

Conduct rules for the relationship manager

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The relationship manager is the person most exposed to Italian criminal law. His conduct must therefore be governed by clear and enforced rules. He should not travel to Italy for client business without prior approval, should not advise clients or present products in Italy and should not carry documents across the border. He should answer client enquiries received from Italy without introducing new services and should record each contact with its initiator, date and content. He should invite the client to Lugano for any discussion of new services. When he is a cross-border worker, he should not serve clients from his home in Italy, whatever the telework rules allow for his income tax.

The bank should support these rules with training, monitoring and sanctions, as FINMA's position paper of 2010 requires.¹ It should review telephone and e-mail records for indications of solicitation, monitor travel and expense claims for trips to Italy and include the Italian rules in the annual compliance certification of its staff. It should ensure that its websites, social media accounts and publications do not address Italian residents with offers of services. Italian-language content as such is not prohibited, since Italian is a national language of Switzerland and the language of Ticino, but content that invites Italian residents to open accounts or buy products is an offer under Article 166 TUF. For the practitioner. - Classify every Italian relationship: retail, professional on request, per se professional, eligible counterparty, and record where the client is established. - Document the client's exclusive initiative for each new service, with the date, the channel and the client's own words where possible. - Identify by the end of 2026 all deposits, loans and guarantees for Italian residents and plan their treatment under the CRD VI transition (11 July 2026, 11 January 2027, 10 January 2028). - Prohibit advice, product presentation, signatures and instructions in Italy, including from the home offices of frontaliere employees. - Do not market Swiss funds to Italian residents unless registered under Article 43 or 44 TUF. Use passported

UCITS or AIFs for active distribution through an authorized Italian intermediary. - Review the tax position of the bank itself for any period in which relationship managers worked regularly in Italy, in the light of the permanent establishment theory applied in the UBS and PKB settlements. - Consider the alternatives: Italian branch, EU subsidiary with passport, delegation of portfolio management by an Italian intermediary, or CONSOB/Banca d'Italia authorization for professional business.

1 Choosing a structure

The choice of structure depends on the size and composition of the Italian book. For a bank whose Italian clients are mainly private individuals with assets of a few million euros each, and whose relationship managers can serve them in Lugano, the passive model with careful documentation may be sufficient. Its cost is the inability to acquire new clients in Italy and to offer existing clients new services actively. For a bank with a large Italian book and growth ambitions, an Italian branch or an EU subsidiary with an Italian branch will usually be unavoidable. A group with institutional clients in Italy, such as pension funds, insurers or asset management companies, can use the authorization route without a branch under Article 28 paragraph 6 or Article 29-ter paragraph 6 TUF, which the memorandum of 2023 has made practicable. Independent asset managers, treated in Chapter E.III, face the same choices on a smaller scale. Some of them have chosen to cooperate with Italian intermediaries or to establish entities in the European Economic Area, as the Liechtenstein firm established in 2006 by Francesco Magistra illustrates.²

2 Notes

1. FINMA, position paper of 22 October 2010 (above). ↩
2. Magistra, finews.com, 1 December 2023 (above). ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/lugano-conduct-rules-for-the-relationship-manager