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Client Advisors – Impact of the New Financial Market Regulation

27.02.2019

- **Obligation to register as natural persons**
- **Knowledge of the rules of conduct**
- **Appropriate education**

1. Current Regulatory Regime

Client advisors are currently not specifically subject to any regulatory requirements and supervision by the Swiss Financial Market Supervisory Authority (FINMA) except for certain insurance intermediaries. Those are currently required to register with FINMA pursuant to the Insurance Supervision Act.

2. Overview of the New Financial Market Regulation

The Swiss Financial Services Act (FinSA) is scheduled to enter into force on 1 January 2020. According to FinSA, the term client advisors refers to natural persons who provide financial services in their capacity as employees of financial services providers (entities) or as financial services providers themselves. The term 'client advisor' has to be interpreted extensively and thus includes, among others, asset managers, investment advisors and distributors of collective investment schemes.

FinSA provides an obligation to register for client advisors of Swiss financial services providers, which are not supervised pursuant to article 3 of the financial market supervision act (FINMASA), and client advisors of foreign financial services providers may only perform services in Switzerland if they are registered with a registration authority in Switzerland licensed by FINMA (for more information please click here).

To be eligible for registration, client advisors must meet the following statutory registration requirements:

(i) they are required to have appropriate education in their field and be familiar with the rules of conduct under FinSA,
(ii) they must take out insurance for professional liability or have equivalent security,
(iii) they must join an ombuds organization,
(iv) they must not be convicted of any offence pursuant to FinSA and
(v) they must not be subject to a ban from an activity in the financial industry.

As client advisors are usually employed with financial service providers, the requirements (ii) and (iii) can instead be fulfilled by their employers

3. Selected Key Points for Client Advisors

Client advisors must be registered with a (new) registration authority. Financial services providers (such as banks) that employ client advisors should ensure that their client advisor employees are duly registered.

Although client advisors are not subject to the prudential supervision of FINMA, they may be subject to enforcement actions by FINMA if they breach any duties under FinSA.

Oliver Widmer

Partner
Attorney at law
Head Financial Services

Pestalozzi Attorneys at Law Ltd
Feldeggstrasse 4
8008 Zurich
Switzerland
T +41 44 217 92 42
oliver.widmer@pestalozzilaw.com

Robert Furter

Senior Counsel
Attorney at law

Pestalozzi Attorneys at Law Ltd
Feldeggstrasse 4
8008 Zurich
Switzerland
T +41 44 217 91 55
robert.furter@pestalozzilaw.com