

CH-3003 Bern

To:

- All banks, securities dealers, entities as defined under Art. 126 para. 1 CISA and insurance institutions
- All regulatory audit companies

Reference: 00048/1049347

Contact: Geiger Hansueli / Meier Heinz

Phone: +41 (0)31 327 93 53 / +41 (0)31 327 92 72

E-Mail: [auditfirms@finma.ch](mailto:auditfirms@finma.ch)

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## **FINMA Newsletter 12 (2010)**

### **Involvement of regulatory audit companies**

Ladies and Gentlemen,

In order to enhance the independence of audit companies, the Board of FINMA recently decided to modify two specific provisions related to the involvement of regulatory audit companies and to publish them.

#### **Licensing procedure**

FINMA is revising the rules governing the involvement of regulatory audit companies in the licensing procedure for banks, securities dealers, entities as defined under Art. 126 para. 1 let. a–f CISA and insurance companies. In future, the regulatory audit company involved in this procedure will not be able to take on the ensuing engagement as regulatory audit company after granting the licence, nor exercise such an engagement within the first three years after the licence is granted. The aim is a targeted enhancement of the independence of audit companies involved in the licensing procedure for financial companies and a clearer distinction between consulting and audit services.

The new rules apply in principle to banks, securities dealers, branches of foreign banks and securities dealers, asset managers of collective investment schemes, fund management companies, investment companies with variable capital (SICAVs), limited partnerships for collective investments, investment companies with fixed capital (SICAFs), representatives of foreign collective investment schemes and insurance companies. They will in future have to split the regulatory audit engagements and consulting services for the licensing procedure on the one hand and ensuing ongoing supervision on the other hand between two different FINMA-approved audit companies.

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### Procedure for changing regulatory audit company

In accordance with Art. 25 para. 2 of the Financial Market Supervision Act (FINMASA, SR 956.1), the appointment of a regulatory audit company requires the FINMA's approval. Therefore, FINMA modifies the procedure to be followed by banks, securities dealers, entities as defined under Art. 126 para. 1 let. a–f CISA and insurance companies when they intend to change their regulatory audit company.

The mentioned institutions must submit a written request to FINMA stating the reasons behind the intended change of the regulatory audit company. The following additional documents are to be submitted along with the request:

- Signed declaration by the regulatory audit company accepting the engagement;
- Offer made by the regulatory audit company and engagement letter (including breakdown of fees by accounting audit and regulatory audit), plus engagement plan indicating budgeted audit hours;
- Extract from the minutes of the supervised institution's body for overall management, supervision and control (e.g. board of directors), in which the decision to submit the request is documented.

FINMA will then examine the request to change the regulatory audit company and asks for comments from the current audit company in writing.

FINMA now requires that it be informed of all changes of regulatory audit companies always prior to the start of the financial year in which the change is to become effective. In order for the newly appointed regulatory audit company to be able to plan in a timely manner and to ensure communication with the audit company being replaced and coordination with the internal auditors, and in consideration of the requirement that there be no supervisory interruption when changing regulatory audit companies, requests to change regulatory audit company must be submitted to FINMA no later than three months prior to the start of the financial year in which the change is to become effective. This means that any change of regulatory audit company planned for the 2011 financial year (ending on 31 December 2011) must be requested from FINMA by no later than 30 September 2010. Only in justified exceptional cases is it possible to change regulatory audit companies during the course of a financial year.

The change of regulatory audit company is subject to a fee. In accordance with points 1.6, 2.12 and 3.5 of the appendix to the Ordinance on the Levying of Fees and Charges by the Swiss Financial Market Supervisory Authority FINMA (FINMA-GebV, SR 956.122), fees of up to CHF 30,000 for banking and institutions subjected to Stock Exchange and entities in the area of collective investment schemes or CHF 12,500 for insurance companies may apply.

The amended practices are effective immediately. It is not applicable to licensing procedures and to requests for a change of regulatory audit company that are pending with FINMA at the time of publication. The present modifications will be included in the current revision of the Audit Directives.

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Yours sincerely

**Swiss Financial Market Supervisory Authority FINMA**

Mark Branson  
Head of the banks division

Kurt Bucher  
Markets / Head Accounting, Audit Firms and  
Rating Agencies

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