Transitional Periods for Financial Service Providers and Client Advisors under the Financial Services Act

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As of 1 January 2020, the Financial Services Act ("FinSA") and the respective implementing ordinance, the Financial Services Ordinance ("FinSO"), are effective and applicable to financial service providers and client advisors that deal with clients domiciled in Switzerland.

Key takeaways:

- **Financial service providers, such as asset managers and investment advisors, may be required to implement new regulatory rules pursuant to FinSA.**
- **In particular, financial service providers and client advisors will be required to join an ombudsman's office and, if applicable, register with the client advisor register in Switzerland.**
- **The implementation of the new regulatory obligations are still subject to transitional periods, which the financial service providers or client advisor should bear in mind.**

Introduction:

As of 1 January 2020, financial service providers are subject to the Financial Services Act ("FinSA"). Financial service providers are persons who provide financial services, such as dealing in financial instruments for clients, providing asset management services or investment advice, on a commercial basis in Switzerland or for clients in Switzerland.

Such financial service providers must abide by the new rules, for example, in relation to the categorization of clients, the implementation of organizational measures and the documentation of client relationships. In particular, certain registration obligations must be fulfilled in order to legally run the operations with clients domiciled in Switzerland.

Nevertheless subject to certain transitional periods as set out below, financial service providers and client advisors still have sufficient time to assess their position and decide on when to fulfil the new requirements to be fully FinSA-compliant.

Transitional Periods for Financial Service Providers under the FinSA

Financial service providers, such as client dealers, asset managers and investment advisors must comply, inter alia, with FinSA's provisions on the client segmentation, rules of conduct and organizational rules subject to the following transitional periods:

Client segmentation:

Pursuant to Article 103 (1) FinSO, financial service providers must comply with the obligation to categorize the clients within 2 years after the entry into force of the FinSO, i.e., 31 December 2021.

Conduct rules:

Pursuant to Article 105 (1) FinSO, financial service providers must comply with the rules of conduct pursuant to Articles 7-18 FinSA within 2 years after the entry into force of the FinSO, i.e., 31 December 2021.

Organizational rules:

Pursuant to Article 106 (1) FinSO, financial service providers must comply with the organizational rules pursuant to Articles 21-27 FinSA within 2 years after the entry into force of the FinSO, i.e., 31 December 2021.

Joining an ombudsman' office:

Pursuant to Article 95 (3) FinSA, financial service providers must join an ombudsman' office within 6 months after the entry into force of the FinSA, i.e., 30 June 2020.

As of the date of this Legal Update, there is no ombudsman's office recognized by the Finance Department. The period of6 months for the application will commence only upon the approval by the Finance Department of such ombudsman's office (pursuant to Article 108 FinSO).

Transitional Periods for Client Advisors under the FinSA

Client advisors, i.e., natural persons who perform financial services on behalf of a financial service provider or in their own capacity as financial service providers, must be registered with a registration body (client advisor register) in Switzerland and fulfil certain requirements as to the knowledge, subject to the following transitional periods:

- Pursuant to Article 95 (2) FinSA, client advisors must submit an application to the registration body within 6 months after the entry into force of the FinSA, i.e., 30 June 2020.

As of the date of this Legal Update, there is no registration body approved by FINMA, the period of 6 months for the application commences only upon the approval by FINMA of such registration body (pursuant to Article 107 FinSO).

- Pursuant to Article 104 FinSO, client advisors must fulfil the requirements as to the knowledge within 2 years after the entry into force of the FinSO, i.e., 31 December 2021.

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