

To the fund and asset management industry

Basel, 28 September 2021
member/circular DIM

No. 06/2021

Publication of Asset Management Association Switzerland self-regulation materials revised in line with FinSA/FinIA – new minimum standard as of 1 January 2022 and revised model documents

Dear Sir/Madam

The entry into force of the Financial Services Act (FinSA), the Financial Institutions Act (FinIA), and the revised Collective Investment Schemes Act (CISA) made it necessary to update the self-regulation materials published by the Asset Management Association Switzerland (formerly the Swiss Funds & Asset Management Association SFAMA).

We have therefore been working over the past few months with a special group of experts and individual specialist committees to make the necessary changes to the following documents:

- [Guidelines](#)
- [Model documents](#)
- [Model distribution agreement](#)

The revised documents were published on the Asset Management Association Switzerland's [website](#) today. The model documents for limited partnerships for collective investment as well as the English and Italian versions of certain documents will be published at a later date. The Association's remaining publications, including specialist recommendations and further model agreements, will now be reviewed and updated as necessary.

1. Guidelines

The following guidelines have been revised:

- Code of Conduct
- Guidelines for real estate funds
- Technical guidelines (Guidelines for money market funds, Guidelines on the valuation of assets and the handling of valuation errors, Guidelines on the calculation and publication of performance data, Guidelines on the calculation and disclosure of the TER)

The provisions of the old Transparency Guidelines were also revised and integrated into the revised Code of Conduct. The Distribution Guidelines and KIID Guidelines will cease to apply once the statutory transition periods expire because their content has now been subsumed within the FinSA.

FINMA recognized the revised guidelines as a minimum standard on 25 August 2021. It conducted the recognition procedure in accordance with the Ordinance to the Financial Market Supervision Act (FINMASA Ordinance) for the first time, which involved consulting the relevant federal authorities. The revisions enter into force on 1 January 2022, replacing the existing minimum standard with no interruption.

The new rules in the Guidelines for real estate funds on appointing legal entities as valuation experts reflect the existing FINMA practice and can be applied with immediate effect.

The guidelines published today as recognized by FINMA replace the versions published with the circular of 17 June 2021 ([01/2021](#)) without FINMA recognition. The new versions feature only a small number of changes. Mark-up versions showing these changes are available on our [website](#).

2. Model documents

The revised model fund documents acknowledged by FINMA were also published today. The model documents for limited partnerships for collective investment, which have been revised with the help of the Swiss Private Equity and Corporate Finance Association (SECA), will be published in the next few weeks.

Generally speaking, the new model documents are based on the system that has been in place to date. Annex 6 of the Financial Services Ordinance (FinSO), which sets out the minimum content of the prospectus for collective investment schemes, also introduced a new prospectus structure. Additional model prospectuses will therefore be published in the coming weeks that are based on the new structure according to Annex 6. While this new structure is not yet mandatory for the time being, we nevertheless recommend adopting it as quickly as possible. The new structure is likely to become mandatory for all funds in the medium term.

We informed in our circular of 15 July 2021 ([04/2021](#)) already that FINMA had extended the deadline under Art. 144 para. 3 of the Collective Investment Schemes Ordinance (CISO) for submitting fund documents revised in line with the FinSA and FinIA until 30 June 2022.

3. Model distribution agreement

Finally, the new model “distribution agreement” (agreement on promoting the sale of collective investment schemes in Switzerland) was also published today. It has been acknowledged by the Federal Tax Administration (FTA).

This model agreement aims to take account of industry practice in the new regulatory environment and provide a model for cases in which third parties are contracted to promote the sale of collective investment schemes (previously referred to as “distribution”). It is a contract between the Swiss or foreign fund provider as the principal and the third party as the agent (“distributor”), the object of which is promoting the sale of the collective investment schemes covered (“distribution”). The scope of the activities this entails remains as broad as ever. To clarify: contracting distributors does not constitute delegation of a significant function within the meaning of the FinIA. This means that the principal is not required to perform extensive monitoring.

To conclude, we would like to offer our warmest thanks on behalf of the entire Executive Board to everyone who has provided valuable assistance for the revision of our self-regulation materials in recent months.

Please do not hesitate to contact Diana Imbach or Sandra Schneider if you have any questions.

Sincerely

Asset Management Association Switzerland



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