

The Impact of New Regulation on the Swiss Alternative Investment Fund Manager Industry

A comprehensive market survey

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Introduction and background information

Following the outbreak of the financial crisis and its first peak in 2008 – events which led to a shakeout in the financial industry and brought shortcomings in financial markets supervision to light - a wave of regulatory initiatives has been unleashed around the globe to address these shortcomings and help prevent future build ups of systemic risk. Although there is now a widely shared consensus that this crisis is primarily a banking crisis, much attention has also been directed towards the alternative investment fund (AIF) industry. The most notable focus has been on hedge funds, private equity funds and real estate funds, with venture capital funds also attracting attention, though to a lesser degree. A key criticism has been that these investment vehicles and their managers are generally subject either to only modest regulation or, in some instances, no regulation at all. To address this, and in order to introduce harmonised rules in this area throughout European Union (EU), the European Parliament and the Council of the European Union issued the Directive on Alternative Fund Managers (hereinafter AIFMD).

Switzerland is not an EU member. Unlike the EU member states it is thus under no obligation to adopt the directive under Swiss law. However, in order to ensure that Swiss alternative investment fund managers (AIFMs) and service providers have continued access to the hugely important EU harmonised market,

even when the AIFMD regime is extended to European Economic Area (EEA) countries that are not EU member states, Switzerland initiated a partial revision of its legislative framework to align it with the directive.

Under the current Swiss Collective Investment Schemes Act (CISA), only the managers of Swiss collective investment schemes are required to obtain authorisation from the Swiss Financial Market Supervisory Authority (FINMA). Where a foreign (i.e. non-Swiss) collective investment scheme is managed by a Swiss fund manager, there currently is no requirement for that manager to obtain authorisation from FINMA. Swiss managers of foreign collective investment schemes may apply for FINMA authorisation, should they so wish, provided that their registered office or domicile is in Switzerland, that foreign legislation requires that they be subject to a supervisory authority and that the foreign collective investment schemes which they manage are subject to supervision of an equivalent standard to that required in Switzerland. In essence, these arrangements permitting voluntary application for licensing were put in place to allow Swiss asset managers of non-Swiss undertakings for collective investments in transferable securities - i.e. funds which are launched in an EU or EEA member state and comply with the EU UCITS Directive – to apply for FINMA licensing. In fact, the majority of

Swiss-based AIFMs were effectively excluded from the aforementioned possibility of voluntary supervision by FINMA, since only a limited number of jurisdictions – typically not those where AIFs have been set up – have been recognised by FINMA as offering an equivalent standard of supervision. Unsurprisingly, the majority of Swiss initiators of AIFs have historically not only set up their products offshore, but have in most instances also established offshore asset management entities that typically have relatively little substance and are mostly staffed with local directors supplied by service providers. Usually, Swiss advisory entities are added to these structures, and it is these advisory entities which then employ the Swiss principals. The amended law will now extend licensing obligations to cover all Swiss-based investment managers, including those of foreign AIFs. This change is of particular relevance to those Swiss investment managers who employ the structures outlined above. For most of them, the change in the law will mean that the effective place of management will have to be relocated to Switzerland rather than remain offshore, and they will therefore have to consider applying for FINMA licensing if they do not wish to find themselves in breach of the amended law. In structures where there indeed is enough substance in a location outside Switzerland to allow for credible proof that the key functions of an asset manager – portfolio

management and risk management – are performed there, Swiss advisors may continue in their present advisory role and will not be subject to the new licensing obligation. The new rules are expected to come into effect at the beginning of 2013 and to be fully in force and applicable from July 2013 onwards. Thereafter, investment managers affected by the new legislation will have to contact FINMA within six months and, if an application for licensing is then deemed necessary, apply for licensing within two years. As is the case in the EU for managers of open-ended investment funds with combined total assets of up to EUR 100m (including leverage), so-called *de minimis* rules will apply and require registration only rather than full licensing. It is also important to note that, in future, Swiss branches of foreign asset management companies will also be eligible to apply for FINMA licensing, provided that they are adequately staffed and capitalised, that there is adequate supervision in the asset management company's home jurisdiction, and that a cooperation agreement between FINMA and the supervisory authority concerned is in place.

The partial revision of CISA will also result in substantial modifications to the rules governing the placement of AIFs within Switzerland. Until now, Switzerland offered one of the most lenient private placement regimes in Europe if not the world. In essence, provided these AIFs were not advertised to the general public and were only placed privately with qualified investors, no particular further requirements applied. This attractive regulatory climate was further enhanced by the fact that

Switzerland offered one of the most extensive definitions of what constituted a "qualified investor". This is also about to change. The primary aim of the revised regulations in this context is to replace the present concept of "public promotion" with "distribution" as a key criterion for regulating the offering of alternative investment funds, and to narrow the currently rather extensive definition of "qualified investor". In essence, while this will not fully align the Swiss legislative framework with the EU's MiFID standards (which Switzerland has not fully adopted so far), it will narrow the gap between the two. Under the CISA as it stands today, the advertising (i.e. offering) of interests in collective investment schemes is not deemed to be public if it is exclusively directed towards qualified investors as defined in the CISA, the CISO (Collective Investment Schemes Ordinance) and the FINMA Circular on Public Offerings. Currently, the qualified-investor classification includes regulated financial intermediaries such as banks, broker-dealers and fund management companies, regulated insurance companies, public entities and retirement-benefit institutions (pension funds), as well as companies with professional treasury operations, high-net-worth individuals (HNWIs) having (directly or indirectly) financial wealth in excess of 2 million Swiss francs and investors who have concluded a written discretionary management agreement with either a regulated financial intermediary (as defined above) or a Swiss independent asset manager who is subject to anti-money laundering supervision and a member of a professional self-regulatory organisation (SRO) with rules

recognised by FINMA as meeting a minimum professional standard. In future, all distributors, including those distributing funds to qualified investors, will require FINMA authorisation, and their products will need to have a representative and a paying agent in Switzerland. Also, the currently rather broad Swiss definition of "qualified investor" will be narrowed significantly. HNWIs who currently qualify solely on the basis of their net financial assets but have little or no specific investment experience will no longer be deemed to be qualified investors. This essentially means that the qualified-investor category will in future largely be limited to supervised financial intermediaries (such as banks, securities dealers, fund management companies, regulated asset managers and central banks), supervised insurance companies, public-law institutions, pension funds and companies with professional treasury operations. The good news is that HNWIs can opt to be treated as qualified investors. It is also important to note that the sale of alternative investment funds to regulated or independent asset managers for inclusion in the portfolios of clients with whom they have entered into a written discretionary asset management agreement is not deemed to constitute distribution, and that such clients are considered to be qualified investors unless they have explicitly opted out of this status.

As stated above, under the revised CISA it will for the first time also become possible for managers of foreign AIFs to obtain a license from FINMA. Although this is a good thing in principle and as such welcomed by the industry, there is

some concern that in expanding its licensing regime to include AIFMs, FINMA will apply its notoriously hyper-formalistic approach, setting stringent requirements with regard to substance, resources and investor protection. What is certainly justified in the area of funds for retail investors may well be overkill where alternative investment products for qualified investors are concerned. In particular, innovative start-ups and systematic trading strategies which require little headcount for their execution may be adversely affected - or indeed even unable to obtain licensing and to commence business from Switzerland - under such rules and practice.

Over the past months, as the AIFMD regime and its accompanying Level 2 measures have gradually taken shape, questions relating to non-EU countries and the scope for delegation have become the main topics of lobbying and discussion in this area. As the various drafts of the proposed amendments to the CISA were published, it became clear that the new requirements would be quite different from what had gone before, and this resulted in a high degree of uncertainty prevailing within the Swiss AIFM industry. This situation was further exacerbated by the fact that AIFMs have so far not been comprehensively represented in the relevant industry associations in Switzerland – nearly all the members of Swiss Funds Association (SFA), for example, are regulated entities. It was generally understood that the rules of the game were about to change significantly and for good, but there was no clear understanding of what this would mean in practice, nor of how and indeed how gravely the Swiss

AIFM industry could potentially be affected. It was in order to establish this, and also to provide further insights into the so far largely uncharted Swiss AIFM industry, that we carried out this survey.

This study builds on the work originally undertaken by Wolfdieter Schnee in the course of writing his award-winning Master's Thesis at the University of Liechtenstein which was supported and guided by PwC and most notably Dr. Guenther Dobrauz. We would like to thank Wolfdieter for his effort and support.

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Executive summary of key findings

- Today most Swiss-based AIFMs are acting as advisors to offshore management entities which themselves have relatively little substance and utilise non-Swiss AIFs.
- Since the majority or at least a significant proportion of the assets managed by Swiss-based AIFMs are sourced from investors in Switzerland and Europe, they will be affected by the AIFMD.
- The reasons why AIFMs have historically chosen Switzerland as their domicile have generally been soft factors (e.g. personal reasons) rather than objective considerations such as regulation, legal certainty and stability or reputation.
- Recently, questions related to regulation and taxation have become the key criteria for evaluating domiciles for AIFMs and there is growing dissatisfaction with Switzerland as a home jurisdiction, mainly because of reduced legal certainty and the overall political situation.
- The availability of a pragmatic, open-minded, competent and experienced supervisory authority is regarded as critical.
- Bigger AIFMs will apply for FINMA licensing, while smaller players are evaluating other options such as registering under de minimis rules or relocating to other jurisdictions, generally in the EU and EEA. For managers in German-speaking Switzerland, Liechtenstein appears to be a valid alternative.
- While the onshoring of AIFs is not yet a priority on AIFMs' agendas, it is attracting increasing consideration.
- Switzerland is generally not considered a realistic option for onshoring AIFs.
- Management of regulation will become an increasingly important task for AIFMs.

1. Methodology

To analyse the regulatory impact of the AIFMD on the Swiss AIFM landscape, a series of qualitative research interviews was conducted. The data set consists of 92 structured interviews with AIFMs, all carried out face-to-face between April and October 2012.

The survey focuses on AIFMs operating from Switzerland with offshore or onshore funds and/or managed accounts. The firms interviewed represent a sub-population of the entire AIFM industry in Switzerland. In order to make that sample as representative of the overall Swiss AIFM industry as possible, and thus permit reasonably robust conclusions to be drawn, a survey population was chosen which represented the distribution of the entire industry as exactly as possible. Accordingly, the interviewees have been selected according to their location, strategy and size in order to provide a broad and representative overview of the entire Swiss AIFM industry.

A generic approach, based on quantifying the qualitative data, was chosen to analyse the data collected. This approach was necessary as a means of counting the frequency of certain events and attributes among the population surveyed, and also of quantifying the links between specific answers and one or more other specific points of reference, so that these attributes and relationships could be presented systematically in the results.

Since much of the data provided by the Swiss AIFMs during these meetings is confidential, the responses shown here are anonymous. Most of the managers interviewed made adherence to this level of confidentiality a condition of agreeing to participate in the interviews.

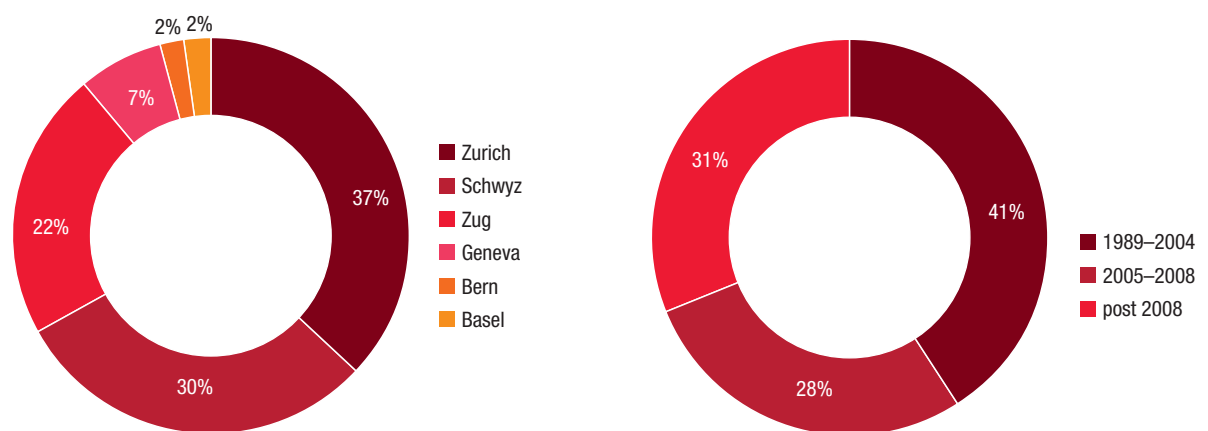
2. Description of the data sample

The sample consists of 92 AIFMs. While their other characteristics differ, all are domiciled in Switzerland. Interpretation of the results was subject to some limitations, due to a degree of selection bias resulting from the fact that managers in the western and southern regions of Switzerland were unwilling to participate in the survey. The cantons of Zurich, Zug and Schwyz are thus somewhat overrepresented. The sample covers firms which have been in operation for various lengths of time and ranges from start-ups to well established companies.

Figure 1

Location of interviewed AIFMs by canton and inception date in Switzerland

Results displayed as percentages of the firms surveyed



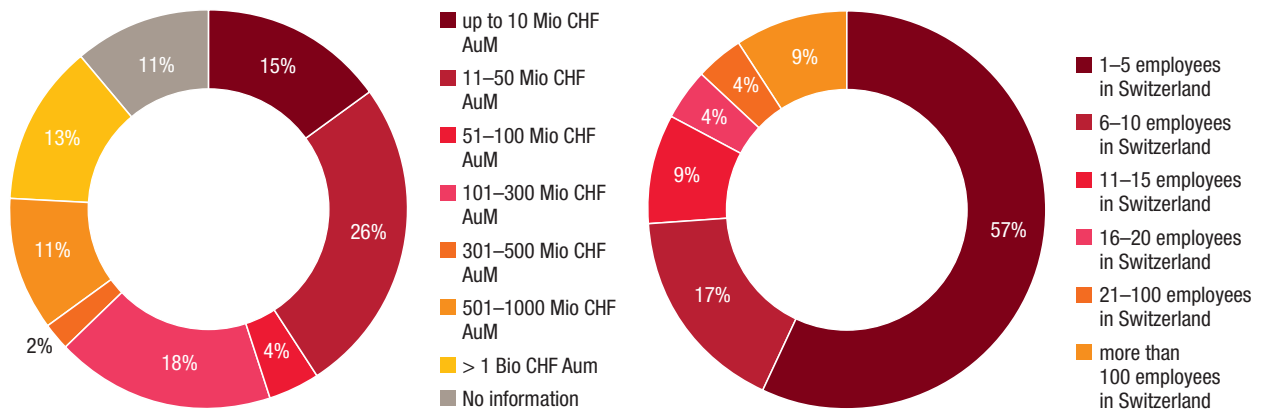
Source: Authors' analysis based on interview results

A review of the number of people these firms employ and their assets under management (AuM) indicates that small and medium-sized enterprises (SMEs) predominate in the sample of firms interviewed. This should not be classified as a bias, since the landscape of Swiss AIFMs is characterised by many small, independent boutiques. 63% of the firms interviewed are currently managing assets of CHF 300 million or less, and 74% of them employ 10 employees or fewer.

Figure 2

AuM and number of employees in Switzerland

Results displayed as percentages of the firms surveyed



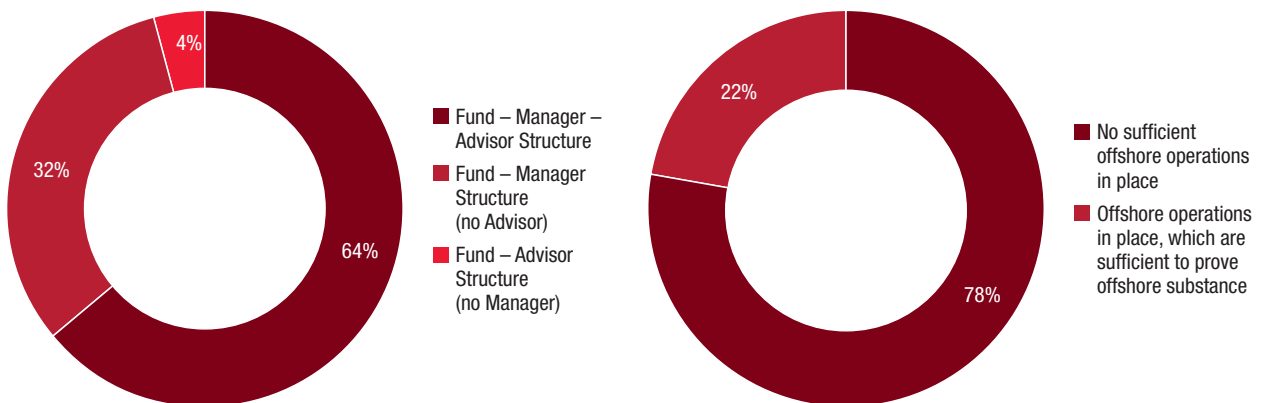
Source: Authors' analysis based on interview results

With regard to company structure, the majority of Swiss AIFMs interviewed are acting as Swiss-based advisors to offshore managers outside Switzerland. A majority of the firms stated that they did not have sufficient offshore operations in place to provide credible evidence that the effective place of management is in fact offshore. This indicates that those firms are likely to be substantially impacted by AIFMD, and by its indirect application in Switzerland as a result of the partial revision of the CISA which will come into effect at the beginning of 2013. For those firms which are already officially managing their funds from Switzerland, the requirement for FINMA licensing under the revised CISA is even more obvious.

Figure 3

Current set-up of Swiss AIFMs and evaluation of whether genuine offshore operations are in place

Results displayed as percentages of the firms surveyed

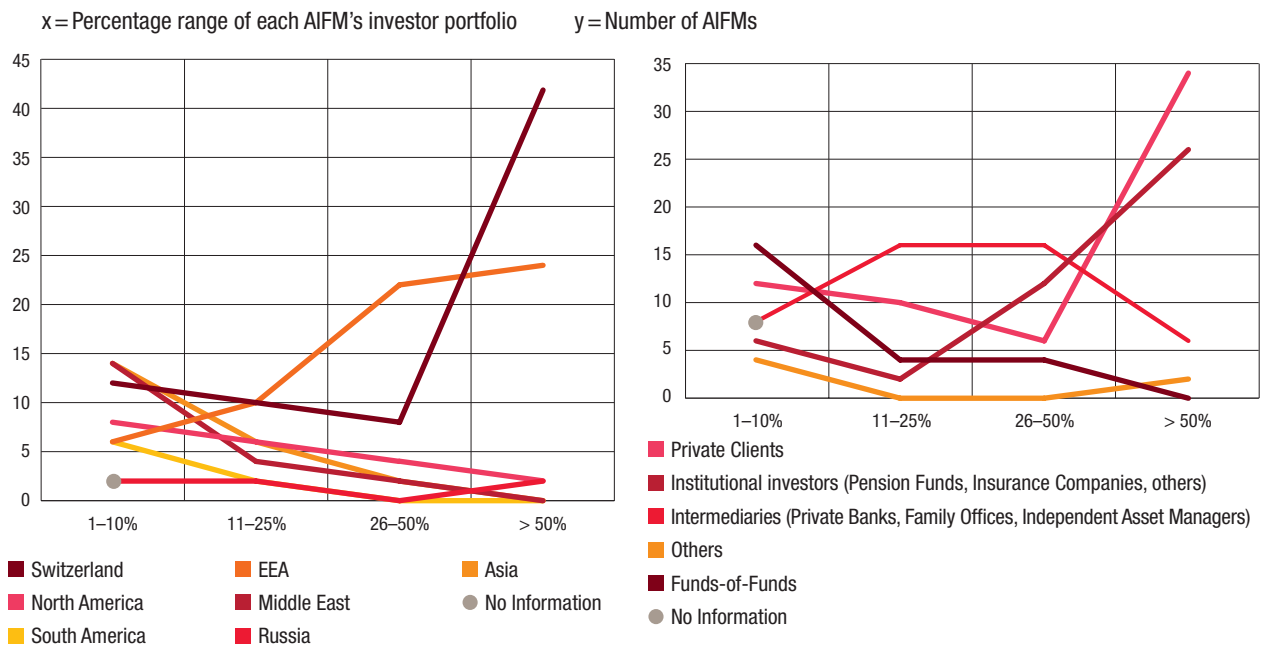


Source: Authors' analysis based on interview results

Most of the clients of the Swiss AIFMs interviewed are private and institutional clients based in Switzerland, the European Union (EU) or the European Economic Area (EEA). Given this, and since the interviewees also generally expected that compliance with AIFMD requirements would become a key factor in manager selection – just as UCITS compliance had done in the case of retail fund products – it can be expected that obtaining a FINMA license will be an important objective for the survey participants to achieve from a positioning and marketing perspective.

Figure 4

Geographical location of clients/investors



Source: Authors' analysis based on interview results

3. Results

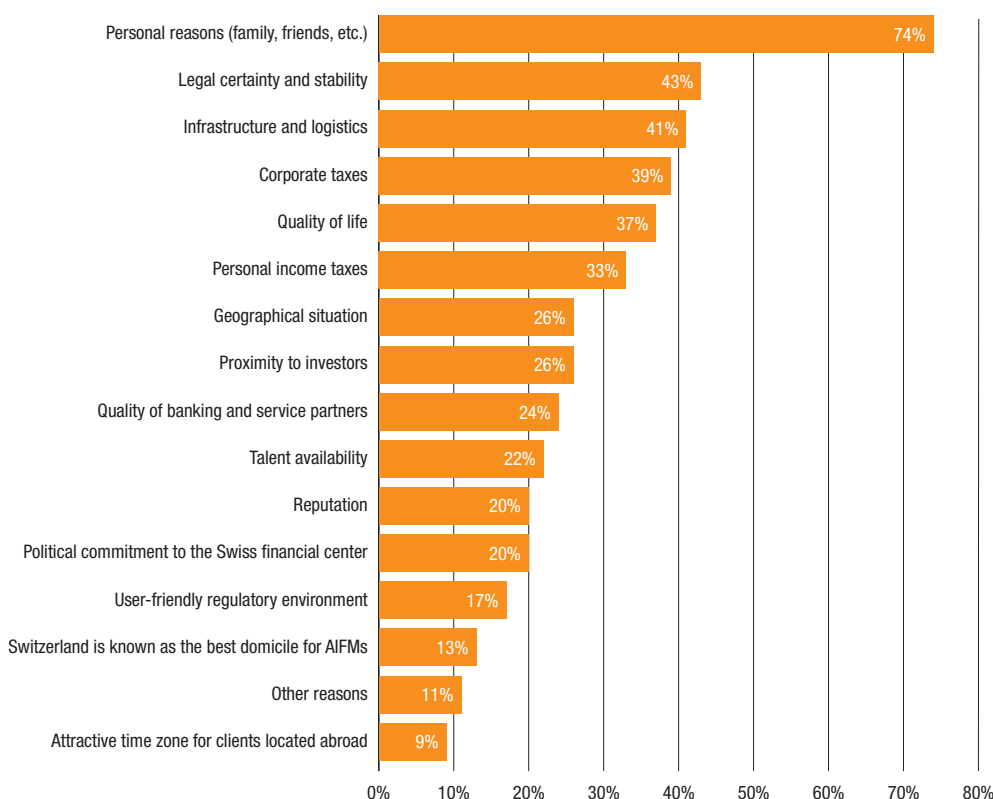
3.1 Selection drivers for choosing a domicile in the past and today

The reasons why the AIFMs interviewed have historically chosen Switzerland as their domicile have generally been soft factors (e.g. personal reasons) rather than objective considerations such as regulation, legal certainty and stability or reputation.

Figure 5

Reasons to choose Switzerland as a domicile

Results displayed as percentages of the firms surveyed



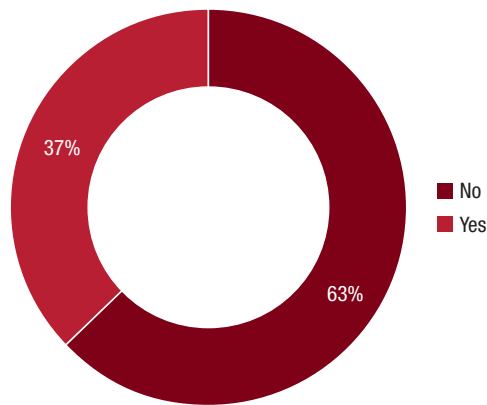
Source: Authors' analysis based on interview results

These responses might prompt the conclusion that the forthcoming regulatory changes will not significantly affect the interviewees' choice of domicile and that, after they have come into effect, they are still likely to consider that the key conditions for their original decision to choose Switzerland as their domicile of choice remain fulfilled. However, this is not the case. A majority of 63% of the respondents indicated that they were no longer satisfied with Switzerland as a domicile. Interestingly, the reasons for this mainly relate to changes in the regulatory environment and their side effects – such as reduced legal certainty and stability – as well as the overall political situation.

Figure 6

Do the reasons why you originally chose Switzerland as your current domicile still hold true?

Results displayed as percentages of the firms surveyed

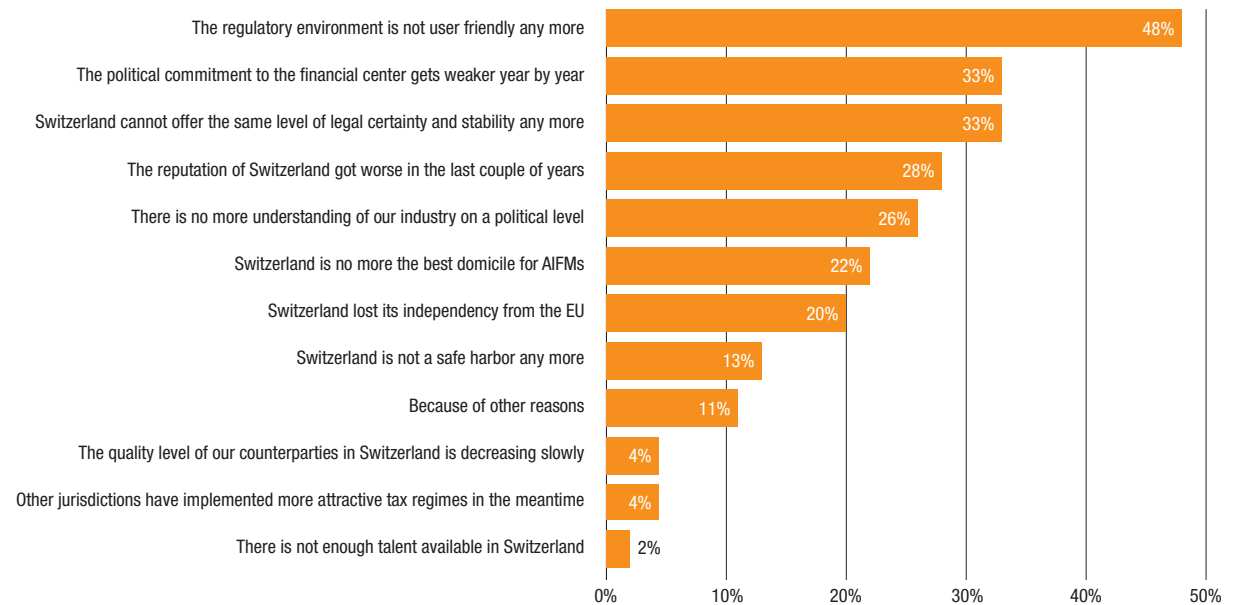


Source: Authors' analysis based on interview results

Figure 7

Reasons why Switzerland no longer meets Swiss AIFMs' expectations

Results displayed as percentages of the firms surveyed



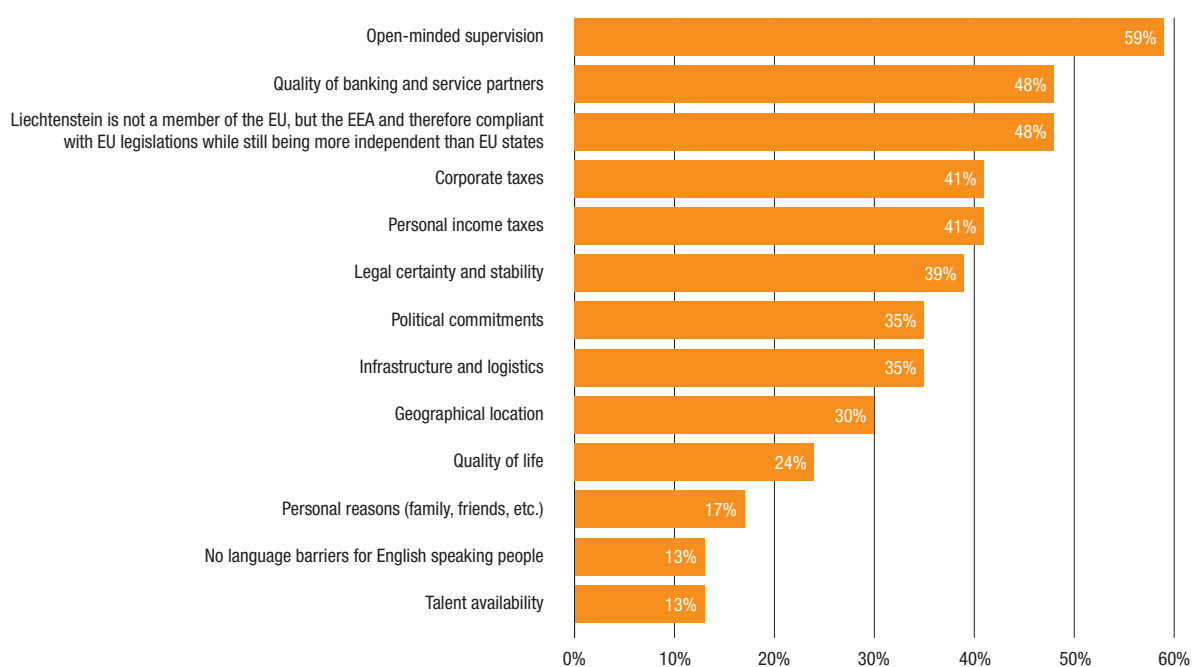
Source: Authors' analysis based on interview results

Based on the above results, a potential conclusion might be that Swiss AIFMs' key expectations and preferences when choosing a domicile jurisdiction have now shifted heavily towards regulatory factors. In order to find out what Swiss AIFMs would be looking for if they decided to seek a new domicile, Liechtenstein was used as a comparative example jurisdiction.

Figure 8

Reasons to select a domicile today (based on Liechtenstein as a comparative jurisdiction)

Results displayed as percentages of the firms surveyed



Source: Authors' analysis based on interview results

In summary, it can be said that Swiss AIF managers have modified their expectations, and that this mainly reflects regulatory changes in Switzerland, most notably the indirect adoption of the AIFMD. If the AIF managers interviewed were to select a jurisdiction today, factors relating to regulation and tax issues would take centre stage. It is notable that the availability of a pragmatic, open-minded, competent and experienced supervisory authority is regarded as critical. An acceptable level of regulation, consistent regulatory practice and legal certainty are of paramount importance. This in turn means that for a jurisdiction to succeed in the long run as an attractive domicile for AIFMs, the main key to success will be the way the supervisory authority interacts with market players.

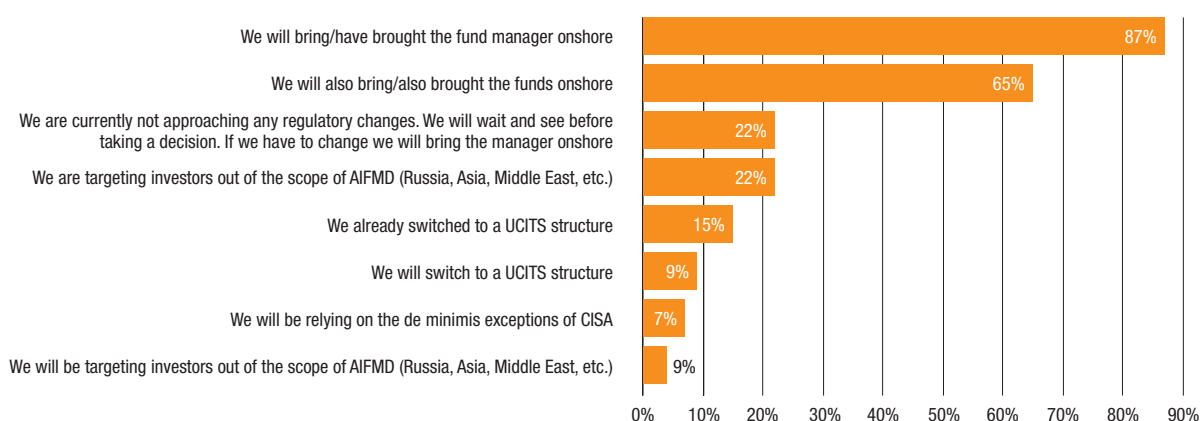
3.2 Quo vadis, Swiss AIFM industry?

In the light of all the regulatory changes currently affecting the asset management industry, it is of interest to see how Swiss AIF managers can be expected to react to them. Since there are a number of possible ways in which these managers can respond to these forthcoming changes – and since there are several alternatives to becoming fully regulated, such as relying on the de minimis exemptions, switching to a UCITS structure or simply choosing a wait-and-see approach – the assumption that the majority will opt for full AIFMD regulation is probably not warranted.

Figure 9

Reactions to the regulatory changes

Results displayed as percentages of the firms interviewed



Source: Authors' analysis based on interview results

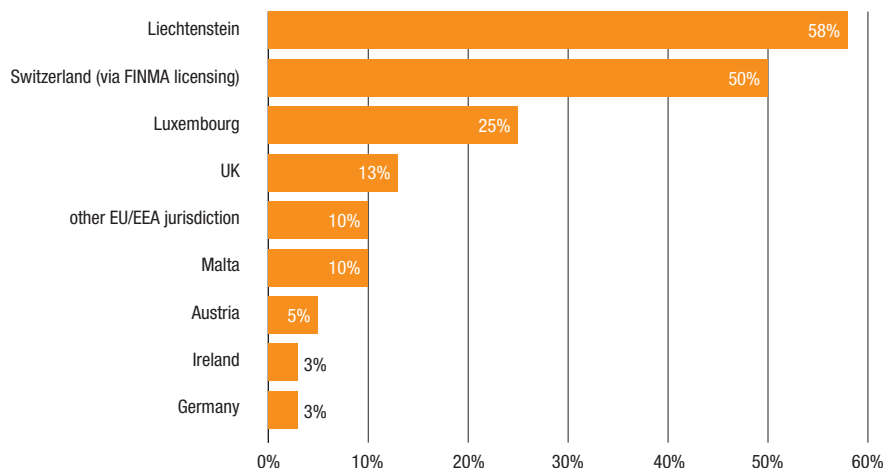
Although there would be alternatives to becoming fully compliant with the AIFMD, our findings indicate that Swiss AIF managers will most probably onshore their fund management entities. It is apparent that the question of future regulation and how best to respond to it is a key consideration for these managers and that most of them have fairly clear ideas about how they intend to proceed and how they will react to these changes.

Since the results of the analysis shown in the previous section do not clearly indicate that Swiss managers will automatically apply for a Swiss license, the question arises as to how they will react. Given the importance their responses indicate that they attach to the expectations they place on their domicile of choice being met, there are strong indications that a significant proportion of Swiss AIFMs will look beyond the borders of Switzerland.

Figure 10

Management entity domiciles Swiss AIFMs are currently considering

Results displayed as percentages of the firms surveyed



Source: Authors' analysis based on interview results

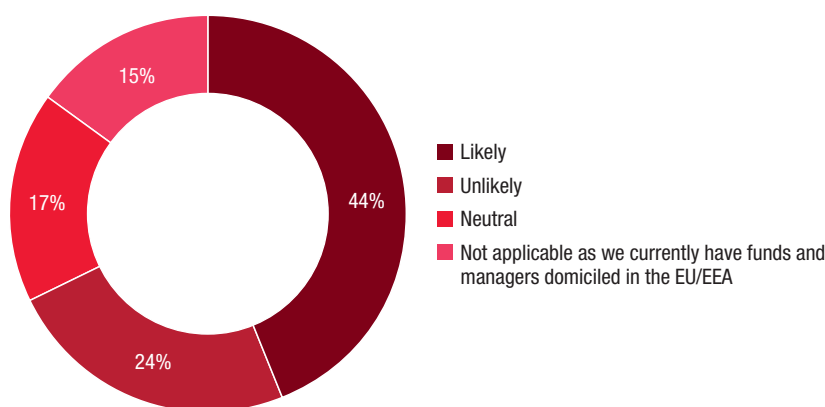
As the results above show, many Swiss AIF managers are currently considering other potential domiciles. Liechtenstein seems to be most attractive to them, though this may largely reflect the fact that Swiss AIF managers based in German-speaking Switzerland constituted the largest group of the interviewees participating in this survey. It should however also be noted that Switzerland has been named as a potential target jurisdiction by 50% of the interviewees who either want to, or have to, bring their management entity onshore. Luxembourg is far behind, though still in third place, with a quarter of the AIF managers interviewed also considering Luxembourg as a possibility. This strong showing by Liechtenstein can be explained by the fact that, since an AIFM has to demonstrate operations of some substance in the jurisdiction granting a license, Liechtenstein makes sense for managers based in the eastern part of Switzerland, as it is close enough for them credibly to demonstrate substance in a fully compliant EEA member state.

Figure 9 also shows that Swiss AIF managers will most probably gradually move their funds onshore, partly also in order to comply with AIFMD requirements. Again it is of interest to ascertain their reasons for this. Accordingly, the firms interviewed were also asked whether their motivation for moving their funds onshore was to benefit from the potential passport privileges which such a move would enable them to enjoy (or to avoid disadvantages once private-placement regimes are phased out in Europe).

Figure 11

Probability of redomiciling the manager and the fund so as to benefit from passport regime

Results displayed as percentages of the firms surveyed



Source: Authors' analysis based on interview results

As the result above shows, passporting options are a driver for onshoring funds for more than 40% of the interviewees. Conversely, 24% do not see any value in this, while 17% have not taken their decisions yet and 15% already have onshore funds in place.

In summary, it would appear that a significant proportion of Swiss AIFMs consider onshoring as a vital part of their future strategy. However, this does not mean that they will automatically opt to apply for a FINMA license without considering other jurisdictions and the potential benefits these could offer. Liechtenstein is of particular interest to many of the interviewees and their responses indicate that they see some additional potential value there – most notably earlier or easier access to the harmonised European market. Similarly, onshoring funds is also of potential interest to Swiss AIFMs and a number of possible approaches to this are evidently being considered. Generally speaking, most of the answers indicate that managers see a certain level of potential additional value in this, but the timelines involved and the potential onshore jurisdictions for their products are not yet clear.

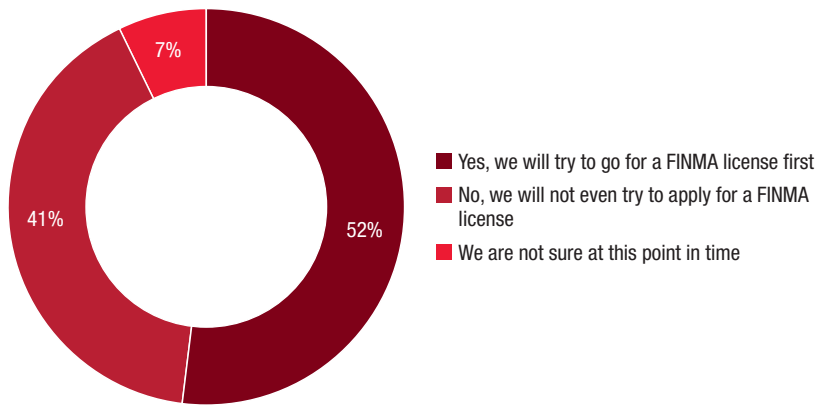
3.3 Root cause analysis

Given the finding that Swiss AIFMs are currently evaluating alternative jurisdictions, the survey also asked which alternatives were of particular interest to them.

Figure 12

Applying for a FINMA license or not

Results displayed as percentages of the firms surveyed



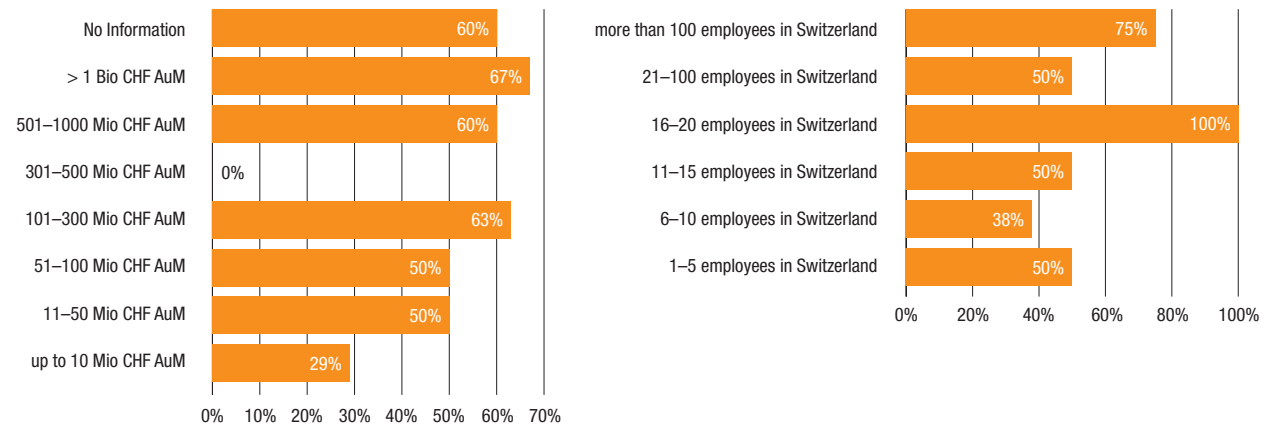
Source: Authors' analysis based on interview results

Since a slight majority – 52% – of the respondents said that they are not even considering applying for a FINMA license, it is of particular interest to ascertain which of the possible solutions are preferred by which types of firms, based on their number of employees and AuM.

Figure 13

Applying for a FINMA license before looking at an alternative jurisdiction

Results displayed as percentages of the firms surveyed (by segment)



Source: Authors' analysis based on interview results

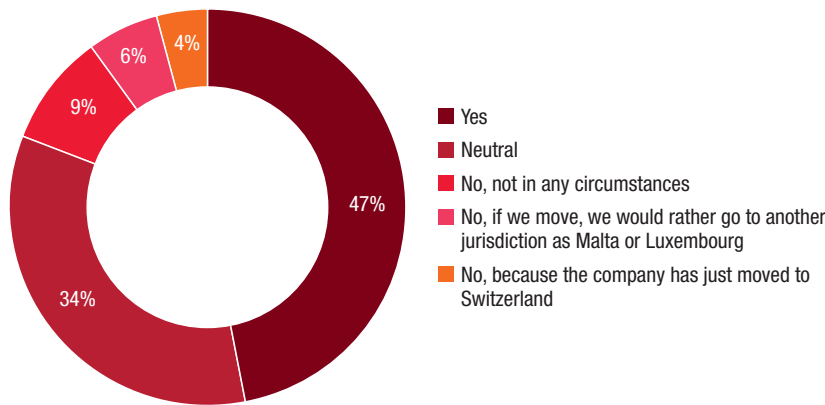
The analysis above shows that it is primarily the larger firms that intend to apply for a FINMA license. Smaller firms – i.e. those with AuM of CHF 100 million or less – are more reluctant to apply for a FINMA license. In terms of the number of employees, the situation is somewhat different. It is interesting to note that firms with between 6–10 employees, which are therefore potentially more able to fulfill the FINMA requirements, are more reluctant to apply than are the smaller firms with 5 employees or fewer.

Following this line of argument, survey participants were also asked whether they saw moving their effective place of management to Liechtenstein as a realistic alternative.

Figure 14

Liechtenstein as an option for head-office relocation

Results displayed as percentages of the firms surveyed



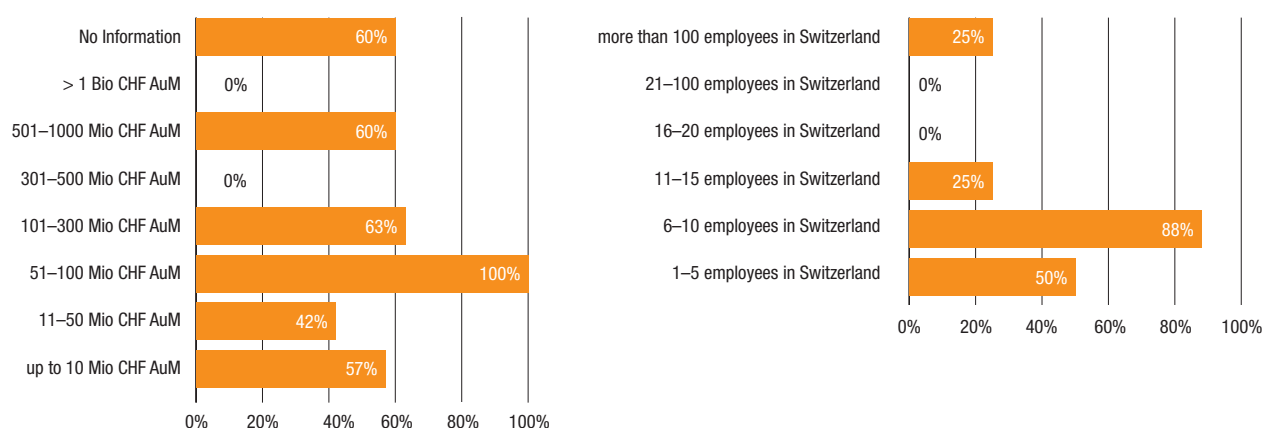
Source: Authors' analysis based on interview results

Almost half of the AIF managers interviewed said they thought that moving their head office to Liechtenstein could be a solution for them. Almost a third of respondents indicated that they were still undecided and only 9% said that Liechtenstein was not an option for them. Again, this demonstrates that Swiss AIF managers have not really decided on this matter yet and are therefore considering as many options as possible. Here too, it is interesting to see how the answers to this question varied according to the type of firm concerned.

Figure 15

The Liechtenstein option

Results displayed as percentages of the firms surveyed (by segment)



Source: Authors' analysis based on interview results

The data above shows company size has the reverse effect on responses to that observed when firms were asked about their intention of seeking a FINMA license. The responses here show that it is the SME AIFMs, in particular, that see themselves as most affected by forthcoming regulatory changes in Switzerland and are therefore considering moving their businesses to another jurisdiction, such as Liechtenstein.

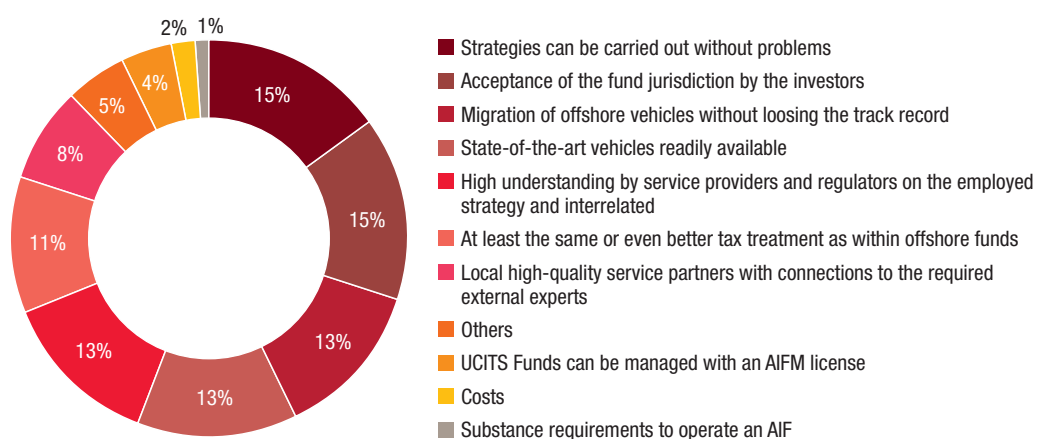
3.4 Switzerland's future as fund domicile

Even though Switzerland implemented a UCITS-compliant fund regime it was not able to gain a significant market share as a jurisdiction for these products. It is therefore pertinent to ask whether Switzerland has, or will manage to implement, fund legislation which meets the requirements of Swiss AIFMs.

Figure 16

Expectations of Swiss AIFMs when redomiciling funds

Results displayed as percentages of firms surveyed



Source: Authors' analysis based on interview results

Taking into account the legal structures for AIFs available in Switzerland as well as factoring in the limitations (or at least the deviations from standard structures) arising from the Swiss management company structure when establishing AIFs, it may be hard for Switzerland to fulfill Swiss AIFMs' requirements for moving their AIFs to Switzerland. Furthermore, from the standpoint of EU and EEA investors, a Swiss fund is a third-country fund, and thus in many ways similar to an offshore fund. Therefore the passport privileges granted to such a fund structure will still depend extensively on bilateral agreements. The major advantage of an onshore fund, namely full passporting from day one, cannot therefore readily be provided by a Swiss fund structure. For Swiss AIF managers focusing on Swiss investors, the situation may be somewhat different. However, for non-Swiss investors, the tax situation would be both disadvantageous and not comparable to an offshore fund structure. The conclusion from this is that for AIFMs with a strong focus on investors domiciled in Europe, Switzerland is not a very attractive jurisdiction from which to launch AIFs.

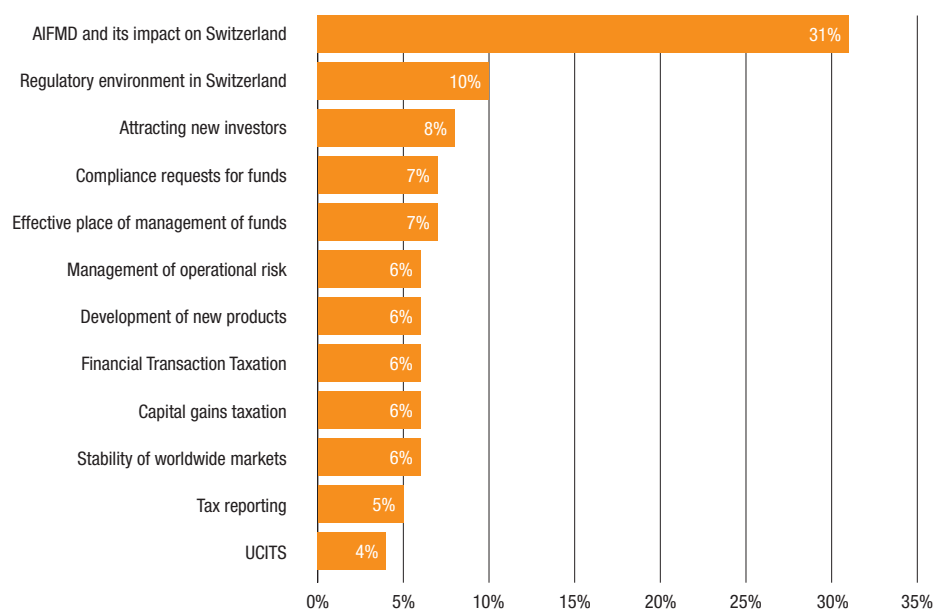
3.5 Trends and outlook

Since managers' outlook for the future of their business is of major importance to the decisions they are making now, we have also attempted to capture their current thinking about market trends and the outlook for the AIFM industry in Switzerland.

Figure 17

Factors influencing business model in the next 3 years

Results displayed as percentages of overall points allocated



Source: Authors' analysis based on interview results

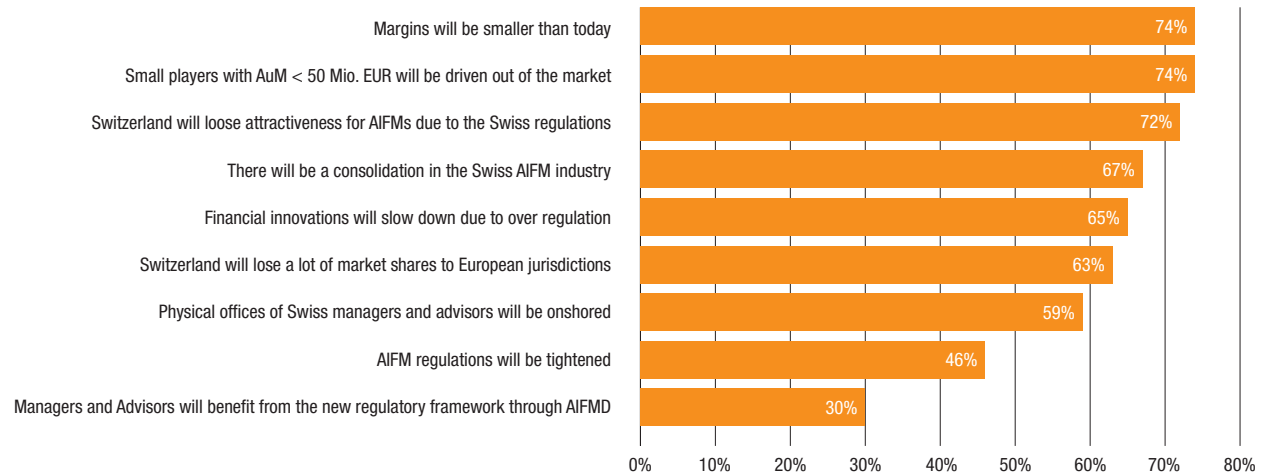
As the figure above shows, Swiss AIFMs think that their business activities will be heavily influenced by regulation. Other issues such as attracting new investors and the compliance requirements placed on funds are also closely related to regulatory changes. Tax issues are another major factor affecting the future business activities of these fund managers. It is also of interest that the often-cited switch to UCITS formats is not perceived as being a significant option for their business model, which indicates that they are more likely to opt for AIFMD compliance than for creating UCITS-compliant products.

Following this line of argument, the survey went to ask how this group of fund managers sees the consequences of the upcoming regulations. Their answers are illustrated in the graph below.

Figure 18

Impact of the upcoming regulations as perceived by Swiss AIFMs

Results displayed as percentages of the firms surveyed



Source: Authors' analysis based on interview results

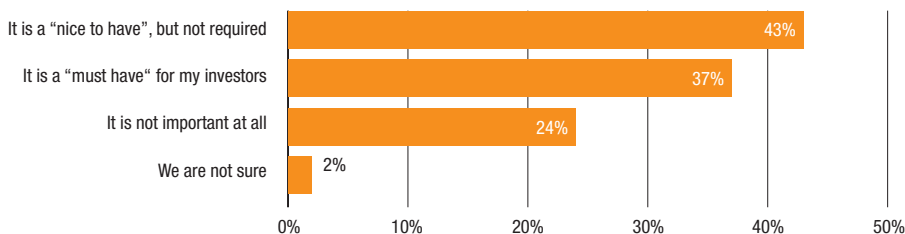
The answers provided clearly show that the respondents expect the primary effects of AIFMD to be cost generation rather than any added value. Furthermore, they seem to assume that Switzerland will lose ground in terms of its attractiveness and market share. Only 30% of the interviewees saw potential for value-creation from AIFMD.

In order to determine the real drivers of the ultimate decisions (market pull or market push) the interviewees were asked whether or not they believed that investors will require AIFMD compliance.

Figure 19

Importance of AIFMD for target investors

Results displayed as percentages of the firms surveyed



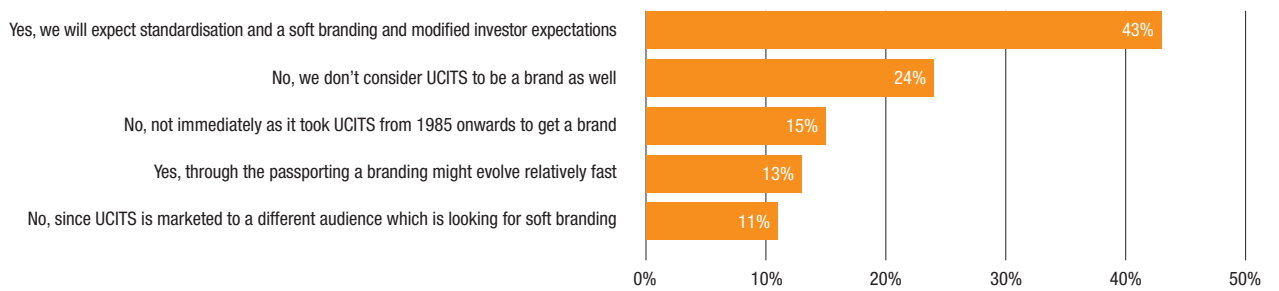
Source: Authors' analysis based on interview results

From the point of view of the majority Swiss AIFMs, AIFMD compliance is something which target investors merely regard as nice to have but do not yet actually require. Nevertheless, 37% of the managers interviewed saw it as either already being or soon becoming a must have attribute. Only 24% of respondents thought that compliance with AIFMD was not important at all. Based on this information, the survey went on to enquire how Swiss AIFMs perceived the evolution of AIFMD compared to that of UCITS.

Figure 20

AIFMD – a brand like UCITS?

Results displayed as percentages of the firms surveyed



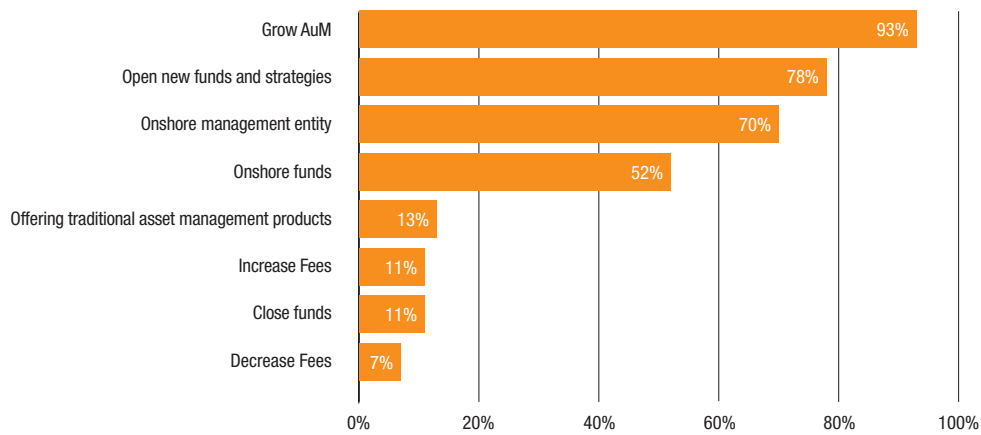
Source: Authors' analysis based on interview results

The results show that the respondents are divided into two more or less equal camps. 56% of the interviewees think that AIFMD will evolve in the same way as UCITS did in the retail product space, while 50% think that AIFMD will not become a brand in the way that UCITS has. The respondents' various reasons for the responses they gave are set out in the chart above and include more than one answer granted by several participants. Since each of the answers is quite distinct from the others, the survey concluded by asking the Swiss AIFMs it interviewed about their concrete objectives over the next 3 years. The results are shown below.

Figure 21

Plans for the next 3 years

Results displayed as percentages of the firms surveyed



Source: Authors' analysis based on interview results

Most of the firms interviewed are planning to grow their AuM in the next 3 years. It is however noteworthy that opening new funds and strategies and onshoring their management entity are also major objectives for these firms. While onshoring of the funds themselves is currently less of a priority at the moment, it is already on the wider agenda of more than half of the respondents. Other objectives, notably closing funds or modifying fee levels, are on the agenda of only a small minority of the AIFMs interviewed.

4. *Summary and conclusion*

The new regulations resulting from AIFMD will change the rules of the game. As with all adoptions of EU directives in individual jurisdictions, there will be some scope for differences in legislative implementation and these will create differentiating factors between the various national regimes. Since the AIFM market is a highly sought after one, competition between jurisdictions can thus be expected.

The key finding from this survey is that a surprisingly large number of Swiss AIFMs are evaluating alternatives to a FINMA license application. In order to foster a successful AIFM sector, individual jurisdictions need to meet the specific needs of this market, with appropriate structures in place and appropriate policies observed. The survey results show that there is a comparatively strongly held and widespread view among Swiss-based AIFMs that FINMA's requirements and policies in this area are not entirely in tune with market realities or the AIFMs' needs, that FINMA's approach is excessively oriented towards managers of retail or classical Swiss products and that it has insufficient experience of genuine AIFs.

Taken in conjunction with potentially delayed or disadvantageous access to the European market, these factors may conspire against Switzerland as a domicile of choice for AIFMs, resulting in an exodus of AIFMs from Switzerland similar to that seen in the retail funds industry, where there was a significant migration of assets and jobs from Switzerland to other jurisdictions such as Luxembourg, Ireland and Liechtenstein.

Efficient and effective management of regulation will certainly be one of the greatest challenges facing Swiss alternative investment fund managers in the next few years.

Authors



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