

Everyone wants their share of the financial cake !

Boosted by an insatiable economy, financial markets are developing in step with new technologies, and the number of economic players is increasing in line with commercial opportunities. And this is taking place in an ever-more restrictive regulatory world in which the burden of responsibilities tends to be shared in order to contain its operational and reputational risks.

As a multidisciplinary SRO, ARIF numbers among its members financial intermediaries from all backgrounds. Its admission committee holds a succession of meetings at which it examines the application files which the secretariat forwards to it. The secretariat filters upstream the numerous applications it receives. However, when one is a general practitioner, one is confronted with all kinds of "patients"! This is because business models are tending to become more complex and candidates for membership - who are often ill-informed - knock on the regulator's door in the hope of leaving again with a license, an authorization or an all-terrain driving license, but above all one for financial terrain.



Alain Saint-Sulpice
Deputy Director

Candidates have very diverse profiles. There are, of course, the conventional financial intermediaries. No problem. But there are also the Fintech players, whose language and computing genius compete with the legislation in terms of complexity. Analysis is growing more difficult. Then there are those who apply for membership when they are not financial intermediaries within the meaning of the law [cf. [Zoom on the investment adviser](#) on page 4]. Here things

get really complicated. Finally, there are those who have nothing to do with financial circles and who, sometimes under pressure from their banking or commercial partners, or in the hope of obtaining an accreditation that they think will be salutary, try to obtain an "open sesame" for exclusively commercial purposes, such as the computer software designer who thought he would be able to approach finance companies more easily and thus increase

his sales by becoming a member of ARIF!

In short, sorting is necessary in view of the influx of membership applications caused by the effects of over-regulation and the lack of understanding of its true scope. Moreover, it is often difficult to judge on the basis of documents when most of the business models are still mainly theoretical.

We have to make sure that the envisaged business activity does relate to financial intermediation and that it will not be carried out from abroad under cover of regulation in Switzerland. Not to mention the need to verify the guarantee of irreproachable activity. The exercise often consists of a preliminary plausibility study of a professional activity which has not yet reached any degree of practical implementation. The task is extremely difficult.

ARIF does not issue false financial intermediary's credentials and scrupulously checks the applications submitted to it, discarding the professions that are clearly extraneous to financial intermediation. Our SRO has also withdrawn from the segment of virtual currencies and other new payment methods in order not to overburden all its members with the excessively high costs of supervising those players.

In the fifteen years that it has been in existence, ARIF, which is in constant touch with the financial market players, has affiliated 1,228 financial intermediaries, including 281 to its Code of Deontology in the area of asset management and investment advisory business, a code recognized by FINMA since 2009. It trains, advises and verifies and, in so doing, promotes the financial centre, proud of its competences and the public supervisory task entrusted to it by the Federal Authority. And to remain true to its reputation, ARIF will continue to take particular care with regard to membership.

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IMPRESSUM

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Training schedule 2017-2019


2017 - 2018

E	6 September 2017	B	9 am - 5 pm	Lausanne	Basic training - MLA
E	28 September 2017	C	2 pm - 5 pm	Geneva	«Automatic exchange of information and tax compliance»
F	3 octobre 2017	CoD	13h30 - 17h30	Genève	Formation de base - CODE DE DEONTOLOGIE
F	30 novembre 2017	C	14h. - 17h.	Genève	«Financement du terrorisme»
F	14 décembre 2017	B	9h. - 17h.	Genève	Formation de base - LBA
F	23 janvier 2018	C	14h. - 17h.	Lausanne	«LSFin/LEFin»
E	8 February 2018	CoD	1:30 - 5:30pm	Geneva	Basic training - CODE OF DEONTOLOGY
E	6 March 2018	B	9 am - 5 pm	Geneva	Basic training - MLA
I	25 aprile 2018	C	14 alle 17 ore	Lugano	«LSF/LIFIN»
D	26. April 2018	B	9 Uhr - 17 Uhr	Zürich	Grundausbildung - GwG
D	27. April 2018	C	9 Uhr - 12 Uhr	Zürich	«FIDLEG/FINIG»
F	16 mai 2018	B	9h. - 17h.	Genève	Formation de base - LBA
E	31 May 2018	C	2 pm - 5 pm	Geneva	«FinSA/FinIA»
F	21 juin 2018	C	13h30 - 17h30	Lausanne	«Audits LBA et CoD»

2018 - 2019

E	September 2018	B	9 am - 5 pm	Geneva	Basic training - MLA
F	octobre 2018	CoD	13h30 - 17h30	Genève	Formation de base - CODE DE DEONTOLOGIE
F	novembre 2018	C	18h. - 21h.	Genève	Formation continue LBA 
F	décembre 2018	B	9h. - 17h.	Genève	Formation de base - LBA
F	février 2019	C	14h. - 17h.	Genève	Formation continue LBA 
E	March 2019	B	9 am - 5 pm	Geneva	Basic training - MLA
D	März 2019	B	9 Uhr - 17 Uhr	Zürich	Grundausbildung - GwG
E	April 2019	CoD	1:30 - 5:30pm	Geneva	Basic training - CODE OF DEONTOLOGY
E	May 2019	C	2 pm - 5 pm	Lausanne	MLA continuous training 
F	mai 2019	B	9h. - 17h.	Lausanne	Formation de base - LBA
F	juin 2019	C	14h. - 17h.	Genève	Formation continue LBA 
F	juin 2019	C	13h30 - 17h30	Genève	«Audits LBA et CoD»

F in French
D in German
E in English
I in Italian

B MLA basic training
C MLA advanced training
CoD CoD basic training
 New theme

For reasons of organization and current affairs, the dates and topics of the training courses scheduled for 2018-2019 will be defined at a later date.

Legal developments

AML risk exposure for actors offering para-banking services and not being financial intermediaries (FDF - 14.12.2015)

Several recent developments have drawn the public's attention to the matter of safe-deposit boxes. Not only has the press devoted a number of articles to the subject but members of Parliament also deposited three interventions between March and December 2014, asking the Federal Council to examine the link that exists between safe-deposit boxes and money-laundering or holding of undeclared assets.

When examining one of these interventions, the head of the Federal Department of Finance (DFF) stated that a report would be drawn up on the risks involved in the use of bank and non-bank safe-deposit boxes for money-laundering purposes, including the preliminary offence of a qualified tax offence and terrorist financing.

There is an infinite variety of safe-deposit boxes in Switzerland. Apart from bank safe-deposit boxes and those that are made available by precious metal dealers, there are highly secured safe-deposit boxes, which are offered for rental by private companies and which include services similar to those of banks. This type of safe-deposit box exists in all the language regions and more particularly in the parts of the country near the border.

The safe-deposit box rental sector does not have either a professional association or a harmonised self-regulation system, which makes it more difficult to locate the safe-deposit boxes that exist in Switzerland.

Since physical safekeeping of assets does not in itself constitute a financial intermediation activity, a provider of safe-deposit boxes is not deemed to be a financial intermediary. That provider is therefore not required to comply with the due-diligence obligations or with the obligation to notify that are laid down in the Anti-Money-Laundering Act. On the other hand, it is fully subject to the criminal-law provisions governing money-laundering and terrorist financing. A provider of safe-deposit boxes risks a penalty for money-laundering if it knows or assumes that the provision of a safe-deposit box is likely to impede identification of the origin, the discovery or confiscation of assets related to illicit activities. The same applies even if the assets in question originate from a qualified tax offence. This provider also exposes itself to punishment if it offers safe-deposit boxes for rental with the intention of supporting the financing of a terrorist act or a criminal organisation, or accepts support of a criminal organisation.

Nor are the criminal prosecution authorities aware of numerous cases of misuse in this area. They consider safe-deposit boxes to be facilities that involve a low risk of money-laundering and terrorist financing. These authorities benefit from unrestricted access to all categories of safe-deposit boxes in the context of criminal prosecution proceedings.

An extension of the notion of financial intermediation to physical holding of assets would prove complex. This is because it has to be noted that not only safe-deposit boxes proper but also other safe-deposit facilities whose primary purpose is not to keep valuable assets can be misused for purposes of money laundering and terrorist financing.

▷ [Report on safe-deposit boxes and their risks of abuse for money laundering and terrorist financing](#) (in French, German or Italian)

Financial Action Task Force : Mutual evaluation report on Switzerland (FATF - 07.12.2016)

On 7 December 2016, the Financial Action Task Force (FATF) published the fourth mutual evaluation report on Switzerland. Overall Switzerland receives good marks and achieves an above-average result compared to those countries already reviewed. The FATF acknowledges the quality of the Swiss system for combating money laundering and terrorist financing. In its report, it made a series of recommendations to improve Swiss legislation and its implementation.

In the case of legislation, Switzerland got good marks amongst other things for the criminalisation of money laundering and terrorist financing, mutual assistance, targeted financial sanctions, the transparency of legal entities and legal constructs (including trusts) and the Money Laundering Reporting Office Switzerland (MROS). The FATF did, however, find some vulnerabilities in the system, in particular in the preventive measures and the subordination to the Money Laundering Act of lawyers, notaries and fiduciaries relating to some non-financial activities such as the establishment of companies and trusts.

With regard to the effectiveness of the system, the FATF underscores the good understanding of money laundering and terrorist financing risks in Switzerland, the quality of the analysis of financial information by the Money Laundering Reporting Office Switzerland (MROS) and its appropriate use in criminal investigations. In addition, the FATF recognises the effectiveness of criminal prosecution in the area of money laundering and terrorist financing and the quality of international judicial cooperation. It is also welcomed that Switzerland has seized substantial sums and has refunded these to the countries which suffered losses through bribery. It also underlines the appropriate implementation of targeted financial sanctions and judges the risk-based supervision developed by FINMA to be positive.

In contrast, the FATF voices criticism of certain aspects of financial intermediary supervision and the international cooperation of the MROS. There is also room for improvement in the implementation of preventive measures on the part of the financial intermediaries. On this point, the number of suspicious activity reports is considered to be too low in relation to the significance of the Swiss financial centre. The coexistence of the obligation to notify and the right to report in practice leads to confusion.

Switzerland will be subject to a follow-up process which is normal in the context of the FATF evaluations. The Federal Department of Finance (FDF) will analyse the recommendations of the report in the context of the interdepartmental coordinating group on combating money laundering and the financing of terrorism (CGMF) and will submit a corresponding proposal in 2017 to the Federal Council.

▷ [Mutual evaluation report on Switzerland](#)

Some criticisms noted :

- the sanctions policy of the SROs remains inadequate
- application of a risks-based approach that is not the same for all SROs
- the general quality of the audits performed leaves room for improvement
- client data updates do not recur frequently enough

General Meeting 2017

The 19th Ordinary General Meeting of ARIF will be held on Thursday, 9th November 2017 at 5:30 p.m. at the hotel Warwick, Geneva. The Meeting will be followed by a statement from **State Councillor Mr. Pierre Maudet**, President of the Department of Security and Economic Affairs of the Republic and Canton of Geneva.

Zoom on the investment adviser

Investment advisers domiciled in Switzerland (advisers) are sometimes asked to provide advice to Independent Asset Managers, by recommending to them structured products and investment funds or other financial products.

According to Art. 19 CISA, an adviser may only distribute foreign collective investment schemes (CIS) intended solely for qualified investors if it is subject to appropriate supervision in Switzerland or its country of domicile. Therefore, if the Swiss adviser has entered into a distribution contract with the issuer or its Swiss representative, it must, as a matter of principle, hold a FINMA distributor's authorisation. In this respect, it is important to note that the obligation to obtain a FINMA distributor's authorisation does not automatically entail an obligation to be a member of an SRO. Membership will only be compulsory if the adviser who is domiciled in Switzerland must be deemed, for other reasons, to be a financial intermediary, for example if assets belonging to third parties and related to the subscription of the funds were to pass through the accounts of the Swiss adviser.

The CISA provides for exemptions from the obligation to obtain a FINMA distributor's licence. In this regard, according to Art. 3 CISA, the provision of information and the subscription of CIS are not deemed to be distribution when they are carried out in the context of management mandates or at the investor's request, that is, particularly in the context of advisory agreements. Concerning more particularly the exemption based on the existence of an advisory agreement, Art. 3 CISO specifies that, in order not to be deemed a distribution activity subject to FINMA authorisation, the advisory agreement must be entered into on a fee-paying and long-term basis. Furthermore, it must be entered into with a Swiss adviser which is a member of an SRO and subject to a code of conduct.

Consequently, even if the adviser does not have to be deemed a financial intermediary, it may only operate without a FINMA distributor's licence if it signs with its independent asset manager clients a long-term advisory agreement or a management mandate and, to do so, initiates a procedure to become a member of an SRO (MLA and code of conduct membership).

A synthesis of MROS's typologies since 1998

In order to facilitate the consultation and use of the typologies published in the MROS annual reports, a compendium brings them together in a single document. A partition was also carried out according to the most frequent predicate offences. A brief trend analysis follows at the end of each chapter. It takes into account suspicious activity reports over the last ten years (2006-2015) and summarizes the main characteristics related to the different categories of alleged prior acts. This compilation will be updated by MROS on a regular basis in order to include the new typologies published in its future annual reports.

▷ [MROS's typologies 1998-2015](#) (in French, German or Italian)

2016 FINMA assessment letter

FINMA's aim is to formally notify self-regulating organizations (SROs) in this way of their classification in terms of risks, the weaknesses found and the resultant need for intervention. This assessment is not only retrospective as it also contains forward-looking elements concerning the positioning of SROs in the face of the challenges and the potential risks.

In its 2016 assessment letter, FINMA notes that "ARIF had correctly implemented the new rules on authorization of auditing firms MLA" and emphasises that "ARIF has provided its members with quality information on the changes made in January 2016 in the area of MLA" and that "ARIF is invited to continue to actively inform its members". Furthermore "ARIF has shown that it is willing to cooperate, while listening to current regulatory needs, and responds readily to FINMA's requests. We can only encourage ARIF to continue its efforts and work".



In view of the growing costs incurred for administrative follow-up and regulation of its members, and the scope of the audits on compliance with the new legal regulations governing the authorization of auditing firms, the ARIF Committee has decided to invoice, with effect from 1st September 2016, various fees relating in particular to transfer notifications, examination of delegation contracts, validation of internal organizational rules, and fast-track processing of procedures for applications for membership.

▷ [Price list](#)