

When independent wealth managers take up their studies again ; a novel partnership between ARIF and ISFB

At the beginning of this financial year 2018-2019, the Association Romande des Intermédiaires Financiers (ARIF) and the Institute for Studies in Finance & Banking (ISFB) launched a novel partnership to offer the 3,000 independent wealth managers (IWM) in French-speaking Switzerland an SAQ-CWMA certification programme.

The CWMA (Certified Wealth Management Advisor) quality seal is the professional standard adopted by Swiss banks since 2016 for their wealth management advisors. ARIF has anticipated the training obligations that the new Financial Services and Financial Institutions Acts (LSFin/LEFin) will place on IWMs as from 2020 by giving these financial intermediaries the option of embarking now on a programme that will train or prepare them for this certification to which they will have access from January 2019 onwards.

"It's part of ARIF's mission to assist IWMs, and its own members in particular, with regulatory changes and to give them the tools they need to continue to practice their profession efficiently, in accordance with the rules laid down by the legislator and FINMA", explained Maître Stéphanie Hodara, a member of ARIF's Committee. "We're delighted to have found this solution with a quality partner like ISFB, and we hope many IWMs will take advantage of this opportunity".

ISFB handles the CWMA certification process on behalf of SAQ (Swiss Association for Quality). The training/preparation for certification - which is available in French and English - is provided jointly by ARIF and ISFB, extends over 6 to 9 months (e-learning and/or an intensive 6-day on-site programme) and covers the 15 areas of the CWMA skills. ARIF and ISFB worked together for 11 months to open up this certification to IWMs (initially it was open only to bankers) and to develop an efficient programme of training/preparation. Obtaining the same certification as bankers will be the best way for IWMs to prepare for the training requirements laid down by the LSFin and which will be necessary to gain their FINMA licence as soon as the LEFin comes into force.

Mr. Michel Juvet, president of ISFB stated: *"As the leader in banking and financial training in French-speaking Switzerland, it was paramount for ISFB to be the first to offer IWMs a certification programme that enables them to have their expertise recognised in a fast-changing wealth-management market"*.

The certification will be made available at a preferential rate for ARIF members: CHF 1,650,-. The price of the course (estimated at between CHF 1,600.- and 6,000.-) will depend on the needs of each IWM and on the synergy/savings that mutualisation within ARIF will make possible. As ARIF and ISFB are non-profit organisations, IWMs will be sure to pay the fairest possible price.

"The financial intermediary market in Switzerland is constantly changing, with consolidation of the financial centre's actors and an increase in their responsibilities", said Mr. Gerardo Farini, CEO of Geopolis, the first wealth management company in French-speaking Switzerland to attend the training programme. "In order to maintain the degree of excellence to which our clients are accustomed, we decided to have all our employees take part in this training course - as soon as it was available and before it became mandatory".



Training schedule 2018-2019

2018					
F	11 octobre 2018	CoD	13h30 - 17h30	Genève	Formation de base - CODE DE DEONTOLOGIE
F	8 novembre 2018	C	18h. - 21h.	Genève	«Jurisprudence LBA et nouvelles infractions pénales»
F	12 décembre 2018	B	9h. - 17h.	Genève	Formation de base - LBA
2019					
F	13 février 2019	C	14h. - 17h.	Genève	«Développements législatifs en cours»
E	20 March 2019	B	9 am - 5 pm	Geneva	Basic training - MLA
D	28. März 2019	B	9 Uhr - 17 Uhr	Zürich	Grundausbildung - GwG
E	4 April 2019	CoD	1:30 - 5:30pm	Geneva	Basic training - CODE OF DEONTOLOGY
E	8 May 2019	C	2 pm - 5 pm	Lausanne	«Legislative developments in progress»
F	15 mai 2019	B	9h. - 17h.	Lausanne	Formation de base - LBA
F	13 juin 2019	C	14h. - 17h.	Genève	«Responsable LBA et organisation interne LBA»
F	19 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
 Changes

Some important changes

Please note that the topics initially planned for the training sessions on 8 November 2018 and 13 February 2019 have been altered so as to reflect current developments more closely. The ongoing anti-money laundering legislative developments will not be taking place before next year.

Consequently this topic will be covered at our seminar on 13 February 2019, instead of 8 November 2018, and will be covered again in English in the training course on 8 May 2019.

Note on interpretation BO

Some differences of interpretation have appeared on the part of certain financial intermediaries over identification of the contracting parties and beneficial owners. ARIF has therefore decided to issue a note on interpretation in order to clarify the situation.

The contracting party is a purely juridical notion that designates each individual or corporate entity that owns the assets that are the subject of the business relationship, and to whom/which the financial intermediary is linked by a written or oral, tacit or express contractual relationship.

Such a contract may exist not only in the basic relationship but also when each of the legal acts that accompany the transfer of assets from one person to another is performed. This is because there is no transfer of ownership without a legitimate legal reason. Such contracts also exist between each of the actors of the structure to define their role, term of office as director, fiduciary contract, etc.

For each contract, there must be a corresponding declaration by the beneficial owner of the assets involved, sent by each contracting party who transfers, deposits, appoints or designates, to the party who receives, is appointed or designated.

The beneficial owner is the person, who is necessarily an individual, who has the power to make use or dispose of, for his/her own benefit or for the benefit of third parties whom he/she designates, the assets that are the subject of the contracting party's business relationship with the financial intermediary.

These two capacities (beneficial owner and contracting party) may be combined in one and the same person when the latter is an individual. These capacities can also be divided between several people, and this will always be the case when the contracting party is a corporate entity.

The same financial intermediary may have several contracting parties in respect of the same assets, and there may also be several beneficial owners of these same assets.

This will be the case particularly where complex structures are concerned, involving one or more domiciliary companies or entities.

([Note on interpretation : Identification of the contracting party and the beneficial owner](#))

Legal developments

Parliament approves new Financial Services Act and Financial Institutions Act (SIF-Newsletter 2/2018 - 18.06.2018)

With the final vote of 15 June 2018, the Federal Assembly approved the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA). The purpose of both laws is to create a level playing field, boost the competitiveness of the financial centre and improve client protection. The referendum period will now run until the autumn. In parallel, work has begun on the ordinance provisions.

The FinSA contains rules on providing financial services and offering financial instruments for all financial service providers and makes it easier for clients to enforce their claims against financial service providers. The provisions focus on duties to provide information and conduct research, as well as uniform prospectus requirements for all securities that are publicly offered or traded on a trading venue. Moreover, financial service providers are obliged to prepare brief documentation for financial instruments offered to retail clients.

The FINSA additionally provides for a strengthening of the institution of the ombudsman service. A differentiated supervisory regime for financial institutions (portfolio managers and trustees, managers of collective assets, fund management companies and securities firms) will be introduced with the FinIA. What is essentially new is that managers of individual client assets and trustees, as well as managers of the assets of occupational benefits schemes will be subject to comprehensive (prudential) supervision by the Swiss Financial Market Supervisory Authority (FINMA), which also involves a supervisory organisation for portfolio managers and trustees. Furthermore, the FinIA contains the legal basis for a new authorisation category for fintech companies, which should have simpler authorisation and operating requirements than with the current banking licence.

In terms of entry into force, provision is made for the possibility of allowing the above-mentioned basis for a new authorisation category to enter into force before the other provisions. Subject to the results of the consultation on the ordinance provisions, entry into force in that respect could be considered at the beginning of 2019, while entry into force at the beginning of 2020 seems realistic for the core of the two new laws.

Launch of a new data processing system at MROS (MROS - 06.08.2018)

The Money Laundering Reporting Office Switzerland MROS will launch a new system for submitting and processing suspicious activity reports, which will allow financial intermediaries to submit their reports via an online portal.

To optimize the various possibilities offered by the system, the MROS is forced to postpone the launch of the system by several months. The new scheduled date for its introduction is 1 July 2019. A transitional period from 1 July 2019 to 30 June 2020 will be in place.

FINMA revises its Anti-Money Laundering Ordinance (FINMA - 18.07.2018)

In the context of the fourth country review of Switzerland, the Financial Action Task Force (FATF) identified a range of weaknesses in Switzerland's arrangements for combating money laundering and the financing of terrorism. As a result, Switzerland is now engaged in an enhanced follow-up procedure. To exit this procedure successfully, Switzerland will have to implement a number of changes, which includes amending the AMLO-FINMA. The draft ordinance is part of a package of follow-up measures relating to the FATF country review on which the Federal Council already commented in its press release dated 28 June 2017.

The revised FINMA Anti-Money Laundering Ordinance (AMLO-FINMA) addresses shortcomings identified in the FATF country review and incorporates findings from FINMA's supervisory and enforcement practice. Its entry into force on 1 January 2020 will give financial intermediaries the time they need to come into line with the new rules. Further, it allows Switzerland to demonstrate to FATF in the next follow-up report that it is making progress on addressing key issues.

The amended AMLO-FINMA sets out in more detail the requirements for global monitoring of these risks. This affects Swiss financial intermediaries with branches or group companies outside Switzerland. It also specifies the risk management measures which must be put in place if domiciliary companies or complex structures are used or if there are links with high-risk countries. In addition, FINMA has reduced the threshold for identification measures for cash transactions to the FATF level of CHF 15,000.

Trade in virtual currencies presents money laundering risks (Fact sheet FINMA - 30.08.2018)

Monetary units of virtual currencies like Bitcoin are managed in blockchain networks. These currencies only exist virtually on a computer network and have no physical form. They are traded on the internet without any form of centralised supervision and do not have to be processed via intermediaries (e.g. states or central/commercial banks). Virtual currency users can transfer units to each other or use them to pay for goods and services online.

Although Swiss financial market law contains no specific provisions governing virtual currencies, trading in these units may still require authorization from FINMA. Because of the technology on which they are based, virtual currencies tend to facilitate anonymity and cross-border asset transfers. The trade in these currencies therefore entails increased money laundering and terrorism financing risks. In particular, providing custody wallet services (i.e. custody and payment services for virtual currencies) and operating trading platforms on which virtual currencies can be bought and sold fall under the Anti-Money Laundering Act. Before offering such services, potential providers must either join a self-regulatory organisation or register directly with FINMA as a financial intermediary.

Ordinary GM on 15 November 2018

The 20th Annual General Meeting of ARIF will be held on Thursday 15th of November 2018, from 5.00 pm, at the Metropole Hotel Geneva.



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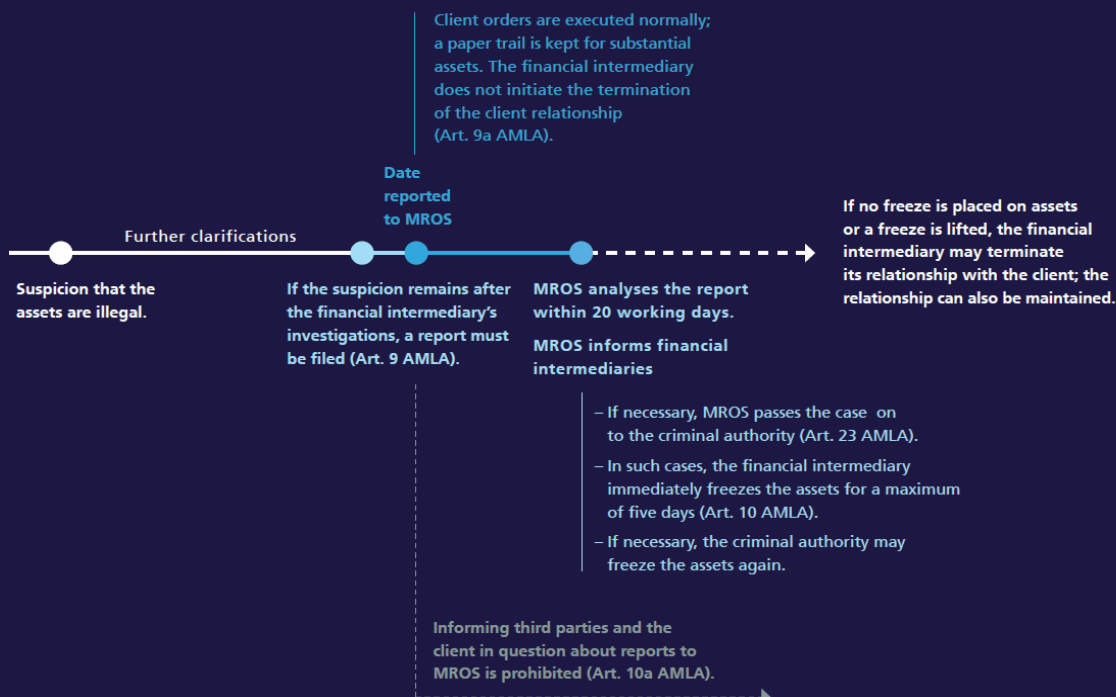
The Anti-Money Laundering Act (AMLA) specifies the procedures a financial intermediary should follow if it suspects assets might be illegal.

The provisions governing special duties of due diligence as outlined in Article 6 of AMLA require financial intermediaries to clarify the economic background and purpose of a transaction or business relationship if it appears unusual. The investigations carried out must be documented to enable third parties to reach a well-founded judgement on the transaction or business relationship and establish whether it complies with AMLA.

Reasonable suspicion exists when the results of these clarifications fail to refute the suspicion that the assets are linked with a crime. The financial intermediary must report such business relationships to MROS (duty to report under Article 9 AMLA; see decisions of the Swiss Federal Criminal Court SK.2017.54 of 19 December 2017 and SK.2014.14 of 18 March 2015, consid. 4.5.1.1). If it is unclear whether a report must be filed, the financial intermediary may still do so (reporting right in accordance with Article 305ter para. 2 SCC).

(source : FINMA Annual Report 2017)

Procedure for handling suspected illegal assets



IMPRESSUM

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