

Regulatory changes – an opportunity for the Swiss asset management industry

Markus Fuchs, Managing Director of the **Swiss Funds & Asset Management Association (SFAMA)** provides a brief overview of current regulatory developments affecting the sector, and explains why some aspects of these changes may have a positive outcome for the sector in Switzerland

The revisions to Switzerland's Collective Investment Schemes Act (Cisa) and Ordinance came into effect on 1 March 2013. Their aim was to close gaps in the regulations, bring legislation into line with European law (e.g. Alternative Investment Funds Directive, AIFMD), improve investor protection, and strengthen Switzerland as an asset management and production location. Meanwhile, the completely revised Collective Investment Schemes Ordinance of the Swiss Financial Market Supervisory Authority (FINMA) was published in October 2014, entering into force on 1 January 2015.

Major changes are in the offing, not just for the regulation of fund business, but of the entire Swiss financial market. In December 2013, the Federal Council launched consultations on the Financial Market Infrastructure Act (FMIA), designed to enhance the stability and competitiveness of Switzerland's financial industry in the long term by bringing the regulation of financial market infrastructures and derivatives trading into line with market developments and international requirements. Consultations for the Federal Financial Services Act (FFSA) and the Financial Institutions Act (FinIA) ended on 17 October 2014. These draft laws are aimed at strengthening client protection in the financial sector, and reducing market distortions by ensuring a level playing field for providers of different financial services and products. The new regulations also seek to bolster the competitiveness of Switzerland's financial sector internationally.

Benefits outweigh costs

This draft legislation could greatly benefit Swiss asset management. However, it has also given rise to criticism, with concerns voiced over the costs of introducing the new laws. Are the potential gains for the Swiss financial centre not worth the effort and expense? With exportability of our asset management at stake, we have to ask if we can afford to squander access to clients in the EU.

Given the array of political issues still to be resolved, the FFSA is certainly no guarantee of market access. However, cross-border marketing of financial services under the Markets in Financial Instruments Directive (MiFID) hinges on Switzerland being able to demonstrate that it has a legal framework with equivalent rules. MiFID II is part of the regulatory efforts undertaken in Europe, in the aftermath of the financial crisis, in an attempt to impose more stringent rules on potential market participants, while at the same time increasing consumer protection. Switzerland must adopt an appropriate course, otherwise it risks being left by the wayside.

Horizontal approach

The draft FinIA/FFSA legislation gives the Swiss financial centre the opportunity to systematically re-align and augment regulations that have evolved over decades. It envisages a departure in form from the erstwhile 'vertical' pillar-like structure of financial market law, toward 'horizontal' regulation of cross-sectoral themes. The result is essentially an umbrella law that should also be easier to understand and implement internationally. The FinIA will also make financial institutions that do asset management for third parties subject to coherent supervision for the first time: an important change that will give Swiss asset management the visibility required internationally.

In the consultations the Federal Department of Finance received some 200 submissions on the FFSA and FinIA. In its position paper the Swiss Funds & Asset Management Association (SFAMA) welcomed the draft legislation from the perspective of Swiss asset management, while highlighting the clear need for amendments, specifically regarding legal enforcement. Given that a large portion of Swiss financial services and products are exported to the EU, orientation toward EU regulations is a

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necessity. However, care must be taken to ensure that this is only applied to the extent necessary to safeguard such export opportunities going forward. The draft legislation overshoots the mark in various respects, and must be amended accordingly.

Significance of asset management

Why are the FFSA and FinIA important for Swiss asset management and, ultimately, also for the financial centre as a whole, as well as Switzerland's economy? Asset management is a mainstay of the Swiss financial industry, and various studies have shown that its significance is set to increase further in future. Switzerland boasts extensive expertise, and ranks among the leading locations for wealth management and insurance worldwide. In addition to numerous traditional Swiss businesses, asset management has attracted a whole host of experts and global managers to Switzerland in recent years. Bolstering asset management could create jobs in the financial sector in Switzerland, and enhance value creation. This could make up for part of the downturn in the traditional banking business.

The Swiss institutional asset management business is set to post only modest growth of just under 2% per annum through to 2020, compared with the attractive 6% per annum that is forecast for the global market. Growth will come primarily in the pensions segment, with pension funds, insurers, and sovereign wealth funds (SWFs) being the main investors. Securing the corresponding financing is likely to be one of the biggest political challenges worldwide in the coming years. Successful asset management could do a lot in terms of finding a solution, and is not simply another financial industry problem. We can therefore assume that an even greater proportion of our clients will come from outside Switzerland in future.

Summary

If Swiss asset management is to be strengthened over the long term, and its competitiveness maintained, Swiss providers must be able to participate in the growth in institutional assets forecast internationally. This depends on their being able to export their products and services to other countries, which in turn hinges on aligning Swiss financial market legislation with

international regulatory standards. The FMIA, FFSA and FinIA will play a part in safeguarding the exportability of Swiss financial products and services. The proposed restructuring of the financial market legislative regime, and the draft laws, represent an investment in Switzerland as a financial centre, and will pay off over the medium to longer term for the Swiss asset management industry, the financial sector as a whole, and the broader economy.

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About the author

Markus Fuchs is the Managing Director of the Swiss Funds & Asset Management Association (SFAMA). He became Managing Director of SFA (the prior organisation) in July 2013, having been with SFA as a Senior Counsel, in charge of asset management and alternative investments, since 2010. He has been working in the fund and asset management industry since 1992. He previously built up and headed the Products & Fund Services team at Bank Hoffman, a subsidiary of Credit Suisse, in the 1990s. From 2000 until 2004 he headed the fund product management team of Swiss Life, as CEO of Swiss Life Funds AG. He then joined UBS AG as a Managing Director (Global Wealth Management & Swiss Bank/Products & Services), where he had the overall responsibility for proprietary hedge fund products. He has a degree in Economics from the University of Zurich and an Executive MBA from the IMD International Management Development in Lausanne.