

## NEW: E-learning

ARIF is putting online an e-learning platform offering a complete training programme on AML obligations. Available for the time being in French, this programme will shortly be developed in English as well.

The eleven training modules put online cover ARIF Directives 2 to 10 as well as Directive 13, enhancing them with explanatory comments. Each one is supplemented by a quiz to assess your level of knowledge.

As listening is combined with visualization, you thus have at your fingertips a modern and pleasant tool that enables you to brush up or fine-tune your knowledge, at any time and in any place, suiting you as conveniently as possible.

The e-learning platform can be used freely and at no charge by ARIF members and their auditors. To access the platform, you will need an access identifier and one password per employee in your company. Just send us an e-mail with the e-mail address of each employee, and our secretariat will be pleased to register you.

We hope you enjoy discovering this e-learning programme and wish you interesting browsing!

The Information and Training Commission




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15 March is an important date for ARIF every year. It's not only the date on which our spring Newsletter is published, but is but also that on which our association was established in 1999, at the instigation of a group of finance professionals.

15 March 2018 thus marks the beginning of ARIF's 20th year of operation. The challenges we are currently taking up in connection with the implementation of the FinSA/FinIA are very similar to those faced by our nascent SRO in 1999.

Thanks to the extensive experience we have gained over all these years, we can safely affirm that ARIF is actively working to usher in all the changes that the legislative developments will impose. Some important decisions will have to be taken soon, for both your future and ours; we will be ready for them and will submit them to you.

It is also with this in mind and to further expand its range of skills that ARIF is about to welcome some new faces to its Committee.

Norberto Birchler, Director and a Committee member

# Training schedule 2018-2019

2018					
<b>I</b>	25 aprile 2018	<b>C</b>	14 alle 17 ore	Lugano	«LSF/LIFIN, LRD news e SAI»
<b>D</b>	26. April 2018	<b>B</b>	9 Uhr - 17 Uhr	Zürich	Grundausbildung - GwG
<b>D</b>	27. April 2018	<b>C</b>	9 Uhr - 12 Uhr	Zürich	«FIDLEG/FINIG, GwG news und AIA»
<b>F</b>	8 mai 2018	<b>C</b>	14h. - 17h.	Genève	«LSFin/LEFin et MiFID II»
<b>F</b>	16 mai 2018	<b>B</b>	9h. - 17h.	Genève	Formation de base - LBA
<b>E</b>	31 May 2018	<b>C</b>	2 pm - 5 pm	Geneva	«FinSA/FinIA and MiFID II»
<b>F</b>	21 juin 2018	<b>C</b>	13h30 - 17h30	Lausanne	«Audits LBA et CoD»
<b>E</b>	19 September 2018	<b>B</b>	9 am - 5 pm	Geneva	Basic training - MLA
<b>F</b>	11 octobre 2018	<b>CoD</b>	13h30 - 17h30	Genève	Formation de base - CODE DE DEONTOLOGIE
<b>F</b>	8 novembre 2018	<b>C</b>	18h. - 21h.	Genève	«Développements législatifs en cours»
<b>F</b>	12 décembre 2018	<b>B</b>	9h. - 17h.	Genève	Formation de base - LBA
2019					
<b>F</b>	13 février 2019	<b>C</b>	14h. - 17h.	Genève	«Jurisprudence LBA et nouvelles infractions pénales»
<b>E</b>	20 March 2019	<b>B</b>	9 am - 5 pm	Geneva	Basic training - MLA
<b>D</b>	28. März 2019	<b>B</b>	9 Uhr - 17 Uhr	Zürich	Grundausbildung - GwG
<b>E</b>	4 April 2019	<b>CoD</b>	1:30 - 5:30pm	Geneva	Basic training - CODE OF DEONTOLOGY
<b>E</b>	8 May 2019	<b>C</b>	2 pm - 5 pm	Lausanne	«MLA case law and new criminal offenses»
<b>F</b>	15 mai 2019	<b>B</b>	9h. - 17h.	Lausanne	Formation de base - LBA
<b>F</b>	13 juin 2019	<b>C</b>	14h. - 17h.	Genève	«Responsable LBA et organisation interne LBA»
<b>F</b>	19 juin 2019	<b>C</b>	13h30 - 17h30	Genève	«Audits LBA et CoD»

<b>F</b>	in French	<b>B</b>	MLA basic training
<b>D</b>	in German	<b>C</b>	MLA advanced training
<b>E</b>	in English	<b>CoD</b>	CoD basic training
<b>I</b>	in Italian		

If you wish to obtain more information about the upcoming FinSA and FinIA laws and about the establishment by ARIF of a new Supervisory Organisation for independent asset managers ("IAM") and Trustees, we invite you to enrol for one of our next seminars on the subject :

- 25 April 2018, 2 p.m. – 5 p.m. (in Lugano, in Italian)
- 27 April 2018, 9 a.m. – 12 noon (in Zurich, in German)
- 8 May 2018, 2 p.m. – 5 p.m. (in Geneva, in French)
- 31 May 2018, 2 p.m. – 5 p.m. (in Geneva, in English)



# Legal developments

## **FINMA revises «Public deposits with non-banks» circular (FINMA - 14.12.2017)**

The new sandbox concept and the extended time frame for settlement accounts defined in the revised Banking Ordinance entered into force on 1 August 2017. In doing so, the Federal Council sought to reduce unnecessary regulatory obstacles for innovative business models. FINMA has now detailed these new rules in its amended circular «Public deposits with non-banks». The circular entered into force on 1 January 2018.

FINMA ran a consultation on the amendments to the circular, assessed the respondents' comments, and on that basis made some adjustments to the circular. As regards sandboxes, these changes clarify that the amount of public deposits exceeding CHF 1 million does not have to be reduced during the reporting deadline and the deadline for submitting a licensing application; neither does it have to be reduced during the authorisation process. Additionally, and as proposed by the industry, FINMA will now allow providers to fulfil their information obligations vis-à-vis customers and investors under certain conditions via their websites. Finally, FINMA specifies that the settlement account exemption does not apply to cryptocurrency dealers as long as their activity is comparable to that of a forex exchange trader.

## **FINMA publishes ICO guidelines (FINMA - 16.02.2018)**

FINMA has seen a sharp increase in the number of initial coin offerings (ICOs) planned or executed in Switzerland and a corresponding increase in the number of enquiries about the applicability of regulation. ICOs are a digital blockchain-based form of public fund-raising for entrepreneurial purposes.

Given a legal and regulatory framework with partially unclear applicability, FINMA has published guidelines, which complement its earlier FINMA Guidance 04/2017, setting out how it intends to treat enquiries from ICO organisers. Creating transparency at this time is important given the dynamic market and the high level of demand.

### **Case law**



#### Breach of the obligation to notify

Ruling of 19 December 2017 (SK.2017.54)

Ruling of the Criminal Supreme Court (TPF) dated of 19 December 2017 concerning the sentencing of a bank compliance officer for failing to file a notification to the Money Laundering Reporting Office (MROS).

#### Sequestration for laundering of a tax saving

Decision of 27 December 2017 (BB.2017.129)

Decision of the Complaints Tribunal of the Criminal Supreme Court (TPF) dated 27 December 2017 concerning laundering the result of a tax offence.

## **FINMA revises circular on video and online identification (FINMA - 13.02.2018)**

Almost two years have passed since FINMA Circular 2016/7 "Video and online identification" came into force and initial experience with digital identification has been positive. While technology has since advanced and financial intermediaries have in part adapted their processes, new risks of misuse have also emerged. The amended circular takes account of these developments and ensures that innovative capacity, technology neutrality and effective money-laundering prevention are maintained. FINMA is launching a consultation on the changes which runs until 28 March 2018.

Specifically, the video identification process no longer contains the provision regarding the single-use password (TAN). Instead, at least three randomly selected visual security features of identification documents must be checked. For online identification, FINMA no longer requires a transfer from a bank in Switzerland to ensure compliance with due diligence requirements: under certain conditions, a transfer from a bank in an FATF member state is now also permitted. Additionally, liveness detection is required as a further security measure when checking photographs.

## **FinSA and FinIA : the divergences elimination procedure has been completed (Federal Council - 24.01.2018)**

The Economic Affairs and Taxation Commission of the Council of States (EATC-S) has completed its examination of the remaining divergences on the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA). Although it intends to agree to a large extent with the Lower House of Parliament, some divergences remain.

For example, while a majority of the Commission is in favour of excluding the right of revocation, it wants to limit this to the offers made to the existing clients of a financial institution (Art. 40a Code of Obligations, annex to the FinSA). In addition, it wishes to maintain its decision on the grandfathering clause (Art. 70 FinIA). On the other hand, the commission unanimously approved the possibility of early entry into force of the provisions relating to financial technologies (Art. 71 FinIA); it has also agreed to a large extent with the Lower House of Parliament as regards the basic provisions related to financial technologies. On the other hand, unlike the Lower House, the majority of the Commission wants to add the notions of intentional nature (Art. 32, para. 1) and negligence (Art. 32, para. 2) to the Consumer Credit Act. The Commission also intends to keep the articles on cooperative banks in the draft and not to send them back to the Federal Council (Arts. 11, 14, 14a and 14b Banking Law, annex to the FinIA). Finally, the Commission proposes to maintain the provisions on the obligation to inform and report, so that "persons and companies holding a qualified or dominant shareholding in the institutions subject to the law" are also required to provide the supervisory body with the information it needs (Article 43p, Financial Market Supervision Act (FINMASA), Annex to the FinIA). The Upper House will examine the subject at its spring session; the folder containing the commission's detailed proposals has already been put online.

## Notice of Extraordinary General Meeting on 8 May 2018

The Committee has pleasure in inviting you to take part in the Extraordinary General Meeting of ARIF to be held on Tuesday, May 8, 2018, at 2:00 p.m. at the Hotel Métropole, quai Général Guisan 34, Geneva. The Meeting will be held as a prelude to the ARIF continuous training seminar in the afternoon. It is being convened to elect Mrs. Nicole Curti as a member of the ARIF Committee and thus to fill the seat left vacant at the General Meeting held on 9 November 2017.

### Presentation by Ms. Nicole Curti

Nicole Curti knows the banking sector well. She spent ten years with Lombard Odier, the bank that trained her in different departments, including institutional management, private banking and global custody.

Nicole Curti holds a bachelor's degree in political science from the University of Lausanne and an MBA from ESADE (Barcelona). She is fluent in German, French, English, Italian and Spanish.

Since 2008 Nicole Curti has been Chief Operating Officer of Stanhope Capital, an independent asset management company with offices in Geneva, London and Jersey. She sits on the Group's Executive Committee as a Partner.

She has a good knowledge of the AML area, the risk aspects and compliance for all areas of banking business. On the strength of this experience she joined ARIF as an investigation officer in 2017.



### Specimen of clean report of findings

ARIF publishes on its web site a specimen report of visit, grant of discharge and clean report of findings intended for use by asset managers in connection with reporting to the client on the management transactions conducted during the period under review, the statement of assets under management, the performance attained and any third-party services.

Specimen available on <http://www.arif.ch/Documents>

### ARIF on tablets and smartphones

Based on the existing contents, ARIF's website has been optimized for easy and fast consultation on the screens of your touch devices (tablets, smartphones, etc.), with the same visual convenience to enable you to consult, browse and reserve your training courses wherever you may be and whenever you wish.

### MROS : new data processing system

Early 2019, the Money Laundering Reporting Office Switzerland MROS will introduce a new reception and processing system for reports of suspicious activity. This new system will allow reporting through a secured online platform. Documents to be submitted to the MROS should thus no longer be sent by fax or in the post. Large volumes of data may be uploaded via an XML interface. Manual entries will still be possible.

### NEWSLETTER



Next edition  
September 2018

Les Rencontres  
de l'ARIF

sous forme de **Déjeuner-débat**

“Communications MROS :  
trop, trop peu, trop tard ?”

Orateur invité : Me Olivier Wehrli  
*Avocat, Etude Poncet Turrettini*

9 mai 2018  
12h<sup>00</sup> - 14h<sup>00</sup>  
Métropole Genève  
Places limitées

Tarif TTC :  
chf 71.- (membres)  
chf 91.- (non-membres)

Inscription sur :  
[www.arif.ch](http://www.arif.ch)

Les bonnes idées peuvent parfois  
vous prendre en déjeunant

#### IMPRESSUM

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