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Ordinance on Collective Investment Schemes

(Collective Investment Schemes Ordinance, CISO)

of 22 November 2006 (Status as of 1 March 2024)

The Swiss Federal Council,

based on the Collective Investment Schemes Act of 23 June 2006[1] (CISA),[2]

decrees:

Title 1 General Provisions

Chapter 1 Object and Scope

Art. 1[3]

Art. 1*a*[4] 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 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

3 Inserted by No I of the O 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 Repealed by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).

4 Originally Art. 1

Art. 1*b*[5] Operating companies
(Art. 2 para. 2 let. d CISA)

[1] For the purpose of applying the CISA and irrespective of their legal status, operating companies which are engaged in entrepreneurial activities are companies:[6]

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 CISA[7] 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. 1*c*[8]

5 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). 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).
6 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
7 Expression in accordance with No I para. 1 of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73). This amendment was made in the provisions mentioned in the AS.
8 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). 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).

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 **4**[9]

Chapter 2 Collective Investment Schemes

Art. 5[10] Definition of collective investment scheme
(Art. 7 para. 1, 3 and 4 CISA)[11]

[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 2019[12] (FinIO), the requirement for the assets to be independent pursuant to paragraph 2 does not apply.[13]

[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 2018[14] (FinSA).[15]

[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 CISA.

[6] Fund management companies, investment companies with variable capital (SICAVs), limited partnerships for collective investment (LPCIs) and investment companies with fixed capital (SICAFs) are responsible for ensuring that the collective investment schemes they manage comply at all times with the definition of a collective investment scheme in accordance with Article 7 CISA and this Article.[16]

9 Repealed by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, with effect from 1 Jan. 2020 (AS **2019** 4459).
10 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
11 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
12 RS **954.11**
13 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 RS **950.1**
15 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
16 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

Art. 6[17]

Art. 6*a*[18] Investors
(Art. 10 para. 3ter CISA)

The financial intermediary:

a. shall, within the meaning of Article 10 paragraph 3ter of the CISA, 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 CISA must submit the following documents to the Swiss Financial Market Supervisory Authority (FINMA):[19]

a.[20] 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 an LPCI[21];

c.[22] the relevant organisational documents in the case of the representative of foreign collective investment schemes.

17 Repealed by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, with effect from 1 Jan. 2020 (AS **2019** 4459).
18 Inserted by No I of the O 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).
19 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
20 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).
21 Expression in accordance with No I para. 2 of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73). This amendment was made in the provisions mentioned in the AS.
22 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. 8[23] 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.

Art. 9[24]

Art. 10[25] Good reputation, guarantees and specialist qualifications
(Art. 14 para. 1 let. a, a[bis] 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. 11[26]

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.[27]

[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. 12*a*[28] 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.

23 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).
24 Repealed by No I of the O of 13. Feb. 2013, with effect from 1 March 2013 (AS **2013** 607).
25 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).
26 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).
27 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
28 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).

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

3 The licensee shall separate the functions of risk management, the internal control system and compliance in functional and hierarchical terms from the operating units, in particular from the investment decisions function (portfolio management).

4 FINMA may grant derogations from these requirements in justified instances.

5 It may regulate the details of risk management, the internal control system and compliance.[29]

Art. 12*b*[30] Delegation of tasks
(Art. 14 para. 1ter CISA)

1 Tasks are deemed to be delegated if the SICAV and the representatives of foreign collective investment schemes appoint a service provider to independently and permanently perform in full or in part a material task, thereby changing the circumstances underlying the authorisation.

2 Material tasks are deemed to be:

a.[31] for a SICAV: tasks in accordance with Article 36 CISA;

b. for a representative of foreign collective investment schemes: tasks in accordance with Article 124 CISA.

Art. 12*c*[32] Delegable tasks
(Art. 14 para. 1ter CISA)

1 The SICAVs and the representatives of foreign collective investment schemes may delegate to third parties only those tasks which do not need to be within the decision-making remit of the body responsible for management or for governance, supervision and control.

2 Delegation must not impair the appropriateness of the operational organisation.

3 The operational organisation is no longer deemed to be appropriate if the SICAV or the representative of foreign collective investment schemes:

a. does not have the necessary personnel resources and specialist knowledge to select, instruct and monitor the third party and manage the associated risks; or

b. does not have the necessary rights to issue instructions to or control the third party.

29 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
30 Inserted by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).
31 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
32 Inserted 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. 12*d*[33] Delegation of tasks: responsibility and procedures
(Art. 14 para. 1ter CISA)

1 The SICAV or the representative of foreign collective investment schemes remains responsible for the fulfilment of supervisory duties and when delegating tasks shall safeguard clients' interests.

2 They shall agree with the third party in writing or in another form demonstrable via text which tasks are to be delegated. The following in particular are to be laid down in the agreement:

a. the authorities and responsibilities;

b. any powers of subdelegation;

c. the third party's duty to render account;

d. the rights to control of the SICAV and the representative of foreign collective investment schemes.

3 The SICAVs and the representatives of foreign collective investment schemes shall lay down in their organisational principles the tasks delegated as well as details of the possibility of subdelegation.

4 Delegation is to be organised so that the SICAV or the representative of foreign collective investment schemes, its internal auditors, the audit company and FINMA can inspect and review the delegated task.

Art. 13 Financial guarantees
(Art. 14 para. 1 let. d CISA)

The licensee has sufficient financial guarantees if it meets the relevant provisions regarding the minimum capital or minimum investment amount.

Art. 13*a*[34] Documents of foreign collective investment schemes
(Art. 15 para. 1 let. e CISA)

For foreign collective investment schemes, the following documents must be submitted to FINMA for approval:

a. the prospectus;

b.[35] the key information document in accordance with Articles 58–63 and 66 FinSA[36];

c. the collective investment agreement for the contractual collective investment schemes;

33 Inserted by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).
34 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
35 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
36 SR **950.1**

d. the articles of association and the investment regulations or the company agreement of collective investment schemes organised under company law;

e. other documents that would be necessary for approval under applicable foreign laws and those for Swiss collective investment schemes in accordance with Article 15 paragraph 1 CISA.

Art. 14 Change of organisational structure and documents
(Art. 16 CISA)

1 In the event of changes to the organisational structure, authorisation must be obtained from FINMA. The documents defined in Article 7 must be submitted to FINMA.

2 Changes to documents in accordance with Article 15 CISA must be submitted to FINMA, with the exception of:[37]

a. the relevant documents of foreign collective investment schemes;

b.[38] any change in the total amount or range of the limited partners' contributions in the company agreement of the LPCI;

c.[39] changes to documents requiring approval in the case of a domestic collective investment scheme where such documents relate exclusively to provisions on sales and distribution restrictions and are required in the context of foreign laws, international treaties, bilateral or supervisory arrangements, etc.

Art. 15 Duty to report
(Art. 16 CISA)

1 The licensees, with the exception of the custodian bank, shall report:

a. any change in the persons responsible for the administration and the management;

b.[40] facts which might call into question the good reputation or the guarantee of irreproachable business conduct by the persons responsible for the administration and the management, specifically the instigation of criminal proceedings against them;

c. any change in significant equity holders, except for company shareholders in a SICAV and limited partners in an LPCI;

d. facts which might call into question the good reputation of significant equity holders, specifically the instigation of criminal proceedings against them;

e. facts which call into question the prudent and sound business practice of the licensees owing to the influence of the significant equity holders;

37 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
38 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
39 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
40 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

f. any change with respect to the financial guarantees (Art. 13), in particular if the minimum requirements are no longer met.

2 The custodian bank shall report any change of executive persons entrusted with the performance of the custodian bank's duties (Art. 72 para. 2 CISA).

3 Furthermore, changes to the prospectus as well as to the key information document must also be reported in accordance with Articles 58–63 and 66 FinSA[41].[42]

4 The representatives of foreign collective investment schemes that are not offered exclusively to qualified investors must report:[43]

a.[44] measures taken by a foreign supervisory authority against the collective investment scheme, specifically its withdrawal of approval;

b.[45] changes to the documents for foreign collective investment schemes in accordance with Article 13*a*;

c.[46] …

5 The report must be made immediately to FINMA, which shall establish whether the reported facts comply with the Act.

Art. 16 Requirements for the simplified approval procedure
(Art. 17 CISA)

1 The simplified approval procedure may only be adopted where the fund regulations:

a. comply with a format which FINMA has recognised as being the minimum standard, such as model regulations and prospectuses of a specific industry body; or

b. comply with a set of standards which FINMA has recognised as binding in relation to the relevant licensee.

2 FINMA shall give the applicant confirmation of its receipt of the application.

3 Where additional information is required for the purpose of assessing the application, FINMA may instruct the applicant to submit such information at a subsequent time.

41 SR **950.1**
42 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
43 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).
44 Amended by Annex No 6 of the Financial Market Audit Act of 15 Oct. 2008, in force since 1 Jan. 2009 (AS **2008** 5363).
45 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
46 Repealed by No I of the O of 13 Feb. 2013, with effect from 1. March 2013 (AS **2013** 607).

Art. 17 Time limits for the simplified approval procedure
(Art. 17 CISA)

[1] Open-ended collective investment schemes for qualified investors are deemed to have been approved on expiry of the following time limits:

a. securities funds, real estate funds and other funds for traditional investments: following receipt of the application;

b. other funds for alternative investments: four weeks following receipt of the application.

[2] FINMA shall approve open-ended collective investment schemes which are directed towards the public at the latest within the following time limits:

a. securities funds: four weeks following receipt of the application;

b. real estate funds and other funds for traditional investments: six weeks following receipt of the application;

c. other funds for alternative investments: eight weeks following receipt of the application.

[3] The period begins one day following receipt of the application.

[4] Where FINMA requires further information, the commencement of the period must be postponed from the time the request is made until such time as the information is received by FINMA.

Art. 18 Subsequent amendment of documents
(Art. 17 CISA)

[1] FINMA may demand that a subsequent amendment be made to the documents for collective investment schemes for qualified investors for a period of up to three months following simplified approval.

[2] The investors must:

a. be made aware of the possibility of an amendment in advance;

b. be informed of subsequent amendments in the media of publication.

Section 2 …[47]

Art. 19[48]

Art. 20 Components of capital
(Art. 14 para. 1 let. d CISA)[49]

1 In the case of a company limited by shares and a partnership limited by shares, the capital is the share and participation capital, and in the case of a limited liability company it is the issued capital.

2 In the case of partnerships, the capital is:[50]

a. the capital accounts;

b. the partnership contributions; and

c. the assets of the partners with unlimited liability.

3 The capital accounts and assets of the partners with unlimited liability may only be counted towards the capital if a declaration is provided to the effect that:[51]

a. in the event of liquidation, bankruptcy or administration proceedings such assets shall be subordinate to the claims of all other creditors; and

b. an obligation exists:[52]

1. not to net such assets with its own claims nor secure them from its own assets,

2. not to reduce any of the components of the capital as defined in paragraph 2 letters a and c to the extent that the minimum capital is no longer maintained without the prior consent of the audit company.

4 The declaration in accordance with paragraph 3 is irrevocable. It must be made in writing or in another form demonstrable via text and filed with a licensed audit company.[53]

47 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).
48 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).
49 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
50 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
51 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).
52 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).
53 Inserted 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. 21[54]

Art. 22 Qualifying capital
(Art. 14 para. 1 let. d CISA)

[1] Legal entities may include the following in qualifying capital:

a. the paid-up share and participation capital in the case of a company limited by shares and partnership limited by shares, and the issued capital in the case of a limited liability company;

b. the general statutory reserve and other reserves;

c. retained earnings;

d. the net profit for the current financial year after deducting the estimated earnings distribution, provided an audited interim financial statement including full income statement is available;

e. hidden reserves, provided they are assigned to a separate account and designated as own funds. Their allowability must be confirmed in the audit report[55].

[2] Partnerships may include the following in qualifying capital:[56]

a. the capital accounts;

b. the partnership contributions;

c.[57] …

d. the funds of the partners with unlimited liability, provided the conditions stated in Article 20 paragraph 3 are met.

[3] …[58]

[4] The qualifying capital as defined in paragraphs 1 and 2 letters a–d must account for at least 50 per cent of the total required.

Art. 23 Deductions in relation to the calculation of qualifying capital
(Art. 14 para. 1 let. d CISA)

The following shall be deducted when calculating capital adequacy:

a. the loss carried forward and the loss for the current financial year;

b. any unsecured allowance and provision for the current financial year;

54 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).
55 Expression in accordance with No 6 of the Financial Market Audit Act of 15 Oct. 2008, in force since 1 Jan. 2009 (AS **2008** 5363).
56 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
57 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).
58 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).

c.[59] …

d. intangible assets (including start-up and organisational costs as well as goodwill) with the exception of software;

e. in the case of a company limited by shares and partnership limited by shares, the shares which they hold in the company at their own risk;

f. in the case of a limited liability company, the capital contribution which it holds in the company at its own risk; g. the carrying amount of investments, unless a consolidation is performed in accordance with Article 29;

g.[60] the carrying amount of participations.

Art. 24[61]

Art. 24*a*[62]

Art. 25–28[63]

Art. 29[64]

Art. 29*a*–29*f*[65]

Art. 30[66]

Art. 30*a*[67]

59 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).
60 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).
61 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).
62 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). 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).
63 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).
64 Repealed by No I of the O of 13 Feb. 2013, with effect from 1. March 2013 (AS **2013** 607).
65 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). 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).
66 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).
67 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). 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).

Chapter 4 Protection of Investors' Interests[68]

Art. 31 Duty of loyalty
(Art. 20 para. 1 let. a CISA)

1 Persons who manage Swiss collective investment schemes or hold the assets of these schemes in safekeeping, or who manage or represent foreign collective investment schemes, or their agents, may only purchase investments from collective investment schemes at the market price for their own account and may only sell such investments from their own portfolios at the market price.[69]

2 In relation to services delegated to third parties they shall waive the compensation owed to them in accordance with the fund regulations, company agreement, investment regulations or discretionary management agreement where such compensation is not used for payment of the services rendered by such third parties.

3 Where investments of a collective investment scheme are transferred to another scheme of the same licensee or a scheme belonging to a related licensee, no costs may be levied.

4 Persons who manage or represent Swiss collective investment schemes or hold the assets of these schemes in safekeeping, or who manage or represent foreign collective investment schemes or their agents, may not levy any issue or redemption fees if they purchase target funds which:[70]

a. they manage themselves either directly or indirectly; or

b. are managed by a company to which they are related by virtue of:
   1. common management,
   2. control, or
   3. a significant direct or indirect interest.[71]

5 When a management fee is levied on investments in target funds pursuant to paragraph 4, Article 73 paragraph 4 applies accordingly.[72]

6 FINMA regulates the details. It may declare that paragraph 4 and 5 also applies to other products.[73]

Art. 31*a*[74] Best possible execution of securities transactions and other transactions
(Art. 20 para. 1 let. a CISA)

1 Persons who manage or represent Swiss collective investment schemes or hold the assets of these schemes in safekeeping, or who manage or represent foreign collective

68 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
69 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
70 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
71 Amended by No I of the O of 28 Jan. 2009, in force since 1 March 2009 (AS **2009** 719).
72 Amended by No I of the O of 28 Jan. 2009, in force since 1 March 2009 (AS **2009** 719).
73 Inserted by No I of the O of 28 Jan. 2009, in force since 1 March 2009 (AS **2009** 719).
74 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

investment schemes, or their agents, must exercise due diligence in selecting counterparties for securities transactions and other transactions. They must ensure that the best possible result is achieved in financial, time and quality terms when executing securities transactions and other transactions.

2 In financial terms, in addition to the price of the financial instrument, they must also take into account the costs associated with the execution of the order as well as third-party compensation.

Art. 32 Special duty of loyalty in relation to real estate investments
(Art. 20 para. 1 let. a, 21 para. 3 and 63 CISA)

1 Persons who manage or represent Swiss collective investment schemes or hold the assets of these schemes in safekeeping, or who manage or represent foreign collective investment schemes, or their agents, may calculate the fees payable to closely connected natural or legal persons that participate in the planning, construction, purchase or sale of a building for the account of the collective investment scheme; the fees shall be based exclusively on the normal prices prevailing in the sector.[75]

2 The valuation expert shall check the fee invoice prior to settlement thereof and if necessary furnish the licensee and the audit company with a report.

3 Where real estate investments of a collective investment scheme are transferred to another scheme of the same licensee or a related licensee, no compensation may be levied for buying and selling work undertaken.

4 Payments by real estate companies to the members of their administration, to their management and to their personnel shall be included in the compensation to which the fund management company and the SICAV are entitled in accordance with the fund regulations.

Art. 32*a*[76] Exceptions to the ban on transactions with closely connected persons
(Art. 63 para. 3 and 4 CISA)

1 Pursuant to Article 63 paragraph 4 of the CISA, FINMA may in justified individual cases grant an exemption from the ban on transactions with closely connected persons pursuant to Article 63 paragraphs 2 and 3 of the CISA if:

a. the relevant documents of the collective investment scheme provide for such a possibility;

b. the exemption is in the interests of the investors;

c. in addition to the valuation by the regular valuation experts for the real estate fund, a valuation expert who is independent of such experts or their employer and of the fund management company or SICAV as well as the custodian bank of the real estate fund pursuant to Article 64 paragraph 1 of the CISA confirms the market conformity of the purchase and sale price for the property and of the transaction costs.

75 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
76 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).

2 Following conclusion of the transaction, the fund management company or SICAV prepares a report containing the following:

a. information on the individual properties acquired or transferred and their value on the date of acquisition or transfer;

b. the valuation reports by the regular valuation experts;

c. the report on the market conformity of the purchase or sales price by the valuation experts pursuant to paragraph 1 lit. c.

3 As part of its audit of the fund management company or SICAV, the audit company confirms adherence to the special duty of loyalty in relation to real estate investments.

4 The approved transactions with closely connected persons are mentioned in the annual report of the collective investment scheme.

5 In the case of properties where the fund management company, SICAV or persons closely connected thereto have construction projects carried out, FINMA may not grant any exemptions from the prohibition of transactions with closely connected persons.[77]

Art. 32*b*[78] Conflicts of interest
(Art. 20 para. 1 let. a CISA)

Persons who manage or represent Swiss collective investment schemes or hold the assets of these schemes in safekeeping, or who manage or represent foreign collective investment schemes, or their agents, must take effective organisational and administrative measures to identify, prevent, settle and monitor conflicts of interest in order to prevent the latter from harming the interests of the investors. Where conflicts of interest cannot be avoided, they shall be disclosed to the investors.

Art. 33[79] Due diligence
(Art. 20 para. 1 let. b CISA)

1 Persons who manage or represent Swiss collective investment schemes or hold the assets of these schemes in safekeeping, or who manage or represent foreign collective investment schemes, or their agents, must ensure the effective separation of the activities of decision-making (asset management), implementation (trading and settlement) and administration.

2 FINMA may regulate the details and in justified individual instances permit exemptions or order the separation of additional functions.

77 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
78 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
79 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

Art. 34[80] Duty of disclosure
(Art. 20 para. 1 let. c and 23 CISA)

[1] Persons who manage or represent Swiss collective investment schemes or hold the assets of these schemes in safekeeping, or who manage or represent foreign collective investment schemes, or their agents, must draw investors' attention to the risks associated with a specific type of investing in particular.[81]

[2] They shall disclose all costs incurred on the issue and redemption of units and in the administration of the collective investment scheme. In addition, they shall disclose the manner in which the management fee is used and the levying of any performance fee.

[3] The duty of disclosure with regard to compensation for distribution of collective investment schemes encompasses the nature and scale of all fees and other pecuniary benefits through which the activities of the distributor are to be compensated.

[4] Persons who manage or represent Swiss collective investment schemes or hold the assets of these schemes in safekeeping, or who manage or represent foreign collective investment schemes, or their agents, must ensure a degree of transparency in the exercising of membership and creditors' rights such that investors are in a position to comprehend the manner in which such rights are exercised.[82]

Art. 34*a*[83]

Title 2 Open-Ended Collective Investment Schemes

Chapter 1 Contractual Fund

Section 1 Minimum Assets

(Art. 25 para. 3 CISA)

Art. 35

[1] investment fund or the subfund of an umbrella fund must be issued for subscription (launch) within one year of approval by FINMA.

[2] The investment fund or subfund of an umbrella fund must have net assets of at least 5 million Swiss francs at the latest one year following its launch.

[3] FINMA may extend the time limits for a corresponding application.

[4] Following expiry of the time period as defined in paragraphs 2 and 3, the fund management company shall notify FINMA of any shortfall forthwith.

80 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
81 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
82 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
83 Inserted by No I of the O 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).

Section 2 Fund Contract

Art. 35*a*[84] Minimum content of the fund contract
(Art. 26 para. 3 CISA)

1 In particular, the fund contract contains the following information:

a. the name of the investment fund, together with the name and registered office of the fund management company, the custodian bank and the manager of collective assets;

b. investor eligibility;

c. the investment policy, investment techniques, risk diversification and the risks associated with the investment;

d. the subdivision into subfunds;

e. the unit classes;

f. investors' right to cancel;

g. the accounting year;

h. the calculation of the net asset value and of the issue and redemption prices;

i. the appropriation of net income and capital gains from the sale of assets and rights;

j. the type, amount and calculation of all fees, the issue and redemption commission together with the incidental costs for the purchase and sale of the investments (brokerage fees, charges, duties) that may be charged to the fund's assets or to the investors;

k. the duration of the contract and the conditions of dissolution;

l. the media of publication;

m. the conditions for the deferment of redemption and compulsory redemption;

n.[85] the place at which the fund contract, prospectus and the key information document in accordance with Articles 58–63 and 66 FinSA[86], together with the annual and semi-annual reports, may be obtained free of charge;

o. the unit of account;

p. the restructuring.

2 When approving the fund contract, FINMA shall only verify the provisions pursuant to paragraph 1 lit. a–g and ensure their compliance with the Act.

3 When approving a contractual fund, FINMA, at the fund management company's request, shall verify all provisions of the fund contract and ensure their compliance

84 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
85 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
86 SR **950.1**

with the Act where the fund is to be offered abroad and such action is required under foreign law.[87]

4 FINMA may formalise the content of the fund contract in accordance with international developments.

Art. 36 Investment policy guidelines
(Art. 26 para. 3 let. b CISA)

1 The fund contract sets out the permitted investments:

a. by type (equity securities, debt securities, derivative instruments, residential property, commercial properties; precious metals; commodities, etc.);

b. by country, geographical region, sector or currency.

2 For other funds as defined in Article 68–71 CISA and Limited Qualified Investor Funds (L-QIF) as defined in Article 118*a* CISA, it also sets out information on the special features and risks of the individual investments in terms of their characteristics and valuation.[88]

3 The fund contract sets out the permitted investment techniques and instruments.

Art. 37[89] Fees and incidental costs
(Art. 26 para. 3 CISA)

1 The following may be charged to the assets of the fund or any subfunds:

a. a management fee for remunerating the activities of the fund management company;

b. custody fees and other costs for the remuneration of the custodian bank's activity, including the costs for the safekeeping of the fund's assets by third-party custodians or collective securities depositories;

c. a management fee and any performance fees for the remuneration of the manager of collective assets;

d.[90] any distribution fees in remuneration of distribution activities;

e.[91] all the incidental costs listed in paragraphs 2 and 2bis;

f.[92] commission in accordance with paragraph 2ter.

2 Where explicitly provided by the fund contract, the following incidental costs may be charged to the assets of the fund or the subfunds:

87 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
88 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
89 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
90 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
91 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
92 Inserted by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).

a.[93] costs in connection with the purchase and sale of the investments including hedging transactions, specifically standard brokerage fees, commission, clearing and settlement costs, bank charges, taxes and duties, as well as costs for the verification and maintenance of quality standards in the case of physical investments;

b.[94] ...

c. the supervisory authority's fees in relation to the establishment, amendment, liquidation or merger of the fund or any subfunds;

d. the supervisory authority's annual fees;

e.[95] the audit company's fees for verification as well as certification in the case of establishments, amendments, liquidation or merger of the fund or any subfunds;

f. fees for legal and tax advisors in connection with the establishment, modification, liquidation or merger of funds or any subfunds, as well as generally upholding the interests of the fund and its investors;

g.[96] notary and commercial register expenses for registration in the Commercial Register of collective investment schemes and changes to the registered facts;

h.[97] the cost of publishing the net asset value of the fund or its subfunds, together with all the costs of providing notices to investors, provided such costs cannot be ascribed to any failure on the part of the fund management company, including translation costs;

i.[98] the cost of printing and translating legal documents as well as the fund's annual and semi-annual reports;

j. the cost of any registration of the fund with a foreign supervisory authority, and specifically the commission levied by the foreign supervisory authority, translation costs and remuneration for the representative or paying agent abroad;

k. costs relating to the exercising of voting rights or creditors' rights by the fund, including the cost of fees paid to external advisors;

l. costs and fees relating to intellectual property registered in the name of the fund or with rights of use for the fund;

m. fees paid to the members of the board of directors of the SICAV and the cost of liability insurance;

93 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
94 Repealed by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, with effect from 1 Jan. 2020 (AS **2019** 4459).
95 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
96 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
97 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
98 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

n. all costs incurred though any extraordinary steps taken to safeguard the interests of investors by the fund management company, manager of collective assets or custodian bank;

o.[99] costs for the registration or renewal of a legal entity identifier in the case of domestic and foreign registrars;

p.[100] costs and fees in connection with the listing of the fund;

q.[101] costs and fees for the purchase and use of data and data licences, insofar as they can be attributed to the fund and do not constitute research costs;

r.[102] costs and fees for the use and verification of independent labels.

[2bis] In the case of real estate funds and L-QIF with real estate investments, where explicitly provided by the fund contract, the following incidental costs may additionally be charged to the assets of the fund or the subfunds:[103]

a. costs for the purchase and sale of real estate investments, specifically standard brokerage fees, consultants' and lawyers' fees, notary and other charges, as well as taxes;

b.[104] standard brokerage fees paid in connection with first lettings and re-lettings of real estate;

c. standard costs for the management of properties by third parties;

d.[105] property expenses, in particular maintenance and operating costs, including insurance costs, public charges and the costs of general and infrastructure services, provided these are standard expenses and not borne by third parties;

e. fees of independent valuation experts and other experts for clarifications serving the interests of investors;

f. consultation fees and procedural costs in connection with the general safeguarding of the interests of the real estate fund and its investors;

g.[106] costs and fees in connection with ensuring regular on and off-exchange trading of the fund's units.[107]

[2ter] Where explicitly provided by the fund contract and where the activity is not performed by third parties, the management company of a real estate fund or an L-QIF with real estate investments may levy a fee for its own efforts in connection with the following activities:[108]

a. purchase and sale of real estate on the basis of the purchase or selling price;

99 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
100 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
101 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
102 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
103 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
104 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
105 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
106 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
107 Inserted by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
108 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

b. construction of buildings, with construction costs serving as the basis in the case of renovations and alterations;

c. management of properties on the basis of annual gross rental income.[109]

3 The fund contract sets out the fees and incidental costs in a single, comprehensive overview, providing a breakdown by type, maximum amount and calculation.

4 Use of the term «all-in fee» is only permissible if it includes all fees with the exception of issue and redemption fees but including incidental costs. If the term «flat fee» is used, specific information must be provided indicating which fees and incidental costs it does not include.

5 The fund management company, manager of collective assets and custodian bank may pay commissions only as reimbursement for the fund's distribution activities and only if this specifically provided for in the fund contract.

Art. 38[110] Issue and redemption price; supplementary charges and deductions
(Art. 26 para. 3 CISA)

1 The investors may be charged for the following:

a. all-in incidental costs incurred by the issue, redemption or conversion of units for the purchase and sale of investments;

b. a fee for subscriptions, conversions or redemptions to the distributor to cover the costs associated with distribution.

2 The fund contract describes in a comprehensible, transparent manner the fees that may be charged to the investors, as well as their scale and the method of calculation.

Art. 39 Media of publication
(Art. 26 para. 3 CISA)[111]

1 The prospectus for the investment fund must specify one or more media of publication in which the information required by the CISA and this Ordinance shall be made available to investors.[112] The media of publication may be print media or electronic platforms that are publicly accessible and recognized by FINMA.[113]

2 All facts which are subject to the disclosure requirement, and in relation to which investors are entitled to lodge objections with FINMA, in addition to the dissolution of an investment fund, must be published in the media of publication intended for such purpose.

109 Inserted by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
110 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
111 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
112 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
113 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).

Art. 40 Unit classes
(Art. 26 para. 3 let. k and 78 para. 3 CISA)

1 The fund management company may create, liquidate or merge unit classes subject to the consent of the custodian bank and the approval of FINMA. In doing so it shall address the following specific criteria: cost structure, reference currency, currency hedging, distribution or reinvestment of income, minimum investment or investor eligibility.

2 The procedural details are set out in the prospectus. The risk that a class may be liable for another class must be specifically disclosed in the prospectus.

3 The fund management company announces the creation, dissolution or merging of unit classes in the media of publication. Only a merger is deemed to be an amendment to the fund contract, and is governed by Article 27 CISA.

4 Article 112 paragraph 3*a*-c applies accordingly.

5 …[114]

Art. 41 Amendments to the fund contract; duty to publish, time limit for lodging objections, entry into force and cash repayments
(Art. 27 para. 2 and 3 CISA)

1 The fund management company shall publish any amendment to the fund contract in the media of publication of the relevant fund in the form specified by the CISA.[115] In this publication, the fund management company shall inform investors in a clear, comprehensible manner about which amendments to the fund contract are covered by FINMA's verification and ascertainment of compliance with the Act.[116]

1bis Amendments that are required by law, provided such amendments do not affect the rights of investors or are of an exclusively formal nature, may be exempted by FINMA from the duty to publish.[117]

2 The period in which objections to the amendment of the fund contract may be lodged commences on the day following announcement in the media of publication.

2bis When approving the amendment to the fund contract, FINMA shall only verify the amendments to the provisions pursuant to Article 35*a* paragraph 1 lit. a–g and ensure their compliance with the Act.[118]

2ter Where in relation to the approval of a fund contract pursuant to Article 35*a* paragraph 3 FINMA has verified all provisions and ensured their compliance with the Act, it shall also in relation to the amendment to such fund contract verify all provisions

114 Inserted by Annex 1 No II 9 of the Financial Services Ordinance of 6 Nov. 2019 (AS **2019** 4633). Repealed by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
115 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
116 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
117 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
118 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).

and ensure their compliance with the Act if the investment fund is to be offered abroad and such action is required under foreign law.[119]

3 In its decision FINMA specifies the date on which the amendment to the fund contract enters into force.

Art. 42–50[120]

Chapter 2 Investment Company with Variable Capital

Section 1 General Provisions

Art. 51[121] Self and externally managed SICAVs
(Art. 36 para. 3 CISA)

1 The self-managed SICAV performs its own administration. It may only delegate portfolio management in accordance with Article 36 paragraph 3 CISA to a manager of collective assets that is subject to a recognised supervisory body.

2 The externally managed SICAV delegates administration to an authorised fund management company. Administration also includes distribution of the SICAV. In addition, the externally managed SICAV delegates portfolio management to the same fund management company or to a manager of collective assets that is subject to a recognised supervisory body.

3 The provisions of Article 64 are reserved.

Art. 52[122] Object
(Art. 36 para. 1 let. d CISA)

A SICAV may only manage its own assets or those of its subfunds. It is specifically prohibited from rendering services pursuant to Article 26 and 34 of the Financial Institutions Act of 15 June 2018[123] (FinIA) on behalf of third parties.

Art. 53 Minimum assets
(Art. 36 para. 2 CISA)

In relation to the minimum assets of a SICAV, Article 35 applies accordingly.

119 Inserted by No I of the O 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).
120 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).
121 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
122 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).
123 SR **954.1**

Art. 54[124] Minimum investment amount

[1] In respect of a self-managed SICAV and an externally managed SICAV that delegates administration to an authorised fund management company and portfolio management to another manager of collective assets, company shareholders must provide a minimum investment amount of 500,000 Swiss francs at the time of formation.

[2] Where the externally managed SICAV delegates administration and portfolio management to the same authorised fund management company, company share- holders must provide a minimum investment amount of 250,000 Swiss francs at the time of formation.

[3] The minimum investment amount must be maintained at all times.

[4] A SICAV shall notify FINMA of any shortfall immediately.

Art. 55 Definition and level of capital adequacy
(Art. 39 CISA)

[1] The holdings provided by the company shareholders are included in the capital.

[2] The following must be deducted from the capital:

a. any balance sheet loss attributable to the company shareholders;

b. any allowances and provisions attributable to the company shareholders;

c. intangible assets (including start-up and organisational costs as well as goodwill) with the exception of software;

d.[125] …

[3] The self-managed SICAV calculates the required level of capital adequacy in accordance with Article 59 of the Financial Institutions Ordinance of 6 November 2019[126] (FinIO).[127]

[3bis] An externally managed SICAV that delegates administration to an authorised fund management company and portfolio management to a manager of collective assets calculates the required level of capital adequacy in accordance with Article 59 FinIO. It may deduct 20 per cent from this amount.[128]

[3ter] An externally managed SICAV that delegates portfolio management to a bank pursuant to the Federal Banking Act of 8 November 1934[129] or to a securities firm pur-

124 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
125 Repealed by No I of the O of 31 Jan. 2024, with effect from 1 March 2024 (AS **2024** 73).
126 SR **954.11**
127 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).
128 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). 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).
129 SR **952.0**

suant to the FinIA[130] with its registered office in Switzerland may be exempted by FINMA from the duty to include its own resources in the assets.[131]

4 Where an externally managed SICAV delegates administration and portfolio management to the same authorised fund management company, it is not required to include its own resources in the assets (Art. 59 para. 4 FinIO).[132]

5 The prescribed ratio between the equity and total assets of a self-managed SICAV as well as an externally managed SICAV that delegates administration to an authorised fund management company and portfolio management to a manager of collective assets shall be maintained at all times.[133]

6 A SICAV notifies FINMA of capital inadequacy immediately.

7 FINMA regulates the details.

Art. 56 Net issue price at time of initial issue
(Art. 40 para. 4 CISA)

All shares have the same net issue price at the time of initial issue of their category, irrespective of whether they belong to different categories. This represents the issue price payable by the investors at the time of issue less any fees and incidental costs.

Art. 57[134]

Art. 58 Issue and redemption of shares
(Art. 42 para. 1 and 3 CISA)

1 Articles 37 and 38 apply accordingly.

2 Company shareholders may redeem their shares if:

a. the appropriate ratio between holdings of the company shareholders and total assets of the SICAV is maintained even after redemption; and

b. the minimum investment amount is maintained.

Art. 59 Investment in treasury shares
(Art. 42 para. 2 and 94 CISA)

Investments by a subfund in other subfunds of the same SICAV do not constitute an investment in treasury shares.

130 SR **954.1**
131 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). 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).
132 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).
133 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
134 Repealed by No I of the O of 13 Feb. 2013, with effect from 1. March 2013 (AS **2013** 607).

Art. 60 Media of publication
(Art. 43 para. 1 let. f CISA)

Article 39 applies accordingly.

Art. 61 SICAV with share classes
(Art. 40 para. 4 and 78 para. 3 CISA)

1 Where provided by the articles of association, a SICAV may create, dissolve or merge share classes with the approval of FINMA.

2 Article 40 applies accordingly. The merger requires the approval of the general meeting of shareholders.

3 The risk that a class of shares may be liable for another class must be disclosed in the prospectus.

Art. 62 Voting rights
(Art. 40 para. 4, 47 and 94 CISA)

1 Shareholders have the right to vote on:

a. the subfund in which they are invested;

b. the company if the decision affects the SICAV as a whole.

2 If the share of voting rights assigned to a subfund differs significantly from the share of assets assigned to the subfund, the shareholders may at the general meeting resolve to split or merge the shares of a share category in accordance with paragraph 1 letter b. FINMA must give its consent for such decision to be valid.

3 FINMA may order the splitting or merging of shares in a share class.

Art. 62*a*[135] Custodian bank
(Art. 44*a* CISA)

In relation to the custodian bank, Article 15 paragraph 2 of the present Ordinance and Article 53 FinIO[136] apply accordingly.

Art. 62*b*[137] Content of investment regulations
(Art. 43 and 44 CISA)

1 The content and approval of the investment regulations are based on the provisions on the fund contract, unless the CISA or articles of association provide otherwise.[138]

135 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). 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).
136 SR **954.11**
137 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
138 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

2 When convening the general meeting, the SICAV informs shareholders in the form prescribed in the articles of association about:[139]

a. which changes to the investment regulations FINMA has verified; and

b. which of these changes FINMA has established as being in compliance with the Act.

3 Paragraphs 1 and 2 apply to the articles of association accordingly, provided the latter regulate the contents of the investment regulations.

Section 2 Organisation

Art. 63 General meeting
(Art. 50 and 94 CISA)

1 The articles of association may provide for general meetings in respect of individual subfunds where decisions are involved which affect only such subfunds.

2 Shareholders which together hold at least 10 per cent of the votes of all or some subfunds may request that items be included on the agenda for discussion at the general meeting of the SICAV or subfund.

3 The general meeting of the SICAV or subfunds is responsible for amending the investment regulations provided such amendment:

a. is not required by law;

b.[140] affects the rights of shareholders; or

c. is not of an exclusively formal nature.

4 In the media of publication, the SICAV publishes the material amendments to the fund regulations resolved by the general meeting and approved by FINMA, indicating the offices from which the amended wording may be obtained free of charge.

5 The provision regarding important resolutions passed by the general meeting of a company limited by shares (Art. 704 of the Swiss Code of Obligations[141], CO) does not apply.[142]

Art. 64 Board of directors
(Art. 51 CISA)

1 The board of directors has the following tasks:

139 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).
140 Amended by No I of the O of 13. Feb. 2008, in force since 1 March 2008 (AS **2008** 571).
141 SR **220**
142 Inserted by Annex No 6 of the Financial Market Audit Act of 15 Oct. 2008, (AS **2008** 5363). Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

a.[143] performing the duties required under Article 716*a* CO[144];

b. determining the principles of the investment policy;

c.[145] appointing the custodian bank or an institution in accordance with Article 44*a* paragraph 2 CISA;

d. creating new subfunds, where provided by the articles of association;

e.[146] drawing up the prospectus and the key information document;

f. administration.

2 The tasks laid down in paragraph 1a–c may not be delegated.

3 In a self-managed SICAV, the tasks defined in paragraph 1 letters d and e, in addition to the administrative sub-tasks defined in paragraph 1 letter f, specifically risk management, the structuring of the internal control system (ICS) and compliance, may only be delegated to the executive board.

4 In relation to the organisational structure of a self-managed SICAV, Article 51 paragraph 1, Article 52 paragraph 1 and Article 53 FinIO[147] apply accordingly.[148]

Art. 65[149] Delegation of tasks
(Art. 36 para. 3 and 51 para. 5 CISA)

Articles 32 and 35 FinIA[150] apply accordingly to the delegation of tasks.

Art. 66[151]

143 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
144 SR **220**
145 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
146 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
147 SR **954.11**
148 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).
149 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).
150 SR **954.1**
151 Repealed by No I of the O of 13 Feb. 2013, with effect from 1. March 2013 (AS **2013** 607).

Chapter 3
Types of Open-Ended Collective Investment Schemes and Investment Regulations

Section 1 General Provisions

Art. 67 Compliance with investment regulations
(Art. 53 ff. CISA)

1 Unless specified otherwise, the percentage restrictions given in this chapter relate to the fund assets at market values; they must be maintained at all times.

2 If the limits are exceeded as a result of market changes, the investments must be restored to the permitted level within a reasonable period, taking due account of the investors' interests.

2bis If the investment regulations are actively violated, in particular through purchases or sales, the investments must be immediately restored to the permitted level. If investors are not compensated for any loss incurred as a result of such an active investment violation, the investment violation must be reported to the audit company immediately and published in the media of publication as soon as possible. The report and publication must include a specific description of the investment violation and the loss incurred by the investors. All active investment violations must be reported in the annual report.[152]

3 Securities funds and other funds must comply with the investment restrictions within six months of launch.

4 Real estate funds must comply with the investment restrictions within two years of launch.

5 FINMA may extend the time limits specified in paragraphs 3 and 4 at the request of the fund management company and the SICAV.

Art. 68 Subsidiary companies and permitted investments
(Art. 53 ff. CISA)

1 With regard to the administration of collective investment schemes, the fund management company and the SICAV may deploy subsidiaries whose sole object is the holding of assets for collective investment. FINMA regulates the details.

2 A SICAV may acquire movable and non-movable assets which are essential for the direct performance of its operations. FINMA regulates the details.

Art. 69 Umbrella funds
(Art. 92 ff. CISA)

1 Umbrella funds may only comprise subfunds of the same type.

2 The following types of fund qualify:

a. securities funds;

152 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

b. real estate funds;

c. other funds for traditional investments;

d. other funds for alternative investments.

3 In the case of collective investment schemes which include subfunds, the investment restrictions and techniques for each individual subfund apply.

Section 2 Securities Funds

Art. 70 Permitted investments
(Art. 54 para. 1 and 2 CISA)

1 The following investments are permitted:

a. securities in accordance with Article 71;

b. derivative financial instruments in accordance with Article 72;

c. units in collective investment schemes which comply with the requirements specified in Article 73;

d. money market instruments as specified in Article 74;

e. sight or time deposits with a term to maturity not exceeding twelve months held with banks domiciled in Switzerland or in a member state of the European Union or in another country provided that the bank is subject to supervision in that country which is equivalent to the standard of supervision in Switzerland.

2 The following are not permitted:

a. investments in precious metals or precious metals certificates, commodities or commodity certificates;

b. short-selling of investments in accordance with paragraph 1 letters a, b, c and d.

3 Investments in assets other than those named in paragraph 1 may not exceed 10 per cent of the fund's total assets.

4 ...[153]

Art. 71 Securities
(Art. 54 CISA)

1 Securities are deemed to be equity or debt securities pursuant to Article 54 paragraph 1 CISA which embody a participation right or claim or the right to acquire such securities and rights by way of subscription or exchange, specifically warrants.

153 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).

2 Investments in securities from new issues are permitted only if the terms of issue provide for their admission to a stock exchange or other regulated market which is open to the public. If one year following purchase they are not yet admitted on the stock exchange or other market open to the public, such securities must be sold within one month.

3 FINMA may formalise the permitted investments for a securities fund in accordance with the laws currently in force in the European Communities.[154]

Art. 72 Derivative financial instruments
(Art. 54 and 56 CISA)

1 Derivative financial instruments are permitted if:

a. their underlyings are instruments as defined in Article 70 paragraph 1 letters a-d, financial indices, interest rates, exchange rates, loans or currencies;

b. the underlyings are instruments permitted by the fund regulations; and

c. they are traded on a stock exchange or other regulated market open to the public.

2 In the case of transactions involving OTC derivatives, the following conditions shall be complied with in addition:

a. The counterparty is a regulated financial intermediary specializing in such transactions.

b. The OTC derivatives are traded daily or may be returned to the issuer at any time. In addition, it is possible for them to be valued in a reliable and transparent manner.

3 A securities fund's overall exposure associated with derivative financial instruments may not exceed 100 per cent of the net assets. The overall exposure may not exceed 200 per cent of the fund's total net assets. When taking account of the possibility of temporary borrowing amounting to no more than 10 per cent of the net assets (Art. 77 para 2), the overall exposure may not exceed 210 per cent of the fund's total net assets.

4 Warrants must be treated in the same manner as financial instruments.

Art. 73 Investments in other collective investment schemes (target funds)
(Art. 54 and 57 para. 1 CISA)

1 The fund management company and the SICAV may only invest in target funds if:

a. their documents restrict investments in other target funds for their part to a total of 10 percent;

b. these funds are subject to provisions equivalent to those pertaining to securities funds in respect of the object, organisation, investment policy, investor protection, risk diversification, asset segregation, borrowing, lending, short-

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

selling of securities and money market instruments, issue and redemption of units and content of the semi-annual and annual reports;

c. the target funds are admitted as collective investment schemes in the country of domicile, where they are subject to investor protection which is equivalent to that in Switzerland, and international legal assistance is ensured.

2 They may invest a maximum of:

a. 20 per cent of the fund's assets in units of the same target fund; and

b.[155] 30 per cent of the fund's assets in units of target funds that do not meet the relevant directives of the European Union (undertakings for collective investment in transferable securities, UCITS) but are equivalent to these or Swiss securities funds pursuant to Article 53 CISA.

3 In relation to investments in target funds, Articles 78-84 do not apply.

4 If, in accordance with the fund regulations, a significant portion of the fund assets may be invested in target funds:

a.[156] the fund regulations and the prospectus must contain information about the maximum level of management fees to be borne by the investing collective investment scheme itself as well as by the target funds;

b. the annual report must specify the maximum portion of management fees that the investing collective investment scheme and the target funds may each bear.

Art. 73*a*[157] Master feeder- structures
(Art. 54 and 57 para. 1 CISA)

1 A feeder fund is a collective investment scheme that by way of derogation from Article 73 paragraph 2 letter a invests at least 85 per cent of the fund's assets in units of the same target fund (master fund).

2 The master fund is a Swiss collective investment scheme of the same type as the feeder fund but is not itself a feeder fund and does not hold any units in such a fund.

3 A feeder fund may invest up to 15 per cent of its fund assets in liquid assets (Art. 75) or derivative financial instruments (Art. 72). The derivative financial instruments may only be used for hedging purposes.

4 FINMA regulates the details.

Art. 74 Money market instruments
(Art. 54 para. 1 CISA)

1 The fund management company and the SICAV may acquire money market instruments if these are liquid and can be valued and are traded on a stock exchange or other regulated market that is open to the public.

155 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
156 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
157 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).

2 Money market instruments that are not traded on a stock exchange or other regulated market that is open to the public may only be acquired if the issue or the issuer is subject to provisions regarding creditor or investor protection and if the money market instruments are issued or guaranteed by:

a. the Swiss National Bank;

b. the central bank of a member state of the European Union;

c. the European Central Bank;

d. the European Union;

e. the European Investment Bank;

f. the Organisation for Economic Cooperation and Development (OECD);

g. another state including its constituent parts;

h. a public international body of which Switzerland or at least one member state of the European Union is a member;

i. a public body;

j. a company whose securities are traded on a stock exchange or other regulated market open to the public;

k.[158] a bank, securities firm or other institution that is subject to supervision equivalent to that in Switzerland.

Art. 75 Liquid assets
(Art. 54 para. 2 CISA)

Liquid assets comprise bank credit balances and claims arising from repurchase agreements at sight or on demand with maturities of up to twelve months.

Art. 76 Securities lending and repurchase agreements (repo, reverse repo)
(Art. 26 para. 3 and 55 para. 1 let. a and b CISA)[159]

1 Securities lending and repurchase agreements may only be used for the efficient management of the fund's assets. The custodian bank is liable for the proper, efficient settlement of securities lending and repurchase transactions.

2 Banks, brokers, insurance institutions and securities clearing organisations may be used as borrowers in the context of securities lending, provided they specialise in securities lending and furnish collateral which corresponds to the scope and risk of the proposed transactions. Repurchase transactions may be conducted under the same conditions with the institutions mentioned.

3 Securities lending and repurchase transactions are governed by a standardised framework agreement.

158 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).
159 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

4 The fund contract or the investment regulations and the prospectus must contain the following information on securities lending and repurchase transactions:

a. information on whether the collective investment scheme may enter into securities lending;

b. information on whether the collective investment scheme may enter into repurchase transactions;

c. the absolute or relative maximum limits for securities lending and repurchase transactions; and

d. the risks associated with such transactions.[160]

5 The annual report and the semi-annual report of the collective investment scheme must contain the following information on the securities lending and repurchase transactions carried out by the fund management company or the SICAV for the account of the collective investment scheme:

a. the value of securities lent and of repurchase transactions at the end of the financial year or at the end of the first half of the financial year;

b. the amount of claims and liabilities arising from repurchase transactions;

c. the annual or semi-annual average of the proportion of securities lent;

d. the maximum proportion of securities lent as a maximum daily value;

e. the distribution of gross income arising from securities lending and repurchase transactions between the fund management company and the investors (*revenue split*);

f. the income from the reinvestment of the cash collateral received (*cash collateral*);

g. the form of assets of the collateral provided by the collective investment scheme: segregated accounts or omnibus accounts.[161]

Art. 77 Raising and granting of loans; encumbrance of the fund's assets
(Art. 55 para. 1 let. c and d and para. 2 CISA)

1 At the expense of a securities fund:

a. no loans may be granted, nor may any guarantees be concluded;

b. no more than 25 per cent of the fund's net assets may be pledged or ownership thereof be transferred as collateral.

2 Securities funds may borrow the equivalent of up to 10 per cent of the net assets on a temporary basis.

3 Securities lending and repurchase agreements in the form of reverse repos are not deemed to be lending pursuant to paragraph 1*a*.

160 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
161 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

4 Repurchase agreements in the form of repos pursuant to paragraph 2 are deemed to be borrowing unless the funds obtained are used as part of an arbitrage transaction for the acquisition of securities of a similar type in connection with a reverse repo.

Art. 78 Risk diversification in relation to securities and money market instruments
(Art. 57 CISA)

1 Including the derivative financial instruments, the fund management company and the SICAV may invest up to 10 per cent of the fund's assets in securities or money market instruments of the same issuer.

2 The total value of the securities and money market instruments of the issuers in which more than 5 per cent of the fund's assets are invested may not exceed 40 per cent of the fund's assets. This limit does not apply to sight or time deposits as defined in Article 79 or to transactions in OTC derivatives as defined in Article 80, to which the counterparty is a bank as defined in Article 70 paragraph 1*e*.

Art. 79 Risk diversification in relation to sight and time deposits
(Art. 57 CISA)

The fund management company and the SICAV may invest up to 20 per cent of the fund's assets in sight and time deposits held with the same bank. Investments in bank deposits (Art. 70 para. 1 let. e) in addition to liquid assets (Art. 75) are both subject to this limit.

Art. 80 Risk diversification in relation to OTC transactions and derivatives
(Art. 57 CISA)

1 The fund management company and the SICAV may invest up to 5 per cent of the fund's assets in OTC transactions with the same counterparty.

2 Where the counterparty is a bank as defined in Article 70 paragraph 1*e*, this limit is raised to 10 per cent of the fund's assets.

3 The derivative financial instruments and claims against counterparties arising from OTC transactions are subject to the regulations on risk diversification as defined in Articles 73 and 78-84. This does not apply to derivatives on indices which comply with the conditions defined in Article 82 paragraph 1 letter b.

4 Where the claims arising from OTC transactions are hedged using collateral in the form of liquid assets such claims are not included in the calculation of counterparty risk. FINMA regulates the details of the collateral requirements. In doing so, it shall take account of international standards.[162]

162 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). Amended by Annex 4 No 1 of the O of 25 June 2014, in force since 1 Jan. 2015 (AS **2014** 2321).

Art. 81 Overall limits
(Art. 57 CISA)

1 Investments, deposits and claims in accordance with Articles 78–80 from the same issuer may not exceed 20 per cent of the fund's overall assets.

2 Investments and money market instruments in accordance with Article 78 from the same group of companies may not exceed 20 per cent of the fund's overall assets.

3 The limits defined in Articles 78–80 and 83 paragraph 1 may not be accumulated.

4 In the case of umbrella funds, these limits apply to each individual subfund.

5 Companies which form a group in accordance with international accounting regulations are deemed to be a single issuer.

Art. 82 Exceptions for index funds
(Art. 57 CISA)

1 The fund management company and the SICAV may invest a maximum of 20 per cent of the fund's assets in securities or money market instruments from the same issuer if:

a. the fund regulations provide for the tracking of an index of equity or debt securities which is recognized by FINMA (index funds); and

b. the index is sufficiently diversified, representative of the market to which it relates, and is published in an appropriate manner.

2 The limit is increased to 35 per cent for any securities or money market instruments from the same issuer where such instruments strongly dominate regulated markets. This exemption only applies in relation to a single issuer.

3 The investments defined in this article are not considered when observing the limit of 40 per cent defined in Article 78 paragraph 2.

Art. 83 Exemptions for publicly guaranteed or issued investments
(Art. 57 para. 1 CISA)

1 The fund management company and the SICAV may invest up to 35 per cent of the fund's assets in securities or money market instruments of the same issuer provided such instruments are issued or guaranteed by:

a. an OECD member country;

b. a public body from the OECD;

c. a public international body of which Switzerland or a member state of the European Union is a member.

2 Subject to the approval of FINMA, they may invest up to 100 per cent of the fund's assets in securities or money market instruments of the same issuer. In such event the following rules must be observed:

a. the investments are spread across securities or money market instruments from at least six different issues;

b. up to 30 per cent of the fund's assets are invested in securities and money market instruments of the same issue;

c. reference is made in the prospectus and in the advertising material to the specific approval of FINMA; the issuers in which more than 35 per cent of the fund's assets are invested are also listed therein;

d. the fund regulations include a listing of the issuers in which more than 35 per cent of the fund's assets may be invested, together with the corresponding guarantors.

3 Provided the protection of investors is not endangered, FINMA grants authorisation.

4 The investments defined in this article are not considered when observing the limit of 40 per cent defined in Article 78 paragraph 2.

Art. 84 Limit to the equity interest in a single issuer
(Art. 57 para. 2 CISA)

1 Neither the fund management company nor the SICAV may acquire equity securities representing more than 10 per cent of the overall voting rights in a company or which would enable it to exert a material influence on the management of an issuing company.

2 FINMA may grant an exception provided the fund management company or the SICAV provides evidence that it does not exert a material influence.

3 The fund management company and the SICAV may acquire the following on behalf of the fund assets:

a. up to 10 per cent of the non-voting equity paper, debt instruments or money market instruments of the same issuer;

b. up to 25 per cent of the units in other collective investment schemes which meets the requirements specified in Article 73.

4 The limit defined in paragraph 3 does not apply if, at the time of acquisition, the gross amount of the debt instruments, the money market instruments or the units in other collective investment schemes cannot be calculated.

5 The limits defined in paragraphs 1 and 3 do not apply to securities and money market instruments which are issued or guaranteed by a country or public body belonging to the OECD or by international public bodies of which Switzerland or a member state of the European Union is a member.

Art. 85 Specific obligation to inform in the prospectus
(Art. 75 CISA)

1 The prospectus must provide information about the categories of investment instruments in which the fund is invested and whether transactions involving derivative financial instruments are conducted. Where transactions involving derivative financial instruments are conducted, an explanation must be given as to whether such transactions are conducted as part of the investment strategy or for the hedging of investment

positions, and how the use of such instruments affects the risk profile of the securities fund.

2 Where the fund management company or the SICAV are permitted to invest the fund's assets primarily in investments other than those defined in Article 70 paragraph 1 letters a and e, or where they constitute an index fund (Art. 82), specific reference must be made to this fact in the prospectus and in the advertising material.

3 Where the net assets of a securities fund exhibit high volatility or a high leverage effect owing to the composition of the investments or the investment techniques applied, specific reference must be made to this fact in the prospectus and in the advertising material.

Section 3 Real Estate Funds

Art. 86 Permitted investments
(Art. 59 para. 1 and 62 CISA)

1 The investments of real estate funds or real estate SICAVs must be specifically named in the fund regulations.[163]

2 The following real estate, which is entered on the basis of the registration of the fund management company, SICAV or fund management company appointed by the SICAV pursuant to paragraph 2bis, is deemed to be real estate pursuant to Article 59 paragraph 1 letter a CISA:[164]

a. residential buildings;

b. properties which are used exclusively or mainly for commercial purposes; mainly means where the income from the commercial element accounts for at least 60 per cent of the total income from real estate (commercially used properties);

c. mixed-use buildings used for residential as well as commercial purposes; mixed means where the income from the commercial element accounts for more than 20 per cent but less than 60 per cent of the income from real estate;

d. condominiums;

e. building land (including properties for demolition) and buildings under construction;

f. leasehold land.

2bis The real estate must be entered in the Land Register under the name of the fund management company or SICAV with a remark to the effect that it belongs to the real estate fund. Where the real estate fund or SICAV under whose name the real estate is

163 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
164 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).

registered has subfunds, the subfund to which the real estate belongs must be specified.[165]

3 The following investments are also permitted:

a. mortgage notes or other contractual charges on property;

b. participations in and claims against real estate companies as defined in Article 59 paragraph 1 letter b CISA;

c. units in other real estate funds (including real estate investment trusts or REITs) and real estate investment companies and certificates which are traded on a stock exchange or other regulated market which is open to the public, as defined in Article 59 paragraph 1 letter c CISA;

d. foreign real estate securities as defined in Article 59 paragraph 1 letter d CISA.

3bis Paragraph 2bis applies by analogy to mortgage notes or other contractual charges on property.[166]

4 Undeveloped plots of land belonging to a real estate fund must be connected to the infrastructure network and suitable for immediate development and must also possess legally effective planning permission for their development. Construction work must commence prior to the expiry of the period for which the relevant planning permission is valid.[167]

Art. 87 Risk diversification and limits
(Art. 62 CISA)

1 Real estate funds must spread their investments over at least ten properties. Residential estates which have been built using the same principles of construction and neighbouring plots of land are deemed to be a single property.

2 The market value of a single property may not exceed 25 per cent of the fund's assets.

3 The following limits expressed as a percentage of the fund's assets apply to the investments defined in a–d:

a. up to 30 per cent of the fund's assets may be invested in building land, including properties for demolition, and buildings under construction;

b.[168] up to 30 per cent of the fund's assets may be invested in leasehold land;

c. up to 10 per cent of the fund's assets may be invested in mortgage notes and other contractual charges on property;

d. up to 25 per cent of the fund's assets may be invested in other real estate funds and real estate investment companies as defined in Article 86 paragraph 3 letter c.

165 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
166 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
167 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
168 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).

4 The investments defined in paragraph 3 letters a and b may together account for up to 40 per cent of the fund's assets.[169]

5 FINMA may grant exemptions in justified individual instances.

Art. 88 Dominant influence of the fund management company and the SICAV in the case of ordinary co-ownership
(Art. 59 para. 2 CISA)

1 The fund management company and the SICAV are deemed to exert a dominant influence if they have a majority of the co-ownership shares and votes.

2 In a set of rules governing use and administration as defined in Article 647 paragraph of the Swiss Civil Code (CC)[170] they shall retain all rights, measures and actions provided for in Articles 647*a*–651 CC.

3 The right of pre-emption pursuant to Article 682 CC may not be suspended under contract.

4 Co-ownership of common facilities associated with properties held by the collective investment scheme which are part of a more extensive development must not grant a controlling influence. In such cases, the right of pre-emption pursuant to paragraph 3 may be suspended under contract.

Art. 89 Liabilities; short-term fixed interest securities and funds available at short notice
(Art. 60 CISA)

1 Liabilities are deemed to be borrowings, obligations from business activities, in addition to all claims arising from units on which notice has been given.

2 Short-term fixed interest securities are deemed to be debt securities with a term or residual term to maturity of up to twelve months.

3 Funds available at short notice are deemed to be cash on hand, postal check[171] and bank account deposits at sight and on demand with maturities of up to twelve months, as well as guaranteed credit facilities with a bank for up to 10 per cent of the fund's net assets. The credit facilities must be included in the maximum level of pledging permitted pursuant to Article 96 paragraph 1.

Art. 90 Collateral for construction projects
(Art. 65 CISA)

Fixed-income securities with a term or residual term to maturity of up to 24 months may be held as collateral for impending construction projects.

169 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
170 SR **210**
171 Following the FCD of 7 June 2013, which converted SwissPost into Swiss Post Ltd under special legislation and spun off Post Finance as a private company limited by shares, the reference to postal check deposits has been irrelevant since 26 June 2013.

Art. 91[172] Derivative financial instruments
(Art. 61 CISA)

Derivative financial instruments are permitted for the hedging of interest rate, currency, credit and market risk. The provisions applicable to securities funds (Art. 72) apply accordingly.

Art. 91*a*[173] Closely connected persons
(Art. 63 para. 2 and 3 CISA)

1 In particular, closely connected persons include:

a. the fund management company, SICAV, custodian bank and their agents, specifically architects and building contractors commissioned by them;

b. the members of the board of directors and employees of the fund management company or SICAV;

c. the board of directors and members of the executive board as well as employees of the custodian bank appointed to monitor the real estate funds;

d. the audit company and the employees entrusted with the auditing of the real estate funds;

e. the valuation experts;

f. the real estate companies not belonging 100 per cent to the real estate fund and members of the board of directors and employees of such real estate companies;

g. the property management businesses entrusted with the management of the real estate and members of the board of directors and employees of such property management businesses;

h. the significant equity holders pursuant to Article 14 paragraph 3 CISA of the companies mentioned in letters a–g above.

2 Agents pursuant to paragraph 1 letter a are not deemed to be closely connected persons if evidence can be provided that they neither exert nor have exerted direct or direct influence on the fund management company or the SICAV and the fund management company or SICAV are not biased in the matter in any other way.

Art. 92 Valuation of real estate upon purchase or sale
(Art. 64 CISA)

1 Real estate which the fund management company or SICAV wish to purchase must be valued in advance.[174]

2 The valuation expert shall physically inspect the property when performing the valuation.

3 In the event of a sale, a new valuation may be waived if:

172 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
173 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
174 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).

a. the existing valuation is no older than three months; and

b. there has not been any material change in the situation.[175]

4 The fund management company and the SICAV must explain to the audit company for the reason for any sale price which is below the estimated valuation or purchase price which is above such valuation.

Art. 93 Valuation of properties belonging to the collective investment scheme
(Art. 64 CISA)[176]

1 The market value of the properties belonging to the real estate fund must be reappraised by the valuation experts at the end of each accounting year.

2 The properties must be physically inspected by the valuation experts at least every three years.

3 The valuation experts must provide the audit company with justification for their method of valuation.

4 Where the fund management company and the SICAV do not adopt the revised valuation figure in their accounts, they must explain this to the audit company.

Art. 94 Assessment and valuation in relation to construction projects
(Art. 64 and 65 CISA)[177]

1 In relation to construction projects, the fund management company and the SICAV shall instruct at least one valuation expert to examine whether or not the probable costs are reasonable and in accordance with the prevailing market situation.

2 Following the completion of the building, the fund management company and the SICAV shall instruct at least one valuation expert to assess the market value.

Art. 95 Duty to publish
(Art. 67 CISA)[178]

1 The fund management company and the SICAV shall publish in the media of publication the market value of the fund's assets and resulting net asset value of the fund units simultaneously with the announcement to the bank or securities firm entrusted with the regular on and off-exchange trading of the units of the real estate fund.[179]

2 In relation to real estate funds which are traded on a stock exchange or other regulated market open to the public, the relevant regulations governing stock trading must also be observed.

175 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
176 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
177 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
178 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
179 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. 96 Special powers
(Art. 65 CISA)

[1] In relation to pledging land and ceding the rights of lien as collateral pursuant to Article 65 paragraph 2 CISA, the encumbrance may not exceed on average one third of the market value of all real estate assets.[180]

[1bis] To safeguard liquidity, the charge may be temporarily and exceptionally increased to half the market value where:

a. provision is made in the fund regulations; and

b. the interests of the investors are safeguarded.[181]

[1ter] As part of its audit of the real estate fund, the audit company expresses its opinion on the conditions pursuant to paragraph 1[bis].[182]

[2] Where the fund management company and the SICAV commission the construction of buildings or carry out the refurbishment of buildings, they may during the period of preparation, construction or refurbishment credit the income statement of the real estate fund for building land and buildings under construction at the prevailing market rate, provided the costs do not exceed the estimated market value as a result.

Art. 97 Issuing of units in real estate funds
(Art. 66 CISA)

[1] Units may be issued at any time. This may only be effected in tranches.

[2] The fund management company and SICAV shall specify at least:

a. the planned number of new units to be issued;

b. the planned subscription ratio for the existing investors;

c. the issuing method for the subscription rights.

[3] The valuation experts shall review the market value of each property in order to calculate the net asset value and determine the issue price.

Art. 98 Early redemption of units in real estate funds
(Art. 66 CISA)

Units on which notice has been given in the course of an accounting year may be redeemed early by the fund management company and the SICAV at the close of said accounting year, providing:

a.[183] the investor has stated this wish in writing or in another form demonstrable via text at the time of serving notice;

b. the wishes of all investors who have requested early redemption can be met.

180 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
181 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
182 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
183 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).

Section 4 Other Funds for Traditional and Alternative Investments

Art. 99 Permitted investments
(Art. 69 CISA)

1 The following investments are specifically admitted for other funds:

a. securities;

b. units in collective investment schemes;

c. money market instruments;

d. sight and time deposits with a term of up to twelve months;

e. precious metals;

f. derivative financial instruments whose underlyings are securities, collective investment schemes, money market instruments, derivative financial instruments, indices, interest rates, exchange rates, loans, currencies, precious metals, commodities or similar instruments;

g. structured products relating to securities, collective investment schemes, money market instruments, derivative financial instruments, indices, interest rates, exchange rates, currencies, precious metals, commodities or similar instruments.

2 In the case of other funds for alternative investments, FINMA may admit other investments such as commodities and the corresponding commodity certificates.[184]

3 Investments as defined in Article 69 paragraph 2 CISA must be explicitly named in the fund regulations.

4 In the case of investments in units of collective investment schemes, Article 73 paragraph 4 applies accordingly.

Art. 100 Investment techniques and restrictions
(Art. 70 para. 2 and 71 para. 2 CISA)

1 Other funds for traditional investments may:

a. raise loans for an amount not exceeding 25 per cent of the fund's net assets;

b.[185] pledge or cede as collateral no more than 60 per cent of the fund's net assets;

c. commit to an overall exposure of up to 225 per cent of the fund's net assets;

d. engage in short-selling.

2 Other funds for alternative investments may:

a. raise loans for an amount not exceeding 50 per cent of the fund's net assets;

b.[186] pledge or cede as collateral no more than 100 per cent of the fund's net assets;

184 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
185 Amended by No I of the O of 13 Feb. 2008, in force since 1 March 2008 (AS **2008** 571).
186 Amended by No I of the O of 13 Feb. 2008, in force since 1 March 2008 (AS **2008** 571).

c. commit to an overall exposure of up to 600 per cent of the fund's net assets;

d. engage in short-selling.

3 The investment restrictions shall be set out explicitly in the fund regulations. Such regulations shall also govern the nature and scale of short-selling permitted.

Art. 101 Derogations
(Art. 69–71 CISA)

FINMA may in individual cases grant a derogation from the regulations pertaining to:

a. the permitted investments;

b. the investment techniques;

c. the restrictions;

d. the risk diversification.

Art. 102 Risk notice
(Art. 71 para. 3 CISA)

1 The notice regarding special risks (warning clause) requires the approval of FINMA.

2 The warning clause must be placed on the first page of the fund regulations, the prospectus and the key information document in accordance with Articles 58–63 and 66 FinSA[187], and in all cases in the form in which it was approved by FINMA.[188]

Chapter 4 General Provisions

Section 1 Custodian Bank

Art. 102*a*[189] Organisational structure
(Art. 72 CISA)

1 The custodian bank must have an organisational structure that is appropriate to its tasks and employ personnel who possess suitable, relevant qualifications for their activity.

2 For the fulfilment of its activities as custodian bank, it has at least three full-time employees with signatory powers.

Art. 103 Duty of disclosure
(Art. 72 para. 2 CISA)

The custodian bank shall notify the audit company of the executive persons entrusted with the tasks of custodian bank activity.

187 SR **950.1**
188 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
189 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).

Art. 104 Duties
(Art. 73 CISA)

[1] The custodian bank has the following tasks:

a. It is responsible for account and safekeeping account management on behalf of the collective investment schemes, but does not have independent access to their assets.

b. It ensures that in the case of transactions relating to the assets of the collective investment scheme the counter-value is transferred thereto within the usual time limit.

c. It notifies the fund management company or collective investment scheme if the counter-value is not refunded within the usual time limit and where possible requests reimbursement for the asset item concerned from the counterparty.

d. It keeps the required records and accounts in such manner that it is at all times able to distinguish between the assets held in safe custody of the individual collective investment schemes.

e. In relation to assets that cannot be placed in safe custody, it verifies ownership of the fund management company or collective investment scheme and keeps a record thereof.[190]

[2] In the case of real estate funds and L-QIF with real estate investments, it shall be responsible for the safekeeping of mortgage notes against which no loans have been raised, in addition to the shares in real estate companies. It may hold accounts with third parties for the purpose of the ongoing management of real estate assets.[191]

[3] In the case of collective investment schemes comprising subfunds, all duties shall be performed by the same custodian bank.

Art. 105 Change of custodian bank, time limit for lodging objections, entry into force and cash payments
(Art. 74 CISA)

[1] Article 41 applies accordingly to the change in custodian bank of a contractual fund.

[2] The decision to change custodian bank shall be published immediately in the media of publication of the SICAV.

190 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
191 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

Art. 105*a*[192] Duties in relation to the delegation of safekeeping
(Art. 73 para. 2 and 2bis CISA)

Where the custodian bank transfers safekeeping of the fund's assets to a third-party custodian or central securities depository in Switzerland or abroad, it shall verify and monitor whether the latter:[193]

a. possesses an appropriate organisational structure, financial guarantees and the specialist qualifications required given the nature and complexity of the assets entrusted to it;

b. is subject to regular external audits, thereby ensuring that it possesses the financial instruments;

c. the assets received from the custodian bank are kept in safe custody in such a manner that by means of regular portfolio comparisons they can at all times be clearly identified as belonging to the fund's assets;

d. complies with the provisions applicable to the custodian bank with respect to the performance of the tasks delegated to it and the avoidance of conflicts of interest.

Art. 106[194] Exchange-Traded Funds (ETF)
(Art. 15 and 78 para. 3 CISA)

[1] Units or unit classes of an open-ended collective investment scheme that are permanently listed on a Swiss stock exchange and for which at least one market maker in accordance with Article 41 letter c FinIA[195] ensures that the value of the traded units or unit classes does not deviate significantly from the indicative net asset value are deemed to be exchange-traded funds (ETFs).

[2] A collective investment scheme may only be designated as an 'exchange-traded fund' or 'ETF' if all units or unit classes are structured as ETFs.

[3] The prospectus must contain the following information on ETFs in particular:

a. information on the listing and indicative net asset value of the ETF and the market maker;

b. information on where and how often the composition of the ETF's portfolio or its basket of securities is disclosed;

c. a description of the ETF's trading on the primary and secondary markets and the associated risks;

d. reference to the right of secondary market investors to redeem their units directly with the fund management company or the SICAV, stating the associated conditions and cost.

[4] For ETFs that track an index, the prospectus must also contain information on:

192 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
193 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).
194 Amended by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
195 SR **954.1**

a. the index provider and the index being replicated;

b. the replication method and the associated risks;

c. the projected replication error under normal market conditions.

5 If the ETF is actively managed, this must be stated in the fund contract or in the investment regulations, in the prospectus, in the key information document and in the advertising. The details of the implementation of the investment policy must also be included in the prospectus.

6 If a collective investment scheme contains both ETF and non-ETF unit classes, then:

a. the suffix 'ETF' must be used in the designation of unit classes structured as ETFs;

b. the prospectus must disclose the details of the structuring of unit classes as ETFs, in particular with regard to their mode of operation, trading and other differences from the other unit classes, as well as the associated implications and risks for investors;

c. it must be stated on the first page of the fund contract or investment regulations, the prospectus and the key information document, as well as in the advertising, that the collective investment scheme contains both ETF and non-ETF unit classes.

Section 2 ...

Art. 107[196]

Art. 107*a*[197]

Art. 107*b*–107*e*[198]

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

197 Inserted by No I of the O of 29 June 2011 (AS **2011** 3177). Repealed by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, with effect from 1 Jan. 2020 (AS **2019** 4459).

198 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). Repealed by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, with effect from 1 Jan. 2020 (AS **2019** 4459).

Section 3 Position of Investors[199]

Art. 108 Payment; certification of units
(Art. 78 para. 1 and 2 CISA)

[1] The paying agent shall be a bank under the Federal Act on Banks and Savings Banks of 8 November 1934[200].[201]

[2] Where the fund regulations provide for the delivery of unit certificates, the custodian bank, at the investor's request, certifies his or her rights in securities (Art. 965 CO[202]) without par value, in registered form and structured as order instruments (Art. 967 and 1145 CO).[203]

[3] Unit certificates may only be issued after payment of the issue price.

[4] The issuing of fractions of units shall only be permitted in the case of investment funds.

Art. 108*a*[204] Liquidity management
(Art. 78*a* CISA)

[1] The fund management company or the SICAV must ensure the appropriate management of liquidity for each collective investment scheme it manages by means of a process.

[2] In particular, the process must provide that:

a. the overall liquidity profile of the investments of the collective investment scheme is consistent with the investment policy and the redemption terms and is in line with the existing liabilities of the collective investment scheme;

b. the liquidity of each portfolio is continuously monitored and regularly assessed, taking into account other material risks, in order to identify liquidity risks at an early stage and to be able to respond to them in a timely and appropriate manner;

c. the liquidity of the investments and the impact of the investment on the liquidity of the portfolio are taken into account when making investment decisions;

d. appropriate liquidity management instruments are provided for each collective investment scheme;

e. the fund management company or the SICAV has the information required to assess the appropriateness of the liquidity, in particular with regard to the investments, the liabilities and the group of investors in the collective investment scheme.

199 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
200 SR **952.0**
201 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
202 SR **220**
203 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
204 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

3 The fund management company or the SICAV must carry out appropriate stress tests at regular intervals for each collective investment scheme it manages. These are based on normal and exceptional market conditions and are based on historical and hypothetical scenarios. Stress tests may be waived if the fund's net assets of the managed collective investment scheme do not exceed CHF 25 million.

4 The fund management company or the SICAV must draw up a crisis plan in which it defines the measures for the use of the intended liquidity management instruments as well as the processes and internal responsibilities. It must regularly review the crisis plan to ensure that the liquidity management instruments can be deployed promptly and properly if necessary.

5 FINMA may regulate the details.

Art. 109 Exceptions from the right to redeem at any time
(Art. 79 CISA)

1 The regulations of a collective investment scheme whose value is difficult to ascertain, or which has limited marketability, may provide for notice to be served only on specific dates, subject to a minimum of four times per year.

2 FINMA may in the event of a justified request restrict the right to redeem at any time depending on the investments and investment policy. This shall apply specifically in the case of:

a. investments which are not listed and not traded on another regulated market open to the public;

b. mortgages;

c. private equity investments.

3 Where the right to redeem at any time is restricted, such fact must be stated explicitly in the fund regulations, in the prospectus and in the key information document.[205]

4 The right to redeem at any time may be suspended for a maximum of five years.

5 The fund management company and the SICAV may permit a pro rata cutting off of redemption applications on reaching a specific percentage or threshold on a specific trading day in exceptional circumstances if this is in the interests of the remaining investors (gating). The remaining portion of redemption applications shall be considered submitted for the subsequent valuation day. Details must be disclosed in the fund regulations. FINMA approves the inclusion of gating in the fund regulations.[206]

6 The audit company and FINMA must be informed immediately of any decision on deferral or gating as well as any lifting of such. Investors must also be notified in a suitable manner.[207]

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

Art. 110 Deferred repayment
(Art. 81 CISA)

1 The fund regulations may provide for repayment to be deferred temporarily in the following exceptional cases:

a. where a market which serves as the basis for the valuation of a significant proportion of the fund's assets is closed, or if trading on such market is restricted or suspended;

b. in the event of political, economic, military, monetary or other emergencies;

c. if, owing to exchange controls or restrictions on other asset transfers, the collective investment scheme can no longer transact its business;

d. in the event of large-scale withdrawals of units which may significantly endanger the interests of the other investors.

2 The audit company and FINMA must be informed immediately of any decision to defer redemptions. The decision must also be communicated to the investors in a suitable manner.

Art. 110*a*[208] Segregation of individual investments
(Art. 15 and 78 para. 3 CISA)

1 FINMA may approve the segregation of individual illiquid investments of a collective investment scheme (*side pockets*) in exceptional cases at the justified request of the fund management company or the SICAV if this is in the interests of all investors and if the fund contract or the investment regulations so provide.

2 The fund management company or the SICAV must publish its decision on segregation in the media of publication following approval by FINMA.

Art. 111 Enforced redemption
(Art. 82 CISA)

1 Enforced redemption pursuant to Article 82 of the Act is permitted only in exceptional circumstances.

2 The reasons for enforced redemption must be set out in the fund regulations.

208 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

Section 4
Open-Ended Collective Investment Schemes with Subfunds

Art. 112 Subfunds
(Art. 92–94 CISA)

[1] The fund management company and the SICAV shall prepare a single set of fund regulations for a collective investment scheme. Such regulations shall include the designation of the scheme and the additional designations of the individual sub- funds.

[2] Where the fund management company or the SICAV has the right to create additional subfunds, or dissolve or merge existing subfunds, specific reference must be made thereto in the fund regulations.

[3] The fund management company and the SICAV shall also set out in the fund regulations that:

a. fees may be debited only to that subfund for which a specific service is rendered;

b. costs which cannot be clearly assigned to a particular subfund are charged to the individual subfunds in proportion to their assets;

c. investors are only entitled to the assets and income of the particular subfund in which they are invested or whose shares they hold;

d. only the subfund concerned is liable for the liabilities of that individual subfund.

[4] The fees charged when investors convert from one subfund to another are cited explicitly in the fund regulations.

[5] In relation to the merging of subfunds, Article 115 applies accordingly.

Art. 113[209]

Section 5 Restructuring and Dissolution

Art. 114 Conditions relating to restructurings
(Art. 92 and 95 para. 1 CISA)

[1] Investment funds or subfunds may be merged by the fund management company if:

a. provision therefore is made in the relevant fund contracts;

b. they are managed by the same fund management company;

c.[210] the relevant fund contracts are generally identical in their requirements on the following:

209 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).
210 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).

1. investment policy, investment techniques, risk diversification as well as the risks associated with the investment policy,
2. appropriation of net income and capital gains from the disposal of assets and rights,
3. nature, amount and calculation of all remuneration, the issue and redemption fees as well as the incidental costs for the purchase and sale of investments, such as brokerage fees, other fees, levies, which may be charged to the fund assets or to investors,
4. term of the contract and the conditions for termination;

d. the assets of the funds concerned are valued, the exchange ratio is calculated, and the assets and liabilities are acquired on the same day;

e. no costs arise as a result for either the investment fund or subfunds, or the investors.

2 ...[211]

3 FINMA may make the merging of investment funds and the transfer of assets of a SICAV dependent on additional conditions, especially in the case of real estate funds.

Art. 115 Procedure for the merging of collective investment schemes
(Art. 95 para. 1 let. a and b CISA)

1 In the case of the merging of two investment funds, the investors of the fund being transferred receive an equivalent number of units in the acquiring fund. The fund being transferred is terminated without liquidation.

2 The fund contract governs the merging procedure. In particular, it contains provisions regarding:

a. the information to be given to the investors;

b. the audit company's duty to inspect the accounts at the time of the merger.

3 FINMA may grant limited deferment of repayment if the merger is likely to take more than one day.

4 The fund management company shall notify FINMA that the merger has been completed.

5 ...[212]

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

Art. 115*a*[213] Transfer of assets, conversion and division

In the case of the transfer of assets of a SICAV, as well as the division and the conversion of an open-ended collective investment scheme, Articles 114 and 115 apply accordingly.

Art. 116 Dissolution of a collective investment scheme
(Art. 96 and 97 CISA)

[1] The collective investment scheme shall be dissolved and may be liquidated immediately provided:

a. the fund management company or the custodian bank has served notice;

b. the shareholders of a SICAV have resolved the dissolution.

[2] Where FINMA orders the dissolution of the collective investment scheme, such scheme shall be liquidated immediately.

[3] Prior to the final payment, the fund management company or the SICAV shall obtain authorisation from FINMA.

[4] The trading of units on the exchange ceases at the time of dissolution.

[5] The termination of the custodian bank agreement between the SICAV and the custodian bank shall be notified to FINMA and the audit company immediately.

Title 3 Closed-Ended Collective Investment Schemes

Chapter 1 Limited Partnership for Collective Investment

Art. 117[214] Object
(Art. 98 para. 1 CISA)

[1] The LPCI may only manage its own investments. It is specifically prohibited from rendering services pursuant to Article 26 and 34 FinIA[215] t on behalf of third parties or taking up entrepreneurial activities for the pursuit of commercial purposes.[216]

[2] It invests in risk capital of companies and projects and can determine their strategic direction. It can also invest in instruments pursuant to Article 121.

[3] To achieve this object, it may:

a. take control of voting rights in companies;

b. sit on the body responsible for the governance, supervision and control of its participations, in order to safeguard the interests of the limited partners.

213 Inserted by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
214 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
215 SR **954.1**
216 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. 118 General partners
(Art. 98 para. 2 CISA)

1 ...[217]

2 Where the company has a general partner, the general partner must have a minimum paid-up share capital of 100,000 Swiss francs. Where it has several general partners, they must together have a minimum paid-up share capital of 100,000 Swiss francs.

3 In relation to the general partners, the authorisation and reporting duties defined in Articles 14 paragraph 1 and 15 paragraph 1 apply accordingly.

Art. 119 Company agreement
(Art. 9 para. 3 and 102 CISA)[218]

1 The general partners may delegate investment decisions and other activities, provided this is in the interests of efficient management.

2 They shall exclusively commission persons who are properly qualified to execute such activities, and shall ensure the instruction, monitoring and control necessary with respect to implementation of the tasks assigned.

3 The persons holding executive powers with the general partners may participate in the company as limited partners if:

a. this is provided for in the company agreement;

b. the participating interest stems from their private assets; and

c. the participating interest is subscribed at the time of launch.

3bis ...[219]

4 The company agreement regulates the details and must be published in an official language. FINMA may authorise a different language in individual cases.[220]

Art. 120 Risk capital
(Art. 103 para. 1 CISA)

1 Risk capital is generally used for the direct or indirect financing of companies and projects in the basic expectation of generating above-average added value, coupled with the above-average probability of making a loss.

2 Financing may take the following specific forms:

a. equity capital;

b. borrowed capital;

c. mixed forms of equity and borrowed capital such as mezzanine financing.

217 Repealed by No I of the O of 13 Feb. 2013, with effect from 1 March 2013 (AS **2013** 607).
218 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
219 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). Repealed by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, with effect from 1 Jan. 2020 (AS **2019** 4459).
220 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).

Art. 121 Other investments
(Art. 103 para. 2 CISA)

[1] The following are specifically permitted:

a.[221] construction, real estate and infrastructure projects;

b. alternative investments;

c.[222] other investments, in particular investments in real estate or infrastructure;

d.[223] mixed forms of all possible investments in accordance with Article 120 and Article 121.

[2] The company agreement regulates the details.

[3] Construction, real estate and infrastructure projects are permitted only if they are by persons that are neither directly nor indirectly related to:

a. the general partner;

b. the persons responsible for the administration and the management; or

c. the investors.[224]

[4] The general partner, the persons responsible for the administration and the management and closely connected natural and legal persons, and the investors in an LPCI, may acquire real estate and infrastructure assets from that partnership or assign any such assets to it if:

a. the market conformity of the purchase and selling price of the real estate assets and infrastructure assets as well as the transaction costs are confirmed by an independent valuation expert; and

b. the shareholders' meeting has approved the transaction.[225]

Chapter 2 Investment Company with Fixed Capital

Art. 122 Objects
(Art. 110 CISA)

[1] The investment company with fixed capital may only manage its own assets. Its primary object is to generate income and/or capital gains, whereby it does not pursue

221 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
222 Inserted by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
223 Inserted by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
224 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
225 Inserted by No I of the O 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).

any entrepreneurial activities in the true sense. It is specifically prohibited from rendering services pursuant to Articles 26 and 34 FinIA[226] on behalf of third parties.[227]

2 It may delegate investment decisions as well as specific tasks, provided this is in the interests of efficient management.

Art. 122*a*[228] Minimum investment amount
(Art 110 para. 2 CISA)

1 Shares amounting to at least 500,000 Swiss francs must be fully paid up in cash at the time of formation.

2 The minimum investment amount must be maintained at all times.

3 The SICAF shall notify FINMA of any shortfall in the minimum investment amount immediately.

Art. 122*b*[229] Treasury shares of the governing bodies
(Art 110 para. 2 CISA)

The governing bodies must at all times hold treasury shares as a percentage of the total assets of the SICAF as follows, subject to a maximum of 20 million Swiss francs:

a. 1 per cent for that portion not exceeding 50 million Swiss francs;

b. ¾ per cent for that portion exceeding 50 million but not exceeding 100 million Swiss francs;

c. ½ per cent for that portion exceeding 100 million but not exceeding 150 million Swiss francs;

d. ¼ per cent for that portion exceeding 150 million but not exceeding 250 million Swiss francs;

e. ⅛ for that portion exceeding 250 million Swiss francs.

Art. 123 Permitted investments
(Art. 110 CISA)

1 The provisions concerning permitted investments for other funds apply accordingly.

2 FINMA may authorise other investments.

Art. 124 Media of publication
(Art. 112 CISA)

Article 39 applies accordingly.

226 SR **954.1**
227 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).
228 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
229 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).

Art. 125 Enforced redemption
(Art. 113 para. 3 CISA)

Article 111 applies accordingly.

Art. 126 Amendments to the articles of association and investment regulations
(Art. 115 para. 3 CISA)

In the media of publication, the SICAF shall publish the significant amendments to the articles of association and the fund regulations resolved by the general meeting and approved by FINMA, indicating the locations where the full wording of the amendments may be obtained free of charge.

Title 3*a*.[230] Limited Qualified Investor Fund

Chapter 1 General Provisions

Art. 126*a* Definition
(Art. 13 para. 2[bis], 15 para. 3, 118*a* para. 1 and 118*f* para. 1 CISA)

[1] A collective investment scheme is only deemed to be a Limited Qualified Investor Fund (L-QIF) if it expressly waives the requirement to obtain authorisation and approval from FINMA.

[2] An express waiver exists if the institution responsible for the management of the L-QIF submits the first notification to the Federal Department of Finance (FDF) of the assumption of management in accordance with Article 126*g* paragraph 1 letter a of this Ordinance.

Art. 126*b* Applicability of this Ordinance, the CISO-FINMA and the recognised self-regulatory instruments of the industry organisation
(Art. 118*a* para. 2 CISA)

[1] The L-QIF is subject to this Ordinance, unless otherwise specified herein.

[2] It is subject to the provisions of the FINMA Collective Investment Schemes Ordinance of 27 August 2014[231] (CISO-FINMA) insofar as this Ordinance so provides.

[3] It is subject by analogy to the following self-regulatory instruments issued by the industry organisation and recognised by FINMA as a minimum standard [232]:

a. Code of Conduct in the version dated 5 August and 23 September 2021;

b. Guidelines for real estate funds in the version dated 5 August 2021;

c. Guidelines for money market funds in the version dated 5 August 2021;

230 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).
231 SR **951.312**
232 The code of conduct and guidelines can be obtained free of charge at Asset Management Association Switzerland under Self-regulation.

d. Guidelines on the valuation of the assets of collective investment schemes and the handling of valuation errors in the case of open-ended collective investment schemes in the version dated 5 August 2021;

e. Guidelines on the calculation and publication of performance data of collective investment schemes in the version dated 5 August 2021;

f. Guidelines on the calculation and disclosure of the Total Expense Ratio (TER) of collective investment schemes in the version dated 5 August 2021.

Art. 126*c* Conditions for a change of status from a supervised collective investment scheme to an L-QIF
(Art. 118*b* CISA)

[1] The change of status from a supervised collective investment scheme to an L-QIF requires prior approval and, if necessary, authorisation from FINMA.

[2] FINMA shall approve the change of status and, where applicable, authorise it if:

a. the conditions set out in Article 118*a* paragraph 1 letters a–c CIS are met;

b. the fund contract, the investment regulations or the articles of association provide for the possibility of a change of status;

c. neither the collective investment scheme nor the investors incur any costs as a result of the change of status; and

d. in the case of a collective investment scheme in the legal form:
   1. of a contractual fund:
      – the custodian bank has approved the change of status and
      – only investors who have expressly consented to the change of status remain in the collective investment scheme,
   2. of a SICAV:
      – the custodian bank has approved the change of status
      – those company shareholders who hold at least two thirds of the issued company shares have consented to the change of status, and
      – only investors who have expressly consented to the change of status remain in the collective investment scheme,
   3. of an LPCI: all investors have consented to the change of status.

[3] FINMA may define the conditions for a change of status to an L-QIF in more detail.

[4] In its decision to approve and, where applicable, authorise the change of status, it shall specify the date on which the collective investment scheme is released from supervision.

Art. 126*d* Obligation to inform on the change of status
(Art. 118*b* CISA)

[1] The fund management company, the board of directors of a SICAV and the general partners of an LPCI must notify FINMA immediately of the decision to change status to an L-QIF.

[2] In the case of a collective investment scheme in the legal form of a contractual fund or SICAV, the decision to change status must be published in the media of publication. The publication must contain the following information in particular:

a. notice of the effects of the change of status on the authorisation or approval status of the collective investment scheme, in particular the release of the collective investment scheme from FINMA supervision;

b. notice that investors may choose within 30 days of publication whether they wish to:
   1. remain in the collective investment scheme if they expressly consent to the change of status, or
   2. redeem their units in compliance with the contractual or regulatory redemption deadlines and dates if they terminate their units;

c. notice that those investors who do not exercise their option under letter b will be treated in the same way as investors who redeem their units on the 30th day after publication.

[3] In the case of a collective investment scheme in the legal form of an LPCI, the general partners must inform the limited partners of the associated effects on the approval and authorisation status of the LPCI, in particular the release of the LPCI from FINMA supervision, before the resolution on the change of status is passed.

Art. 126*e* Restructuring
(Art. 118*b* CISA)

Restructuring of an L-QIF with or into supervised collective investment scheme is not permitted.

Art. 126*f* Provisions not applicable to L-QIFs
(Art. 118*d* CISA)

The following provisions are not applicable to L-QIFs:

a. the provisions on authorization and approval and on FINMA's oversight activities (Art. 7–23, 31 para. 6, 33 para. 2, 35, 35*a* para. 2–4, 40, 53, 54 para. 4, 55 para. 1–3ter and 5–7, 61, 62 para. 2 second sentence and 3, 62*b*, 63 para. 3 and 4, 109, 110 para. 2, 110*a*, 114 para. 3, 115 para. 3 and 4, 116 para. 3 and 5, 118 para. 3, 119 para. 4 second sentence, 137, 141 and 142);

b. the investment regulations in accordance with Articles32*a*, 67–102, 117 paragraphs 2 and 3, 120 and 121;

c. the provisions on the amendment of the fund contract pursuant to Article 41 and on the change of custodian bank pursuant to Article 105.

Art. 126*g* Duty to notify and data processing
(Art. 118*f* CISA)

1 The institution responsible for the administration of an L-QIF shall notify the FDF of the following, stating its own company name and the name or company name of the L-QIF:

a. the taking over of administration within 14 days of the signing of the fund contract or partnership agreement or the adoption of the articles of association;

b. the ceasing of administration within 14 days of the signing of the amended fund contract or the amended articles of association, the adoption of the amended articles of association or the conclusion of the liquidation of the L-QIF.

2 When taking over the administration, it must also report the following in particular to the FDF for statistical purposes within the period specified in paragraph 1 letter a:

a. the contact details of the L-QIF and the institution responsible for administration;

b. the legal form, the open-ended or closed-ended nature and the investment categories of the L-QIF;

c. the date on which the administration of the L-QIF was taken over;

d. the expected date of launch of the L-QIF;

e. the name and contact details of the custodian bank;

f. the name and contact details of the audit company;

g. the name and contact details of the institution responsible for the investment decisions if the investment decisions have been delegated;

h. the investment style and investment strategy.

3 When it ceases to administer the L-QIF, it shall also notify the FDF of the date on which it ceases to administer the L-QIF for statistical purposes within the period specified in paragraph 1 letter b.

4 It shall also notify the FDF of the following for statistical purposes within 14 days in each case:

a. the date of launch of the L-QIF;

b. any change in the facts notified in accordance with paragraphs 2 and 3;

c. the opening of the liquidation of the L-QIF.

5 The FDF may make the data in accordance with paragraph 1, paragraph 2 letters b and e and paragraph 4 letters a and c publicly accessible in a directory.

6 The institution responsible for the administration of the L-QIF must periodically transmit the following L-QIF data in particular to the FDF or a third party commissioned by the FDF for statistical purposes:

a. the asset holdings and the change in assets;

b. the value of units issued and redeemed;

c. the assets, broken down by:
   1. domestic and foreign,
   2. currencies,
   3. the following asset categories: money market instruments, receivables from repurchase transactions, bonds, shares and other equity securities, units in other collective investment schemes, structured products, real estate, other securities;

d. the liabilities, broken down by domestic and foreign;

e. the income statement;

f. the risk data, including the breakdown of assets and liabilities by maturity structure and the off-balance sheet portfolio.

7 The FDF shall issue technical directives on the form of the reports in accordance with this Article. In particular, it shall specify which data are to be provided in full or in part in electronic form.

8 The FDF or the commissioned third party may exchange the data collected in accordance with this Article with Swiss financial market supervisory authorities within the scope of their respective statutory duties.

9 The FDF or the commissioned third party may publish the data collected in accordance with this Article in aggregated form and forward it to other competent federal authorities, in particular the Federal Statistical Office, as well as to competent authorities of other countries and international organisations.

Art. 126*h* Duties of the institution responsible for the administration of the L-QIF
(Art. 118*g* and 118*h* CISA)

1 The institution responsible for the administration of a L-QIF (Art. *118g* or 118*h* CISA) is responsible for ensuring that the legal, contractual, statutory or regulatory provisions applicable to the L-QIF are complied with.

2 If a collective investment scheme does not comply or no longer complies with the definition of an L-QIF set out in Article *118a* paragraph 1 letters a-c CISA, the institution must inform FINMA, the custodian bank and the audit firm immediately.

3 If the legal, contractual, statutory or regulatory provisions applicable to the L-QIF are otherwise not or no longer complied with, the institution must immediately inform the investors, the custodian bank and the audit firm and ensure that the proper situation is restored within a reasonable period of time. If this is not possible, it must dissolve the L-QIF.

Chapter 2
Special Provisions for L-QIFs in the Legal Form of a Contractual Fund or SICAV

Art. 126*i* Amendment of the fund contract of an L-QIF in the legal form of a contractual fund
(Art. 118*j* para. 2 CISA)

Amendments to the fund contract of an L-QIF in the legal form of a contractual fund that are required by law, that do not affect the rights of investors or are of an exclusively formal nature are exempt from the publication requirement under Article 118*j* paragraph 2 CISA.

Art. 126*j* Preparation and amendment of the investment regulations and amendment of the articles of association of an L-QIF in the legal form of a SICAV
(Art. 50, 94 and 118*a* para. 2 CISA)

1 The content of the investment regulations of an L-QIF in the legal form of a SICAV is governed by the provisions of the fund contract, unless the CISA or the articles of association provide otherwise. The investment regulations must be approved by the general meeting of shareholders.

2 The general meeting of the SICAV or the subfunds is responsible for amending the investment regulations, provided that the amendment:

a. is not required by law;

b. affects the rights of the shareholders; or

c. is not of an exclusively formal nature.

3 If the general meeting of shareholders decides to amend the investment regulations, it must either publish the following information in the media of publication or notify the investors in writing:

a. a summary of the material changes;

b. a reference to the places where the text of the amendments can be obtained free of charge; and

c. an indication of when the amendments will come into force.

4 Paragraphs 1–3 apply by analogy to the articles of association insofar as they govern the content of the investment regulations.

Art. 126*k* Creation, liquidation or merger of unit classes
(Art. 26 para. 3, 78 para. 3 and 118*a* para. 2 CISA)

1 In the case of an L-QIF in the legal form of a contractual fund or SICAV, the fund management company or the SICAV may, subject to the consent of the custodian bank, create, cancel or merge unit classes, provided this is provided for in the fund contract or the articles of association.

[2] In doing so, it shall address the following specific criteria: cost structure, reference currency, currency hedging, distribution or reinvestment of income, minimum investment or investor eligibility.

[3] The details must be set out in the fund contract or the investment regulations. The risk that a class may be liable for another class must be specifically disclosed.

[4] The fund management company or the SICAV shall announce the creation, dissolution or merging of unit classes in the media of publication. Only a merger is deemed to be an amendment to the fund contract or the investment regulations.

[5] Article 112 paragraph 3 letters a-c applies accordingly.

Art. 126*l* Minimum assets
(Art. 25 para. 3, 36 para. 2 and 118*a* para. 2 CISA)

[1] An L-QIF in the legal form of a contractual fund or SICAV must have net assets of at least 5 million Swiss francs at the latest one year following its launch.

[2] The fund management company may extend the deadline twice by six months if this is provided for in the fund contract or the investment regulations.

[3] If the fund management company exercises its right to extend the deadline, it must inform the custodian bank and the audit company immediately and either publish the decision in the media of publication or notify the investors in writing.

Art. 126*m* Exceptions from the right to redeem at any time
(Art. 79 and 118*a* para. 2 CISA)

[1] The fund contract or the investment regulations of an L-QIF in the legal form of a contractual investment fund or SICAV whose value is difficult to ascertain, or which has limited marketability, may provide for notice to be served only on specific dates, subject to a minimum of every five years.

[2] Furthermore, the fund contract or the investment regulations may permit a pro rata cutting off of redemption applications on reaching a specific percentage or threshold on a specific trading day in exceptional circumstances if this is in the interests of the remaining investors (gating). The remaining portion of redemption applications shall be considered submitted for the subsequent valuation day. Details must be disclosed in the fund contract or the investment regulations.

[3] If the fund management company makes a decision on gating, it must inform the audit company immediately and either publish the decision in the media of publication or notify the investors in writing.

Art. 126*n* Duty to notify of deferred payment
(Art. 81 para. 1, 118*a* para. 2 and 118*m* CISA)

The fund management company must inform the audit firm immediately of the temporary deferral of payment in accordance with Article 81 paragraph 1 or 118*m* CISA and either publish the decision in the media of publication or notify the investors in writing.

Chapter 3 Investment Provisions

(Art. 118*n*–118*p* CISA)

Section 1
Investment Restrictions and Techniques for L-QIFs in the Legal Form of a Contractual Fund or SICAV

Art. 126*o* Risk notice

[1] In the case of L-QIFs in the legal form of a contractual fund or SICAV, the risk notice in accordance with Article 118*n* paragraph 2 CISA must take the form of a warning clause that briefly and concisely describes the main risks associated with the potential investments. The warning clause must be included on the first page of the fund contract or the investment regulations and in the advertising documents.

[2] The fund contract or the investment regulations must also contain explanations of the special risks and, where applicable, the increased volatility of the L-QIF.

Art. 126*p* Investment restrictions and techniques

[1] L-QIFs in the legal form of a contractual fund or SICAV may:

a. borrow sums amounting to no more than 50 per cent of the net fund assets;

b. pledge or cede as collateral no more than 100 per cent of the fund's net assets;

c. commit to an overall exposure of up to 600 per cent of the fund's net assets.

[2] The investment restrictions shall be set out explicitly in the fund contract or the investment regulations.

[3] The fund contract or the investment regulations must also describe the permitted investment techniques, such as securities lending, repurchase agreements, the use of derivatives, borrowing or transfer of ownership by way of security, short selling and the granting of loans. In particular, they must regulate the type and amount of permitted short sales. If securities lending or repurchase agreements are permitted, the fund contract or the investment regulations and the annual report must contain the information specified in Article 76 paragraphs 4 and 5.

[4] Articles 1–55 CISO-FINMA[233] in the version of 1 January 2015[234] on securities lending, repurchase agreements, derivative financial instruments and collateral management apply by analogy, with the exception of the obligations to inform FINMA and to obtain FINMA approval.

Art. 126*q* Compliance with investment regulations

[1] Unless specified otherwise, the percentage restrictions given in Article 126*p* relate to the fund assets at market values; they must be maintained at all times.

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234 AS **2014** 4237

2 In the case of L-QIFs which include subfunds, the investment restrictions and techniques for each individual subfund apply.

3 An L-QIFs in the legal form of a contractual fund or SICAV must comply with the investment restrictions within two years of its launch. If this deadline cannot be met, the fund management company may extend it once, provided this is permitted by the fund contract of the investment regulations. If the fund management company exercises this right, it must inform the custodian bank and the audit company immediately and either publish the decision in the media of publication or notify the investors in writing.

4 If the limits are exceeded as a result of market changes, the investments must be restored to the permitted level within a reasonable period, taking due account of the investors' interests.

5 If the investment regulations are actively violated, in particular through purchases or sales, the investments must be immediately restored to the permitted level. If investors are not compensated for any loss incurred as a result of such an active investment violation, the investment violation must be reported to the audit company immediately and published in the media of publication as soon as possible or communicated to the investors in writing. The report and publication must include a specific description of the investment violation and of the loss incurred by the investors. All active investment violations must be reported in the annual report.

Art. 126*r* Investments in other collective investment schemes

The fund contract of an L-QIF in the legal form of the contractual fund or the investment regulations of a SICAV must regulate the extent to which the L-QIF may make investments in other collective investment schemes (target funds). If this involves a significant portion of the fund assets, then:

a. the fund contract or the investment regulations must state the maximum amount of the management fees to be borne by the L-QIF itself and by the target funds;

b. the annual report must state the maximum amount of the management fees to be borne by the L-QIF on the one hand and the target funds on the other.

Art. 126*s* Master-feeder structures

1 An L-QIF feeder fund is an L-QIF that invests at least 85 per cent of the fund’s assets in units of the same L-QIF target fund (L-QIF master fund).

2 Master-feeder structures are permitted for L-QIFs, provided this is permitted by the fund contract or the investment regulations and both the master fund and the feeder fund are L-QIFs.

3 The investors in an L-QIF master fund are its L-QIF feeder funds. Other investors may be admitted provided that:

a. they are informed in advance that they are investing in a master fund; and

b. it is ensured that they are treated in the same way as the L-QIF feeder funds.

4 Articles 56–64 CISO-FINMA[235] in its version dated 1 January 2015[236] on master-feeder structures apply by analogy, with the exception of the obligations to inform FINMA and to obtain FINMA approval.

Section 2
Additional Provisions for L-QIFs in the Legal Form of Contractual Funds or SICAVs with Real Estate Investments

Art. 126*t* Real estate investments

1 The permitted real estate investments of an L-QIF in the legal form of the contractual fund or a SICAV must be expressly described in the fund contract or the investment regulations.

2 The real estate and mortgage notes or other contractual charges on property must be entered in the land register in the name of the fund management company or the SICAV, noting the affiliation to the L-QIF. If the L-QIF has subfunds, it must be noted to which subfund the property, mortgage note or other contractual charges on property belongs.

3 The fund contract or the investment regulations must contain information on whether the L-QIF may acquire undeveloped land that is not connected to utilities and not suitable for immediate development and does not have a legally valid building permit for development. The fund contract or the investment regulations must describe the special risks associated with such investments.

4 If the fund management company has buildings constructed or carries out building renovations, it may credit the L-QIF's income statement for building land and buildings under construction with a building interest at the market rate for the period of preparation, construction or building renovation, provided that the costs do not exceed the estimated market value.

Art. 126*u* Real estate investments in co-ownership

1 An L-QIF in the legal form of a contractual fund or SICAV may hold real estate in co-ownership. In the case of ordinary co-ownership, the fund contract or the investment regulations must specify whether:

a. the L-QIF may hold minority interests;

b. the fund management company or the SICAV has reserved the rights, measures and actions provided for in Articles 647*a*–651 CC in a use and administration regulations pursuant to Article 647 paragraph 1 CC[237], or

c. the pre-emption right pursuant to Article 682 CC is contractually revoked.

235 SR **951.312**
236 AS **2014** 4237
237 SR **210**

2 In the case of co-ownership interests that correspond to a minority interest, the fund contract or the investment regulations must contain the following information:

a. the minimum percentage shareholding that the L-QIF must hold in the case of minority shareholdings;

b. whether the remaining co-owners must be known to the fund management company or the SICAV;

c. whether any restrictions on the right to sell co-ownership units at any time are possible; and

d. the maximum limit for investments in minority interests in relation to the fund assets.

3 The fund contract or the investment regulations must, where applicable, indicate the particular risks associated with any of the measures referred to in paragraph 1.

Art. 126*v* Pledging and ceding the rights of lien as collateral

In relation to pledging land and ceding the rights of lien as collateral, the encumbrance of all properties of an L-QIF in the legal form of a contractual fund or SICAV may not exceed on average one half of the market value of all real estate assets.

Art. 126*w* Risk diversification

The fund contract and investment regulations of L-QIF in the legal form of a contractual fund or SICAV with real estate investments must contain the following information on risk diversification in particular:

a. the minimum number of properties that must be acquired by the L-QIF;

b. the following investment restrictions as a percentage of the L-QIF's assets:
   1. the maximum percentage that the market value of a single property may represent,
   2. the maximum percentage that can be invested in building land,
   3. the maximum percentage that can be invested in leasehold land,
   4. the maximum percentage that can be invested in mortgage notes and other contractual charges on property,
   5. the maximum percentage that can be invested in units in other real estate funds and real estate investment companies.

Art. 126*x* Transactions with closely connected persons

1 In the case of an L-QIF in the legal form of a contractual fund or SICAV with real estate investments, transactions with closely connected persons in accordance with Article 63 paragraphs 2 and 3 CISA are permitted if:

a. this possibility is provided for in the fund contract or the investment regulations;

b. the number of investors stipulated in the fund contract or the investment regulations, with at least half of the investors or the votes represented at the general meeting, approve the transaction;

c. in addition to the valuation report of the L-QIF's regular valuation experts, a valuation expert independent of them or their employer and of the fund management company or SICAV and the custodian bank of the L-QIF confirms the market conformity of the purchase and sale price of the real estate value and the transaction costs in accordance with Article 64 paragraph 1 CISA.

2 Following conclusion of the transaction, the fund management company must prepare a report containing the following:

a. information on the individual properties acquired or transferred and their value on the date of acquisition or transfer;

b. the valuation reports by the regular valuation experts;

c. the report on the market conformity of the purchase or sales price by the valuation experts pursuant to paragraph 1 letter c.

3 As part of its audit of the fund management company, the audit company must confirm adherence to the special duty of loyalty in relation to real estate investments.

4 The approved transactions with closely connected persons must be mentioned in the annual report of the L-QIF.

5 In the case of properties where the fund management company, SICAV or persons closely connected thereto have construction projects carried out, no exemptions from the prohibition of transactions with closely connected persons are possible.

6 The term ‘closely connected persons’ is defined in Article 91*a*.

Art. 126*y* Requirements for valuation experts and valuation of real estate investments

1 The valuation experts in accordance with Article 118*p* paragraph 2 CISA must:

a. have the necessary qualifications;

b. be independent; and

c. have sufficient financial guarantees or have taken out professional indemnity insurance.

2 They must carry out the valuation with the diligence of a prudent and competent valuation expert.

3 The valuation of properties on acquisition or sale, the valuation of properties belonging to the L-QIF and the audit and valuation of construction projects are governed by Articles 92–94.

Section 3
Investment Regulations for L-QIF in the Legal Form of an LPCI

Art. 126*z* Investment restrictions and techniques

The company agreement of an L-QIF in the legal form of an LPCI must explicitly state the applicable investment restrictions and describe the permitted investment techniques.

Art. 126*z*^{bis} Transactions with closely connected persons

[1] Construction, real estate and infrastructure projects are permitted only if they are by persons that are neither directly nor indirectly connected with:

a. the general partner;

b. the persons responsible for the administration and the management; or

c. the investors.

[2] The general partner, the persons responsible for the administration and the management and closely connected natural and legal persons, and the investors in an LPCI, may acquire real estate and infrastructure assets from that partnership or assign any such assets to it if:

a. the market conformity of the purchase and selling price of the real estate assets and infrastructure assets as well as the transaction costs are confirmed by an independent valuation expert; and

b. the shareholders' meeting has approved the transaction.

[3] As part of its audit of the institution responsible for management, the audit firm must verify compliance with the special duty of loyalty in relation to real estate investments.

Art. 126*z*^{ter} Requirements for valuation experts and valuation of real estate investments

The requirements for valuation experts, the valuation of properties on acquisition or sale, the valuation of properties belonging to the L-QIF and the audit and valuation of construction projects are governed by Article 126*y*.

Chapter 4
Accounting, Valuation, Filing of Accounts and Duty to Publish
(Art. 118*i* CISA)

Art. 126*z*quater Accounting, valuation and filing of accounts

1 Articles 79–105 and 108 CISO-FINMA[238] in the version dated 1 January 2021[239] apply by analogy to the accounting, valuation and reporting of an L-QIF, with the exception of the second sentence of Article 83 paragraph 1.

2 Insofar as the valuation is not governed by CISO-FINMA or the recognised self-regulation of the industry organisation, it must be carried out in accordance with recognised international standards. The standards applied must be described in detail in the fund contract, the investment regulations or the company agreement.

Art. 126*z*quinquies Duty to publish

1 The fund contract or the investment regulations of an L-QIF in the legal form of the contractual fund or SICAV must specify when and in what form the issue and redemption prices and the net asset value are to be disclosed to investors. Disclosure must be made at least once a year.

2 If the net asset value is published, the words 'excluding commissions' must be added.

Chapter 5 Audit and Audit Reports
(Art. 118*i* para. 6 CISA)
Section 1 Audit

Art. 126*z*sexies Division

The L-QIF audits are divided into an audit of accounts and a supplementary audit.

Art. 126*z*septies Audit of accounts

1 The auditing of the L-QIF's accounts comprises the audit of the information in accordance with Articles 89 paragraph 1 letters a–h and 90 CISA.

2 The auditing of the accounts of the general partner of an L-QIF in the legal form of an LPCI is governed by Articles 728–731*a* OR[240].

3 The auditing of accounts must be carried out annually.

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239 AS **2014** 4237; **2020** 5327
240 SR **220**

Art. 126*z*^octies Additional audit

[1] The additional audit of the L-QIF comprises the audit of compliance with the following regulations:

a. the regulation on the defining criteria for an L-QIF in accordance with Article 118*a* paragraph 1 CISA;

b. the regulation on notification and the collection of data in accordance with Article 118*f* CISA.

[2] The additional audit must be carried out every two years.

[3] In the first audit year after the launch of the L-QIF or after amendment of the fund documents, the additional audit shall also include an audit of compliance with the following regulations:

a. regulations on the issue and content of the following documents:
   1. the fund contract of an L-QIF in the legal form of the contractual fund,
   2. the articles of association and the investment regulations of an L-QIF in the legal form of a SICAV,
   3. the company agreement of an L-QIF in the legal form of an LPCI;

b. regulations on amending the documents in accordance with letter a;

c. when using the model approach for risk measurement: regulations on its calculation and application (Art. 33–42 CISO-FINMA[241] in the version dated 1 January 2015[242] apply by analogy).

[4] In the audit year in which the deadline for compliance with the investment restrictions under Article 126*q* paragraph 3 must be met, the additional audit shall also include an audit of whether the deadline has been met.

[5] Articles 5–8 of the Financial Market Auditing Ordinance of 5 November 2014[243] apply by analogy to the conduct of the additional audit.

[6] The audit of other provisions of financial market law as part of the supervisory audit of the institution responsible for management in accordance with Article 112 paragraph 1 CISO-FINMA[244] in the version dated 1 January 2021[245] is reserved.

241 SR **951.312**
242 AS **2014** 4237
243 SR **956.161**
244 SR **951.312**
245 AS **2014** 4237; **2020** 5327

Section 2 Audit Reports

Art. 126*z*^novies Audit reports

[1] The audit company prepares:

a. the following reports on the auditing of accounts:
   1. audit reports on the audit of the annual accounts in accordance with Article 118*i* paragraph 2 KAG,
   2. summary reports on the audit of the L-QIF;
b. audit reports on the additional audit.

[2] In the case of an L-QIF, which include subfunds, individual reports must be submitted for each subfund.

[3] The reports must be written in one of Switzerland's official languages or in English.

Art. 126*z*^decies Reports on the auditing of accounts

The provisions of the Swiss Code of Obligations [246] on the ordinary audit apply by analogy to the reports on the auditing of accounts.

Art. 126*z*^undecies Summary report

[1] The audit company must prepare the summary report in good time before publication of the annual report. It must be signed by the responsible lead auditor and another authorised signatory from the audit company.

[2] The summary report must comment on compliance with the legal, contractual, statutory and regulatory provisions on the annual accounts and on the audit of the information pursuant to Article 89 paragraph 1 letter a–h CISA. In the case of L-QIFs with real estate investments, it must also comment on the information pursuant to Article 90 CISA.

[3] In the case of an L-QIF in the legal form of an SICAV, the summary report may also include the auditor's report in accordance with Article 728*b* CO[247].

[4] The standard confirmation of the industry organisation for auditing declared generally binding by FINMA also applies to the L-QIF.

Art. 126*z*^duodecies Audit report on the supplementary audit

[1] The audit report on the supplementary audit must present the results of the audit comprehensively, clearly and objectively. The lead auditor and another auditor with authority to sign shall confirm this with their signatures.

[2] The audit report must be brought to the attention of the body responsible for the governance, supervision and control of the institution responsible for the management of the L-QIF and the body responsible for the governance, supervision and control of

246 SR **220**
247 SR **220**

the L-QIF. The audit report shall be discussed at a meeting of these bodies and the discussion shall be recorded in the minutes.

Art. 126*z*tredecies Material deficiencies

[1] If the audit firm identifies material deficiencies in the course of its audit activities, it must include these as reservations in the audit report on the supervisory audit of the institution responsible for the management of the L-QIF.

[2] The violation of a provision pursuant to Article 118*a* paragraph 1 CISA is always considered a material deficiency.

Title 4 Foreign Collective Investment Schemes

Chapter 1 Approval

Art. 127 Designation of the foreign collective investment scheme
(Art. 120 para. 2 let. c and 122 CISA)[248]

If the designation of a foreign collective investment scheme provides grounds or might provide grounds for confusion or deception, FINMA may require a supplementary explanation.

Art. 127*a*[249] Advertising for foreign collective investment schemes
(Art. 120 par. 1 and 4 CISA)

Advertising for foreign collective investment schemes triggers the duties in accordance with Article 120 paragraphs 1 and 4 CISA.

Art. 127*b*[250] Foreign ETFs
(Art. 78 para. 3, 119 and 120 CISA)

Units or unit classes of a foreign open-ended collective investment scheme that are structured as ETFs under foreign law and are offered to non-qualified investors in Switzerland must be permanently listed on a Swiss stock exchange.

Art. 128[251] Representative agreement and paying agent agreement
(Art. 120 para. 2 let. d CISA)

[1] A fund management company of a foreign collective investment scheme or a foreign fund management company whose collective investment scheme is approved to be offered to non-qualified investors in Switzerland shall provide evidence that it:

248 Amended by No I of the O of 13 Feb. 2008, in force since 1 March 2008 (AS **2008** 571).
249 Inserted by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).
250 Inserted by No I of the O of 31 January 2024, in force since 1 March 2024 (AS **2024** 73).
251 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).

a. has concluded a representative agreement in writing or in another form demonstrable via text;

b. has concluded a paying agent agreement in writing or in another form demonstrable via text

2 The custodian bank shall provide evidence that it has concluded a paying agent agreement in writing or in another form demonstrable via text.

3 In relation to the offer of foreign collective investment schemes in Switzerland, the representative agreement specifically regulates:

a. the rights and duties of the foreign fund management company in accordance with paragraph 1 and of the representative pursuant to Article 124 paragraph 2 of the Act, in particular with regard to its duty to report, publish and inform, as well as the code of conduct;

b. the manner in which the collective investment scheme is offered in Switzerland;

c. the duty of the fund management company in accordance with paragraph 1 to report to the representative, specifically with regard to changes to the prospectus and the organisational structure of the foreign collective investment scheme.

4 FINMA shall publish a list of countries with which it has concluded an agreement on cooperation and the exchange of information pursuant to Article 120 paragraph 2 letter e of the Act.

Art. 128*a*[252] Duties of the representative
(Art. 124 para. 2 CISA)

1 The representative of a foreign collective investment shall have an appropriate organisational structure for the fulfilment of its duties pursuant to Article 124 CISA.

2 FINMA shall regulate the details of the organisation and duties of the representative of foreign collective investment schemes.[253]

Art. 129[254] Simplified, fast-track approval procedure
(Art. 120 para. 3 CISA)

FINMA may in individual cases specify a simplified, fast-track approval procedure for foreign collective investment schemes provided such investments have already been approved by a foreign supervisory authority, such arrangement being reciprocal.

252 Inserted by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
253 Inserted by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).
254 Amended by Annex No 6 of the Financial Market Audit Act of 15 Oct. 2008, in force since 1 Jan. 2009 (AS **2008** 5363).

Art. 129*a*[255] Exemptions
(Art. 120 par. 4 CISA)

Foreign collective investment schemes which are offered to qualified investors in accordance with Article 5 paragraph 1 of the Financial Services Act of 15 June 2018[256] (FinSA) within the scope of a permanent investment advice relationship within the meaning of Article 3 letter c item 4 FinSA are not required to meet the conditions of Article 120 paragraph 2 letter d CISA.

Art. 129*b*[257] Employee share participation schemes
(Art. 120 par. 5 CISA)

Employee share participation schemes are employee participation schemes in accordance with Article 5 FinIO[258].

Art. 130 Lapse of approval
(Art. 15 and 120 CISA)

The approval for foreign collective investment schemes pursuant to Articles 15 and 120 CISA lapses if the supervisory authority in the country of domicile of the collective investment scheme withdraws its approval.

Chapter 2 Representatives of Foreign Collective Investment Schemes

Art. 131[259] Minimum capital and furnishing of collateral
(Art. 14 para. 1 let. d CISA)

[1] The representative of foreign collective investment schemes must possess minimum capital of 100 000 Swiss francs. This must be paid up in full and maintained at all times.

[2] FINMA may permit partnerships to provide, instead of minimum capital, collateral in the form of a bank guarantee or a cash deposit in a blocked account with a bank, said collateral being equivalent to the minimum capital.

[3] Where there are legitimate grounds for so doing, FINMA may stipulate a different minimum amount.

[4] In all other respects, Article 20 applies accordingly.

255 Inserted by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).
256 SR **950.1**
257 Inserted by Annex 1 No II 9 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).
258 SR **954.11**
259 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. 131*a*[260] Duties of the representative in respect of the offer of units to qualified investors
(Art. 120 para. 4 CISA)

The representative shall ensure that investors can obtain from it the principal documents of the foreign collective investment scheme.

Art. 132 Professional indemnity insurance
(Art. 14 para. 1 let. d CISA)

The representative shall conclude professional indemnity insurance appropriate to its business activities of at least 1 million Swiss francs, less the minimum capital or effective collateral furnished in accordance with Article 131.

Art. 133 Publication and reporting regulations
(Art. 75–77, 83 para. 4 and 124 para. 2 CISA)[261]

[1] The representative of a foreign collective investment scheme shall publish the documents pursuant to Articles 13*a* and 15 paragraph 3, as well as the annual and semi-annual report, in an official language or in English. FINMA may authorise publication in another language, provided publication is directed only towards a specific investor eligibility.[262]

[2] The following must be indicated in the publications and marketing material:

a. the country of domicile of the collective investment scheme;

b. the representative;

c. the paying agent;

d.[263] the location where the documents pursuant to Articles 13*a* and 15 paragraph 3, together with the annual and semi-annual report, may be obtained.

[2bis] If in place of the key information document an equivalent document in accordance with Annex 10 of the Financial Services Ordinance of 6 November 2019[264] is used, the information in accordance with paragraph 2 may be contained in an annex to the key information document.[265]

[3] The representative of a foreign collective investment scheme shall submit the annual and semi-annual reports to FINMA immediately, notify it of amendments to such documents pursuant to Article 13*a* immediately and publish such amendments in the me-

260 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). 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).
261 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
262 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
263 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
264 SR **950.11**
265 Inserted by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).

dia of publication. Articles 39 paragraph 1 and 41 paragraph 1, second sentence, apply accordingly.[266]

4 It shall publish the net asset values of units at regular intervals.

5 The publication and reporting regulations do not apply to foreign collective in- vestment schemes that are exclusively offered to qualified investors.[267]

Title 5 Audit and Supervision[268]

Chapter 1 Audit[269]

Art. 134[270] Audit of the custodian bank

(Art. 126 para. 1 and 6 CISA)

1 The audit company for the custodian bank shall verify whether the custodian bank is complying with the supervision and contractual provisions.

2 If the audit company for the custodian bank identifies an infringement of supervision or contractual provisions or other irregularities, it shall inform FINMA and the audit company for the fund management company or for the investment company with variable capital (SICAV).

Art. 135[271] Audit report

(Art. 126 para. 1 and 6 CISA)

1 The audit company for the custodian bank shall specify in a separate audit report whether the custodian bank is complying with the supervision and the contractual provisions.

2 It must also include any reservation in the audit report under Article 27 paragraph 1 of the Financial Market Supervision Act of 22 June 2007[272] on the custodian bank.

3 It shall submit the audit report under paragraph 1 to the following recipients:

a. the fund management company or the SICAV;

b. FINMA;

c. the audit company for the fund management company or the SICAV.

266 Amended by No I of the O of 13 Feb. 2013, in force since 1 March 2013 (AS **2013** 607).
267 Inserted by No I of the O 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).
268 Amended by Annex No 3 of the Financial Market Audit Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS **2014** 4295).
269 Inserted by Annex No 3 of the Financial Market Audit Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS **2014** 4295).
270 Amended by Annex No 3 of the Financial Market Audit Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS **2014** 4295).
271 Amended by Annex No 3 of the Financial Market Audit Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS **2014** 4295).
272 SR **956.1**

4 The audit company for the fund management company or the SICAV shall take account of the results of the report on the audit of the custodian bank in their own audits.

5 It may request additional information from the audit company for the custodian bank that it requires to carry out its tasks.

Art. 136[273]

Art. 137[274] Audit of accounts
(Art. 126 para. 5 and 6 CISA)

1 When auditing the accounts of collective investment schemes, the information under Articles 89 paragraph 1 letters a–h and 90 CISA shall be audited.

2 In relation to the auditing of accounts of persons named in Article 126 paragraph 1 CISA, of the investment funds managed and of any real estate company belonging to the real estate funds or to the real estate investment companies, FINMA may regulate the details relating to form, content, periodicity, time limits and recipients of reports as well as the conduct of the audit.

Art. 138–140[275]

Chapter 2 Supervision[276]

Art. 141 Continuation of the collective investment scheme
(Art. 96 CISA)

1 Where the continuation of the investment fund is in the interests of the investors and a suitable new fund management company or custodian bank can be found, FINMA may order the transfer of the fund contract thereto including rights and obligations.

2 Where the new fund management company enters into the fund contract, the liabilities and ownership of the assets and rights belonging to the investment fund must by law be passed to the new fund management company.

3 Where the continuation of the SICAV is in the interests of the investors and a suitable new SICAV can be found, FINMA may order the transfer of the assets thereto.

273 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).
274 Amended by Annex No 3 of the Financial Market Audit Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS **2014** 4295).
275 Repealed by Annex No 6 of the Financial Market Audit Act of 15 Oct. 2008, with effect from 1 Jan. 2009 (AS **2008** 5363).
276 Inserted by Annex No 3 of the Financial Market Audit Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS **2014** 4295).

Art. 142 Form of documents to be submitted
(Art. 1 and 144 CISA)

1 FINMA may determine the form for submission, specifically for the following documents:

a. applications for authorisation in accordance with Articles 13 and 15 CISA as well as related documents;

b. prospectuses and key information documents;

c. reports of changes in accordance with Article 16 CISA as well as related documents;

d. annual and semi-annual reports.[277]

2 It may designate a third party as the recipient of the submission.

Title 6 Final and Transitional Provisions

Art. 143[278]

Art. 144[279] Transitional provisions to the Amendment of 6 November 2019

1 For collective investment schemes offered to retail clients prior to the entry into force of the amendment of 6 November 2019, simplified prospectuses and key investor information may continue to be used until 31 December 2022 in accordance with the requirements of Annexes 2 in the version of 1 March 2013[280] and 3 in the version of 15 July 2011[281].[282]

2 If key investor information pursuant to Annex 3 in the version of 15 July 2011 is used, including the appropriately revised presentation of the collective investment scheme's past performance in the period to 31 December, it must be published by the fund management company and SICAV within the first 35 working days of the following year.

3 Within two years of the entry into force of the amendment of 6 November 2019, fund management companies and SICAVs must submit the revised fund contracts and investment regulations to FINMA for approval. In special cases, FINMA may extend this time limit.[283]

277 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
278 Repealed by No I of the O of 29 June 2011, with effect from 15 July 2011 (AS **2011** 3177).
279 Amended by Annex 11 No 1 of the Financial Services Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4459).
280 AS **2013** 607
281 AS **2011** 3177
282 Amended by No II of the O of 3 Dec. 2021, in force since 1 Jan. 2022 (AS **2021** 835).
283 Amended by No II of the O of 3 Dec. 2021, in force since 1 Jan. 2022 (AS **2021** 835).

4 Exceptions which FINMA has granted on a case-by-case basis to fund management companies of investment funds for institutional investors with professional treasury operations in accordance with Article 2 paragraph 2 of the Investment Fund Ordinance (Art. 10 para. 5 CISA) continue to apply.

5 For structured products offered to retail clients prior to entry into force of the amendment of 6 November 2019, simplified prospectuses may continue to be used until 31 December 2022 in accordance with the requirements of Annex 4 in the version of 1 March 2013[284].[285]

6 The duty to inform investors pursuant to Article 6*a* must be satisfied at the time of the first client contact, but in any event within two years of this Ordinance coming into force.

Art. 144*a* and **144*b***[286]

Art. 144*c*[287]

Art. 144*d*[288] Transitional provisions to the Amendment of 31 January 2024

1 The fund documents of existing collective investment schemes must be adapted to the requirements of Articles 76 paragraph 4 and 106 paragraphs 4 and 5 within two years of the amendment of 31 January 2024 coming into force. The deadline is deemed to have been met on submission of the amended documents to the competent authority.

2 Article 76 paragraph 5 applies to existing collective investment schemes for the first time for the financial year that begins two years after the new act comes into force.

3 The requirements of Article 108*a* must be met in relation to existing collective investment schemes within two years of the amendment of 31 January 2024 coming into force.

Art. 145 Commencement

This Ordinance comes into force on 1 January 2007.

284 AS **2013** 607
285 Amended by No II of the O of 3 Dec. 2021, in force since 1 Jan. 2022 (AS **2021** 835).
286 Inserted by No I of the O of 29 June 2011 (AS **2011** 3177). 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)
287 Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 607). 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).
288 Inserted by No I of the O of 31 Jan. 2024, in force since 1 March 2024 (AS **2024** 73).

Annex 1[289]

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

Annex 2[290]

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

Annex 3[291]

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