

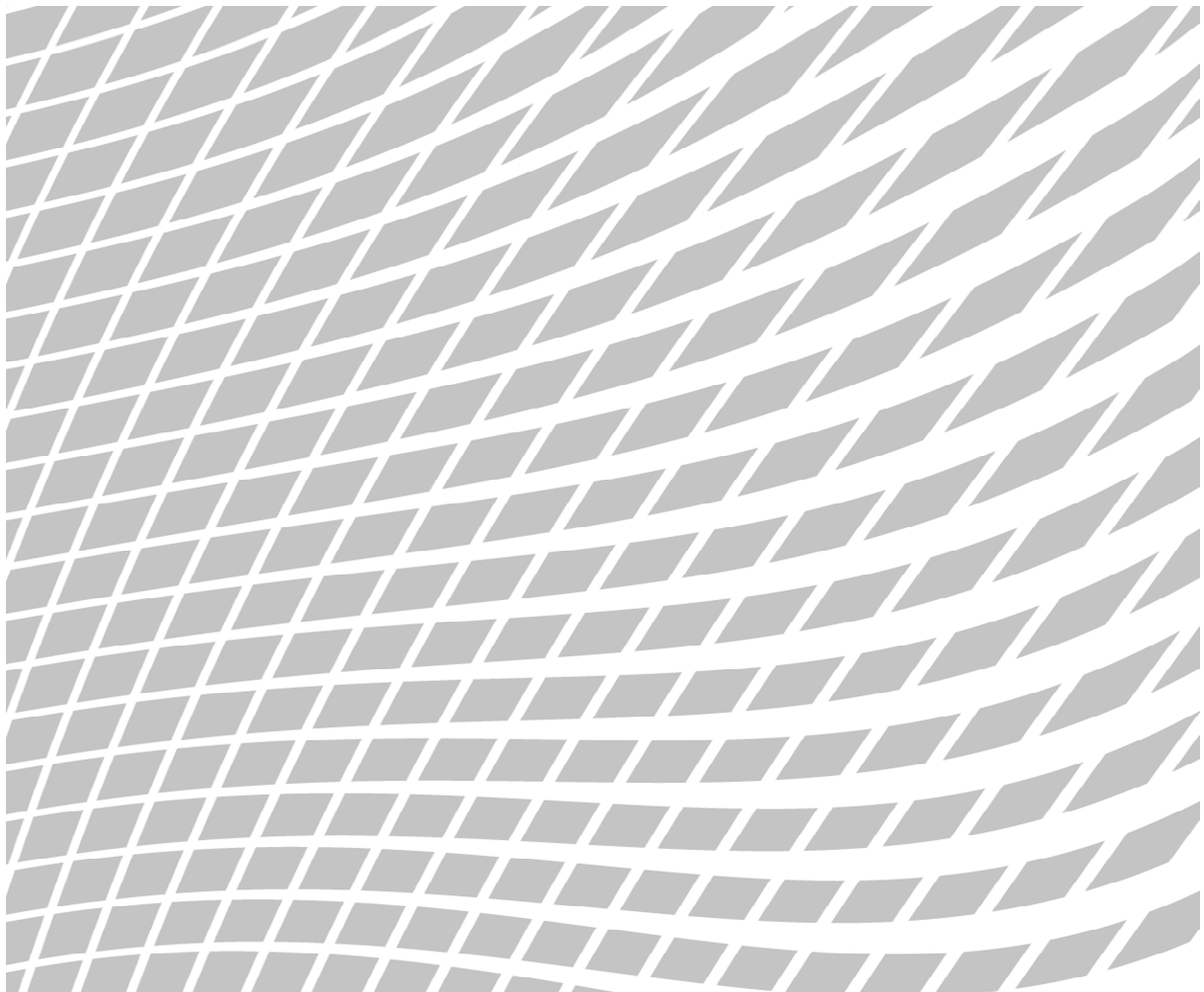
15 April 2013

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## **Circular 2013/xy “Distribution of collective investment schemes”**

### Key points

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## Key points

1. In the partly revised Collective Investment Schemes Act (CISA) and the Collective Investment Schemes Ordinance (CISO) that came into force on 1 March 2013, the term 'public advertising' has been replaced by the broader term 'distribution' (Art. 3 CISA; Art. 3 CISO).
2. Following the revision of the CISA and the CISO, there is no longer a distinction made between 'public' and 'non-public' advertising. It is therefore necessary to fully revise FINMA Circular 2008/8 'Public advertising – collective investment schemes'.
3. Within the meaning of Article 3 CISA, any form of offering and advertising collective investment schemes is, in principle, considered as distribution of collective investment schemes where (i) it is not directed exclusively at investors under Article 10 para 3 let. a and b CISA and (ii) it is not included in the exemption clause under Article 3 para. 2 CISA.
4. The term 'distribution' within the meaning of Article 3 para. 1 CISA in particular excludes offering and advertising collective investment schemes that are aimed solely at qualified investors as prescribed in Article 10 para. 3 let. a (supervised financial intermediaries) and let. b (supervised insurance companies). Other exceptions include execution-only transactions and asset management advisory services.
5. The purpose of the revised circular is to define the term 'distribution of collective investment schemes' and explain what activities qualify as distribution. Moreover, the legal consequences entailed where a certain activity qualifies as distribution are set out.