

Circular 2008/10

Self-regulation as a minimum standard

Self-regulation recognised as a minimum standard by the Swiss Financial Market Supervisory Authority (FINMA)

Reference: FINMA Circ. 08/10 "Self-regulation as a minimum standard"
 Date: 20 November 2008
 Entry into force: 1 January 2009
 Last amendment: 1 February 2012 [Modifications are listed at the end of the document.]
 Concordance: previously SFBC Circ. 04/2 "Self-regulation as a minimum standard" of 21 April 2004
 Legal framework: FINMASA art. 7 sect. 1 lett. a and sect. 3
 Appendix: Self-regulation recognised by FINMA

Addressees																					
BA			ISA			SESTA		CISA							AMLA			Other			
Banks	Financial groups and congl.	Other intermediaries	Insurers	Insurance groups and congl.	Insurance intermediaries	Stock exch. and participants	Securities dealers	Fund management companies	SICAVs	Limited partnerships for CISs	SICAFs	Custodian banks	Asset managers CISs	Distributors	Representatives of foreign CISs	Other intermediaries	SROs	DSFIs	SRO-supervised institutions	Audit firms	Rating agencies
X							X	X	X	X	X		X	X	X						

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I. Recognition of self-regulation

FINMA recognises the self-regulation listed in the Appendix to this Circular to be the minimum standard applicable to the addressees named below. 1

II. Addressees of the Circular

The addressees of this Circular are the following, depending on their business operations: banks,¹ securities dealers² and fund management companies,³ investment companies with variable capital,⁴ limited partnerships for collective investments,⁵ investment companies with fixed capital,⁶ distributors of collective investment schemes,⁷ asset managers of collective investment schemes⁸ and representatives of foreign collective investment schemes⁹ in terms of the Collective Investment Schemes Act (CISA; SR 951.31). 2

III. Audit

Audit firms are to examine compliance with the self-regulation recognised as a minimum standard in accordance with FINMA Circ. 08/41 “Audit matters” and document the results of any audit activities in their audit report. 3

¹ As set out in art. 1 and 2 of the Banking Act (BA; SR 952.0).

² As set out in art. 2 lett. d of the Stock Exchange Act (SESTA; SR 954.1).

³ As set out in art. 28 of the Collective Investment Schemes Act (CISA; SR 951.31).

⁴ As set out in art. 36 CISA.

⁵ As set out in art. 98 CISA.

⁶ As set out in art. 110 CISA.

⁷ As set out in art. 19 CISA.

⁸ As set out in art. 18 and art. 13 sect. 4 CISA.

⁹ As set out in art. 123–124 CISA.

Self-regulation recognised by FINMA

I. Self-regulation of the Swiss Bankers' Association¹⁰

<u>Guidelines</u> for the Management of Country Risk of 28 November 1997	1
<u>Guidelines</u> on the Treatment of Dormant Accounts, Custody Accounts and Safe-Deposit Boxes held in Swiss Banks of 3 February 2000	2
<u>Guidelines</u> Concerning Notes of Foreign Issuers of 16 July 2001 (document only available in German: Richtlinie zu Notes ausländischer Schuldner)	3
<u>Allocation</u> Directives for the New Issues Market of 2 June 2004	4
<u>Guidelines</u> Concerning the Treatment of Counterfeit Money and Precious Metal Coins and Bullion of 13 March 2007 (document only available in German: Richtlinien betreffend die Behandlung von Falschgeld und falschen Edelmetall-Münzen und Barren)	5
<u>Guidelines</u> on informing Investors about Structured Products of July 2007	6
<u>Recommendations</u> for Business Continuity Management (BCM) of 14 November 2007: limited to sect. 5.4.1 "Business Impact Analysis" and sect. 5.4.2 "Business Continuity Strategy"	7
<u>Directives</u> on the Independence of Financial Research of 22 January 2008	8
<u>Agreement</u> on the Swiss Banks' Code of Conduct with Regard to the Exercise of Due Diligence (CDB 08) of 10 April 2008 and <u>Special</u> Provisions on the Identification of Clients in the Credit Card Business of 10 August 2004	9
<u>Code</u> of Conduct for Securities Dealers Governing Securities Transactions of 22 October 2008	10
<u>Directives</u> on Fiduciary Investments of 22 June 2009	11
<u>Guidelines</u> for Portfolio Management of 16 April 2010 ¹¹	12

¹⁰ Available for download from <http://www.swissbanking.org/>

¹¹ Supervised entities in individual asset management also have the option of selecting one of the following self-regulation codes for adherence:

- "Code de déontologie relatif à l'exercice de la profession de gérant de fortune indépendant" of Association Romande des Intermédiaires Financiers (ARIF);
- "Norme di comportamento nell'ambito della gestione patrimoniale (NCGP)" of Organismo di Autodisciplina dei Fiduciari del Cantone Ticino (OAD FCT);
- "Règlement relatif aux règles-cadres pour la gestion de fortune" of OAR-G Organisme d'autorégulation fondé par le GSCGI et GPCGFG;
- "Règles d'Ethique Professionnelle" of the Swiss Association of Independent Financial Advisors (SAIFA);
- "Schweizerische Standesregeln für die Ausübung der unabhängigen Vermögensverwaltung" of the Swiss Association of Asset Managers (SAAM);
- "Standesregeln" of PolyReg General Self-Regulatory Organisation;
- "Verhaltensregeln in Sachen Ausübung der Vermögensverwaltung" of VQF Financial Services Standards Association.

Self-regulation recognised by FINMA

Guidelines Governing the Auditing, Valuation and Treatment of Mortgage-backed Loans of 28 October 2011 (document only available in German: Richtlinien für die Prüfung, Bewertung und Abwicklung grundpfandgesicherter Kredite) 13

Agreement of Swiss Banks and Securities Dealers on Depositor Protection of 6 December 2011 (document only available in German: Vereinbarung der Schweizer Banken und Effekthändler über die Einlagenversicherung) 14

II. Self-regulation of the Swiss Funds Association¹²

Guidelines on Transparency with Regard to Management Fees of 7 June 2005: with the exception of section II.A.2 "Disclosure in the Fund Regulations and Prospectus" 15

Guidelines for Real Estate Funds of 2 April 2008 16

Guidelines on the Calculation and Publication of Performance Data of Collective Investment Schemes of 16 May 2008 17

Guidelines on the Calculation and Disclosure of the Total Expense Ratio (TER) and Portfolio Turnover Rate (PTR) of Collective Investment Schemes of 16 May 2008 18

Guidelines on the Distribution of Collective Investment Schemes of 29 May 2008 19

Guidelines on the Valuation of the Assets of Collective Investment Schemes and the Handling of Valuation Errors in the case of Open-End Collective Investment Schemes of 20 June 2008 20

Code of Conduct for the Swiss Fund Industry of 30 March 2009 21

Code of Conduct for Asset Managers of Collective Investment Schemes of 31 March 2009 22

Guidelines on "key investor information" concerning securities funds and other funds for traditional investments in the form of public funds of 20 January 2012 (document only available in German: Richtlinien zu den "Wesentlichen Informationen für die Anlegerinnen und Anleger" für Effektenfonds sowie für übrige Fonds für traditionelle Anlagen in der Form von Publikumsfonds) 23

¹² Available for download from <http://www.sfa.ch/>

Appendix „Self-regulation of the Swiss Bankers' Association“ has been modified as follows:

On 19 March 2009, the “Agreement of Swiss Banks and Securities Dealers on Depositor Protection of 5 March 2005” is replaced by the “Agreement of Swiss Banks and Securities Dealers on Depositor Protection of 5 September 2009”.

On 29 June 2009, the “Directives on Fiduciary Investments of 22 June 1993” are replaced by the “Directives on Fiduciary Investments of 22 June 2009”.

On 10 May 2010, the “Guidelines for Portfolio Management of 21 December 2005” are replaced by the “Guidelines for Portfolio Management of 16 April 2010”.

On 28 October 2011, the “Guidelines Governing the Auditing, Valuation and Treatment of Mortgage-backed Loans of 16 December 2003” are replaced by the “Guidelines Governing the Auditing, Valuation and Treatment of Mortgage-backed Loans of 28 October 2011”.

On 6 December 2011, the “Agreement of Swiss Banks and Securities Dealers on Depositor Protection of 5 March 2009” is replaced by the “Agreement of Swiss Banks and Securities Dealers on Depositor Protection of 6 December 2011”.

Appendix „Self-regulation of the Swiss Funds Association“ has been modified as follows:

On 22 April 2009, the “Code of Conduct for the Swiss Fund Industry of 30 August 2000” is replaced by the “Code of Conduct for the Swiss Fund Industry of 30 March 2009”.

On 22 April 2009, the “Code of Conduct for Asset Managers of Collective Investment Schemes of 31 March 2009” is added to the appendix.

On 1 February 2012, the “Guidelines on ‚key investor information‘ concerning securities funds and other funds for traditional investments in the form of public funds of 20 January 2012” are added to the appendix.