

Switzerland				
Regulatory Requirements	Financial Advisors¹			
	UCI products	Insurance products²	Real Estate products	Transferable securities
	“Vertriebsträger” Distribution agency	Insurance brokers	Real Estate broker³	“Effekthändler” Security dealers
1. Description of permitted activities	Distribution and offering of investment funds	Persons who offer and conclude contracts regarding insurance policies in the interest of insurance companies or others, Art 38 VAG (Draft)	(-)	Persons, who professionally buy or sell transferable securities on the secondary market either shortly for their own account or for third parties' account, who offer these on the primary market or who create derivatives on their own and offer these to the public
2. Applicable laws	“Anlagefondsgesetz” (ALG) Law concerning investment funds, “Anlageverordnung” (ALV), decree regarding investments	“Versicherungsaufsichtsgesetz” (VAG), draft law concerning the regulation of the insurance business	(-)	“Börsengesetz” (BEHG), exchange law, “Börsenverordnung” (BEHV) exchange decree
3. Regulated entity	(+)	(+)	(-)	(+)
4. License	Art. 22 I AFG	Art. 2 I c) VAG (Draft)	(-)	Art. 10 BEHG, 17 BEHV
5. Competent authority	“Eidgenössische Bankenkommision” (EBK)	“Bundesamt für Privatversicherungswesen” ⁴ (BPV) or EBK	(-)	“Eidgenössische Bankenkommision” (EBK)
6. Registration	-Strict registration procedure with EBK	-Entry into a register of insurance brokers (mandatory)	(-)	Strict procedure with EBK, most importantly:

¹ There is also a form of unregulated financial intermediaries “Vermögensverwalter”, for additional information: see below under market trends

² Not consistently regulated, regulation in some federal states, a national draft law exists, that is referred to hereafter

³ Not a regulated profession in Switzerland.

⁴ Not yet defined in draft law.

	-Registration with AML Commission or joining of a self regulatory organization	for independent brokers, optional for tied agents) -Registration with AML Commission or joining of a self regulatory organization, GWG (Draft Money laundering law)		-Articles of incorporation -Detailed description of business activities -Description of organisation (risk management system) -Controls and internal audit -Minimum Capital or security -Information about directors -Own funds -External auditor
7. Reporting	Strict requirements as most importantly: -Information about shareholders and partners/managing directors -Description of envisaged activities -Balance sheet, income statement and audit report (if applicable) of the last 2 years -Distribution agreement -Proof of professional indemnity insurance or bank guarantee -Audit agreement with a registered auditor	All necessary information, Art. 45 II VAG (Draft)	(-)	-Annual report -Close links -Every change in business of the applicant or a subsidiary abroad -Changes in directors -Membership in exchanges -Significant shareholders
8. Legal forms	No restrictions	No restrictions	(-)	No restrictions
9. Minimum capital	(-)	(-)	(-)	1.5 Mio CHF (or bank guarantee), Art. 22 BEHV
10. Professional qualification	-Repute, -Minimum of two reference persons per managing director, -For each managing director specific and strict proofs of professional qualification in	(+), sufficient qualification, Art. 42 I a VAG (Draft)	(-)	Sufficient professional qualification, Art 10 BEHG

	investment fund business (apprenticeship in banking or similar education)			
11. Necessity of procedures	(-)	(-)	(-)	Obligation of journal entry, Art.15 BEHG
12. Necessity of internal control	(-)	(-)	(-)	(+), Art. 20 BEHV
13. Code of conduct	(-)	(-)	(-)	(-)
14. External audit	(-)	(-)	(-)	(+)
15. AML - Provisions	(+), as a financial intermediary falling within the scope of Art. 2 I GWG (Money laundering law)	(+), as a financial intermediary falling within the scope of Art. 2 II c GWG (Draft Money laundering law)	(-)	(+), falling within the scope of the GWG
16. Customer Information	Provision of prospectus, annual and semi-annual report of the product	(+), most importantly provision of information regarding their identity and the identity of the represented insurance companies, their contractual agreements with the former, the identity of the person legally liable for an incorrect advice	(-)	-Explanation of risks of investments -Duty of loyalty: avoidance of conflicts of interest -Common vigilance obligation
17. Obligation to provide security	Professional indemnity insurance or bank guarantee (amount depending on number of persons working in fund business) from 250.000 CHF (0-5 persons) up to 1 million CHF (16-25 persons)	Professional indemnity insurance or similar guarantee function, Art. 42 I b VAG (Draft)	(-)	(-)
18. Necessities in terms of publicity, marketing, Internet...	(-)	(-)	(-)	(-)
19. Outsourcing	(-)	(-)	(-)	(-)
20. Passporting of activities	(-)	(-)	(-)	(-)
21. Fees				

Market trends:	<p>Sector still rather unregulated, but trends towards adjustment to EU legislation.</p> <p>There is also a tendency of the unregulated financial intermediaries to organize in professional associations (e.g. the VSV “Verband Schweizerischer Vermögensverwalter” or the GSCGI “Groupement Suisse des Conseils en Gestions Indépendants”), who create certain tools of investor protection as audit requirements, codes of conduct and minimum professional qualification requirements.</p> <p>Though unregulated these financial intermediaries can fall within the scope of the GWG (AML-law). Now the mentioned organizations are often also accepted as self-regulatory bodies, which can be joined to replace registration with the AML Commission as mentioned above under Point 6. There are also tendencies to start regulating these businesses.</p> <p>Real estate advisors are not regulated at all. There is no specific regulation regarding advisors for pension or mortgage products.</p>
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