article 74 CISO;
- c. collective investment schemes which invest exclusively in liquid assets or money market instruments;
- d. debt securities and rights with a time remaining till maturity of maximum twelve months and the issuer or guarantor have a high credit rating;
- e. synthetic liquidity;
- f. credit limits accorded to, but not used by, the securities fund, in line with the statutory and regulatory maximum investment limits;

- g. withholding tax credits as confirmed by the Swiss Federal Tax Administration.

⁶ Account can be taken of permitted netting rules and hedging transactions under Article 36 paragraphs 1, 2 and 4. Covered hedging transactions by interest derivatives are permitted. Convertible bonds do not have to be taken into account when calculating the overall exposure to derivatives.

Art. 35 Commitment approach II: determination of the overall exposure

¹ To establish the overall exposure of a securities fund using commitment approach II, the fund management company shall determine the individual conversion amounts of the respective derivatives and derivative components as well as the conversion amounts arising from investment techniques.

² In the case of basic types of derivatives, the conversion amount for the overall exposure arising from derivatives is normally the underlying equivalent, based on the market value of the underlying assets of the derivatives. The underlying equivalents are calculated in accordance with Annex 1. The nominal value or the forward price of futures contracts calculated on each trading day may be taken as the basis, if the result is a more conservative calculation.

³ The conversion amount for the overall exposure is the basic commitment from the net fund assets and the sum of the following absolute values:

- a. conversion amounts of the individual derivatives and derivative components pursuant to Annex 1 that are not included in netting pursuant to Article 36;
- b. conversion amounts after permitted netting pursuant to Article 36; and
- c. conversion amounts from permitted investment techniques.

⁴ The following transactions may be disregarded when determining the conversion amount for the overall exposure arising from derivatives pursuant to paragraph 3:

- a. swaps by means of which the performance of the underlyings directly held by the securities fund is swapped with the performance of other underlyings (total return swaps), provided that:
 - 1. the market risk of the swapped underlyings is completely eliminated from the securities fund so that these assets have no impact on the change in the value of the securities fund, and
 - 2. the swap does not grant option rights or contain leverage or other additional market risks that exceed those of a direct investment in the relevant underlyings;
- b. derivatives to which corresponding highly liquid assets are assigned so that the combination of derivative and highly liquid assets is equivalent to a direct investment in the underlying asset and neither an additional market risk nor leverage is generated. The highly liquid assets used to cover the derivative position may not be used for more than one combination simultaneously.

⁵ Securities lending and repurchase transactions must be taken into account when calculating the overall exposure if these generate leverage on the fund assets through the reinvestment of collateral. Where collateral is reinvested in financial assets that provide a return in excess of the risk-free interest rate, the amount received must be included when determining the overall exposure if cash collateral is held.

Art. 36 Commitment approach II: rules on netting and hedging transactions

¹ Counter positions in derivatives based on the same underlying as well as counter positions in derivatives and in investments in the same underlying may be netted, irrespective of the maturity date of the derivatives, provided that:

- a. the derivative transaction was concluded with the sole purpose of eliminating the risks associated with the derivatives or investments acquired;
- b. no material risks are disregarded in the process; and
- c. the conversion amount of the derivatives is determined pursuant to Article 35.

² If the derivatives in hedging transactions do not relate to the same underlying as the asset that is to be hedged, the following additional conditions must be met for netting:

- a. The derivative transaction is not based on an investment strategy that serves to generate a profit.
- b. The derivative results in a demonstrable reduction in the risk of the securities fund.
- c. The general and special risks of the derivative are balanced out.
- d. The derivatives, underlyings or assets that are to be netted relate to the same class of financial instruments.
- e. The hedging strategy remains effective even under exceptional market conditions.

³ Where interest rate derivatives are predominantly used, the amount to be included in the overall exposure arising from derivatives can be determined using internationally recognised duration-netting rules provided that:

- a. the rules result in a correct determination of the risk profile of the securities fund;
- b. the material risks are taken into account;
- c. the use of these rules does not generate an unjustified level of leverage;
- d. no interest rate arbitrage strategies are pursued; and
- e. the leverage of the securities fund is not increased either by applying these rules or through investments in short-term positions.

⁴ Notwithstanding paragraph 2, derivatives that are used solely for currency hedging purposes and do not result in leverage or contain additional market risks may be netted when calculating the overall exposure arising from derivatives.

Art. 37 Commitment approach II: documentation requirements

All calculations under Articles 35 and 36 must be clearly documented.

Art. 38 Model approach: principles of value-at-risk (VaR)

¹ Applying the model approach, the fund management company or SICAV shall estimate the risks for a securities fund as value-at-risk (VaR).

² The model must be fully documented. The documentation must in particular provide information about the specification of the risk assessment model, back-testing and stress tests.

³ The fund management company or SICAV shall verify the suitability of the model on a periodic basis, but at least once a year. The results must be clearly documented.

⁴ The VaR of a securities fund may at no time exceed twice the VaR of the benchmark portfolio of such securities fund (relative VaR limits)

⁵ When using the model approach, the fund management or the SICAV must ensure a periodical calculation of the gross overall exposure to derivatives of the securities fund in question.

Art. 39 Model approach: calculation of VaR

¹ The VaR may be determined using variance/covariance models, historical simulations and Monte-Carlo simulations. When selecting the model, the investment strategy is to be taken into account.

² The VaR must be calculated daily on the basis of the previous day's positions using the following parameters:

- a. a 99th percentile, one-tailed confidence interval;
- b. a holding period of 20 trading days;
- c. an effective historical observation period of at least one year (250 bank working days).

³ The VaR factors in interest rate risk, currency risk, share price risk and commodity risks. The following must also be taken into account:

- a. gamma and vega risks in the case of option positions;
- b. specific risks in the form of residual risks;
- c. event, default and liquidity risks as part of stress tests.

⁴ The calculations must be clearly documented.

⁵ Variance from the confidence interval, the holding period or the observation period is possible owing to exceptional market circumstances, and must have the prior approval of FINMA.

Art. 40 Model approach: benchmark portfolio

¹ The benchmark portfolio of a securities fund is assets without any leverage and generally without any derivatives.

² The composition of the benchmark portfolio corresponds to the information in the fund regulations, prospectus and information necessary for the securities fund's investors, specifically concerning its investment objectives, investment policy and limits.

³ It must be reviewed periodically, but at least once a quarter. The respective composition and any changes thereto must be documented clearly.

⁴ Where a benchmark, such as an equity index for benchmark portfolios, is defined in the fund regulations or in the prospectus and information necessary for the securities fund's investors, it may be used for calculating the VaR of the benchmark portfolios. The benchmark must be:

- a. derivative-free and not have any leverage;
- b. calculated by an independent, external office; and
- c. representative of the investment objectives, investment policy and limits of the securities fund.

⁵ The benchmark portfolio may include derivatives, where:

- a. according to the fund regulations or prospectus, the securities fund is implementing a long/short strategy, and in the benchmark portfolio the short exposure is shown as derivatives;
- b. according to the fund regulations or prospectus, the securities fund is implementing a currency hedge investment policy and a currency hedge benchmark portfolio is used as a benchmark.

⁶ If it is not possible to construct a representative benchmark portfolio on the basis of the specific investment objectives and investment policy of a securities fund, a VaR limit may be agreed upon with FINMA (absolute VaR limit). This must be stated in the prospectus.

Art. 41 Model approach: reviewing the risk assessment model

¹ In the case of a securities fund, the forecast quality of the risk assessment model must be examined by comparing the actual changes in the value of its net assets during the course of a trading day with the relevant one-day VaR (back-testing).

² The comparison must be documented clearly.

³ The sample to be used must be compiled from the previous 250 observations.

⁴ If back-testing shows the risk assessment model to be impracticable, the audit company and FINMA must be notified forthwith.

⁵ If back-testing produces more than six anomalies, the practicability of the risk assessment model must be examined in depth and the audit company and FINMA notified forthwith.

⁶ If the model is impracticable, FINMA may demand a swift rectification of any shortcomings of the model and order tighter restrictions on the risk.

Art. 42 Model approach: stress tests

¹ In the case of securities funds, extreme market circumstances must be simulated periodically, but at least monthly (stress tests).

² Stress tests must also be conducted where significant changes to the results of the stress test owing to changes in the value or the composition of the securities fund's assets, or to changes in the market circumstances cannot be excluded.

³ Stress tests include all risk factors which may have a material influence on the market value of the securities fund. Special attention must be paid to risk factors which are not or only insufficiently taken into account by the risk assessment model.

⁴ The results of the conducted stress tests and any necessary resulting measures must be clearly documented

Art. 43 Model approach: changes under the model approach

¹ FINMA may allow variances from the requirements stipulated in Articles 39- 43.

² It may permit the use of other risk assessment models, provided they afford an appropriate degree of protection.

³ If changes are made to the risk assessment model, back-testing or stress tests, these changes must be submitted to FINMA for approval in advance.

Art. 44 Cover for a physical delivery obligation of an underlying

¹ If the fund management company or SICAV enters into a physical delivery obligation in respect of a derivative, this derivative must be covered by the corresponding underlyings.

² Cover of such an obligation with other investments is permitted if the investments and the underlyings are highly liquid and, if delivery is requested, they may be purchased or sold at any time.

³ The fund management company or SICAV must have unrestricted access to these underlyings or investments at all times.

Art. 45 Covering a payment obligation

¹ If the fund management company or SICAV enters into a payment obligation in respect of a derivative, this payment obligation must at all times be covered by highly liquid assets as defined in Article 34 paragraph 5.

² In the case of securities funds applying commitment approach II or the model approach, the following shall additionally be recognised as cover:

- a. debt securities and rights the remaining time to maturity of which is more than twelve months and whose issuer or guarantor has a high credit rating;

- b. shares traded on an exchange or another regulated market open to the public.

³ It must be possible at all times to turn collateral as defined in paragraph 2 into liquid assets within seven banking days.

⁴ Shares may only be included as cover at market value less a security margin. This security margin must take account of the volatility of the corresponding share and must amount to at least 15 percent.

⁵ If an investment may require an additional payment, it is deemed an obligation to pay.

Art. 46 General provisions for inclusion of investment restrictions

¹ In complying with the statutory and regulatory investment restrictions on determining maximum and minimum limits, the following must be taken into account:

- a. investments, including derivatives, in accordance with Article 70 CISO⁹;
- b. liquid assets as defined in Article 75 CISO;
- c. claims against counterparties arising from OTC transactions.

² Pursuant to Article 82 CISO, exceptions may be made for index funds.

³ Any overrun of an investment limit due to a change in the delta must be rectified within three banking days; the rectification must ensure that the investors' interests remain safeguarded.

Art. 47 Inclusion of derivatives

¹ In complying with the statutory and regulatory maximum and minimum limits, and in particular the regulations on risk diversification, underlying equivalents as set out in Annex 1 are decisive.

² A minimum limit may be temporarily undercut with exposure-reducing derivatives purchased as part of a hedging strategy if the interests of investors remain safeguarded.

³ Derivative components are to be taken into account with the capital requirement under Article 35.

Art. 48 Inclusion of claims against counterparties at the maximum limits

¹ Claims against counterparties arising from derivative transactions must be calculated on the basis of the current positive replacement values.

² Positive and negative replacement values arising from transactions in derivatives with the same counterparty may be netted if a netting agreement exists that meets the current legal requirements and is legally enforceable.

⁹ SR 951.311

³ Claims arising from derivative transactions against a central counterparty of an exchange or another regulated market open to the public must not be taken into account if:

- a. such a unit is subject to an appropriate supervisory body; and
- b. the derivatives and collateral are subject to daily marking to market and daily margining.

Art. 49 Disclosure

¹ If the use of derivatives is permitted for the management of a securities fund, such derivatives must be described in the fund regulations and the prospectus.

² The prospectus must indicate whether the derivatives are used as part of the investment strategy or solely to hedge investment positions. In addition, the prospectus must explain how the use of derivatives affects the risk profile of the securities fund.

³ The fund regulations and prospectus must state which risk assessment process is applied to the securities fund. The risk assessment process must also be described in the prospectus. If the model approach is used, the gross overall exposure to derivatives must be shown. If the relative VaR approach is used, the benchmark portfolio must be disclosed in the prospectus.

⁴ If a securities fund exhibits increased volatility or leverage due to the use of derivatives, special reference must be made to this in the prospectus and advertising material.

⁵ Reference must be made to the counterparty risks of derivatives in the prospectus.

Section 4 Management of Collateral

(Art. 76 para. 2 and Art. 80 para. 4 CISO¹⁰)

Art. 50 Scope of application

Assets received as collateral as part of investment techniques or OTC transactions must satisfy the requirements of this section.

Art. 51 Requirements for collateral

Only collateral that meets the following requirements may be accepted:

- a. It is highly liquid and is traded at a transparent price on an exchange or other regulated market open to the public. It can be disposed of at short notice at a price close to the valuation undertaken prior to sale.
- b. It is valued at least on each trading day. Where price volatility is high, suitable conservative security margins must be applied.

- c. It is not issued by the counterparty or by a company that belongs to or is dependent on the counterparty's group.
- d. The credit quality of the issuer is high.

Art. 52 Management of collateral

The fund management company, SICAV or their agents must comply with the following duties and requirements when managing the collateral:

- a. They must diversify the collateral appropriately in terms of countries, markets and issuers. Appropriate diversification of issuers is deemed to have been achieved if the collateral of a single issuer held does not correspond to more than 20 percent of the net asset value. Deviation from this rule is permitted if the collateral meets the requirements of Article 83 paragraph 1 CISO¹¹ or the approval conditions set out in Article 83 paragraph 2 CISO are met. If collateral is provided by more than one counterparty, an aggregate perspective must be ensured.
- b. They must be able to obtain power of disposal over, and authority to dispose of, the collateral received at any time in the event of default by the counterparty, without involving the counterparty or obtaining its consent.
- c. They may not re-lend, re-pledge, sell or reinvest collateral pledged or transferred to them or use it as part of a repurchase transaction or to hedge obligations arising from derivative financial instruments. They may only use cash collateral received in the corresponding currency as liquid assets or invest it in high-quality government bonds and directly or indirectly in short-term money market instruments or use it as a reverse repo.
- d. If they accept collateral representing more than 30 percent of the fund assets, they must ensure that the liquidity risks can be captured and monitored appropriately. Regular stress tests must be carried out that take account of both normal and exceptional liquidity conditions. The controls carried out must be documented.
- e. They must take account of the risks associated with the management of collateral in their risk management process.
- f. They must be in a position to attribute any uncovered claims remaining after the realisation of collateral to the securities funds whose assets were the subject of the underlying transactions.

Art. 53 Collateral strategy

¹ The fund management company, SICAV and their agents must have in place a collateral strategy that:

- a. provides for appropriate security margins;
- b. is geared to all types of assets received as collateral; and

¹¹ SR 951.311

- c. takes account of characteristics of the collateral such as volatility and the default risk of the issuer.

² They must document the collateral strategy.

Art. 54 Safekeeping of collateral

¹ The collateral received must be kept at the custodian bank.

² Safekeeping by a supervised third-party custodian on behalf of the fund management company is permitted provided that:

- a. ownership of the collateral is not transferred; and
- b. the third-party custodian is independent of the counterparty.

³ In the case of collateral delivered to a counterparty, a custodian appointed by the latter, or a central counterparty, the custodian bank must ensure that transactions are settled in a secure manner and in line with the agreements.

Art. 55 Prospectus

The prospectus of the securities fund must contain appropriate information on the collateral strategy, in particular details of:

- a. the permitted types of collateral;
- b. the required level of collateralisation;
- c. the determination of security margins;
- d. the investment strategy and the risks in the event that cash collateral is reinvested.

Section 5 Master-Feeder Structures

(Art. 73a CISO¹²)

Art. 56 Principle

In principle, the investors in a master fund are its feeder funds. Other investors may be accepted provided the fund management company or SICAV informs them in advance of the fact that they are investing in a master fund and ensures that the other investors receive equal treatment with the feeder funds.

Art. 57 Requirements for the documents of a feeder fund

¹ In addition to the information set out in Articles 35a and 62b CISO¹³, the fund contract or investment regulations of a feeder fund or feeder sub-fund shall in particular contain the following:

¹² SR 951.311

¹³ SR 951.311

- a. a statement that the fund is a feeder fund which invests at least 85 percent of its assets in a specific master fund;
- b. the name of the master fund;
- c. the investment objective and the investment policy of the master fund;
- d. the nature, amount and method of calculation of all remuneration as well as incidental costs that result from the investment in the master fund and that are permitted to be charged to the fund assets or the investors;
- e. a statement that the fund contract or investment regulations, the prospectus, the key investor information document, as well as the annual and semi-annual reports of the master fund may be obtained free of charge;
- f. a statement that the feeder fund may continue to exist after the dissolution of the master fund or after merger, conversion or transfer of the assets of the master fund up until the application is approved pursuant to Article 63 or 64.

² In addition to the information set out in Article 106 CISO, the prospectus of a feeder fund shall in particular contain the following:

- a. a statement that the fund is a feeder fund which invests at least 85 percent of its assets in a specific master fund;
- b. a description of the master fund including the investment strategy and risk profile;
- c. a summary of the most important content of the agreements on cooperation and duties of disclosure concluded in accordance with Articles 58, 61 and 62;
- d. the location from which further information about the master fund and the agreements on cooperation and duties of disclosure concluded may be obtained free of charge.

³ The annual report of the feeder fund shall indicate the location from which the annual and semi-annual reports of the master fund may be obtained free of charge.

⁴ The marketing documents and the key investor information document on the feeder fund shall include a statement that it is a feeder fund which invests at least 85 percent of its assets in a specific master fund.

Art. 58 Joint duties of the master and feeder fund / their fund management companies

¹ The master fund shall provide the feeder fund with all the documents and information it needs to fulfil its duties. To this end, they shall conclude an agreement on cooperation and duties of disclosure.

² The agreement on cooperation and duties of disclosure shall, as a minimum, govern the following points:

- a. the principles regarding the transfer of the relevant documents and further information by the master fund to the feeder fund;

- b. the master fund's duty of disclosure to the feeder fund regarding the delegation of tasks to third parties;
- c. the violations of statutory and contractual provisions which the master fund is required to report to the feeder fund and the form and timing of such reports;
- d. the duty of the master fund to inform the feeder fund of the overall exposure arising from derivative financial instruments;
- e. the master fund's duty of disclosure to the feeder fund if it concludes additional agreements regarding the exchange of information with third parties;
- f. the ways in which the feeder fund may invest in the master fund as well as details of the costs and expenses to be borne by the feeder fund;
- g. the principles and arrangements for implementing the measures set out in paragraph 4;
- h. the arrangements for reporting the deferral of issues and redemptions and for reporting errors in the setting of prices by the master fund;
- i. the principles for reconciling the audit reports of the master fund and feeder fund.

³ If the master fund and feeder fund are managed by the same fund management company or SICAV, the agreement on cooperation and duties of disclosure may be replaced by internal regulations. These must contain measures to prevent conflicts of interest. In all other respects, the internal regulations must meet the requirements set out in paragraph 2 letters f–i.

⁴ The master fund and feeder fund shall take measures to coordinate the schedules for calculating and publishing the net asset value in order to prevent market timing and possibilities for arbitrage.

Art. 59 Duties of the master fund / its fund management company

¹ The master fund shall inform FINMA without delay of the identity of every feeder fund that invests in its units.

² It shall not charge the feeder fund an issue or redemption commission for investments in its units.

³ It shall ensure that all information required by law or contract is made available in a timely manner to the feeder fund, its custodian bank and the audit company as well as FINMA. In so doing, it shall comply with its statutory and contractual obligations regarding the disclosure of data and data protection.

Art. 60 Duties of the feeder fund / its fund management company

¹ The feeder fund shall provide its custodian bank with all the information regarding the master fund that it needs in order to fulfil its task.

² It shall take effective measures to monitor the activities of the master fund.

³ When calculating its overall exposure in accordance with Article 72 paragraph 3 CISO¹⁴, it shall take account of the overall exposure of the master fund in proportion to the feeder fund's investments in the master fund.

⁴ If the feeder fund, its fund management company or another person acting on behalf of the feeder fund or its fund management company receives a pecuniary benefit in connection with the investment in units of the master fund, this shall be credited to the assets of the feeder fund.

Art. 61 Duties of the custodian bank

¹ If the master fund's custodian bank identifies irregularities in the master fund that may have a negative impact on the feeder fund, it shall notify its audit company and the feeder fund / the feeder fund's fund management company and custodian bank. This includes, *inter alia*, the following events:

- a. errors in the calculation of the net asset value of the master fund;
- b. errors in transactions, in the settlement of purchases and sales or of orders to issue or redeem units of the master fund by the feeder fund;
- c. errors in the distribution or reinvestment of income from the master fund;
- d. violations of statutory provisions or of the investment objectives, limits, policy or strategy of the master fund described in the fund contracts or investment regulations, the prospectus or the key investor information document.

² If the master fund and feeder fund have different custodian banks, the latter shall, with the approval of the master fund and feeder fund, conclude an agreement on cooperation and duties of disclosure to ensure the fulfilment of their duties. This agreement shall, as a minimum, contain the following points:

- a. a description of the documents and categories of information that the two custodian banks exchange on a regular basis, including the arrangements for and timing of such exchanges;
- b. the principles regarding the handling of operational issues, including the calculation of the net asset value, protection against market timing, and the processing of orders of the feeder fund;
- c. the arrangements for the reporting of violations of statutory and contractual provisions by the master fund;
- d. other points that are necessary for the cooperation between the custodian banks.

³ When exchanging data, the custodian banks shall comply with their statutory and contractual obligations regarding the disclosure of data and data protection.

¹⁴ SR 951.311

Art. 62 Duties of the audit company

¹ In its short-form report for the feeder fund, the audit company shall take account of the short-form report for the master fund. If the master fund and feeder fund have different accounting years, the master fund shall compile an interim financial statement as of the reporting date of the feeder fund. Based on this, the audit company shall compile an *ad-hoc* short-form report for the master fund as of the reporting date of the feeder fund.

² In its short-form report for the feeder fund, the audit company shall mention any deviations from the standard wording contained in the short-form report for the master fund as well as any other material information, together with any influence on the feeder fund.

³ If the master fund and feeder fund have different audit companies, the latter shall conclude an agreement on cooperation and duties of disclosure to ensure the fulfilment of their duties. This shall contain, as a minimum:

- a. a description of the documents and categories of information that the two audit companies exchange on a regular basis, including the arrangements for and timing of such exchanges;
- b. the coordination of the role of the audit companies in the process of compiling the annual financial statements for the master fund and feeder fund;
- c. a statement of the information that must be included in the audit report for the master fund in accordance with paragraph 2;
- d. other arrangements governing the cooperation between the audit companies as well as the compilation and transfer of the short-form and *ad-hoc* reports.

Art. 63 Dissolution of the master fund

¹ Following the announcement of the dissolution of the master fund, the feeder fund shall without delay defer repayments. Within one month following the announcement of the dissolution of the master fund, it shall submit to FINMA a report / an application regarding:

- a. the dissolution of the master fund;
- b. an amendment to the fund contract or investment regulations due to the change of master fund; or
- c. an amendment to the fund contract or investment regulations due to the conversion into a non-feeder fund.

² The liquidation proceeds of the master fund may not be paid out before the applications set out in paragraph 1 letters b and c have been approved unless they are reinvested solely for the purpose of efficient liquidity management until the time of approval.

Art. 64 Merger, conversion and transfer of assets

¹ If the master fund decides on a merger, conversion or transfer of assets, the feeder fund must, within a month of the announcement being made by the master fund, notify FINMA whether it:

- a. is dissolving itself;
- b. intends to retain the same master fund;
- c. is switching to another master fund; or
- d. is converting itself into a non-feeder fund.

² Simultaneously with the notification, the feeder fund shall submit to FINMA any necessary application for approval of amendments to the fund contract or investment regulations.

³ If the merger, conversion or transfer of assets of the master fund takes place before the application pursuant to paragraph 1 letters c and d has been approved, the feeder fund may only return the units of the master fund if the proceeds received are reinvested for the sole purpose of efficient liquidity management until the amendments enter into force.

Chapter 2 Other Funds**Art. 65**

¹ The provisions for securities funds relating to securities lending (Arts. 1–9), securities repurchase agreements (Arts. 10–22), derivatives (Arts. 23–49), collateral management (Arts. 50–55) and master-feeder structures (Arts. 56–64) apply to other funds, *mutatis mutandis*.

² The above must be read subject to Articles 100 and 101 CISO¹⁵.

³ FINMA may permit deviations from these provisions (Art. 101 CISO).

Title 2 Institutions**Chapter 1****Organisational Requirements relating to the Delegation of Tasks**

(Arts. 14, 28 para. 4, 18 et seq., 31, 36 para. 3 CISA; Arts. 12, 26, 42, 65 and 131 et seq. CISO¹⁶)

Art. 66

¹ For the purposes of this Article, tasks are deemed to have been delegated if a licensee pursuant to paragraph 2 transfers material tasks to a third party and this results in a change to the circumstances under which the authorisation was granted.

¹⁵ SR 951.311

¹⁶ SR 951.311

² The fund management company, SICAV, asset manager of collective investment schemes and representative of foreign collective investment schemes shall set out the tasks delegated to third parties in written agreements. These shall include a precise description of the delegated tasks as well as the powers and responsibilities, any authorities in respect of further delegation, the agent's duty to give an account of its activities, and the control rights of the licensee.

³ The organisational structure shall not be deemed appropriate within the meaning of Article 14 CISA if a licensee pursuant to paragraph 2:

- a. does not possess the decision-making authority with respect to central tasks that is accorded to the board of directors or executive board;
- b. does not have the necessary personnel and expertise to select, instruct and monitor agents and manage their risks; or
- c. does not have the requisite rights of instruction and control in respect of the agents, or does so only to a limited extent.

⁴ The delegation of tasks may not hinder the audit by the audit company or supervision by FINMA.

⁵ Where tasks are delegated abroad, the licensee must be able to demonstrate that it, the regulatory audit company and FINMA are able to exercise their respective rights and enforce them under the law. The regulatory audit company must review the confirmatory documentation before outsourcing takes place.

⁶ Licensees pursuant to paragraph 1 shall set out the delegated tasks as well as information on the scope for further delegation in their organisational regulations.

Chapter 2 Risk Management and Risk Control

(Art. 14 CISA; Art. 12a CISO¹⁷)

Art. 67 Principles of risk management

¹ The board of directors of the fund management company, SICAV or asset manager of collective investment schemes shall put in place an internal control system based on systematic risk analysis and monitor it in such a way as to ensure that all material risks of the licensee are appropriately and effectively captured, assessed, managed and monitored.

² The executive board of the fund management company, SICAV or asset manager of collective investment schemes shall implement the requirements of the board of directors with regard to the setting up, maintenance and regular review of the internal control system. It shall develop suitable processes to implement the control activities that are to be integrated into working processes and to control risks.

Art. 68 Internal guidelines

¹ The fund management company, SICAV and asset manager of collective investment schemes shall set down appropriate risk management and risk control principles as well as the organisation of risk management and risk control in internal guidelines.

² They shall include the risks that:

- a. they are or could be exposed to as a result of the entirety of their business activities;
- b. the collective investment schemes managed by them as well as other assets managed by them under the terms of mandates are or could be exposed to.

³ The internal guidelines shall set out:

- a. the organisation of risk management and risk control, including the responsibilities within the licensee;
- b. the types of risk at the level of the activities of the licensee, the collective investment schemes managed, and the assets managed under the terms of mandates;
- c. the processes and systems for assessing and managing all material risks of the licensee and the collective investment schemes, and in particular their market, liquidity and counterparty risk;
- d. the tasks, responsibilities and the frequency of reporting to the board of directors and executive board.

⁴ When drafting the internal guidelines and structuring the organisation of risk management, account must be taken of the nature, scope and complexity of the transactions carried out, the collective investment schemes managed, and the assets managed under the terms of mandates.

⁵ The use of investment techniques and derivatives must be governed by internal guidelines and reviewed periodically. With respect to the use of derivatives, the internal guidelines shall also govern the following areas, in accordance with the structure and risks of the licensee:

- a. Risk policy:
 1. Permitted derivatives,
 2. Requirements to be met by counterparties,
 3. Market liquidity requirements,
 4. In relation to the use of index products: requirements in terms of representativeness and correlation;
- b. Risk control:
 1. Identification, assessment and monitoring (controlling) of risks,
 2. Authorities and limits,
 3. Risk assessment procedures,
 4. Escalation procedures in the event of limit overruns,

5. Additionally, for the model approach:
 - Method of verifying the risk assessment models, in particular VaR
 - Escalation procedures and measures in the event of unsatisfactory results of verification tests
 - Composition of the benchmark portfolios and changes to them, monitoring of the process used to determine the benchmark portfolio
 - Stress tests;
- c. Processing and valuation:
 1. Documentation of transactions,
 2. Valuation models to be used,
 3. Data and data suppliers to be used.

Art. 69 Further duties relating to risk management

¹ The fund management company, SICAV and asset manager of collective investment schemes shall regularly review the appropriateness and effectiveness of the risk management principles as well as the defined processes and systems.

² Compliance with the risk management principles and defined processes as well as the appropriateness and effectiveness of the measures to remedy any shortcomings in the risk management process are part of the reporting to the board of directors and executive board.

³ The use of investment techniques and derivatives, the management of collateral and the resulting risks must be appropriately incorporated into the risk management of the collective investment schemes managed.

Art. 70 Risk control

¹ The fund management company, SICAV and asset manager of collective investment schemes shall have sufficiently qualified specialist personnel to carry out risk control.

² Risk control shall identify, assess and monitor:

- a. the risks entered into by the licensee;
- b. the risks of each individual position of the collective investment schemes managed and their overall risk; and
- c. the risks of any other management mandates.

³ Risk control shall be kept functionally and hierarchically separate from operational business units, in particular the function concerned with investment decisions (portfolio management). It must be able to act independently.

Art. 71 Conditions for the use of derivatives

¹ When using derivatives, calculation of the current overall exposure limits and ongoing compliance with them must be ensured at all times.

² Risk control shall review the valuation models and processes.

³ In the case of physical delivery obligations arising from derivatives, risk control shall regularly review and ensure that cover in accordance with Articles 44 and 45 is available in the necessary amount.

⁴ In the case of collective investment schemes to which the model approach is applied, the executive board shall, in accordance with their risk profile, approve a documented system of upper limits for potential risk amounts (VaR limits).

⁵ In the case of collective investment schemes to which the model approach is applied, the risk control function of the fund management company or SICAV shall be accountable and responsible for the following tasks in respect of risk assessment processes:

- a. reviewing, maintaining and refining the risk assessment model;
- b. ensuring that the risk assessment model is suitable for the collective investment scheme concerned;
- c. validating and implementing the system of VaR limits for each collective investment scheme in accordance with its risk profile;
- d. determining and analysing the potential risk amounts on an ongoing basis and monitoring the upper limits;
- e. regularly monitoring the gross overall exposure of the collective investment scheme, in particular its leverage;
- f. reporting regularly to the internal body responsible regarding the current potential risk amounts, back-testing and the results of stress tests.

Chapter 3 Fund Management Company and SICAV

(Art. 33 para. 1 CISO¹⁸)

Art. 72

¹ The fund management company and self-managed SICAV shall ensure that the valuation of investments is separated from the function concerned with investment decisions (portfolio management), both functionally and in terms of personnel.

² They shall have sufficient qualified specialist staff to carry out the valuation.

Chapter 4 Asset Managers of Collective Investment Schemes

Section 1 De Minimis Approach

(Art. 2 para. 2 let. h CISA; Art. 1b para. 2 CISO¹⁹)

Art. 73 Assets to be taken into consideration

¹ When calculating the thresholds for assets managed by the asset manager of collective investment schemes, assets whose management has been delegated by the asset manager to third parties must also be taken into account.

² Where an asset manager of collective investment schemes manages a collective investment scheme that holds units of another collective investment scheme managed by that asset manager, the assets concerned need only be taken into account once when calculating the thresholds.

Art. 74 Valuation of assets under management

¹ The value of the assets under management must be determined for each collective investment scheme managed on the basis of the legal provisions applying in the state of domicile of the collective investment scheme as well as any valuation rules set down in the relevant documents of the collective investment scheme.

² The conversion amount for the overall exposure arising from leverage financing is calculated in accordance with commitment approach II.

³ The capital commitments in accordance with Article 1b paragraph 1 letter d CISO²⁰ are calculated as the sum of all amounts that the collective investment scheme / its fund management company can call from investors on the basis of binding commitments.

⁴ The nominal value of a collective investment scheme in accordance with Article 1b paragraph 1 letter d CISO is the sum of the capital commitments less the repayments already made to investors.

Section 2 Professional Indemnity Insurance

(Art. 21 para. 3 let. b CISO²¹)

Art. 75 Requirements

¹ Professional indemnity insurance for asset managers of collective investment schemes in accordance with Article 21 paragraph 3 letter b CISO²² must meet the following requirements:

¹⁹ SR 951.311

²⁰ SR 951.311

²¹ SR 951.311

²² SR 951.311

- a. It must be taken out with an insurance company within the meaning of the Insurance Supervision Act of 17 December 2004²³.
- b. The term must be at least one year.
- c. The notice period must be at least 90 days.
- d. As a minimum, the professional indemnity risks set out in Article 76 must be covered.

² Insurance coverage for an individual claim must correspond to at least 0.7 percent of the total assets of the collective investment schemes managed by the asset manager of collective investment schemes.

³ Insurance coverage for all claims in a year must correspond to at least 0.9 percent of the total assets of the collective investment schemes managed by the asset manager of collective investment schemes.

⁴ The requirements with regard to professional indemnity insurance must be complied with at all times.

Art. 76 Professional indemnity risks

¹ The professional indemnity insurance pursuant to Article 21 paragraph 3 letter b CISO²⁴ must cover the risk of loss or damage caused by the negligent performance of activities for which the asset manager of collective investment schemes is legally responsible.

² The professional indemnity risks pursuant to paragraph 1 include, *inter alia*:

- a. the risk of the loss of documentary evidence proving the collective investment scheme's ownership of assets under management;
- b. the risk of misrepresentations or misleading statements to the collective investment scheme managed or its investors;
- c. the risk of conduct that violates:
 - 1. statutory and contractual obligations,
 - 2. duties of loyalty, due diligence and disclosure to the collective investment scheme managed and its investors,
 - 3. provisions of the asset management agreement relating to the collective investment scheme, the fund contract or the articles of association of the collective investment scheme;
- d. the risk that appropriate processes for preventing dishonest, fraudulent or malicious actions are not established, implemented or maintained;
- e. the risk of assets not being valued in accordance with the rules;
- f. the risk of losses due to an interruption of business, system outages or a failure of transaction processing or process management.

²³ SR 961.01

²⁴ SR 951.311

Chapter 5 Custodian Bank

(Art. 14, 72 f. CISA; Art. 102a et seq. CISO²⁵)

Art. 77 Organisation

¹ The custodian bank shall ensure that its premises, staff and functions are independent of the fund management company or SICAV.

² Where tasks are delegated to the custodian bank by the fund management company or the SICAV, measures must be put in place to ensure that no conflicts of interest arise. Managerial independence between the delegating fund management company or SICAV and/or its agents, on the one hand, and those entrusted with the tasks of the custodian bank in accordance with Article 73 CISA must be ensured. Where conflicts of interest are unavoidable, they must be disclosed to the investors.

³ Those entrusted with the tasks of the custodian bank in accordance with Article 73 CISA may not simultaneously perform tasks delegated by the fund management company or SICAV.

Art. 78 Control function

¹ In order to carry out its control tasks in accordance with Article 73 paragraph 3 letters a and b CISA, the custodian bank shall assess the risks in connection with the nature, scope and complexity of the strategy of the collective investment scheme in order to develop control processes that are appropriate to the collective investment scheme and the assets in which it invests.

² The custodian bank shall issue appropriate internal guidelines to this effect setting out, as a minimum:

- a. how it organises its control function, in particular what roles there are and who is responsible for what;
- b. the control processes in accordance with which the controls, including those carried out when transferring safekeeping to a third-party custodian or collective securities depository within the meaning of Article 105a CISO²⁶, are to be carried out;
- c. the control plan and the control processes, in particular the methods, data basis and frequency of controls;
- d. the escalation processes that are triggered when irregularities are identified, in particular the process steps, deadlines, contacts with the fund management company or SICAV and other relevant parties, procedures for defining measures and duties of disclosure;
- e. the custodian bank's reporting on its control activities to the governing bodies, in particular the frequency, form and content thereof as well as any further addressees.

²⁵ SR 951.311

²⁶ SR 951.311

³ In respect of the fund management company, the custodian bank has the right and duty to intervene to prevent investments that are not permitted. If, in the exercise of its control function, it becomes aware of such investments, it shall restore compliance with the law by, for example, arranging for the investments to be reversed.

Title 3

Accounting, Valuation, Financial Statements and Duty to Publish

Chapter 1 Accounting

Section 1 General Provisions

Art. 79 Principles

(Arts. 87 and 91 CISA)

¹ Unless the CISA and this Ordinance provide otherwise, the provisions set out in the Code of Obligations²⁷ (CO) in accordance with Article 87 CISA apply in respect of accounting.

² Accounting must comply with the statutory requirements for the annual and semi-annual reports (Art. 89 et seq. CISA) and be conducted in such a way that the accounts provide a true and fair view of the financial situation and income.

³ Transactions, including off-balance-sheet transactions, must be recognised immediately after conclusion of the contract. Concluded transactions that have not yet been executed must be accounted for by using the closing date principle.

⁴ The accounting must take account of the tax law requirements.

Art. 80 Unit of account

(Arts. 26 para. 1, 108 CISA; Art. 35a para. 1 let. o CISO²⁸)

¹ A foreign currency may be designated as the unit of account for:

- a. an investment fund or its sub-funds in the fund regulations;
- b. the sub-funds of a SICAV in the investment regulations;
- c. a limited partnership for collective investment in the partnership agreement.

² In its investment regulations, a SICAV must also specify the currency which will serve as the unit of account for the overall accounts (Art. 98), as well as the conversion process.

³ If a foreign currency is used in accounting, the values must not also be given in the local currency.

²⁷ SR 220

²⁸ SR 951.311

Section 2 Open-Ended Collective Investment Schemes

Art. 81 Sub-funds and unit classes

(Arts. 92–94 CISA; Arts. 112 and 113 CISO²⁹)

¹ In the case of collective investment schemes which include sub-funds, the provisions of this title apply to each individual sub-fund.

² The sub-funds must be presented separately in the annual and semi-annual reports.

³ The accounting year ends on the same date for all sub-funds.

⁴ In the case of unit classes, the net asset value must be disclosed for each class.

Art. 82 Control of units and unit certificates

(Arts. 11 and 73 para. 1 CISA)

¹ The custodian bank shall record the issue and redemption of units, including fractions thereof, on a continuous basis. It shall record the following details:

- a. the date of issue or redemption;
- b. the number of units issued or redeemed;
- c. the gross amount paid by the investor or net payment made to the investor;
- d. the fees and incidental costs in relation to the issue or redemption;
- e. the amount credited or debited to the collective investment scheme;
- f. the net asset value of the unit.

² In the case of registered units, the identity of the investor must also be recorded.

³ The custodian bank shall record the issue and redemption of unit certificates separately.

Art. 83 Real estate funds

(Arts. 59 para. 1 let. b, 83 CISA; Arts. 86 para. 3 let. b and 93 CISO³⁰)

¹ The real estate fund and real estate companies owned by it must close their accounts on the same day. FINMA may grant exemptions provided consolidated financial statements are produced.

² The calculation of the net asset value must take account of taxes (income and real estate gains tax and, if applicable, real estate transfer tax) incurred in connection with any liquidation of the real estate fund.

³ Depreciation of buildings, including fixtures, may be charged to the profit and loss account provided it is economically reasonable.

²⁹ SR 951.311

³⁰ SR 951.311

Chapter 2 Valuation

Section 1 General Provisions

Art. 84 Investments (Arts. 88 and 89 para. 2 CISA)

¹ Investments are valued at market value (Art. 88 CISA).

² In the notes to the statement of net assets, or balance sheet and profit and loss account (Arts. 94 and 95), the investments are to be summarised in a table according to the following three valuation categories:

- a. trading of investments listed in a stock exchange or in another regulated market open to the public and valued according to the prices in the primary market (Art. 88 para 1 CISA);
- b. investments that are not priced according to let. a whose value is based on market-observed parameters;
- c. investments whose value cannot be based on market-observed parameters and are valued with suitable valuation models taking account of the current market circumstances.

Art. 85 Private equity (Arts. 88 para. 2 and 108 CISA)

¹ Private equity investments are valued in accordance with recognised international standards, provided the valuation is not governed by this Ordinance.

² The standards applied must be described in detail in the prospectus or regulations.

Art. 86 Real estate fund (Arts. 88 and 90 CISA)

Buildings under construction must be recognised at market price in the statement of net assets. The fund management or SICAV provides an estimation of buildings under construction recognised at market price at the closing of the financial year.

Section 2 Open-Ended Collective Investment Schemes (Art. 88 para. 2 CISA)

Art. 87

¹ The tangible and intangible assets of the company shareholders of a SICAV must be valued at acquisition or production cost less any economically necessary depreciation.

² The valuation principles for the tangible and intangible assets must be disclosed under additional information. If they are amended, the restated data for the previous year must also be disclosed for information purposes.

³ The other assets of a SICAV shall be valued in accordance with Articles 84 to 86.

Section 3 Closed-Ended Collective Investment Schemes

Art. 88 Limited partnership for collective investment

(Arts. 88 para. 2 and 108 CISA)

Articles 84–87 apply *mutatis mutandis* to the valuation process.

Art. 89 Investment company with fixed capital (SICAF)

(Art. 117 CISA)

¹ The valuation methods applied to prepare the single entity financial statements (Art. 109 para. 1) shall be in accordance with the provisions of accounting. In addition, the market values of the investments must be indicated for information purposes.

² The valuation methods applied to prepare the consolidated financial statements (Art. 109 para. 2) are as stipulated in the ordinance in accordance with internationally recognised accounting standards of 21 November 2012³¹ (VASR).

Chapter 3 General Provisions on Accountability

Art. 90 Private equity

(Arts. 88, 108 CISA)

¹ The valuation methods applied (Art. 85) must be disclosed in the annual and semi-annual reports.

² If an investment is recognised below cost, this fact must be disclosed.

³ In the case of collective investment schemes which can invest more than 10 percent of their assets in private equity, the following minimum information on the individual private equity investments, classified by type and phase of development, must be provided if they account for more than 2 percent of the assets of the collective investment scheme:

- a. description of the investment (name, registered office, purpose, capital stock and equity stake);
- b. description of the business activity and any significant developments;
- c. information on the board of directors and executive board;
- d. categorisation by development phase (such as seed, early stage or buyout);

³¹ SR 221.432

- e. scope of commitments entered into.

Art. 91 Subsidiary companies

(Art. 90 para. 1 CISA; Art. 68 CISO³²)

¹ If subsidiary companies are used to implement the investment policy, a transparent substance-over-form approach must be applied to the accounts (such as in the statement of net assets, or the balance sheet and profit and loss account, inventory, buy and sell transactions).

² The companies must be consolidated in accordance with a VASR³³ standard. Therefore, the accounting principles applied to them must be for consolidation purposes.

Chapter 4 **Accounting for Open-Ended Collective Investment Schemes**

Section 1 Annual Accounts

Art. 92 SICAVs

(Art. 36 para. 1b CISA; Arts. 68, 70, 86 and 99 CISO³⁴)

¹ The annual accounts of a SICAV comprise the annual accounts relating to the individual pools of investor assets (sub-funds) and the annual accounts relating to the shareholders' assets, and the overall accounts of the SICAV.

² The annual accounts disclose the permitted investments pursuant to Articles 70, 86 and 99 CISO in respect of the investors' assets.

³ In respect of the shareholders' assets, the annual accounts disclose the following:

- a. permitted investments within the meaning of paragraph 2 and the movable, immovable and intangible assets essential for immediate business operations of the SICAV;
- b. the permitted liabilities.

⁴ Short-term liabilities and liabilities secured by mortgage, entered into in connection with the SICAV's immediate business operations, are permitted.

⁵ The annual accounts relating to one or more selected pools of investor assets may only be published together with the overall accounts of the SICAV.

⁶ The annual accounts form part of the annual report, which replace the business report under the CO³⁵. A management report and a cash flow statement are not required.

³² SR 951.311

³³ SR 221.432

³⁴ SR 951.311

³⁵ SR 220

Art. 93 Minimum breakdown of statement of net assets, or the balance sheet and profit and loss account for investment funds and SICAVs
(Art. 91 CISA)

The statement of net assets, or the balance sheet and profit and loss account for investment funds and sub-funds must be published in the annual and semi-annual reports, whereby a minimum breakdown under Articles 67-71 must be ensured.

Art. 94 Securities funds
(Arts. 53–57 and 89 CISA; Arts. 70–85 CISO³⁶)

For securities funds, the statement of net assets, or the balance sheet and profit and loss account, have the minimum structure set out in Annex 2.

Art. 95 Real estate funds
(Arts. 58–57 and 67 CISA; Arts. 86-98 CISO³⁷)

For real estate funds, the statement of net assets, or the balance sheet and profit and loss account, have the minimum structure set out in Annex 3.

Art. 96 Other funds
(Arts. 68–71 and 89 CISA; Arts. 99–102 CISO³⁸)

The provisions on the minimum breakdown for securities funds (Art. 67) apply *mutatis mutandis* to other funds. They also include the investments permitted for other funds.

Art. 97 Minimum breakdown of balance sheet and profit and loss account relating to the shareholders' assets
(Art. 53 et seq. CISA; Art. 68 CISO³⁹)

¹ The shareholders' assets must be broken down into:

- a. investments;
- b. business assets.

² For the breakdown of investments, Articles 94–96 apply.

³ For the breakdown of the business assets, Articles 959 and 959a CO⁴⁰ apply *mutatis mutandis*.

⁴ For the notes, Article 959c CO apply *mutatis mutandis*. In addition, the valuation principles for the tangible and intangible assets of the company shareholders must be disclosed. The notes must also provide information on the risk assessment process.

³⁶ SR 951.311

³⁷ SR 951.311

³⁸ SR 951.311

³⁹ SR 951.311

⁴⁰ SR 220

⁵ Company shareholders and shareholder associations with aligned voting rights holding 5 percent or more of the shares must be listed in the annual report as follows:

- a. name or company;
- b. place of residence or domicile;
- c. percentage of shares held.

Art. 98 Overall accounts of a SICAV
(Art. 91 CISA)

¹ The overall accounts of a SICAV consist of the balance sheet, profit and loss account and the notes pursuant to the CO⁴¹ and include the investors' assets and the shareholders' assets.

² For the purpose of preparing the balance sheet and profit and loss account, the positions constituting the investors' assets must be aggregated. Classification is in accordance with Articles 94–96.

³ The shareholders' assets must be disclosed separately in the balance sheet and profit and loss account. Items are broken down *mutatis mutandis* in accordance with Articles 94–96 in the case of investments, and Article 959, 959a and 959b CO in the case of business assets.

⁴ The overall accounts of a SICAV must be structured into investors' assets, the shareholders' assets and the overall assets of the SICAV.

⁵ The information stated in Article 97 paragraph 5 must also be disclosed in the overall financial statement.

Section 2 Further Information

Art. 99 Inventory of the collective investment scheme
(Art. 89 para. 1 let. c CISA)

¹ As a minimum, the inventory must be broken down by type of investment such as securities, bank credit balances, money market instruments, derivative financial instruments, precious metals and commodities and, within such types of investment, in accordance with the investment policy by industry, geographical location, type of security (Annex 2 let. 1.4) and currencies.

² The total amount and the percentage of the overall assets of the collective investment scheme must be indicated for each group or subgroup.

³ The share in the overall assets of the collective investment scheme must be indicated for each individual value disclosed in the inventory.

⁴ Securities must also be broken down as follows:

⁴¹ SR 220

- a. traded on an official stock exchange;
- b. traded on another regulated market open to the public;
- c. as defined in Article 70 paragraph 3 CISO⁴²;
- d. as defined in Article 71 paragraph 2 CISO;
- e. securities that do not correspond to categories a–d above.

⁵ The valuation category must be indicated for each value recognised in the inventory in accordance with Article 84 paragraph 2.

⁶ In relation to the securities listed in paragraph 3, only the subtotal per category need be indicated and each item denoted accordingly.

Art. 100 Inventory of real estate funds

(Art. 89 para. 1 let. c and 90 CISA)

¹ As a minimum, the inventory must be broken down into:

- a. residential buildings;
- b. commercially used properties;
- c. mixed-use properties;
- d. building land, including properties for demolition, and buildings under construction;
- e. units in other real estate funds and real estate investment companies;
- f. mortgages and other advances secured by mortgage.

² For property in buildings with development rights and condominiums, the circumstances for each property and the total for each item in paragraph 1 letters a–d are to be indicated in the inventory.

³ The inventory must include information on each item of land and buildings:

- a. address;
- b. purchase price;
- c. estimated market value;
- d. gross income generated.

⁴ Any investments in short-term fixed-interest securities, real estate certificates or derivatives must also be disclosed.

⁵ Any mortgages and other liabilities secured by mortgage outstanding at the end of the year, as well as loans and advances must be listed stating their interest terms and maturity periods.

⁶ A list of the real estate companies owned must be published for each real estate fund, including an indication of the equity stake (voting rights/capital).

⁷ The items in the inventory must be indicated in accordance with the three valuation categories under Article 84 paragraph 2. If all the investment property have the same valuation category, they can be put together and summarised under the total property portfolio.

Art. 101 Itemisation of buy, sell and other transactions

(Art. 89 para. 1 let. c CISA)

¹ All changes in the composition of the collective investment scheme, in particular buy, sell, off-balance-sheet exposures, bonus shares, subscription rights and splits, must be disclosed in the annual report. The individual assets must be described in precise terms.

² In the case of real estate funds, each property acquired or sold must be listed individually. The agreed price must be disclosed at the request of any investor.

³ In the case of real estate funds, transactions between collective investment schemes which are managed by the same or an associated fund management company or SICAV must be disclosed separately.

⁴ Mortgages and advances secured by mortgage which have been granted over the course of the financial year and redeemed prior to the end of that financial year must be listed, including interest terms and maturity periods.

⁵ Mortgages and other liabilities secured by mortgage, as well as loans and advances which have been taken up and repaid within the financial year, must be listed, including interest terms and maturity periods, or summarised per category with an average maturity period and an average interest rate.

Art. 102 Changes in the fund's net assets

(Art. 89 CISA)

¹ For each collective investment scheme, any changes in the fund's net assets must be itemised and contain at least:

- a. the fund's net assets at the beginning of the reporting year;
- b. distributions;
- c. balance from unit transactions;
- d. overall net income;
- e. the fund's net assets at the end of the reporting year.

² The unit statistics for the reporting year must also be disclosed (Art. 89 para. 1 let. b CISA).

Art. 103 Figures from previous years

(Art. 91 CISA)

¹ In the annual and semi-annual reports, the previous year's figures must also be disclosed in the statement of net assets, or the balance sheet and profit and loss account.

² The fund's net assets and the net asset value per unit for the past three reporting years must also be itemised in the annual report. The key date shall be the last day of the reporting year.

Section 3 Appropriation of Net Income and Distributions

Art. 104 Appropriation of net income

(Art. 89 para. 1 let. a CISA)

¹ The appropriation of net income has the following minimum structure:

- a. net income for the accounting year;
- b. capital gains generated during the accounting year intended for distribution;
- c. capital gains from previous accounting years earmarked for distribution;
- d. balance brought forward from the previous year;
- e. net income available for distribution;
- f. net income earmarked for distribution to investors;
- g. net income retained for reinvestment;
- h. balance brought forward to new account.

² No reserves may be created.

Art. 105 Distributions

(Art. 91 CISA)

¹ Interim distributions of net income are only permitted if specified in the fund regulations.

² Capital gains may only be distributed if the following conditions are met:

- a. The fund regulations must provide for the distribution.
- b. The capital gains must be realised.
- c. They do not constitute interim distributions.

³ The distribution of capital gains is also permitted if there are capital losses from previous years.

⁴ No share in profit may be disbursed.

Section 4 Duty to Publish

Art. 106 Publication of issue and redemption prices, or of net asset value

(Arts. 26 para. 3, 79, 80, 83 para. 4 CISA; Art. 35a para. 1 let. 1 and 39 CISO⁴³)

¹ The issue and redemption price, or net asset value, must be published in the print media or electronic platforms cited in the prospectus each time units are issued and redeemed.

² Prices for securities funds and other funds must also be published at least twice a month.

³ Prices of the following collective investment schemes must be published at least once a month:

- a. real estate funds;
- b. collective investment schemes for which the right to redeem at any time is restricted pursuant to Article 109 paragraph 3 CISO.

⁴ The weeks and weekdays on which publication takes place pursuant to paragraphs 2 and 3 must be stated in the prospectus.

⁵ If the net asset value is published, it must be flagged «exclusive of commission».

Art. 107 Simplified prospectus for real estate funds

(Art. 76 CISA; Art. 107 CISO⁴⁴)

¹ Collective investment schemes, or sub-funds thereof, which comprise several unit classes, must disclose the information pursuant to Annex 2 point 3.3 CISO for each unit class.

² Collective investment schemes which comprise several sub-funds may publish a separate simplified prospectus for each sub-fund. If all sub-funds are listed in one simplified prospectus, the information pursuant to Annex 2 point 3.3 of the Collective Investment Schemes Ordinance must be disclosed individually for each sub-fund.

³ Collective investment schemes or sub-funds comprising several unit classes shall publish the information for all unit classes in the same simplified prospectus.

Chapter 5 Accounting for Closed-Ended Collective Investment Schemes

Art. 108 Limited partnership for collective investment

(Art. 108 CISA)

¹ Accounting shall be based on the provisions relating to open-ended collective investment schemes *mutatis mutandis*.

⁴³ SR 951.311

⁴⁴ SR 951.311

² Participations which are held purely for investment purposes may not be consolidated, irrespective of the percentage of votes and capital held in the company concerned.

Art. 109 SICAFs
(Art. 117 CISA)

¹ The accounting methods applied to individual financial statements shall in principle be based on the provisions of the open-ended collective investment schemes.

² The duty to consolidate under the CO⁴⁵ is not applied. Consolidation may be effected in accordance with a recognised VASR⁴⁶ standard.

Title 4 Audits and Audit Reports

Chapter 1 Audits

Art. 110 Separation of financial and regulatory audits and scope of audits
(Art. 126 para. 2 CISA; Art. 24 FINMASA⁴⁷)

¹ Annual audits are separated into a financial audit and a regulatory audit.

² The audit company shall conduct at least one interim audit of licensees, excepting representatives, every year.

Art. 111 Financial audit
(Art. 126 paras. 5 and 6 CISA; Art. 137 CISO⁴⁸)

¹ For a financial audit of collective investment schemes, the information is audited in accordance with Articles 89 paragraph 1 letters a-h and 90 CISA.

² The financial audit of fund management companies, asset managers of collective investment schemes, general partners of a limited partnership for collective investment and representatives of foreign collective investment schemes is conducted in accordance with Article 728 et seq. CO⁴⁹.

³ FINMA may allow exceptions for representatives of foreign collective investment schemes.

⁴⁵ SR 220

⁴⁶ SR 221.432

⁴⁷ Financial Market Supervision Act of 22 June 2007 (SR 956.1).

⁴⁸ SR 951.311

⁴⁹ SR 220

Art. 112 Regulatory audit(Art. 126 paras. 1–4 CISA; Art. 24 FINMASA⁵⁰; Arts. 2–8 FMAO⁵¹)

¹ The regulatory audit comprises examine the licensee’s compliance with the regulatory provisions applied under Article 13 paragraph 2 letters a-d, f and h CISA including collective investment schemes.

² For audit scope is to include the general partner of a limited partnership for collective investment.

³ The regulatory audit also examines the prospectus, the information it provides for investors and the simplified prospectus.

⁴ The regulatory audit may also include other information specified by FINMA.

Chapter 2 Audit Reports**Art. 113** Type of reports(Art. 126 CISA; Art. 24 FINMASA⁵²; Art. 137 CISO⁵³; Arts. 9–12 FMAO⁵⁴)

¹ The audit company shall produce:

- a. reports on the regulatory audit of the licensees and the collective investment schemes, as well as the representatives of foreign collective investment schemes not requiring authorisation (regulatory audit);
- b. audit reports on the annual accounts audit under Article 126 paragraph 5 CISA (financial audit);
- c. brief reports on the audits of collective investment schemes (financial audit).

Art. 114 Financial audit report(Art. 126 para. 4 CISA; Art. 24 FINMASA⁵⁵ and Arts. 9–12–FMAO⁵⁶)

¹ The audit company shall produce the audit reports within six months of the close of the accounting year. In individual cases, FINMA may make exceptions for this deadline.

² The audit reports on the fund management company also include the investment funds which it manages. If the fund management company's accounting year does not run concurrently with that of the investment funds, the funds' audit reports must be produced on a quarterly basis in accordance with the deadlines pursuant to paragraph 1 in addition to the audit report on the fund management company.

³ The audit reports for a limited partnership for collective investment also include the general partner.

⁵⁰ SR **956.1**

⁵¹ Financial Market Auditing Ordinance of 15 Oct. 2008 (SR **956.161**).

⁵² SR **956.1**

⁵³ SR **951.311**

⁵⁴ SR **956.161**

⁵⁵ SR **956.1**

⁵⁶ SR **956.161**

⁴ The audit reports for licensees and investment funds are to be shown to the ultimate management and those responsible for supervision and control. The audit reports must be discussed at a meeting of such a governing body, and minutes thereof shall be taken.

Art. 115 Financial audit

(Art. 126 paras. 5 and 6 CISA; Art. 137 CISO⁵⁷)

¹ The provisions set out for regular audits under the Code of Obligations⁵⁸ apply *mutatis mutandis* to financial reports on a financial report.

² The audit company produces short-form reports on a timely basis prior to the publication of the annual reports. They must be signed by the responsible lead auditor and an authorised signatory of the audit company.

³ Reports must be provided for each of the collective investment schemes with a sub-fund.

Art. 116 Short-form report

(Art. 126 paras. 5–6 CISA; Art. 24 FINMASA⁵⁹; Art. 137 CISO⁶⁰; Arts 9–12 FMAO⁶¹)

¹ The brief report expresses an opinion on the adherence to the statutory, contractual and regulatory provisions for the annual accounts, as well as the provisions laid down in the articles of association, and on the audits of the information required by Article 89 paragraph 1 letters a–h CISA, and additionally in the case of real estate funds on those audits pursuant to Article 90 CISA.

² In relation to a SICAV or SICAF, the short-form report may also include the reports of the statutory audit company pursuant to Article 728 CO.⁶²

³ FINMA may declare a standard confirmation of the audit industry organisation to be generally binding.

Title 5 Final and Transitional Provisions

Art. 117 Repeal of another decree

The FINMA Collective Investment Schemes Ordinance of 21 December 2006⁶³ is repealed.

⁵⁷ SR **951.311**

⁵⁸ SR **220**

⁵⁹ SR **956.1**

⁶⁰ SR **951.311**

⁶¹ SR **956.161**

⁶² SR **220**

⁶³ [AS **2007** 301, **2008** 5613 n. I 1]

Art. 118 Transitional provisions

¹ Licensees must submit fund contracts and investment regulations amended to comply with this Ordinance to FINMA for approval by 1 January 2017.

² From 1 January 2016 the fund management company and SICAV must:

- a. comply with the provisions on collateral management pursuant to Articles 50–55. This also applies to their agents, *mutatis mutandis*;
- b. comply with the requirements regarding measuring the risks of derivative financial instruments;
- c. disclose in their prospectuses the gross overall exposure arising from derivatives and, when applying the relative VaR approach, the benchmark portfolio in accordance with Article 49 paragraph 3.

³ Licensees in accordance with Article 13 paragraph 2 letters a, b and f CISA must, from 1 January 2016, comply with the rules on risk management and risk control pursuant to Articles 67–71 as well as the conditions for the use of derivatives set out in Article 71.

⁴ Licensees in accordance with Article 13 paragraph 2 letters a, b, f and h CISA must, from 1 January 2017:

- a. list the delegated tasks as well as the principles governing the possibility of further delegation in their corresponding organisational documents;
- b. comply with the requirements of Article 66 paragraph 5 concerning delegation abroad.

⁵ Custodian banks must, by 1 January 2016, have implemented internal guidelines in accordance with Article 78.

⁶ The provisions on consolidated financial statements and on the information on valuation categories of investments (Art. 84 para. 2) are to be complied with for the first time in the financial year commencing on 1 January 2016 or within a year after this date.

⁷ Buildings under construction must be valued at market value pursuant to Article 86 for the first time one year after this Ordinance enters into force.

⁸ The duties of disclosure in the annual financial statements in accordance with the changes to the rules set out in Annexes 2 and 3 must be complied with for the first time in the financial year beginning after 1 January 2016.

Art. 119 Commencement

This Ordinance comes into force on 1 January 2015.

Annex 1
(Art. 35 para. 2)

Inclusion of derivatives / underlying equivalents

1. In principle, underlying equivalents are determined in accordance with the following, non-exhaustive list of derivatives. The following points apply in general:

- 1.1 The reference currency of the securities fund must be used on the basis of the current exchange rates.
- 1.2 In the case of a currency derivative consisting of two contract legs where both are not required to be fulfilled in the reference currency of the securities fund, both contract legs must be included.
- 1.3 If delta is not calculated, a delta of one must be employed.

2. Basic types of derivatives are, specifically:

- 2.1 *Futures:*
 - 2.1.1 Bond future: number of contracts x contract size x market value of the cheapest deliverable reference bond
 - 2.1.2 Interest rate future: number of contracts x contract size
 - 2.1.3 Currency future: number of contracts x contract size
 - 2.1.4 Equity future: number of contracts x contract size x market price of the underlying share
 - 2.1.5 Index future: number of contracts x contract size x index level
- 2.2 *Options (buy/sell position; call/put options):*
 - 2.2.1 Bond option: number of contracts x contract size x market price of the underlying bond x delta
 - 2.2.2 Equity option: number of contracts x contract size x market price of the underlying share x delta
 - 2.2.3 Interest rate option: contract value x delta
 - 2.2.4 Currency option: contract value of the currency leg(s) x delta
 - 2.2.5 Index option: number of contracts x contract size x index level x delta
 - 2.2.6 Options on futures: number of contracts x contract size x market value of the underlying x delta
 - 2.2.7 Warrants and subscription rights: number of shares/bonds x market value of the underlying x delta
- 2.3 *Swaps:*
 - 2.3.1 Interest rate swaps: contract value
 - 2.3.2 Currency swaps: nominal value of currency leg(s)

- 2.3.3 Cross-currency interest rate swaps: nominal value of currency leg(s)
- 2.3.4 Total return swap: market value of the underlying asset
- 2.3.5 Complex total return swap: cumulative market value of both legs of the total return swap
- 2.3.6 Single name credit default swaps:
 - a. Protection seller: the higher of the market value of the underlying asset or the nominal value of the credit default swap
 - b. Protection buyer: market value of the underlying asset
- 2.3.7 Contracts for differences: number of shares/bonds x market value of the underlying asset
- 2.4 *Forwards:*
- 2.4.1 FX forwards: nominal value of currency leg(s)
- 2.4.2 Forward rate agreements: nominal value

2.5 Leveraged exposure to indices or indices with embedded leverage:

In the case of derivatives providing leveraged exposure to an underlying index, or indices that embed leveraged exposure, the conversion amounts of the corresponding assets must also be determined and included in the calculation.

3. Financial instruments with a derivative component are, specifically:

- 3.1 Convertible bonds: number of underlying assets x market value of the underlying assets x delta
- 3.2 Credit linked notes: market value of the underlying asset
- 3.3 Partially paid securities: number of shares/bonds x market value of the underlying assets
- 3.4 Warrants and subscription rights: number of shares/bonds x market value of the underlying x delta

4. Barrier options

Number of contracts x contract size x market price of the underlying asset x delta

Minimum structure of the statement of net assets / balance sheet and profit and loss account of securities funds*1. Statement of net assets and balance sheet*

- 1.1 Due from banks, including fiduciary deposits with third-party banks, broken down into:
 - 1.1.1 Sight deposits
 - 1.1.2 Time deposits
- 1.2 Money market instruments
- 1.3 Claims from repurchase agreements
- 1.4 Securities, including those on loan and under repurchase agreements, broken down into:
 - 1.4.1 Bonds, convertible bonds, warrant bonds and other debt securities and rights
 - 1.4.2 Structured products
 - 1.4.3 Shares and other equity securities and rights
 - 1.4.4 Units in other collective investment schemes
- 1.5 Other investments
- 1.6 Derivative financial instruments
- 1.7 Other assets
- 1.8 Total fund assets, less
- 1.9 Liabilities from repurchase agreements
- 1.10 Loans
- 1.11 Other liabilities
- 1.12 Net fund assets
- 1.13 Number of units outstanding
- 1.14 Net asset value per unit

2. Profit and loss account

- 2.1 Income from bank assets
- 2.2 Income from money market instruments
- 2.3 Income from reverse repos
- 2.4 Income from securities lending
- 2.5 Income from securities, broken down by:

- 2.5.1 Bonds, convertible bonds, warrant bonds and other debt securities and rights
- 2.5.2 Structured products
- 2.5.3 Shares and other equity securities and rights, including income from bonus shares
- 2.5.4 Units of other collective investment schemes
- 2.6 Income from other investments
- 2.7 Other income
- 2.8 Current net income paid in on issued units
- 2.9 Total income less:
- 2.10 Interest paid
- 2.11 Auditing expenses
- 2.12 Remunerations to the following in accordance with the fund regulations:
 - 2.12.1 The fund management company
 - 2.12.2 The company shareholders
 - 2.12.3 The custodian bank
 - 2.12.4 The asset manager
 - 2.12.5 Other third parties
- 2.13 Other expenses
- 2.14 Current net income paid out on redeemed units
- 2.15 Net income
- 2.16 Realised capital gains and losses
- 2.17 Realised net income
- 2.18 Unrealised capital gains and losses
- 2.19 Total net income

3. Notes

- 3.1 Derivatives:
 - 3.1.1 If applying commitment approach I:
 - as amount and as a percentage of net fund assets
 - a. Total exposure-increasing positions (underlying equivalent)
 - b. Total exposure-reducing positions (underlying equivalent)
 - 3.1.2 If applying commitment approach II:
 - as amount and as a percentage of net fund assets
 - a. Gross overall exposure arising from derivatives
 - b. Net overall exposure arising from derivatives

- c. Commitment arising from securities lending and repurchase agreements
- 3.1.3 If applying the model approach:
 - a. Value-at-risk limit on closing date as a percentage of the fund's net assets
 - b. Value-at-risk on closing date as a percentage of the fund's net assets
 - c. Value-at-risk (average as a percentage of the fund's net assets)
 - d. Back-testing: number of outliers
 - e. Gross overall exposure arising from derivatives
- 3.1.4 Identity of contracting partners for OTC transactions
- 3.2 Security, issuer, number / nominal value of the securities lent as at the balance sheet date
- 3.3 Security, issuer, number / nominal value of the securities under repurchase agreement as at the balance sheet date
- 3.4 Balance of account for income retained for reinvestment
- 3.5 Information on expenses:
 - 3.5.1 Information on actual rates of remuneration if maximum rates are indicated in the fund regulations
 - 3.5.2 Indication and explanation of performance in accordance with industry standards
 - 3.5.3 Total expense ratio (TER) in accordance with industry standards
- 3.6 Information concerning soft commission agreements
- 3.7 Principles applied to value and calculate the net asset value
- 3.8 Direct and indirect operating expenses arising from securities lending and repurchase agreements as well as the borrowers, counterparties and intermediaries involved
- 3.9 For index-replicating collective investment schemes: information on the level of the tracking error
- 3.10 Nature and amount of collateral received

Annex 3
(Art. 95)

Minimum structure of the statement of net assets / balance sheet and profit and loss account of real estate funds

1. Statement of net assets and balance sheet

- 1.1 Cash on hand, postal check and bank sight deposits, including fiduciary deposits with third-party banks
- 1.2 Bank time deposits, including fiduciary investments with third-party banks
- 1.3 Short-term fixed-income securities, broken down into:
 - 1.3.1 Collateral for construction projects (Art. 90 CISO⁶⁴)
 - 1.3.2 Other (Art. 89 CISO)
- 1.4 Real estate, broken down into:
 - 1.4.1 Residential property
 - 1.4.2 Commercial property
 - 1.4.3 Mixed-use property
 - 1.4.4 Building land, including properties for demolition, and buildings under construction
 - 1.4.5 Mortgages and other advances secured by mortgage
 - 1.4.6 Units in other real estate funds and real estate investment companies
- 1.5 Derivative financial instruments
- 1.6 Other assets
- 1.7 Total fund assets, less:
- 1.8 Short-term liabilities, broken down into:
 - 1.8.1 Short-term interest-bearing mortgages and other liabilities secured by mortgage
 - 1.8.2 Short-term loans and advances subject to interest
 - 1.8.3 Short-term other liabilities
- 1.9 Long-term liabilities, broken down into:
 - 1.9.1 Long-term mortgages subject to interest and other liabilities secured by mortgage
 - 1.9.2 Long-term loans and advances subject to interest
 - 1.9.3 Long-term other liabilities
- 1.10 Units of minority shareholders in real estate companies

⁶⁴ SR 951.311

- 1.11 Net fund assets before estimated liquidation taxes
- 1.12 Estimated liquidation taxes
- 1.13 Net fund assets
- 1.14 Number of units outstanding
- 1.15 Net asset value per unit

2. Profit and loss account

- 2.1 Income from bank and postal accounts
- 2.2 Income from short-term, fixed-interest securities
- 2.3 Rental income (gross income received)
- 2.4 Capitalised interest on building loans
- 2.5 Other income
- 2.6 Current net income paid in on issued units
- 2.7 Total income less:
- 2.8 Mortgage interest and interest from liabilities secured by mortgage
- 2.9 Other interest paid
- 2.10 Repairs and maintenance
- 2.11 Property management, broken down into:
 - 2.11.1 Property expenses
 - 2.11.2 General and administrative expenses
- 2.12 Appraisals and auditing expenses
- 2.13 Depreciation of land and buildings
- 2.14 Provisions for future repairs
- 2.15 Remunerations to the following in accordance with the fund regulations:
 - 2.15.1 The fund management company
 - 2.15.2 The company shareholders
 - 2.15.3 The custodian bank
 - 2.15.4 The real estate manager
 - 2.15.5 Other third parties
- 2.16 Other expenses
- 2.17 Current net income paid out on redeemed units
- 2.18 Interests of minority shareholders in real estate companies
- 2.19 Net income
- 2.20 Realised capital gains and losses

- 2.21 Realised net income
- 2.22 Unrealised capital gains and losses including liquidation taxes
- 2.23 Total net income

3. Notes

- 3.1 Balance of depreciation account for land and buildings
- 3.2 Balance of provisions account for future repairs
- 3.3 Balance of account for income retained for reinvestment
- 3.4 Number of units scheduled for redemption at the end of the next accounting year
- 3.5 Ratios in accordance with industry standards:
 - 3.6.1 Rent default rate
 - 3.6.2 Borrowing ratio
 - 3.6.3 Dividend yield
 - 3.6.4 Pay-out ratio
 - 3.6.5 Operating profit margin
 - 3.6.6 Fund operating expense ratio
 - 3.6.7 Return on equity
 - 3.6.8 Premium or discount
 - 3.6.9 Performance
 - 3.6.10 Investment return
- 3.7 Information on derivatives (Annex 2 is applicable, *mutatis mutandis*)
- 3.8 Principles for the valuation of fund assets (method of estimation and quantitative information on the assumptions in the estimation model) and calculation of the net asset value
- 3.9 Information on actual rates of remuneration if maximum rates are indicated in the fund regulations
- 3.10 Total amount of contractual payment obligations after the balance sheet date for property purchases, construction orders and investments in property.
- 3.11 Long-term liabilities, broken down into maturing within one to five years, and after five years.