

## The creation of FINMA's new Asset Management division in 2014 underscores the sector's central role in the Swiss market.

Since 1 March 2013, all asset managers of foreign as well as Swiss collective investment schemes (CISs) fall within the scope of the revised Collective Investment Schemes Act (CISA). This has heightened the focus on asset management of CISs within FINMA's supervisory activities and led to a sharp rise in the number of asset managers licensed by FINMA. FINMA also made appropriate organisational changes, with a new Asset Management division laying the foundations for even more targeted supervision of the management of CIS assets.

### **Implementation of the new approach to product authorisation**

Since the revision of CISA and the associated Ordinance (CISO), FINMA's responsibility for Swiss open-ended CISs is limited to reviewing the elements of the fund contract that are relevant from a supervisory perspective. The issue of authorisation remains. At the end of 2013, FINMA therefore introduced a new approach designed to speed up the processing of applications by enabling applicants to submit product information in standardised form.

### **Cooperation agreements with foreign supervisory authorities**

Under the revised CISO and CISA, from 1 March 2014 foreign CISs may only be distributed to non-qualified investors in Switzerland if a Memorandum of Understanding has been signed between FINMA and the foreign supervisory authority responsible. The aim of the new rules is to ensure that Swiss investors always receive the information they need and foreign CISs offer a level of transparency equivalent to that of Swiss providers. By 1 March 2014, agreements to this effect had been concluded with the supervisory authorities of all jurisdictions from which CISs are currently distributed in Switzerland.<sup>62</sup>

### **Developments in self-regulation**

Industry associations also addressed the subject of CISs during 2014, submitting three self-regulatory documents to FINMA for recognition as a minimum standard. In May, FINMA recognised two sets of guidelines issued by the Swiss Funds & Asset Management Association SFAMA: the Distribution Guidelines covering all distributors that distribute CISs to non-qualified investors or foreign CISs to qualified investors, and the Transparency Guidelines on duties regarding the charging and use of fees and costs. Distributors' audit firms are also now required to examine compliance with the duty to report as specified in Article 16 CISA. Meanwhile, the Transparency Guidelines set out the fund providers' duties to provide information to investors and the conditions for granting retrocessions to distributors or rebates to investors.

In October 2014, FINMA recognised the SFAMA Code of Conduct, which combines the previous conduct rules for the Swiss funds industry and CIS asset managers into a single document. The primary aim here was to implement the substantially broader due diligence and disclosure obligations applying to licence holders and their agents following the changes to the legislation. The SFAMA Code of Conduct also requires CISA institutions to apply a salary and remuneration policy that is appropriate to the principle of proportionality, their size and their risk profile. The new Code of Conduct came into force on 1 January 2015, with a one-year transitional period for the necessary implementation work to be completed.

The Swiss Bankers Association (SBA) and the Swiss Structured Products Association (SSPA) also submitted their Guidelines on Informing Investors about Structured Products to FINMA for recognition. These set out minimum requirements for simplified pro-

<sup>62</sup> See also "Memorandums of understanding at national and international level", p. 110.

spectuses of structured products. One key change is that information is now divided into three main categories: product description, prospects for profits and losses, and significant risks for investors. The aim is to ensure standardisation of simplified prospectuses. The guidelines were recognised by FINMA in August 2014 and come into force on 1 March 2015. FINMA also amended its FAQs<sup>63</sup> on structured products to reflect the new self-regulatory regime.

<sup>63</sup> See FAQs “Structured products” (<http://www.finma.ch/e/faq/beaufsichtigte/pages/faq-strukturierte-produkte.aspx>).

# Product trends

The number of open-ended collective investment schemes authorised in Switzerland grew once again in 2014. Other funds for traditional investments remain the most popular category, but there was also a slight increase in securities funds and real estate funds. Among foreign funds authorised for distribution to non-qualified investors in or from Switzerland, UCITS<sup>64</sup> also gained ground in 2014.

**Growth in the number of domestic open-ended collective investment schemes between 2005 and 2014 according to fund type**



**Growth in the number of foreign collective investment schemes between 2005 and 2014**



<sup>64</sup> See Glossary, p. 115.