Portfolio managers and trustees - timeline and licensing procedure

10.03.2022

- **Portfolio managers and trustees must have submitted their licence application to FINMA by the end of 2022.**
- **If portfolio managers and trustees do not comply with this obligation by the end of 2022, they will no longer be able to continue their activities.**
- **The approval process is costly and time-consuming because the application must first be pre-audited by a supervisory organisation before submission for final review by FINMA.**
- **About 2,000 of the approximately 2,500 existing portfolio managers and trustees in Switzerland have not yet submitted an application.**
- **Accordingly, it is expected that there will be a large amount of work for the supervisory organisations and FINMA in the course of 2022.**
- **Portfolio managers and trustees should therefore act quickly and initiate the licensing process without delay and - as FINMA also recommends - submit their application to the supervisory organisation by the end of Q2 2022.**

Pestalozzi has already successfully advised numerous portfolio managers and trustees on the licensing process. Our experts are available for a non-binding initial discussion and advice on how to obtain FINMA approval as efficiently as possible.

As part of the implementation of the Financial Institutions Act (FinIA) and the Financial Services Act (FinSA), portfolio managers and trustees are required to obtain a licence from the Swiss Financial Market Supervisory Authority (FINMA) in order to carry out their activities. The submission deadline for licence applications is 31 December 2022. Those who fail to meet this deadline will be operating without authorisation. There is no provision for an extension of this statutory deadline.

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This legal update provides an overview of the licensing process and associated time frames that portfolio managers and trustees can expect.

Self-registration

The licence application must be submitted electronically via the survey and application platform (EHP). Paper submissions will not be accepted by FINMA. In order to access the EHP, users must first register via the FINMA homepage. After verification by FINMA, access to the EHP is granted and access authorisation can be issued to additional persons, including advisors.

Preparation of the application

The application consists of the application form and the corresponding enclosures. The application template can be completed directly on the EHP. However, depending on the size of the business area, the customer portfolio and the internal organisational structure, extensive preparatory work may be needed to consolidate documents and information in preparation for the application. Preparing the application requires the review – and possibly revision – of internal regulations and contracts as well as possible restructuring measures.

As a rule, applicant should plan about two to three months to prepare and draft the application with professional support. Based on our experience, we can efficiently support you in completing application form and the enclosures so that there are as few queries as possible from the supervisory organisation (SO) or FINMA.

Transmission of the application to the SO

Portfolio managers and trustees are not directly supervised by FINMA, but by an SO approved by FINMA. Portfolio managers and trustees are free to choose and contact this SO from a list of FINMA-approved institutions. The application for approval, including enclosures, is sent to the SO via the EHP. FINMA recommends that the complete application, including enclosures, be submitted to the SO for review by 30 June 2022 at the latest.

We will be happy to advise which SO will ensure efficient processing of the application.

Review of the application for approval and confirmation by the SO

The SO will assess whether to admit the applicant to its supervisory organisation on the basis of the licence application. Acceptance by the SO is a condition for further processing by FINMA. Currently, the processing time at the SO is between one and three months, depending on the complexity of the case. However, due to the fact that around 1,200 institutions have announced the submission of the application to the SO by 30 June 2022, (massively) longer processing times are to be expected in the near future. In our experience, applications are generally processed chronologically, which is why it is advisable to submit the application promptly even if the business model is not very complex.

Transmission of the application to FINMA

After receipt of the confirmation of admission by the SO, the confirmation must be forwarded to FINMA via the EHP together with the licence application.

Review and decision by FINMA

FINMA will process the application as soon as it has been formally submitted in its entirety. This means a fully completed application, all associated enclosures and confirmation from the SO. If the application is submitted within the deadline, the activity as a portfolio manager or trustee may be continued until FINMA's decision. The date of submission of the application to FINMA is decisive for compliance with the deadline. Anyone who misses this deadline is in principle operating without authorisation, even if the application has already been submitted to the SO for review.

In our experience, the processing time at FINMA is currently around one to three months. Longer processing times are to be expected. In its latest Symposium for Portfolio Managers and Trustees, FINMA again appealed to portfolio managers and trustees to start the licensing process in due course. So far, only 450 applications have been received from the total of around 3,000 portfolio managers and trustees subject to a licensing requirement in Switzerland, of which 157 have been approved by FINMA. Taking into account the various steps of the procedure and the processing periods, the licensing process should be started as soon as possible.

Pestalozzi has many years of experience in advising on, preparing and submitting licence applications. We have already successfully supported numerous portfolio managers and trustees in obtaining a permit in 2021 and 2022. Contact us to arrange an initial, non-binding discussion of your situation and needs.

Visit our Swiss Financial Market Regulation site to benefit from the latest guidance, tailored to your specific financial sector.

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No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in this legal update.

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