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Foreign Single-Investor Funds and Swiss Securities Transfer Stamp Tax: The Swiss Federal Supreme Court Brings Welcome Clarity to the Financial Sector

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Foreign Single-Investor Funds and Swiss Securities Transfer Stamp Tax The Swiss Federal Supreme Court Brings Welcome Clarity to the Financial Sector

1. Introduction

On 2 June 2026, the Swiss Federal Supreme Court handed down a judgment (9C_697/2024) of considerable practical importance for the Swiss financial sector on the treatment of foreign single-investor funds for Swiss securities transfer stamp tax purposes. The Court held that a Liechtenstein alternative investment fund with a single investor qualified as a foreign collective investment scheme and therefore as an exempt investor for Swiss securities transfer stamp tax purposes, even though the conditions applicable to Swiss single-investor funds under Article 7 of the Swiss Collective Investment Schemes Act (**CISA**) were not met.

The judgment resolves a long-standing uncertainty regarding the recognition of Liechtenstein single-investor funds, and its implications extend well beyond Liechtenstein. Had the Federal Supreme Court upheld the Federal Administrative Court's approach, the same reasoning could have been applied to foreign single-investor funds generally, requiring them to satisfy the Swiss requirements applicable to domestic collective investment schemes, which would have created significant practical difficulties for the Swiss financial sector.

The judgment is all the more welcome as the Swiss Federal Tax Administration's (**SFTA**) published practice already provides, in principle, for the recognition of foreign single-investor funds where they are accepted as such by a foreign supervisory authority recognised by the SFTA. The Liechtenstein Financial Market Authority (**FMA**) is expressly included among the recognised supervisory authorities.

The case thus raised a question of principle: to what extent may Swiss tax law impose additional requirements on a foreign collective investment scheme that do not apply under the regulatory regime of its jurisdiction of establishment?

The Federal Supreme Court's answer brings much-needed legal certainty for fund managers, institutional investors, private investors and Swiss securities dealers using or dealing with foreign single-investor structures.

2. Swiss legal framework

i) Swiss securities transfer stamp tax

Swiss securities transfer stamp tax (*Umsatzabgabe / droit de timbre de négociation*) is governed by the Federal Act on Stamp Duties of 27 June 1973 (**Stamp Tax Act**). It is levied on the transfer for consideration of taxable securities where a Swiss securities dealer is a party to the transaction or acts as an intermediary. The tax is calculated on the consideration, at a rate of 0.15% for securities issued by a Swiss resident and 0.3% for securities issued by a non-resident. In essence, one half of the tax is due for each contracting

party; however, no half-tax is levied for a party that qualifies as an exempt investor.

The Stamp Tax Act provides for a number of exemptions for specific investors and transactions. Of particular relevance in the present case is Article 17a(1)(c) of the Stamp Tax Act, which qualifies foreign collective investment schemes within the meaning of Article 119 CISA. The classification of an investment vehicle as a collective investment scheme is therefore not merely a regulatory matter; it can have a direct and material impact on the Swiss securities transfer stamp tax treatment of transactions involving that vehicle.

ii) Swiss vs foreign collective investment schemes under the CISA

The CISA distinguishes between domestic and foreign collective investment schemes. Article 7 CISA defines Swiss collective investment schemes, while Article 119 CISA separately addresses foreign collective investment schemes.

This distinction is central to the Federal Supreme Court's judgment.

Under Article 7(1) CISA, a Swiss collective investment scheme consists of assets contributed by investors for collective investment and managed for their account. Swiss law therefore presupposes, as a rule, a plurality of investors. There is, however, a specific exception for certain single-investor structures.

Article 7(3) CISA allows certain collective investment schemes to have only one investor, but limits the categories of eligible investors. These include supervised insurance institutions, public-law corporations and certain public-law institutions or foundations with professional treasury management, as well as occupational pension schemes and institutions whose purpose is occupational pension provision, provided the relevant conditions are satisfied.

This limitation reflects the fact that certain institutional investors, although constituting a single legal investor, may themselves represent the interests of a broader group of beneficiaries. For example, an occupational pension scheme manages assets for the benefit of its pension beneficiaries.

The Swiss regulatory framework therefore deliberately permits certain single-investor structures while restricting them to specific categories of investors.

Foreign collective investment schemes are addressed separately in Article 119 CISA. Article 119(1)(a), which was relevant in the case at hand, covers assets accumulated under a fund agreement or a similar agreement for the purpose of collective investment and managed by a fund management company whose registered office and headquarters are abroad. Article 119 also covers certain foreign corporate and closed-ended collective investment structures.

Importantly, Article 119 contains no equivalent to the restriction in Article 7(3) concerning the identity of the sole investor.

iii) Specific treatment of Liechtenstein

The position of Liechtenstein requires a further distinction.

Under the Treaty of 29 March 1923 between Switzerland and Liechtenstein concerning the incorporation of the Principality of Liechtenstein into the Swiss customs territory (**Customs Treaty**), Liechtenstein is treated as part of the domestic territory for certain purposes of Swiss securities transfer stamp tax.

This special treatment is relevant for the application of the Stamp Tax Act, but does not turn a Liechtenstein collective investment scheme into a Swiss collective investment scheme for purposes of the CISA. A Liechtenstein fund may therefore be treated as domestic for specific purposes of Swiss stamp tax legislation while remaining a foreign collective investment scheme within the meaning of Article 119 CISA.

This interaction between the two regimes was central to the case before the Federal Supreme Court.

iv) Autonomous qualification across tax regimes

The qualification of a collective investment scheme must also be assessed separately depending on the Swiss tax at issue. In particular, the qualification relevant for withholding tax and securities transfer stamp tax purposes is distinct from the qualification relevant for Swiss income and corporate income tax purposes.

This distinction is reflected in the SFTA's Circular No. 24, *Les placements collectifs de capitaux en matière d'impôt anticipé et de droits de timbre*, and Circular No. 25, *Imposition des placements collectifs de capitaux et de leurs investisseurs*. Circular No. 24 addresses the treatment of collective investment schemes for withholding tax and stamp tax purposes, including the conditions under which a foreign collective investment scheme qualifies as an exempt investor for securities transfer stamp tax purposes. Circular No. 25, by contrast, sets out the principles applicable to the taxation of collective investment schemes and their investors for Swiss direct tax purposes.

The two classifications do not necessarily lead to the same result. The fact that a foreign collective investment scheme qualifies as an exempt investor for securities transfer stamp tax purposes does not determine its treatment, or the treatment of its investors, for Swiss income and corporate income tax purposes. The direct-tax treatment must instead be assessed separately under the rules applicable to the relevant type of collective investment scheme, including the assimilation rules for foreign collective investment schemes set out in Circular No. 25.

This distinction matters for distributions. A foreign collective investment scheme may qualify as an exempt investor for securities transfer stamp tax purposes while amounts distributed to its investors remain subject to a separate analysis under the Swiss direct-tax rules. In particular, the tax treatment of a distribution depends on the nature of the amounts distributed and, in the case of a foreign collective investment scheme, on its Swiss tax classification under the assimilation rules set out in Annex IV to Circular No. 25.

For Swiss direct tax purposes, a distinction must be made between investment income and capital gains included in a distribution. Under section 4.2 of Circular No. 25, investors holding units in their private assets are generally taxable on income from collective investment schemes that is distributed or accumulated and that constitutes investment income, such as interest or dividends. Capital gains included in distributed or accumulated income are, however, exempt under Article 16(3) of the Federal Tax Act, provided that they are either distributed through a separate coupon or accounted for separately by the

collective investment scheme. The tax treatment therefore depends not only on the fact that an amount is distributed, but also on the nature of the underlying income and, in the case of capital gains, on whether the capital-gain component is separately identified in accordance with Circular No. 25, section 4.2.

For foreign collective investment schemes, the relevant classification must first be determined under the assimilation rules set out in Annex IV to Circular No. 25. Depending on the characteristics of the foreign scheme, it may be assimilated, for Swiss direct tax purposes, to a Swiss contractual fund, SICAV, limited partnership for collective investment (LPCI) or SICAF. Foreign schemes assimilated to a contractual fund, SICAV or LPCI are generally treated as transparent, whereas a foreign scheme assimilated to a SICAF is treated as a separate taxable entity. The distinction is therefore material when determining the Swiss tax treatment of amounts distributed to investors.

3. A long-standing dispute over Liechtenstein single-investor funds

The SFTA had adopted a restrictive position towards Liechtenstein single-investor funds. Notwithstanding its own Circular No. 24, the SFTA took the position in the present case that a Liechtenstein fund had to satisfy not only Article 119 CISA but also the conditions applicable to Swiss collective investment schemes under Article 7 CISA.

This position was difficult to reconcile with the SFTA's published practice. Since the FMA is expressly recognised by the SFTA as an equivalent foreign supervisory authority, that practice appeared to support treating a Liechtenstein single-investor fund as an exempt investor.

In effect, the SFTA's position meant that a Liechtenstein single-investor fund could be denied exempt status where its sole investor did not fall within one of the categories of investors permitted to participate in a Swiss single-investor fund.

The case at hand concerned A. SA, a company with its seat in Switzerland and the sole investor in an alternative investment fund established under Liechtenstein law. Following a tax audit, the SFTA concluded that the securities transactions carried out by the fund had to be attributed directly to A. SA because the fund did not qualify as an exempt investor under the applicable securities transfer stamp tax legislation.

The stakes were concrete. If the fund qualified as an exempt investor, the securities transfer stamp tax otherwise attributable to the transactions carried out by the fund would not be levied.

Conversely, if the fund did not qualify as an exempt investor, the transactions could be attributed to A. SA for securities transfer stamp tax purposes, even though A. SA, as the fund's sole investor, had not itself participated in them. The fund's status was therefore decisive in determining whether the relevant transactions gave rise to Swiss securities transfer stamp tax.

The Federal Administrative Court subsequently upheld the SFTA's position. It considered that the concept of a foreign collective investment scheme under Article 119 CISA should be interpreted by reference to the requirements applicable to domestic collective investment schemes under Article 7 CISA. As the sole investor did not fall within one of the categories permitted under Article 7(3), the fund was not recognised as an exempt investor.

A. SA appealed to the Federal Supreme Court.

4. The Federal Supreme Court's judgment

The Federal Supreme Court rejected the approach adopted by the Federal Administrative Court.

The Court's reasoning is noteworthy in that it rests not on a single argument but on several converging elements: the wording and structure of the Stamp Tax Act and the CISA, the legislative history and the SFTA's own administrative practice.

a. Separate statutory concepts for domestic and foreign funds

The starting point for the Federal Supreme Court was the wording of the Stamp Tax Act.

Article 17a(1)(b) of the Stamp Tax Act refers to Swiss collective investment schemes within the meaning of Article 7 CISA, whereas Article 17a(1)(c) refers separately to foreign collective investment schemes within the meaning of Article 119 CISA.

The Court considered that this distinction was deliberate. If the legislature had intended the requirements applicable to Swiss collective investment schemes under Article 7 CISA to apply equally to foreign collective investment schemes, there would have been no need to refer separately to Article 119.

The Court therefore found no textual basis for importing the restrictions applicable to Swiss single-investor funds into the assessment of foreign collective investment schemes.

This point is particularly important for single-investor structures. Article 7(3) CISA expressly limits the categories of investors that may participate in a Swiss single-investor fund. Article 119 contains no equivalent restriction.

The fact that the sole investor in a foreign fund would not qualify as an eligible investor under Article 7(3) therefore does not, in itself, prevent the foreign fund from qualifying under Article 119 CISA.

b. The systematic distinction under the CISA

The Court's textual reading is reinforced by the structure of the CISA itself.

Swiss and foreign collective investment schemes are governed by different provisions and are subject to different regulatory frameworks. Article 7 forms part of the provisions governing Swiss collective investment schemes, while Article 119 specifically establishes the framework applicable to foreign collective investment schemes.

Article 119 should therefore not simply be understood as Article 7 applied to foreign entities. Foreign collective investment schemes are established and regulated under legal systems that may differ materially from Swiss law. Their legal form, investor requirements and regulatory characteristics need not correspond exactly to those of Swiss collective investment schemes.

Requiring a foreign fund to satisfy all of the conditions applicable to a Swiss fund would effectively

introduce an additional Swiss-law equivalence test that is not expressly provided for in Article 119.

c. The legislative history

The legislative history further supported the Court's conclusion.

The Federal Supreme Court noted that the legislature was aware of foreign single-investor funds when establishing the framework for foreign collective investment schemes. The legislative materials specifically referred to structures existing in jurisdictions such as Liechtenstein and Luxembourg.

This was significant because it indicated that the broader scope of Article 119 was not an unintended consequence of the statutory drafting. Rather, the legislature had deliberately chosen to recognise foreign collective investment schemes under a separate provision and was aware that foreign regulatory systems could permit investment structures that would not satisfy the conditions applicable to domestic Swiss funds.

The Court therefore considered that there was no basis for interpreting Article 119 in a manner that would effectively subject foreign funds to the additional restrictions contained in Article 7(3).

The legislative context also reflected concerns regarding Switzerland's competitiveness as a financial centre. A restrictive interpretation would have discouraged foreign investment vehicles from transacting through Swiss securities dealers, to the benefit of competing financial centres.

d. The SFTA's published practice

The Court's conclusion was also consistent with the SFTA's own published administrative practice.

Circular No. 24 expressly addresses foreign single-investor funds and provides that, where the foreign supervisory authority accepts such a structure as a collective investment scheme, this classification is also accepted for Swiss tax purposes. The Liechtenstein FMA is among the foreign supervisory authorities recognised by the SFTA.

The Federal Supreme Court did not, however, treat foreign supervisory recognition as a substitute for the statutory requirements of Article 119 CISA. Rather, the foreign vehicle must qualify as a foreign collective investment scheme under Article 119. The recognition of the single-investor structure by the competent foreign supervisory authority is nevertheless highly relevant in determining its status under the Swiss framework.

The judgment therefore restores consistency between the statutory framework and the SFTA's published practice.

5. The particular significance of the Liechtenstein structure

The Liechtenstein element of the case is noteworthy because of the interaction between the Customs Treaty and the CISA.

As noted above, Liechtenstein is treated as part of the domestic territory for Swiss securities transfer

stamp tax purposes by virtue of the Customs Treaty. This is relevant, among other things, to the treatment of securities issued by Liechtenstein entities.

This has practical consequences for the rate applicable to transfers of fund units. In particular, units in Liechtenstein funds are treated as securities issued by a resident within the meaning of Article 13(2)(a)(3) of the Stamp Tax Act. Transfers of such units are therefore subject to the 0.15% securities transfer stamp tax rate under Article 16(1)(a) of the Stamp Tax Act, rather than the 0.3% rate applicable to securities issued by non-residents.

At the same time, the fund itself remains a foreign collective investment scheme for purposes of Article 119 CISA. Its Liechtenstein domicile does not make it a Swiss collective investment scheme for CISA purposes.

The Federal Supreme Court's judgment therefore confirms that these two concepts must be kept distinct. Liechtenstein's treatment as part of the domestic territory for stamp tax purposes does not justify importing into the foreign collective investment scheme regime the restrictions applicable to Swiss single-investor funds.

The judgment concerns the fund's status as an exempt investor for securities transfer stamp tax purposes. It does not determine the separate direct-tax treatment of the fund or its investors, which remains subject to the rules applicable under Swiss income and corporate income tax law.

6. Practical implications for investors and fund managers

The immediate consequence of the judgment is that a foreign single-investor fund can no longer be denied exempt-investor status merely because its sole investor would not qualify to participate in a Swiss single-investor fund.

This is particularly relevant for Swiss securities dealers, which are liable for the tax and must document the status of their counterparties, as well as for fund managers and investors using foreign single-investor structures.

From a structuring perspective, the Swiss stamp tax analysis can focus directly on whether the foreign vehicle satisfies the requirements of Article 119 CISA, rather than first testing whether its sole investor would have been eligible under Article 7(3).

This does not mean that every foreign single-investor vehicle will automatically qualify for the exemption. The vehicle must still fall within the statutory concept of a foreign collective investment scheme under Article 119 CISA. Its legal and regulatory status should therefore be documented carefully, including its treatment under the law of its jurisdiction of establishment and, where relevant, its recognition by the competent foreign supervisory authority.

The judgment may also warrant a review of existing structures. Where foreign single-investor funds have been treated as non-exempt investors solely because their sole investor did not fall within the categories listed in Article 7(3) CISA, the securities dealers and investors concerned should consider whether that treatment should be reassessed in light of 9C_697/2024. Whether any previously paid tax can be

recovered will, however, depend on the applicable procedural requirements and statutory time limits.

By rejecting the Federal Administrative Court's approach, the Federal Supreme Court avoided subjecting foreign investment vehicles to a Swiss-law equivalence test where they are validly established and regulated under the law of their jurisdiction of origin.

The judgment thus provides greater certainty when structuring and reviewing foreign single-investor fund arrangements involving the Swiss financial market.

7. Looking ahead

The broader significance of 9C_697/2024 extends beyond single-investor funds. The judgment illustrates that Swiss tax law cannot simply transpose domestic regulatory concepts to foreign investment vehicles, particularly where the relevant legislation establishes a separate framework for foreign structures.

This may prove relevant in other contexts where foreign investment vehicles have no exact Swiss-law equivalent. At the same time, the judgment should not be read as making foreign regulatory classification automatically determinative for Swiss tax purposes. The relevant question remains whether the foreign vehicle falls within the statutory framework applicable to foreign structures.

8. Conclusion

The Federal Supreme Court's judgment in 9C_697/2024 brings welcome clarity to the treatment of foreign single-investor funds for Swiss securities transfer stamp tax purposes. It confirms that a foreign collective investment scheme need not satisfy the conditions applicable to Swiss collective investment schemes under Article 7 CISA in order to qualify as an exempt investor under Article 17a(1)(c) of the Stamp Tax Act.

For Liechtenstein funds, the judgment resolves a long-standing uncertainty arising from the interaction between Liechtenstein's special position under Swiss stamp tax law, its classification as a foreign collective investment scheme under the CISA and the restrictive position taken by the SFTA.

More broadly, the judgment provides greater certainty for fund managers, investors and Swiss securities dealers, and should be taken into account when reviewing existing and future structures involving foreign single-investor funds.

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