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Ordinance on Collective Investment Schemes (Collective Investment Schemes Ordinance, CISO)

of 22 November 2006 (Status as of 1 January 2022)

The Swiss Federal Council,

based on the Federal Act of 23 June 2006¹ on Collective Investment Schemes (CISA; referred to below as: the Act),

decrees:

Title 1 General Provisions Chapter 1 Object and Scope

Art. 1²

Art. 1a³ Investment club
(Art. 2 para. 2 let. f CISA)

Irrespective of its legal status, an investment club must meet the following requirements:

- a. The membership rights are set out in the relevant constitutive document for its chosen legal status.
- b. The members or a section of the members take the investment decisions.
- c. The members are informed about the status of the investments on a regular basis.
- d. The number of members does not exceed twenty.

AS 2006 5787

¹ SR 951.31

² Inserted by No I of the Ordinance of 13 Feb. 2013 (AS 2013 607). Repealed by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1. Jan. 2020 (AS 2019 4633).

³ Originally Art. 1

Art. 1b⁴ Operating companies

(Art. 2 para. 2 let. d CISA)

¹ For the purpose of applying the Act and irrespective of their legal status, operating companies which are engaged in entrepreneurial activities are companies:

- a. which have either their registered office as defined by their articles of association or their actual registered office in Switzerland or which are established in Switzerland if their registered office as defined by their articles of association is located in another state;
- b. which pursue their activities on a commercial basis or on a scale which requires commercially organised business operations; and
- c. whose main purpose is the management of a services, production or trading business.

² Operating companies are in particular companies which:

- a. develop or construct real estate;
- b. produce, buy, sell or exchange goods and commodities;
- c. offer other services outside the financial sector.

³ Operating companies are also companies which in the course of their operating activities avail themselves of the services of external service providers or of companies within their group, provided entrepreneurial decisions in day-to-day business operations remain at all times with the company itself by virtue of the express agreement of rights to influence legal relationships, to exert control and to issue directives.

⁴ Companies in accordance with Article 13 paragraph 2 letters c and d of the Act which assume control of the voting rights in companies or sit on the body responsible for the governance, supervision and control of their participations are not deemed to be operating companies.

⁵ In addition to their entrepreneurial activities, operating companies may also engage in investments. These may, however, merely represent a subordinate or accessory activity with respect to the main purpose.

Art. 1c⁵

⁴ Inserted by No I of the Ordinance of 13 Feb. 2013 (AS **2013** 607). Amended by Annex I No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).

⁵ Inserted by No I of the Ordinance of 13 Feb. 2013 (AS **2013** 607). Repealed by Annex I No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, with effect from 1 Jan. 2020 (AS **2019** 4633).

Art. 2 Investment company

(Art. 2 para. 3 CISA)

Newly established investment companies whose issue prospectus provides for a listing on a Swiss stock exchange are treated as equivalent to listed companies provided listing is completed within one year.

Art. 3 and 4⁶**Chapter 2 Collective Investment Schemes****Art. 5**⁷ Definition of collective investment scheme

(Art. 7 para. 3 and 4 CISA)

¹ Irrespective of legal status, collective investment schemes are assets provided by at least two mutually independent investors for the purpose of collective investment and which are managed externally.

² Investors are mutually independent when they provide assets that are mutually independent in legal and de facto terms.

³ For group companies in the same group of companies pursuant to Article 3 of the Financial Institutions Ordinance of 6 November 2019⁸ (FinIO), the requirement for the assets to be independent pursuant to paragraph 2 does not apply.⁹

⁴ The assets of a collective investment scheme may be provided by a single investor (single investor fund) where such investor is an investor pursuant to Article 4 paragraph 3 letter b, e or f of the Financial Services Act of 15 June 2018¹⁰ (FinSA).¹¹

⁵ The restriction of investor eligibility to investors as defined in paragraph 4 must be disclosed in the relevant documents pursuant to Article 15 paragraph 1 of the Act.

⁶ Repealed by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, with effect from 1 Jan. 2020 (AS 2019 4459).

⁷ Amended by No I of the Ordinance of 13 Feb. 2013, in force since 1 March 2013 (AS 2013 607).

⁸ RS 954.11

⁹ Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS 2019 4459).

¹⁰ RS 950.1

¹¹ Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS 2019 4459).

Art. 6¹²**Art. 6a¹³** Investors
(Art. 10 para. 3^{ter} CISA)

The financial intermediary:

- a. shall, within the meaning of Article 10 paragraph 3^{ter} of the Act, inform investors that they are deemed qualified investors;
- b. shall explain the risks that this entails; and
- c. shall inform them that they have the option of declaring in writing or in another form demonstrable via text that they do not wish to be deemed qualified investors.

Chapter 3 Authorisation and Approval**Section 1 General****Art. 7** Authorisation documentation
(Art. 13 and 14 CISA)

Any party applying for authorisation under Article 13 of the Act must submit the following documents to FINMA:

- a.¹⁴ the articles of association and the organisational regulations in the case of a SICAV and a SICAF;
- b. the company agreement in the case of a limited partnership for collective investment;
- c.¹⁵ the relevant organisational documents in the case of the representative of foreign collective investment schemes.

Art. 8¹⁶ Exemption from the authorisation requirement
(Art. 13 para. 3 CISA)

Any party authorised as a fund management company is exempted from the duty to obtain authorisation for representatives of foreign collective investment schemes.

¹² Repealed by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, with effect from 1 Jan. 2020 (AS 2019 4459).

¹³ Inserted by No I of the Ordinance of 13 Feb. 2013 (AS 2013 607). Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS 2019 4459).

¹⁴ Amended by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS 2019 4633).

¹⁵ Amended by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS 2019 4633).

¹⁶ Amended by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS 2019 4633).

Art. 9¹⁷**Art. 10**¹⁸ Good reputation, guarantees and specialist qualifications
(Art. 14 para. 1 let. a, abis and b CISA)

¹ The persons responsible for the administration and the management shall be suitably qualified for the envisaged activity on the basis of their education and training, experience and career history.

² The envisaged activity at the authorised party as well as the nature of the intended investments must also be taken into account when assessing the requirements.

Art. 11¹⁹**Art. 12** Organisational structure
(Art. 14 para. 1 let. c CISA)

¹ The executive board must comprise at least two persons. These persons must be resident in a place where they can in fact carry out their management duties properly.

² The authorised signatories of the licensee must sign jointly.

³ The licensee must define its organisational structure in a set of organisational regulations.²⁰

⁴ It must employ personnel who are properly and suitably qualified for its activity.

⁵ FINMA may require that an internal audit be performed if required by the scope and nature of the activity.

⁶ In justified instances, it may grant derogations from these requirements.

Art. 12a²¹ Risk management, internal control system and compliance
(Art. 14 para. 1^{ter} CISA)

¹ The licensee must ensure it has proper and appropriate risk management, an internal control system (ICS) and compliance covering its entire business activities.

² Risk management must be organised so that all material risks can be adequately identified, assessed, controlled and monitored.

¹⁷ Repealed by No I of the Ordinance of 13. Feb. 2013, with effect from 1 March 2013 (AS 2013 607).

¹⁸ Amended by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS 2019 4633).

¹⁹ Repealed by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, with effect from 1 Jan. 2020 (AS 2019 4633).

²⁰ Amended by No I of the Ordinance of 13 Feb. 2013, in force since 1 March 2013 (AS 2013 607).

²¹ Inserted by No I of the Ordinance of 13 Feb. 2013, in force since 1 March 2013 (AS 2013 607).