

# Independent Asset Management at a turning point



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Two new pieces of Swiss federal legislation came into force on January 1, 2020, the Financial Services Act (FinSA) and the Financial Institutions Act (FinIA). As CEO of Action Finance SA, Daniel Glasner is an experienced observer of the Geneva financial market center.

## **What do these new laws stipulate?**

The FinSA reveals how financial service providers should behave towards their clients / savers. The FinIA, on the other hand, specifically describes how asset managers must now organize themselves in order to practice their profession and comply with the requirements of FINMA, the Federal Supervisory Market Authority which will first have to authorize each asset manager. In addition to being subject to FINMA, managers will be subject to a Supervisory Authority (SA) of their choice which must be approved by FINMA. The SA succeeds the Self-Regulatory Organization (SRO). Depending on the business model chosen, the asset managers choose the solitary route, the merger / acquisition, the collaboration between them or can even subcontract services such as the fight against money laundering (Compliance) and the Management of Risks to a common platform. All independent Asset Managers are therefore subject to FINMA, both small and large.

As for the Customer Adviser, he is only subject to the FinSA: he must however register with a Register of Advisers, a Mediation Body and have a professional liability Insurance. In the event of a dispute with his client, any financial service provider is obliged to attempt to settle this dispute through mediation. In this regard, I

support the Mediation Body set up by SCAI (Swiss Chambers 'Arbitration Institution). All Asset Managers in activity on 31.12.2019 have a transitional period of three years to apply for their Asset Manager license from FINMA, and have two years to comply with the FinSA and FinIA. This "technical" regulatory change occurred mainly because of the pressure emanating from the European directive MIFID2 which applies to customers who reside in the 28 and soon 27 member states of the European Union, so that Switzerland creates a legal framework equivalent to that of our neighbors, in the hope of being able to sign a bilateral agreement

### **How exactly is FINMA involved in this reorganization?**

FINMA is responsible for granting and withdrawing authorizations to financial institutions. But it is the SA that will monitor the day-to-day activity of independent Asset Managers; it is through the SA that the Asset Managers request their authorization from FINMA. Note that this process is now managed electronically via a platform set up by FINMA which also allows the SA and the Asset Manager's proxies to connect. However, two uncertainties remain: how many Asset Managers will apply for a license and when exactly will they do so during this three-year transitional phase

### **Who will be the winners and losers from these new laws?**

The main winners will be the strong custodian banks and independent Asset Managers who can diversify and absorb the rising costs of prudential supervision and the stagnant profit margins to be expected. The losers will be the banks and Asset Managers who have not found the ideal niche or critical size to cope with the tense competitive environment. In my opinion, it will not necessarily be the smallest entities, but those of medium size which will weaken.

### **What trend do you see emerging in Asset Management?**

From the point of view of prudential supervision, we will now get used to a Ménage à trois, "threesome": Asset Manager, SA and FINMA. The issue will be whether the Asset Managers want to remain subject to intermediate supervision of the Surveillance Authority (SA) or deal directly with FINMA, in which case they will have to apply for a Collective investments' license to manage collective investments and at the same time continue to manage individual fortunes held in custody at the client's bank. This choice will depend on the heaviness / cost of the controls imposed on the individual Asset Manager who could eventually reach that one reserved for Asset Managers of collective investments. Entities of the same size, or with the same business philosophy, will be called upon to work together and even to merge; on the other hand, some smaller ones, which absolutely want to keep their independence, will opt to subcontract certain tasks to a platform. Asset Managers will probably become more qualified because they will have to undergo continuous training. Each Asset Manager will have an interest in building its own identity ("brand") which will differentiate them from their competitors. Probably, the profit margin will continue to

stagnate, or even contract, with for some less assets to manage and more controls to undergo.

### **How do banks and asset managers share the cake?**

To date, there is no consolidated statistic of assets managed by independent Asset Managers. It is estimated that the 248 banks in Switzerland together including the private banks, especially the larger ones, manage nearly 85% of the assets while independent Asset Managers manage the remaining 15%. These two categories of players are therefore both complementary and rival since the clients of independent Asset Managers must deposit their assets with banks. In Switzerland, nearly 2,500 independent asset managers manage and advise individual fortunes, it is estimated that less than 100 of them manage amounts greater than one billion.

### **Have times changed in the last fifteen years?**

Yes, before 2009, the framework rules were permissive for independent asset managers, for the latter, the era of SROs ended on December 31, 2019. Since the early 2000s, the transparency of fees charged has increased, clients must take note in detail, acknowledge and accept (or not) that retrocessions / commissions may be paid to their Asset Manager by third parties. Because of the inherent conflict of interest it carries, this business model tends to disappear. In addition, the increased fight against money laundering and the end of bank secrecy have brought about new practices such as the Automatic Exchange of Information (Common Reporting Standards). Finally, many independent Asset Managers who started their business in the 1980s are reaching retirement age and have to think about their succession.

### **How do you see the integration of fintech and blockchain in the Geneva financial market place?**

In a positive way, if new technologies and automation help professionals to become more efficient in their task. On the other hand, if robots completely replace the man / woman, this will fail, because a personalized advice / management service will remain essential for the customer who seeks to be reassured and supported. Automation will generate fewer errors, but it won't be foolproof. Will the robot have empathy and human intuition, not so sure?