

As expected, the number of licensed asset managers of collective investment schemes increased as the transitional periods under the revised Collective Investment Schemes Act neared their end. Changes to the licensing procedure and enhanced communication led to efficiency gains.

In 2014, the newly created Asset Management division focused primarily on improving the efficiency of the licensing procedure and stepping up communication with applicants.

Market trend: asset managers

The number of institutions supervised under the Collective Investment Schemes Act (CISA) rose again in 2014, as did the volume of assets under management.

With a few exceptions,³⁰ all Swiss-domiciled asset managers of collective investment schemes (CIS asset managers) are subject to FINMA supervision now that the partially revised CISA is fully in force. For the first time, asset managers of foreign collective investment schemes must also be licensed. Under the transitional periods set out in the revised CISA, they were required to report to FINMA by the end of August 2013 and then had until the end of February 2015 to apply for a licence. As a result, the number of licensed CIS asset managers had risen to 151 by the end of 2014 (2013: 119). Additional applications were received before the end of the transitional period and have since been approved by FINMA or are pending, so the number will increase further in 2015.

Assets managed by CIS asset managers also increased, to CHF 164 billion as of 31 December 2013 (previous year: CHF 147 billion). Adding in assets managed directly by fund management companies, supervised institutions managed assets totalling CHF 535 billion as of 31 December 2013.

These developments, coupled with the steady growth in asset management over recent years, have given rise to new challenges. FINMA has responded accordingly, and its newly created Asset Management division implemented a range of measures that have increased the efficiency of licensing and supervision.

Changes to the licensing procedure for CIS asset managers

In response to a number of frequently asked questions on the licensing procedure for CIS asset managers, FINMA briefed market participants on issues such as corporate governance, the expertise required of the board of directors and executive board, risk management, compliance, internal control systems and separation of functions. In addition, it communicated its expectations in those areas.

These briefings heightened understanding of the requirements, in particular compliance with the licensing conditions. Combined with the introduction of standardised application form templates, streamlined internal processes and greater communication with audit firms, lawyers and consultants, they improved the quality of applications and cut the average time taken to process new applications and amendments.

FINMA can also relax certain organisational requirements for “start-up” asset managers if it deems this appropriate given the scope and complexity of their business model. Since such asset managers need a licence before they can commence operations and thus rely on their applications being processed swiftly, they are normally dealt with within 90 days provided they meet the legal and other regulatory requirements.

Clarification of practice

One exception to the licensing requirement under CISA, adopted from the EU’s Alternative Investment Fund Managers Directive (AIFMD), applies to managers of assets that fall below the “de minimis” thresholds.³¹ The wording of the relevant article in CISA has caused some uncertainty, in particular regarding whether Article 2 para. 2 let. h no. 2 CISA applies only if the collective investment schemes

³⁰ See Article 2 para. 2 let. h CISA.

³¹ Asset managers of foreign CISs are not subject to CISA if the assets under management do not exceed the figures stated in Article 2 para. 2 let. h nos. 1 and 2 CISA and they are only open to qualified investors.

managed by the asset manager are invested solely in non-leveraged target funds or, alternatively, if the collective investment schemes managed do not in principle employ leverage. FINMA's interpretation of this provision is that it applies to all asset managers of non-leveraged collective investment schemes for qualified investors that are closed-ended for a minimum of five years where the assets under management amount to less than CHF 500 million, regardless of whether they are invested in target funds or other investments.

One of the most important licensing conditions for CISA asset managers is that they manage a collective investment scheme. When processing a number of applications, FINMA found that while the applicants managed a scheme authorised or registered under foreign law, only one investor or a group of investors that were not independent of each other had invested in it. In such cases, FINMA informed the applicants that this did not meet the definition of a collective investment scheme under CISA and instructed them either to comply with the conditions or withdraw their application.

Many of the newly licensed CIS asset managers manage foreign collective investment schemes established in offshore locations and not subject to equivalent supervision. To protect investors in such structures, FINMA ordered the applicant to provide up-to-date confirmations, verified by an audit firm, of the actual existence and scope of the assets managed in the collective investment schemes concerned.