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EURO-AMERICAN LAWYERS GROUP

***EXEMPTION OF FOREIGN INVESTMENT FUNDS FROM
THE SWISS STAMP DUTY***

*AN EURO-AMERICAN LAWYERS GROUP BRIEFING ARTICLE
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According to a recent modification of the law (2001), foreign investment funds are exempt from the Swiss stamp duty. The purpose of this modification is to maintain Swiss markets and services in competition with the other major financial places.

The definition of a foreign investment fund is given by the law : an entity organized with a registered office abroad whose objective is the undertaking of collective investments and in which the investor is entitled to demand the redemption of his shares at least three times a year and on the basis of a Net Asset Value. The purpose is to exclude closed end funds. Guidelines issued by the Swiss Tax Administration follow the conditions and definitions given by the law.

Recently, the Swiss Tax Administration decided to unilaterally add three conditions in order for the foreign investment funds to benefit from the stamp duty exemption: the foreign investment funds must be publicly advertised; registered as investment funds at their registration place; and be subject to official supervision in the country where they are registered.

These additional conditions cannot be based on any law or applicable regulation and took many investors and banks by surprise. Our firm is currently conducting a test case and explained to the Swiss Tax Administration that it simply cannot add conditions that are not in the law. Our argumentation brief was backed by 2 legal opinions given by University Professors. So far - four months after the reclamation was filed - the Administration has still not replied...

We will inform you through this channel when a decision is rendered from the Swiss Tax Administration.

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