

SWISS FUNDS ASSOCIATION SFA ("SFA") PUBLISHED REVISED GUIDELINES ON THE DISTRIBUTION OF COLLECTIVE INVESTMENT SCHEMES EFFECTIVE AS OF 1 JULY 2008

The SFA has adapted the former Guidelines on Fund Distribution, including the Provisions for Distributors, of 22 October 2001 to the Collective Investment Schemes Act of 23 June 2006 ("CISA") which entered into force on 1 January 2007.

Key Changes:**Provider Side (Swiss Representatives of Foreign Collective Investment Schemes, Swiss Fund Management Companies, Swiss SICAVs and SICAFs):**

- Deadline until **30 June 2009** to adapt existing distribution agreements.
- No duty anymore to obtain information regarding organisation of distributors exempt from authorisation requirement (e.g. banks).
- No duty anymore to obtain information regarding salary politics of a distributor.
- No duty anymore to file a list with all distribution agreements with the Federal Banking Commission.
- Duty to support and educate the Distributor only if necessary.

Distributor Side:

- New duty to document initiation of contact by investors on their own initiative. Deadline until **31 December 2008** to implement organisational measures to document such "own initiative-contacts".
- Audit of compliance with Provisions for Distributors by distributors which are exempt from authorisation requirement for the **business year 2009** notwithstanding the fact that they are subject to different audit cycles.
- Yearly audits of compliance with Provisions for Distributors by distributors which are subject to authorisation requirement. Audit reports to be furnished to Provider within **4 months** after close of business year.
- Certain information and disclosure obligations do not apply to banks and securities dealers anymore.
- No explicit obligation to avoid conflicts of interest anymore but emphasised provision that distributors act exclusively in the interest of the investors.

Our view:

Whilst the impact of these changes to the parties of existing distribution agreements will have to be assessed on a case-by-case basis, it remains to be seen whether the last of the above points already is a first indication about the direction Swiss self-regulation may go in the context of disclosure and transparency at the "point of sale" and what the long awaited but still developing SFA Transparency Guidelines will contain in this respect.

For more information feel free to contact any of our investment fund specialists (www.nastra.ch)

Note: None of the information contained herein is to be regarded as binding legal advice.