

Advising asset managers and fiduciaries

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For the independent asset manager the regulatory transition of 2020 to 2022 is complete, but its consequences are still unfolding. A licensed manager must maintain qualified management, a minimum capital and adequate organization under the Financial Institutions Act, report changes to FINMA and accept the ongoing supervision of a supervisory organization. The rules on retrocessions, developed by the Federal Supreme Court from BGE 132 III 460 of 2006 and now codified in Article 26 FinSA, have ended undisclosed remuneration from banks and product providers.¹ The revised Anti-Money Laundering Act of 1 October 2026 extends due diligence to the advisory work of the commercial fiduciaries who form companies and structure property transactions (Chapter E.III).

The most pressing question for many firms is succession. Chapter K.II identified the succession of hundreds of small managers as one of the slow trends that will decide the centre's future. A firm without a successor that closes may leave its clients to banks that book the assets outside Ticino. The practical advice is to plan succession years in advance, to consider mergers between licensed firms and to document client relationships so that they can be transferred. Market access applies to managers as much as to banks. An asset manager who travels to Milan to advise a client, or solicits clients there, provides a service in Italy under Italian law (Chapter E.IV).

1 Advising banks

For the banks Part E yields three lessons. The first concerns market access. Since 2018 investment services to Italian retail clients have required an Italian branch, and from 11 January 2027 deposits, loans and guarantees follow. Banks must document the client's exclusive initiative service by service, control the travel of their relationship managers and decide whether to serve the Italian market through branches, EU subsidiaries or

passive relationships alone (Chapter E.IV). The second lesson concerns know-yourcustomer duties. The forms and procedures of the CDB 20 descend from the agreement of 1977, and a relationship manager who knows the history of Texon understands why a guarantee given outside the bank's books, a client relationship known to only one employee or an entity that belongs to nobody remain warning signs (Chapter D.III).

The third lesson concerns technology. Around half of Swiss institutions use artificial intelligence, most of them through models of a few large providers. FINMA's Guidance 08/2024 expects governance, inventories, risk classification, data quality, testing and documented fallback solutions.² When the clients are in Italy, the EU Artificial Intelligence Act, the GDPR and DORA in contracts with Italian financial institutions apply as well (Chapter I.III). Since the Digital Omnibus on AI of 8 July 2026, the Act's rules on high-risk systems such as credit scoring of natural persons apply from 2 December 2027, which gives Lugano institutions a short period to classify their applications.³ For a Lugano bank the competence to satisfy both legal orders is part of what it sells.

2 A common thread

The four groups of clients share one requirement. Each needs an adviser who reads the Swiss and the Italian legal order together and who records the facts on which the advice depends. The family's residence, the trader's place of management, the asset manager's legal basis for serving a client in Como and the bank's documentation of the client's initiative are all questions of fact that an Italian authority may examine years later with data supplied by Switzerland itself. Advice in Lugano has therefore become, to a large extent, the organization of evidence. The professional who prepares that evidence carefully protects the client and the reputation of the whole financial centre.

For the practitioner. A short checklist for any Lugano mandate with an Italian element: - Establish the client's tax residence under Article 2 TUIR on the facts of daily life and record the evidence. - Identify the legal basis on which any service is provided to a person resident in Italy, under Articles 28 and 29-ter TUF and, from 2027, Article 14-bis TUB. - For companies, document where strategic and day-to-day decisions are taken and by whom, with reference to Article 73 TUIR and Article 716a CO. - For successions, record the applicable law, any choice of law and the position of reserved heirs in both states. - For trading and payments, screen persons, ownership, goods and vessels against Swiss, EU and US measures.

- For every structure, compare the information reported to each authority with what the others receive.

3 Notes

1. BGE 132 III 460 of 22 March 2006 (4C.432/2005), <https://servat.unibe.ch/dfr/bge/c3132460.html>; Federal Act of 15 June 2018 on Financial Services (FinSA), SR 950.1, Art. 26, consulted on [droit-bilingue.ch](https://www.droit-bilingue.ch), <https://www.droit-bilingue.ch/en-it/9/95/950.1-index.html>, as cited in Chapter E.III. ↩
2. FINMA, Guidance 08/2024 "Governance and risk management when using artificial intelligence" (18 December 2024), <https://www.finma.ch/en/~media/finma/dokumente/dokumentencenter/myfinma/4dokumentation/finma-aufsichtsmitteilungen/20241218-finma-aufsichtsmitteilung-08-2024.pdf>. On FINMA's survey of 2025 see Chapter I.III. ↩
3. Regulation (EU) 2026/1744 of the European Parliament and of the Council of 8 July 2026 amending Regulations (EU) 2024/1689, (EU) 2018/1139 and (EU) 2023/1230 as regards the simplification of the implementation of harmonised rules on artificial intelligence (Digital Omnibus on AI), OJ L, 24.7.2026, https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L_202601744, as cited in Chapter I.III. ↩

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