

REMINISCENCE OF THE SWISS FINISH:**SWISS FUNDS ASSOCIATION SFA ("SFA") COMMUNICATES SWISS REQUIREMENT TO DISCLOSE TER/PTR AND PERFORMANCE FIGURES IN SIMPLIFIED PROSPECTUSES OF UCITS (TO BE) REGISTERED IN SWITZERLAND**

Following the decision to abolish the "Swiss finish" with effect as from 1 March 2009, the FINMA had, amongst others, deleted the explicit requirement to disclose TER/PTR/performance in the simplified prospectus from its guidelines regarding applications for approval for public distribution of UCITS in Switzerland (the "Guidelines for UCITS").

Despite the deletion of the said requirement from the Guidelines for UCITS the requirements of the SFA Guidelines on the Calculation and Disclosure of the TER and PTR and the SFA Guidelines on the Calculation and Publication of Performance Data remained applicable in cases where TER/PTR/performance data was disclosed in the simplified prospectus of UCITS (to be) registered in Switzerland, was it due to a requirement to disclose such data in the home country of the UCITS or voluntarily.

With its Circular 16/2010 the SFA on 3 June 2010 informed its members that "in every case, the TER, PTR and performance information must be disclosed in the simplified prospectus of a foreign collective investment scheme. This also applies in respect of the TER and PTR in those cases where there are no equivalent requirements in the country of domicile of the foreign collective investment scheme concerned." The said Circular further sets out that the information is given "in conjunction with FINMA" and that the TER and PTR must be "disclosed in accordance with the SFA model simplified prospectus".

Our view:

- By reinstating the Swiss requirement to disclose TER/PTR/performance in the simplified prospectus of UCITS the FINMA (communicating through the SFA after consultation) applies the respective requirements applicable to Swiss funds also to UCITS (to be) registered in Switzerland.
- Article 2 section 4 of the Swiss Collective Investment Schemes Act allows the application of such requirements also to foreign investment schemes.
- However, we do not see the rationale behind the deletion of a requirement in the FINMA's Guidelines for UCITS and the reinstating of such requirement after more than one year by ways of an SFA Circular "in conjunction with FINMA". The absence of any comments by FINMA known to us relating to the said requirement in respect of simplified prospectuses filed with FINMA in the meantime does further weaken the impression of a strictly coordinated approach.

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.