



# MARKET INSIGHT

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An aerial photograph of a tropical beach. The water is a vibrant turquoise color, transitioning to a lighter, sandy tone as it meets the shore. The beach is a wide expanse of white sand, with some darker patches of vegetation visible in the distance. The sky is a deep blue with scattered white clouds. The text "SUCCESS. TOGETHER." is overlaid in white, bold, sans-serif font in the center of the image.

SUCCESS. TOGETHER.



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“As with any new set of rules, there is often a dichotomy between what the regulator and the market wants.”

# FUNDS IN SWITZERLAND: SCALE AND PRAGMATISM

With 27% market share, Switzerland is the world's largest financial centre for cross-border wealth management. Today, private assets managed by Swiss banks total over CHF 3.7tn and the market for funds has become the fourth largest in Europe. However, this is not the only reason for the Swiss market's appeal to foreign funds. A pragmatic regulatory framework allows investment managers to access the market easily and cost effectively. The Collective Investment Scheme Act of 2015 (CISA) aligned Switzerland to Europe's AIFMD, whilst the Financial Services Act (FinSA) and Financial Institutions Act (FinIA) of 2020 align Switzerland to MiFID II. This adds another layer of requirements for market participants; but with the right institutional partner, implementation can be straightforward. Now more than ever, funds are turning to institutional interlocutors who understand their business requirements and who act as their single counterparty to assist beyond the purely administrative.

## FUND DISTRIBUTION IN SWITZERLAND – CISA AND NOW FINSA AND FINIA

CISA has regulated the distribution of funds in Switzerland since 2007 for retail investors and 2015 for qualified investors. It created the requirement for foreign funds to appoint a Swiss Representative and Paying Agent in order to raise assets from Swiss-based investors. As of 1 January 2020, funds need to contend with new rules set out in FinSA and FinIA. These do not replace CISA, but instead repeal and modify parts of it – often leading to confusion on the requirements and even creating some regulatory voids. Without going into the regulatory intricacies, the main

changes that will ultimately affect fund distribution in Switzerland are:

- Client Segmentation: financial service providers are now required to categorise existing or potential investors as Private, Professional or Institutional, as opposed to the previous Qualified vs. Non-Qualified Investors nomenclature of CISA. A Swiss Representative and a Paying Agent are required for distribution to HNWI and Private Clients.

- Distribution becomes Offer: the broad definition of “distribution” as any act of solicitation for an investment in a fund is now replaced by the narrower definition of “offer”. Under FinSA, in order to constitute an “offer”, a proposal must contain enough information on the fund and its terms for an investment decision to be made.

- Register of Client Advisers and Ombudsman: client advisers, including those offering units of collective investment schemes, must be listed in a register of advisers. Client advisers of foreign financial service providers which are prudentially supervised abroad are exempt if the services they provide in Switzerland are exclusively for professional or institutional clients. Furthermore, clients of financial service providers are able to appeal to a mediation body. All financial service providers (Swiss and foreign) must be affiliated to one of the seven currently officially approved ombudsman offices.

“So, what now?” For the time being, the status quo remains through the two-year transition period ending 31 December 2021. During this time, certain market participants will have to list in the register of

advisors, become affiliated to an Ombudsman office and for entities such as Independent Asset Managers, Family Offices or Trustees become authorised and regulated directly by FINMA. Until all of a fund's targeted clients have implemented the new FinSA requirements, the pre-existing CISA prevails for fund offering in Switzerland and the appointment of a Swiss Representative and a Swiss Paying Agent is still required.

## HE WHO CAN DO MORE CAN DO LESS

As with any new set of rules, there is often a dichotomy between what the regulator and the market wants. Discussions with funds, prime brokers, lawyers, and even banks have shown that the market is taking a more pragmatic and conservative stance. Funds understand that they may not require a Swiss Representative and a Paying Agent for all their investors but it is often more cost effective to guarantee compliance by maintaining their current regulatory set-up.

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