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Swiss External Asset Managers: Why to Consider an Asset Management License in Liechtenstein?

- **Liechtenstein offers a number of advantages for Swiss based External Asset Managers ("EAM") due to the proximity to Zurich,**
 - **Liechtenstein offers attractive tax regime**
 - **Liechtenstein regulator is accessible, offers clear guidelines and sample documents and**
 - **Liechtenstein offers EU Passporting for 27 member states with around 750 mio. inhabitants**
1. By what time do Swiss External Asset Managers have to comply with new licensing requirements of FINIG?
 2. Swiss FINIG -Options? Licensing of EAM in Switzerland.
 3. Liechtenstein-Options? Licensing of EAM in Liechtenstein.

Answers to the 5 most frequently asked questions

1. By what time do Swiss EAMs have to comply with new licensing requirements of FINIG?

As of 1 January 2020, Swiss asset managers are subject to the authorization requirements under the Financial Institutions Act ("FINIG"). FINIG provides for the licensing requirements for managers of collective assets as well as managers of individual assets (or portfolio managers).

Existing EMAs who have not previously been authorized by FINMA must notify FINMA within 6 months of the entry into force of FINIG (by 30 June 2021) and submit a request for authorization and comply with FINIG rules within 3 years (by 1 January 2023).

2. Swiss FINIG-Options? Licensing of EAM in Switzerland.

Under the new FINIG, EAMs have to be authorized by FINMA either as a portfolio manager (i.e. managers of individual portfolios) or a manager of collective assets. Unlike in Liechtenstein, FINMA does not authorize or supervise investment advisors. Distribution of financial products in most cases does not require to be licensed but may require a registration in Switzerland.

FINIG sets out a de minimis rule for managers of collective assets, according to which EAMs, who manage collective investment scheme assets for qualified investors of up to CHF 100 million (including leverage) or up to CHF 500 million (not including leverage and a right of redemption in the first 5 years), are exempt from the licensing requirements as managers of collective assets. Managers of pension fund assets are exempt from licensing requirements, provided that the pension fund assets under management do not exceed CHF 100 million and that with respect to the mandatory provision, a maximum of 20% of the assets of an individual pension fund are managed.

Managers of collective assets who manage collective investment schemes or pension fund assets that benefit from the de minimis rule will qualify, however, as portfolio manager and as such, are be subject to the respective licensing requirements under the FINIG at a lower level. Swiss EAMs must possess a required minimum capital of CHF 100,000 which must be fully paid up.

3. Liechtenstein-Options? Licensing of EAM in Liechtenstein.

Under the Asset Management Act of Liechtenstein, EAMs are investment firms under MiFID and are licensed by Financial Market Authority ("FMA") to provide portfolio management and investment advice, including, placement and distribution for individual clients as well as collective investment schemes.

In order to fulfil the requirement of a portfolio management activity, an EMA needs to demonstrate experience in managing portfolio in the application. After obtaining a license, an EAM in Liechtenstein is subject to the ongoing supervision of FMA and need to prepare regular regulatory filings.

Liechtenstein offers a two-step application process. In step one, the FMA checks whether the requirements for application are met in general (business plan & CVs) and issues a go ahead in principal. Step two is then the actual application itself. This two-step process helps to control costs. The required share capital to set up an EAM in Liechtenstein is CHF 100,000.

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4. Differences between Switzerland and Liechtenstein?
5. Tax and Social Security Considerations



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EAMs with a Liechtenstein license may provide their portfolio management, investment advice services, including distribution of investment products in any other EU or EEA Member State(s) based on notifications between national competent authorities ("EU Passport"). EAMs with a Swiss license are not allowed to do that.

EMAs in Liechtenstein are required to establish their main management locally in Liechtenstein. Further, to demonstrate substance, a local team is required. An independent chairman, internal audit and a suitable set of procedures will be also necessary. The directors need to meet physically in Liechtenstein to carry out board meetings. For EAM's managers and employees Liechtenstein is considered as within commuting distance from Zurich. Employees acting under the license that are not working in Greater Liechtenstein-Zurich Area need to travel to this area on a regular basis to report to the board of directors in Liechtenstein.

4. Differences between Switzerland and Liechtenstein?

Liechtenstein provides a legal environment which is similar to Switzerland but will additionally benefit from EU Passport. This allows to offer services in 27 member states with around 750 mio. Inhabitants.

A further benefit is that Liechtenstein provides a standardized EAM authorization procedure with sample organization handbook and templates.

5. Tax and Social Security Considerations

Any profits of an EAM are taxed in Liechtenstein at a tax rate of 12.5%. Profits can be paid out in a form of dividends and are free of any withholding tax. As a comparison, profits of an EAM in Zurich are taxed at a tax rate of 22%. If part time employees of an EMA with a license in Liechtenstein are employed more than 25% by a Swiss employer and also live in Switzerland, they will likely not be required to be insured under the Liechtenstein Social Security but should pay social security only in Switzerland.

Further, Swiss tax resident managers and employees remain subject to income tax on their salaries in Switzerland and not in Liechtenstein.

Do you have any questions? – We look forward to hearing from you!