Insurers / Insurance Intermediaries – Impact of the New Financial Market Regulation

30.09.2016

- **Basically no substantial changes**
- **Scope of regulation**
- **FIDLEG-governed insurance product**

1. Current Regulatory Regime

Insurers and insurance intermediaries are subject to the Insurance Supervision Act (ISA) and the Insurance Supervision Ordinance (ISO) when operating in Switzerland.

Insurers require a license for their business activities from the Swiss Financial Market Supervisory Authority (FINMA).

Any insurance intermediary, who is not tied to an insurer, either legally or commercially or in any other way, is required to be registered with FINMA. ISO determines and provides for the criteria whether or not an insurance intermediary is tied to an insurer.

FINMA does, however, not monitor the insurance intermediaries on an ongoing basis.

2. Overview of the New Financial Market Regulation

With the implementation of the Federal Financial Institutions Act (FINIG) and the Federal Financial Services Act (FIDLEG) the regulatory rules for insurers and insurance intermediaries will basically remain unchanged.

FINIG will explicitly exclude insurers from its scope. The offering of insurance products will not fall under the scope of FILDEG, except for the offering of redeemable life insurance products and funds-linked life insurance products. ISA and ISO will remain in effect.

Thus, insurers and insurance intermediaries will still be subject to ISA and ISO.

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FIDLEG will, however, define insurers, on the one hand, as professional clients and, on the other hand, as professional (or institutional) financial services provider. As financial services provider, insurers will fall under FIDLEG.

Under the new regulatory regime, no significance will lie in the distinction between non-tied intermediaries (i.e. persons that are required to register according to ISA) and tied insurance intermediaries (i.e. persons that have the right to register according to ISA).

3. Selected Key Points for Insurers and Insurance Intermediaries

Since insurers will qualify as persons that professionally provide financial services, FIDLEG will apply to insurers even though the offering of insurance products itself will, in principle, not fall under the FILDEG's scope.

Because the characteristics of redeemable life insurance products and funds-linked life insurance products economically resemble the features of (ordinary) financial products, the distribution of redeemable life insurance products and funds-linked life insurance products will explicitly be regulated by FIDLEG.

Redeemable life insurance products are financial products under the FIDLEG. Hence, insurers are required to provide their customers with the so-called basis information sheet.

This duty must be seen in addition to the duty ofinformation, according to Insurance Contract Act (ICA).

Especially with respect to funds-linked life insurance products, the basis information sheet must cover both the insurance-related and the funds-related components.

Under the new regulatory regime, FIDLEG will set forth registration requirements for insurance intermediaries as well.

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