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# Swiss asset management: current issues and the Gibraltar perspective

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# The issues

- Context
- Licensing
  - Fund managers
  - Portfolio managers

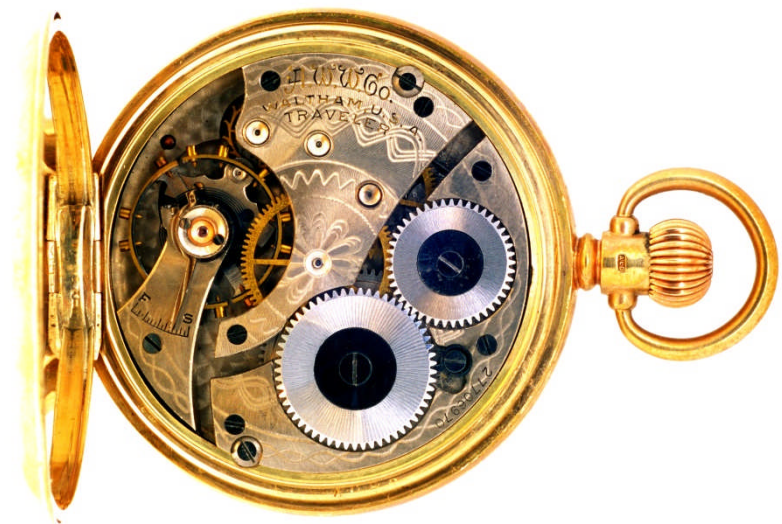


# Context

- Push towards more transparency globally
  - Automatic exchange of tax information
  - Days of banking secrecy over
  - FATCA
- Tensions between Switzerland and the EU
- Many EU citizens need to regularise tax affairs
- Move away from self-regulation of managers

# Licensing of fund managers

- Switzerland – CISA, regulated by FINMA
- Gibraltar – AIFMD, regulated by FSC
- Passporting within EU:
  - Possible under AIFMD to professional investors
  - Not possible under CISA until 2015 at earliest



# Fund managers – minimum capital

	CISA Switzerland		AIFMD Gibraltar
Higher of:	CHF	EUR	EUR
Base Capital	200,000	164,000	125,000
Add 0.02% of AUMs >	250m	205m	250m
	0.01% of AUMs if no insurance		
Max	20m	16.4m	10m
	One quarter of annual fixed overheads		



# Fund managers – remuneration

- Gibraltar – AIFMD
  - AIFMs must have remuneration policies for staff whose activities have material impact on risk profiles of AIFMs or AIF.
  - Disclosure in the financials
- Switzerland – CISA
  - None unless delegated by an AIFM
  - Probably needs to change for EU passporting

# Fund managers – Corporate Gov

- Switzerland – CISA
  - BoD: Minimum 3 members, at least 1/3 independent, majority independent from operational tasks;
- Gibraltar – AIFMD
  - Minimum 2 directors (no independent needed)
- Both
  - Independent Risk Management & Compliance
  - Outsourcing possible
  - Fit and proper test – shareholders, BoD and managers
  - “Four eyes” principle – at least two competent individuals must be involved in day to day management

# Fund managers – delegation

- Gibraltar – AIFMD
  - FSC: delegation allowed subject to sufficient in-house resources and expertise for oversight
  - Delegation outside EU to follow memorandum of understanding (MoU) between 2 countries
- Switzerland – CISA
  - Similar to AIFMD
  - Delegation of investment decisions outside of Switzerland allowed where MoUs exist



# Fund managers – small managers

	CISA Switzerland		AIFMD Gibraltar
	CHF	EUR	EUR
Standard Threshold [Including leveraged assets, i.e. GAV]	100m	82m	100m
Where AIFs unleveraged and closed-ended for >5 years from inception	500m	410m	500m

- In Gibraltar, where AUMs are below the de minimis, only registration is required with the FSC; application possible
- Gibraltar – possible licensed regime for small AIFM is on the horizon

# Fund managers – summary

- Minimum capital required under CISA more (EUR 164k vs EUR 125k) than under AIFMD
- CISA not passportable until 2015 at earliest, AIFMD now
- De minimis exemptions set lower in CISA than AIFMD but net not gross for the time being
- Remuneration provisions under AIFMD, at present none under CISA
- Corp Gov substance in both AIFMD and CISA (but CISA requires 1 independent director)

# Licensing of portfolio managers

- Switzerland – self-regulation at present
  - External asset managers will potentially be subject to more intense rules of conduct and prudential supervision by either FINMA or self regulatory organizations
- Gibraltar – MiFID
- Passporting within EU:
  - Possible under MiFID
  - Not possible for Swiss portfolio managers



# MiFID in Gibraltar

- MiFID firms in Gibraltar for several years
- FSC viewed as sensible and approachable
- Application fees - cat1 - £10,000; cat2 - £7,500; cat3 - £5,500
- Annual fees - cat1: £11,100; cat2 - £8,400; cat3 - £6,190



# General Criteria for MiFID Licence

- **Fit & Proper test** – applies to shareholders, directors and managers
- **“Four eyes” principle** - At least two competent individuals must be involved in day to day management
- **Minimum of two directors**
- **Mind and Management** – and presence in Gibraltar
- **Adequate resources for business and compliance requirements** – including appropriate controls to reduce risk of error and fraud
- **Professional indemnity insurance**

# MiFID Categories of Licence

Category of licence	Licensed to:	Minimum P1 share capital
Category 1 (Unrestricted)	<ul style="list-style-type: none"> <li>• Deal as principal for investors</li> <li>• Deal as agent for investors</li> <li>• Manage investments for investors</li> <li>• arrange transactions for investors</li> <li>• Give investment advice</li> <li>• Hold client money and other client assets</li> </ul>	€730,000
Category 2 (Money-holders)	<p>All the above but may <u>not</u>:</p> <ul style="list-style-type: none"> <li>• deal as principal with investors</li> </ul>	€125,000
Category 3 (Arrangers)	<ul style="list-style-type: none"> <li>• May conduct portfolio management (incl discretionary portfolio mgt) but not hold client money</li> <li>• Arrange transactions for investors</li> <li>• Give investment advice</li> </ul>	€50,000

# MiFID/AIFMD/CISA overlap

- A single entity cannot hold both a MiFID and an AIFMD licence
- A MiFID firm could act as a small AIFM (ie below the de minimis threshold) but NO passporting of AIFMD services
- An “external AIFM” (ie not an internally managed AIF) could provide certain portfolio management services but NO passporting
- A firm authorised under CISA can perform discretionary management services in Switzerland for the time being

# The future

- MiFID II equivalent in Switzerland
- Passporting rights under CISA
- Gibraltar



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