

Newsletter January 2014

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New FINMA practice regarding filing of annual and semi-annual reports

The annual and semi-annual reports of a foreign collective investment scheme must be filed by the Swiss representative or his attorney with the FINMA immediately after they were published.

According to the recent FINMA information the FINMA accepts as from 1 January 2014 that the annual and semi-annual reports are filed with the FINMA electronically.

For such electronic filing the FINMA requires that the report is recorded on a CD.

The CD must contain in addition to the report, a confirmation form that confirms that the report is consistent with the published report and the checklist.

Agreement between the FINMA and the BaFin

The BaFin (Federal Financial Supervisory Authority) of Germany and the FINMA concluded a treaty on a facilitated authorisation procedure for Swiss securities funds and German UCITS effective as of 1 January 2014.

Based on this treaty Swiss securities funds (in form of contractual funds or investment companies with variable capital) and German UCITS are deemed to be equivalent. Consequently a notification procedure is applicable instead of the approval procedure.

The agreed notification procedure complies with the UCITS directive and with the German Notification Ordinance. The authorities agreed that specific requirements of the CISA regarding distribution (e.g. the appointment of the Swiss representative and paying agent) are still applicable to German UCITS. On the other hand, Swiss collective investment schemes must comply with relevant German distribution requirements under German law.

The above mentioned notification procedure is not applicable for the German Non-UCITS

which are distributed to non-qualified investors.

The FINMA issued a new Guideline for the notification procedure of German UCITS on 6 January 2014. According to this guideline a notification letter with the necessary documents has to be sent to the BaFin which forwards them to the FINMA by e-mail.

Please be aware that this facilitated procedure does not discharge the German UCITS from filing documents which are in compliance with Swiss law.

The content of this Newsletter does not represent legal advice and may not be used as such. For a personal consultation, please get in touch with your contact at Suter Howald Attorneys at Law. Should you have further questions in relation to the topics in this Newsletter, please contact:

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