

Circular 2008/10

Self-regulation as a minimum standard

Self-regulation recognised as a minimum standard by the Swiss Financial Market Supervisory Authority (FINMA)

Reference: FINMA Circ. 08/10 "Self-regulation as a minimum standard"
 Date: 20 November 2008
 Entry into force: 1 January 2009
 Last amendment: 28 June 2017 [Modifications are indicated by an asterisk (*) and are listed at the end of the document.]
 Concordance: previously SFBC Circ. 04/2 "Self-regulation as a minimum standard" of 21 April 2004
 Legal framework: FINMASA art. 7 sect. 1 let. a and sect. 3
 Appendix: Self-regulation recognised by FINMA

Addressees																											
BankA		ISA		SESTA	FMIA				CISA				AMLA		Other												
Banks	Financial groups and congl.	Other intermediaries	Insurers	Insurance groups and congl.	Intermediaries	Securities dealers	Trading venue	Central counterparties	Central securities depositories	Trade repositories	Payment systems	Participants	Fund management companies	SICAVs	Limited partnerships for CISs	SICAFs	Custodian banks	Asset manager CISs	Distributors	Representatives of foreign CISs	Other intermediaries	SROs	DSFIs	SRO-supervised institutions	Audit firms	Rating agencies	
X			X	X		X							X	X	X	X		X	X	X							

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I. Recognition of self-regulation

FINMA recognises the self-regulation listed in the Appendix to this Circular as the minimum standard applicable to the addressees named below. 1

II. Addressees of the Circular

The addressees of this Circular are the following, depending on their business operations: banks,¹ securities dealers², insurance companies³, insurance groups and conglomerates⁴ and fund management companies,⁵ investment companies with variable capital,⁶ limited partnerships for collective investments,⁷ investment companies with fixed capital,⁸ distributors of collective investment schemes,⁹ asset managers of collective investment schemes¹⁰ and representatives of foreign collective investment schemes¹¹ in terms of the Collective Investment Schemes Act (CISA; SR 951.31). 2*

III. Audit

Audit firms are to examine compliance with the self-regulation recognised as a minimum standard in accordance with FINMA Circ. 13/3 “Auditing” and document the results of any audit activities in their audit report. 3*

¹ As set out in art. 1 and 2 of the Banking Act (BA; SR 952.0).

² As set out in art. 2 lett. d of the Stock Exchange Act (SESTA; SR 954.1).

³ As set out in art. 2 sect. 1 of the Insurance Supervision Act (ISA ; SR 961.01).

⁴ As set out in art. 2 sect. 1 ISA.

⁵ As set out in art. 28 of the Collective Investment Schemes Act (CISA; SR 951.31).

⁶ As set out in art. 36 CISA.

⁷ As set out in art. 98 CISA.

⁸ As set out in art. 110 CISA.

⁹ As set out in art. 19 CISA.

¹⁰ As set out in art. 18 CISA.

¹¹ As set out in art. 123–124 CISA.

Self-regulation recognised by FINMA

I. Self-regulation of the Swiss Bankers' Association

<u>Guidelines</u> for the Management of Country Risk of 28 November 1997	1
Guidelines on the treatment of contactless and dormant accounts at Swiss banks of December 2014 (in German: <u>Richtlinien</u> der Schweizerischen Bankiervereinigung über die Behandlung kontakt- und nachrichtenloser Vermögenswerte bei Schweizer Banken [Narilo-Richtlinien])	2
<u>Guidelines</u> on Notes of Foreign Issuers of 16 July 2001 (in German: Richtlinie zu Notes ausländischer Schuldner)	3
Allocation <u>Directives</u> for the New Issues Market of 2 June 2004	4
<u>Guidelines</u> on the Treatment of Counterfeit Money and Precious Metal Coins and Bullion of 13 March 2007 (in German: Richtlinien betreffend die Behandlung von Falschgeld und falschen Edelmetall-Münzen und Barren)	5
<u>Guidelines</u> on informing investors about structured products of September 2014 (in German: Richtlinien über die Information der Anlegerinnen und Anleger zu strukturierten Produkten)	6
<u>Recommendations</u> for Business Continuity Management (BCM) of August 2013: limited to subsections 4.4 "Business Continuity Management Strategie", 4.5.1 "Business Impact Analysis" and 4.5.2 "Business Recovery Options"	7
<u>Directives</u> on the Independence of Financial Research of 22 January 2008	8
Swiss Banks' Code of Conduct with regard to the Exercise of Due Diligence (CDB 16) of 2016 (in German: <u>Vereinbarung</u> über die Standesregeln zur Sorgfaltspflicht der Banken (VSB 16) vom 2016)	9
<u>Code</u> of Conduct for Securities Dealers Governing Securities Transactions of 22 October 2008	10
<u>Directives</u> on Fiduciary Investments of 2016 (in German: Richtlinien betreffend Treuhandanlagen)	11
Portfolio Management <u>Guidelines</u> of 1 March 2017 (in German: Richtlinien für Vermögensverwaltungsaufträge)	12
<u>Guidelines</u> on the Auditing, Valuation and Treatment of Mortgage-backed Loans of 29 August 2011 (status as of 4 July 2014) (in German: Richtlinien für die Prüfung, Bewertung und Abwicklung grundpfandgesicherter Kredite)	13
<u>Agreement</u> of Swiss Banks and Securities Dealers on Depositor Protection of 6 December 2011 (in German: Vereinbarung der Schweizer Banken und Effekthändler über die Einlagenversicherung)	14
<u>Guidelines</u> on the Minimum Requirements for Mortgage Financing of 14 May 2012 (status as of 4 July 2014) (in German: Richtlinien betreffend Mindestanforderungen bei Hypothekendarfinanzierungen)	15
<u>Guidelines</u> on protocol requirements under Article 24 para. 3 of the Federal Act on Collective	16

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Investment Schemes of 12 November 2013 (in German: Richtlinien über die Protokollierungspflicht nach Art. 24 Abs. 3 des Bundesgesetzes über die kollektiven Kapitalanlagen)

II. Self-regulation of the Swiss Funds & Asset Management Association SFAMA¹²

Guidelines for Real Estate Funds of 2 April 2008 (status as of 13 September 2016) (in German: <u>Richtlinien für die Immobilienfonds</u>)	17
Guidelines on the Calculation and Publication of Performance Data of Collective Investment Schemes of 16 May 2008	18
Guidelines on the Distribution of Collective Investment Schemes of 22 May 2014 (in German: <u>Richtlinie für den Vertrieb kollektiver Kapitalanlagen</u>)	19
Guidelines on the Valuation of the Assets of Collective Investment Schemes and the Handling of Valuation Errors in the case of Open-End Collective Investment Schemes of 20 June 2008 (status as of 25 August 2015) (in German: <u>Richtlinie für die Bewertung des Vermögens von kollektiven Kapitalanlagen und die Behandlung von Bewertungsfehlern bei offenen kollektiven Kapitalanlagen</u>)	20
Guidelines on "key investor information" concerning securities funds and other funds for traditional investments in the form of public funds of 20 January 2012 (in German: Richtlinien zu den "Wesentlichen Informationen für die Anlegerinnen und Anleger" für Effektenfonds sowie für übrige Fonds für traditionelle Anlagen in der Form von Publikumsfonds)	21
Guidelines for Money Market Funds of 6 June 2012 (status as of 4 May 2016) (in German: <u>Richtlinie für Geldmarktfonds</u>)	22
Guidelines on the requirements for charging fees and costs incurred and the purpose for which they are used (Transparency guidelines) of 22 May 2014 (in German: <u>Richtlinie für Pflichten im Zusammenhang mit der Erhebung von Gebühren und der Belastung von Kosten sowie deren Verwendung, Transparenzrichtlinie</u>)	23
Code of Conduct of 7 October 2014 (in German: <u>Verhaltensregeln SFAMA</u>)	24
Guidelines on the Calculation and Disclosure of the Total Expense Ratio (TER) of Collective Investment Schemes of 16 May 2008 (status of 20 April 2015) (in German: <u>Richtlinie zur Berechnung und Offenlegung der Total Expense Ratio (TER) von kollektiven Kapitalanlagen</u>)	25

III. Self-regulation of other professional organisations

"Code de déontologie relatif à l'exercice de la profession de gérant de fortune indépendant" issued by the Association Romande des Intermédiaires Financiers der Association Romande des Intermédiaires Financiers (ARIF) of 22 August 2016	26
"Norme di comportamento nell'ambito della gestione patrimoniale (NCGP)" issued by the Organismo di Autodisciplina dei Fiduciari del Cantone Ticino (OAD-FCT) of 23 April 2009 (status of 14 November 2013)	27

¹² Available for download from <http://www.sfama.ch/>

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“ <u>Règlement relatif aux règles-cadres pour la gestion de fortune</u> ” issued by the Organisme d'autorégulation des gérants de patrimoine (OAR-G) of 7 November 2013	28
“ <u>Règles d’Ethique Professionnelle</u> ” issued by the Swiss Association of Independent Financial Advisors (SAIFA) of 15 November 2013	29
“ <u>Schweizerische Standesregeln für die Ausübung der unabhängigen Vermögensverwaltung</u> ” issued by the Swiss Association of Asset Managers (SAAM) of 22 November 2013	30
“ <u>Standesregeln</u> ” issued by the PolyReg General Self-Regulatory Organisation (PolyReg) of 6 Dezember 2013	31
“ <u>Verhaltensregeln in Sachen Ausübung der Vermögensverwaltung</u> ” issued by the VQF Financial Services Standards Association of 18 November 2013	32
“ <u>Business Continuity Management (BCM) für Versicherungsunternehmen in der Schweiz – Mindeststandards und Empfehlungen</u> ” issued by the Swiss Insurance Association (SIA) of June 2015	33

This Circular has been modified as follows:

This modification was adopted on 6 December 2012 and will enter into force on 1 January 2013.

Modified margin no. 3

On 2 June 2014 the name "Swiss Funds Association" was replaced by "Swiss Funds & Asset Management Association SFAMA" throughout the entire circular.

This modification was adopted on 23 September 2015 and will enter into force on 1 January 2015.

Modified margin no. 2

The Appendix to the „Self-regulation of the Swiss Bankers' Association“ has been modified as follows:

On 19 March 2009, the "Agreement of Swiss Banks and Securities Dealers on Depositor Protection of 5 March 2005" was replaced by the "Agreement of Swiss Banks and Securities Dealers on Depositor Protection of 5 September 2009".

On 29 June 2009, the "Directives on Fiduciary Investments of 22 June 1993" were replaced by the "Directives on Fiduciary Investments of 22 June 2009".

On 10 May 2010, the "Portfolio Management Guidelines of 21 December 2005" were replaced by the "Guidelines for Portfolio Management of 16 April 2010".

On 28 October 2011, the "Guidelines on the Auditing, Valuation and Treatment of Mortgage-backed Loans of 16 December 2003" were replaced by the "Guidelines on the Auditing, Valuation and Treatment of Mortgage-backed Loans of 28 October 2011".

On 6 December 2011, the "Agreement of Swiss Banks and Securities Dealers on Depositor Protection of 5 March 2009" was replaced by the "Agreement of Swiss Banks and Securities Dealers on Depositor Protection of 6 December 2011".

On 1 June 2012, the "Guidelines on the Minimum Requirements for Mortgage Financing of 1 June 2012" were added to the Appendix.

On 3 September 2013, the "Recommendations for Business Continuity Management (BCM) of 14 November 2007 (limited to subsection 5.4.1 "Business Impact Analysis" and sect. 5.4.2 "Business Continuity Strategy)" were replaced by the "Recommendations for Business Continuity Management (BCM) of August 2013 (limited to subsections 4.4 Business Continuity Management Strategie, 4.5.1 "Business Impact Analysis" and 4.5.2 "Business Recovery Options)".

On 13 November 2013, the "Guidelines of the Swiss Bankers Association on protocol requirements under Article 24 para. 3 of the Federal Act on Collective Investment Schemes of 12 November 2013" were added to the Appendix.

On 5 December 2013 Title III "Self-regulation of other professional organisations" was added (replaces FN 11).

On 1 January 2014 the "Portfolio Management Guidelines of 16 April 2010" were replaced by

the “Portfolio Management Guidelines of 6 November 2013”.

On 1 September 2014, the “Guidelines on the Auditing, Valuation and Treatment of Mortgage-backed Loans of 29 August 2011 (in German: Richtlinien für die Prüfung, Bewertung und Abwicklung grundpfandgesicherter Kredite)” were replaced by the “Guidelines on the Auditing, Valuation and Treatment of Mortgage-backed Loans of 4 July 2014 (in German: Richtlinien für die Prüfung, Bewertung und Abwicklung grundpfandgesicherter Kredite)”.

On 1 September 2014, the “Guidelines on the Minimum Requirements for Mortgage Financing of 1 June 2012 (in German: Richtlinien betreffend Mindestanforderungen bei Hypothekarfinanzierungen)” were replaced by the “Guidelines on the Auditing, Valuation and Treatment of Mortgage-backed Loans of 4 July 2014 (in German: Richtlinien für die Prüfung, Bewertung und Abwicklung grundpfandgesicherter Kredite)”.

On 1 March 2015, the “Guidelines on informing Investors about Structured Products of July 2007” were replaced by the “Guidelines on informing Investors about Structured Products of September 2014 of the ASB and the SSPA”.

On 1 January 2015, the “Guidelines on the Treatment of Dormant Accounts, Custody Accounts and Safe-Deposit Boxes held in Swiss Banks of 3 February 2000” were replaced by the “Guidelines on the treatment of contactless and dormant accounts at Swiss banks of December 2014 (in German: Richtlinien der Schweizerischen Bankiervereinigung über die Behandlung kontakt- und nachrichtenloser Vermögenswerte bei Schweizer Banken [Narilo-Richtlinien])”.

On 1 January 2015, the “Agreement on the Swiss Banks’ Code of Conduct with regard to the Exercise of Due Diligence (CDB 08) of 10 April 2008 and Special Provisions on the Identification of Clients in the Credit Card Business of 10 August 2004” were replaced by the “Agreement on the Swiss Banks’ Code of Conduct with regard to the Exercise of Due Diligence (CDB 16) of 2016”.

On 1 January 2017, the “Directives on Fiduciary Investments of 2011” were replaced by the “Directives on Fiduciary Investments of 2016 (in German: Richtlinien betreffend Treuhandanlagen)”.

On 1 March 2017, the “Portfolio Management Guidelines of 6 November 2013” were replaced by the “Portfolio Management Guidelines of 1 March 2017” (in German: Richtlinien für Vermögensverwaltungsaufträge”.

The Appendix to the „Self-regulation of the Swiss Funds & Asset Management Association SFAMA“ has been modified as follows:

On 22 April 2009, the “Code of Conduct for the Swiss Fund Industry of 30 August 2000” was replaced by the “Code of Conduct for the Swiss Fund Industry of 30 March 2009”.

On 22 April 2009, the “Code of Conduct for Asset Managers of Collective Investment Schemes of 31 March 2009” was added to the Appendix.

On 1 February 2012, the “Guidelines on ‘key investor information’ concerning securities funds and other funds for traditional investments in the form of public funds of 20 January 2012” were added to the Appendix.

On 1 July 2012, the “Guidelines for Money Market Funds of 6 June 2012” were added to the Appendix.

On 16 May 2013, the “Guidelines on Transparency with regard to Management Fees of 7 June 2005” were cancelled.

On 2 June 2014, the “Guidelines on the Distribution of Collective Investment Schemes of 29 May 2008” were replaced by the “Guidelines on the Distribution of Collective Investment Schemes of 22 May 2014”.

On 2 June 2014, the “Guidelines on the requirements for charging fees and costs incurred and the purpose for which they are used (Transparency guidelines) of 22 May 2014” were added to the Appendix.

On 1 January 2015, the “Code of Conduct for the Swiss Fund Industry of 30 March 2009” and the “Code of Conduct for Asset Managers of Collective Investment Schemes of 31 March 2009” were replaced by the “Code of Conduct of 7 October 2014”.

On 1 January 2016, the “Guidelines on the Calculation and Disclosure of the Total Expense Ratio (TER) and Portfolio Turnover Rate (PTR) of Collective Investment Schemes of 16 May 2008” were replaced by the “Guidelines on the Calculation and Disclosure of the Total Expense Ratio (TER) of Collective Investment Schemes of 20 April 2015”.

On 1 June 2016, the “Guidelines on the Valuation of the Assets of Collective Investment Schemes and the Handling of Valuation Errors in the case of Open-End Collective Investment Schemes of 20 June 2008” were replaced by the “Guidelines on the Valuation of the Assets of Collective Investment Schemes and the Handling of Valuation Errors in the case of Open-End Collective Investment Schemes of 25 August 2015”.

On 1 June 2016, the „Guidelines for Money Market Funds of 6 June 2012” were updated (status as of 4 May 2016).

On 1 December 2016, the „Guidelines for Real Estate Funds of 2 April 2008” were updated (status as of 13 September 2016).

The Appendix to the „Self-regulation of other professional organisations“ has been modified as follows:

On 1 January 2014, the “Code de déontologie relatif à l’exercice de la profession de gérant de fortune indépendant (Directive 14) of 23 February 2009 (ARIF)” was replaced by the “Code de déontologie relatif à l’exercice de la profession de gérant de fortune indépendant (Directive 14) of 18 November 2013 (ARIF)”.

On 1 January 2014, the “Norme di comportamento nell’ambito della gestione patrimoniale (NCGP) of 23 April 2009 (OAD-FCT)” were replaced by the “Norme di comportamento nell’ambito della gestione patrimoniale (NCGP) of 1 November 2013 (OAD-FCT)”.

On 1 January 2014, the “Règlement de l’OAR-G relatif aux règles-cadres pour la gestion de fortune of 18 May 2009” was replaced by the “Règlement de l’OAR-G relatif aux règles-cadres pour la gestion de fortune of 17 November 2013”.

On 1 January 2014, the “Règles d’Ethique Professionnelle du GSCGI of 25 June 2009” were replaced by the “Règles d’Ethique Professionnelle du GSCGI of 15 November 2013”.

On 1 January 2014, the „Schweizerische Standesregeln für die Ausübung der unabhängigen Vermögensverwaltung of 30 March 2009 (VSV)“ were replaced by the „Schweizerische Standesregeln für die Ausübung der unabhängigen Vermögensverwaltung vom 22 November 2013 (VSV)“.

On 1 January 2014, the “Standesregeln des PolyReg allgemeiner Selbstregulierungs-Verein of 24 March 2009” were replaced by the “Standesregeln des PolyReg allgemeiner Selbstregulierungs-Verein of 6 December 2013”.

On 1 January 2014, the “Verhaltensregeln der Branchenorganisation für die Vermögensverwaltung des VQF Verein zur Qualitätssicherung von Finanzdienstleistungen in Sachen Ausübung der Vermögensverwaltung of 25 February 2009” were replaced by the “Verhaltensregeln der Branchenorganisation für die Vermögensverwaltung des VQF Verein zur Qualitätssicherung von Finanzdienstleistungen in Sachen Ausübung der Vermögensverwaltung of 18 November 2013”.

On 1 October 2015, the “Business Continuity Management (BCM) für Versicherungsunternehmen in der Schweiz – Mindeststandards und Empfehlungen of June 2015 issued by the Swiss Insurance Association (SIA)” were added to the Appendix.