

Private credit and the new lenders

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The lenders that have filled the gap left by the retreating banks include trade finance funds, private credit funds and specialised commodity finance firms. Some of them are established in Switzerland. Many are structured as investment funds, with investors that include pension funds, insurance companies, family offices and wealth managers seeking to diversify their portfolios.¹ The collapse of the supply chain finance firm Greensill in 2021, whose receivables had been packaged into investment funds distributed by a large Swiss bank, showed the risks that can arise when trade finance is transferred from banks to investors without adequate understanding of the underlying assets.²

For the practitioner in Zug, the new lenders raise questions of financial market regulation. A firm that grants loans on a professional basis may require a licence under Swiss banking law if it finances itself through deposits from the public. A firm that manages funds investing in trade finance requires a licence as a manager of collective assets or as a portfolio manager under the Financial Institutions Act, while the distribution of trade finance products to investors is subject to the Financial Services Act.³ The traders themselves, when they refinance their receivables through such lenders, must ensure that the structures are robust and that the documents on which the financing rests are genuine, since the lenders' investors will look to the trader if the financing fails.

1 Notes

1. Reuters, "Investors expand footprint in commodity trade finance as banks retreat", late 2022 (reproduced on [zawya.com](https://www.zawya.com); copy dated 2 December 2022 on nccbsw.org): hedge funds and non-bank lenders such as Kimura Capital, Artis Finance, Horizon Capital (Switzerland) and Scipion Capital expand as banks retreat; investors include pension funds, insurance companies, family offices and wealth managers. ↩

2. FINMA, "FINMA concludes 'Greensill' proceedings against Credit Suisse", 28 February 2023, [finma.ch](https://www.finma.ch/en/press-releases/2023/02/28/finma-concludes-greensill-proceedings-against-credit-suisse/): clients had invested around USD 10 billion in four Greensill-related supply chain finance funds, which Credit Suisse closed in March 2021; Credit Suisse seriously breached its supervisory obligations and lacked adequate knowledge of the underlying claims; proceedings opened against four former managers. ↩
3. Art. 1 para. 2 BankG (SR 952.0), [droit-bilingue.ch](https://www.droit-bilingue.ch/): persons not subject to the Banking Act may not accept deposits from the public on a professional basis. Arts. 2 para. 1 and 5 para. 1 FINIG (SR 954.1), [droit-bilingue.ch](https://www.droit-bilingue.ch/): portfolio managers, trustees, managers of collective assets, fund management companies and securities firms require a licence from FINMA. Art. 2 para. 1 FIDLEG (SR 950.1), [droit-bilingue.ch](https://www.droit-bilingue.ch/): the Act applies to financial service providers, client advisers and producers and providers of financial instruments. ↩

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