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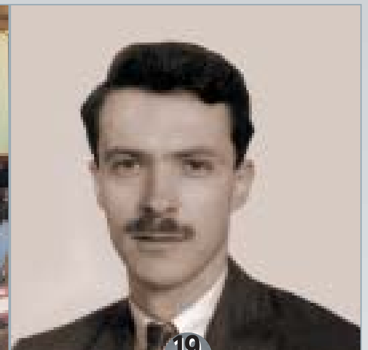

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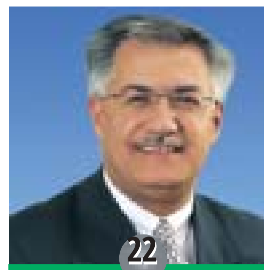

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Editorial

New York is crumbling, European markets have gone off the rails; this is the unpleasant surprise that greets the beginning of the new century. What a beginning. Maybe you greeted these events with consternation! Or maybe not – repetition blunts reactions. Yesterday it was the collapse of emerging markets, followed by the implosion in Russia, just after the descent into hell in 1994 following a series of US interest-rate hikes.

Nevertheless, the articles peppering our newspapers are right and they ought to horrify us: the capitalist system is at the edge of the abyss. Just like in 1929. At that time it was speculators in raw materials, today it is on fictitious companies.

Who is the enemy? Speculation and the lure of gain. Vague terms hidden behind in the complexities of dark motivations by greedy operators ready to profit from the dearth of information for ordinary people. Anonymous and insatiable people, their ears pricked for rumours, ready to exploit windfalls and to profit from the dearth of information for ordinary investors.

Yesterday it was Ponzi, Al. Wiggin and I. Krueger – today the CEOs of Enron, Worldcom, Vivendi and Parmalat. Ignoring wars and other natural disasters, I wonder if there is a more serious attack on the foundations of a socio-economic system than these aggressions that challenge the living forces of nations.

I am none too sure that the penalties are in line with the indignation aroused. These are the risks of the system. What system? The misfortunes of small investors arouse far more pity and if any accusations are levelled they are aimed less at the instigators than at their victims.

This raises the question of what the authorities and other monitoring bodies have done to counter these professionals in the field of financial aggression.

In the USA, the FBI "white-collar" crimes brigade abandons securities crimes to the SEC. The SEC has too few people, albeit competent, to deal with the mass of cases.

As revealed in the US Attorney's Annual Statistical Report for 2000 there were 8,766 prosecutions related to "white-collar" crimes of which 6,876 resulted in a sentence. Not bad, you might think. Of these, 4,000 were given prison sentences of up to three years (the average is around 16 months).
But H. Pontell, professor of criminology (University of California – Irvine) after analysis of the cases concludes that only 226 sentences concerned stock market transactions.

What about the NASD or the American Institute of Certified Public Accountants (AICPA), the regulatory body for auditors John C. Coffee Jr. of the Columbia Law School states: "They have a rule of not taking any action against the auditors until all civil suits have been settled" because they "do not want their interventions to be used against their members in civil prosecutions".

The disdain for the basic principles of honesty, encouraging the use of aggressive sales techniques and lies for the sole purpose of accumulating outrageous profits at the expense of investors (with little or no information) is a serious and intolerable assault on our system. The core of the debate is not about laws and regulations, but on the strict and relentless application of the existing laws. But despite the seriousness of the crises we may doubt about the severity of sentences to come as K. Schlegel a renowned American criminologist comments "In fact... governments lack the will to bring these people to justice ".

In the USA, the FBI "white-collar" crimes brigade abandons securities crimes to the SEC. The SEC has too few people, albeit competent, to deal with the mass of cases

So is there no solution, you may ask. Are the small players going to continue to find their savings threatened by the manipulations of unscrupulous dealers? No. Better coordination between corporate bodies anxious to preserve the reputation of their profession with the monitoring authorities, backed by the judicial authorities, could lead to a long-term effective reduction in such crimes. No purely repressive system has ever succeeded without active cooperation between all interested parties, namely the professionals, the monitoring authorities and the judicial system.

This is the price that has to be paid to rid the system of shady lawyers, complacent auditors and unscrupulous professionals, but only if there is the necessary will to cooperate.

I am all too aware that these proposals are bold. But when it comes to saving the life of the patient one must not hesitate to use all available treatments and remedies to protect the health of a system that we all depend on, whether we like it or not.

Pierre Christodoulidis
Vice-President of CIFA

CIFA, Year Three

The Convention of Independent Financial Advisors, a non-profit Swiss foundation, was created in December 2001 at the initiative of a group of Genevan financial advisors to try to protect the profession from an increasing number of regulations and procedures which constitute a threat for the consumer's privacy. Its mission is to strengthen the role of IFAs at the international level in order to better defend the interests of private investors. CIFA has chosen Geneva, one of the world capitals of wealth management and headquarters of many international organisations, to establish its permanent organisation.

With the active support of international and national professional associations, CIFA intends to play a coordinating role as regards the furthering of ethics and education as well as the protection of the consumer. CIFA has thus set up a structure which is able to implement measures designed to increase the profession's reputation among national and international authorities, to defend the profession by drawing on its unique network, to develop proposals for harmonising national and international regulations, and to create a code of conduct designed to fight any illicit and unethical behaviour in the practice of financial advice.

Supervised by a Foundation Board whose five members also make up the Executive Committee, CIFA can draw on the experience and numerous contacts of an Advisory Board composed of leading personalities. A permanent secretariat completes this structure.

PROMOTE THE IMAGE OF IFA AND ASSET MANAGERS

From its international platform, Geneva, CIFA benefits from the important and central role which the Swiss financial marketplace has been playing for more than 100 years to promote the image of IFAs. As a communication organisation par excellence, CIFA aims to bring together IFAs of different countries in order to enrich the dialogue between professionals. It gathers its partners and their affiliates around its values: independence, integrity, loyalty, competence and trust.

CIFA cooperates closely with many already existing international federations and national associations. It wants to offer an effective communication channel to its partners organisations, by giving them an opportunity to face up to growing regulations and political pressures imposed on the financial sector.

SUCCESSFUL FIRST INTERNATIONAL CONGRESS

Following the creation of its website, www.cifafound.ch, CIFA held its first international congress on 14-15 April 2003 at the Hotel President Wilson in Geneva. Chaired by Richard Smouha, a founding member of CIFA, the congress took place under the theme, *"What challenges for the independent financial advisors?"* and was attended by more than 200 IFAs as well as numerous representatives of banks and public authorities.

In his introductory remarks, Jean-Pierre Diserens, a founding member of CIFA, reminded the audience that its was the consumer (the private investor) who gave rise to independent financial advice, and not the opposite. Today, independent advisors have become key players in the financial services sector. During the recent steep financial crisis, their market share rose heavily, for clients require nowadays very focused and constant attention from their financial advisors. According to FECIF, the European Federation of Financial Advisers and Financial Intermediaries, there are more than 250,000 IFAs in Europe today. They will have to face the following main challenges: develop the specificity and complementarity of their services compared with those offered by traditional operators in finance (banks, brokers, etc.), and protect their independence against growing and increasingly complex regulations.

The views shared by participants lead to the following declaration of intent, made at the end of the congress by Pierre Christodoulidis, Vice-President of CIFA; Vincent J. Derudder, Secretary General of FECIF; Michael Fawcett, Executive Director of EFPA; and Aldo Varenna, Head of International Relations of ANASF: *"Today, members and representatives of standard-setting organisations as well as national professional associations gathered to discuss the concept of a European organisation which aims to create a powerful platform covering all the key aspects of our profession (communication, think-tank, ethics, standards and certification) and is expected to bear considerable effects on the profession of financial advisor. (...)*

Franz A. Blankart, partner Banque Mirabaud.

The determination of the key players is a sure sign that the future organisation will greatly benefit both the consumers and the providers of financial advisory services.”

2nd INTERNATIONAL FORUM IN APRIL 2004

With the active support of 29 European federations and national associations (vs. only 12 in 2003), CIFA will hold on 22-23 April 2004 its second international congress, renamed Forum, in Geneva. With the assistance of internationally renowned personalities, the Executive Committee of CIFA has striven to make this second Forum attractive: the programme covers burning topics, speakers come from all over Europe, debates will be shown on a large screen, there will be an active dialogue with the audience, and interpretation will include several languages.

WHERE DOES THE PROFESSION STAND?

Under the suggestive title of “Reinventing Trust”, this second Forum will begin with debates on themes that are of major interest to the profession: taxation of savings in Europe, protection of privacy, regulation of the profession in Europe and the means to restore the investor’s confidence. The first day will end with a convivial gala dinner.

The second day will begin with workshops moderated by leading Swiss and foreign specialists who will discuss the evolution of regulation and its application, the standards of education, and the investment techniques – in line with the work that has already been done in the working commissions created by CIFA. A presentation of the theoretical approaches and practical experiences in selecting investment vehicles will be given by experts. At the end of the morning, the delegates will have the opportunity to learn all about the technical intricacies of hedge funds before discovering an innovative concept related to for the transfer of funds and securities, and participating in the final debate. ■

CIFA MAGAZINE

You are holding in your hands the first issue of “**TRUSTING, The Independent Financial Advisor**”. This magazine, published in cooperation with Promoédition SA, a well-known Swiss publisher, is designed to become an important communication tool for the IFAs in Europe and the rest of the world. It will cover all action themes of CIFA:

- Harmonisation of regulations concerning the profession
- Implementation of new rules and procedures imposed by authorities
- Establishment of ethical norms to fight reprehensible practices in the financial services field
- Education and certification of the profession on an international level.

20,000 copies of this “test” issue will be distributed free of charge with the assistance of CIFA’s partner federations and associations. If the readership’s response is positive and enough advertising support can be gained, “**TRUSTING**” will become a quarterly magazine.

CIFA encourages all personal comments and suggestions you may have on this first issue. Your letter or e-mail should be addressed to :

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Yes, middlemen can be strategically useful to banks

Now a permanent feature on the financial landscape, financial middlemen are both partners and competitors of banks actively involved in wealth management. They keep their larger counterparts on their toes. On the whole, these "middlemen" play an important role in the banking sector. The following is an interview with Pierre Mirabaud, president of the Association suisse des banquiers (the Swiss Bankers' Association).

Pierre Mirabaud

"For independent financial middlemen, the client comes first"

Do middlemen compete with banking establishments actively involved in wealth management or is their presence complimentary, like partners even?

Pierre Mirabaud: They are both. For a bank involved in wealth management, middlemen are obviously a source of some competition as both players provide the same basic service. However, they both stimulate the industry because, in general, they're both extremely dynamic. Reliant on one or two trustees, they are also partners and clients of banks. Besides, they can promote the reputation of banks. One must note that banks essentially have different long-term goals. If middlemen are often reputable professionals whose relationship with clients is bound to their personality, banks, on the other hand, are primarily institutions. Clients of middlemen remain loyal to depositaries that have some semblance of a relationship with their preferred middleman.

Are middlemen strategically useful to banks? Also, in terms of outsourcing, do they also provide lucrative business to banks?

P. M. Yes, middlemen can be strategically useful to banks. A partnership of that sort can save banking establishments money in reduced costs by reducing the need to hire more staff, while sharing the returns with middlemen by way of retrocession. For a relationship of this kind to be profitable to banks, it is nevertheless important that the clientele not be limited to "retail".

PRINCIPLES OF THE TRADE

How do you explain why more and more banks are turning to them to do business?

P. M. One of the reasons is that managers evolving within the banking sector are having to devote more and more time to administrative tasks due to the over-regulation of Swiss banking. Alas, they also would like to spend more time attending to the needs of their clients and conclude that by referring this responsibility to others, they are more likely to get the job done. Other factors such as career goals, the job's visibility within the market, and at times, remuneration help to explain this growing trend.

In comparison with banks, are middlemen more valued by clients because of their availability and more personalized service?

P. M. It is possible if one were comparing middlemen to some larger banking entities. However, in comparison to average or smaller banks that focus primarily on asset management, the argument is not as valid.

Do they fulfill their promise to put the needs of the client first and protect investors?

P. M. The degree of priority that a client receives depends more on the work ethic of the manager than on the objective characteristics of a given economic sector or on such and such company policy. If you are talking about protecting investors, there is no single answer.

The world of the middleman varies greatly in Switzerland. The business ranges an at-home set-up managing 50 million francs in assets, to a small business with four to five employees, to a larger company with managed assets comparable in volume to that of a bank. But what is a "middleman" really? The absence of any real definition is precisely what makes it difficult to trace and supervise this sector of the industry. Depending on the size of the company itself, the degree of protection the investor enjoys may vary. The existence of

any affiliation to other reputable associations, endowed with a sound professional code of ethics, may also influence the quality of their services.
But one mustn't forget those professionals who are subject to the LBA and the future OBC-AC, the supervisory authority's regulations concerning anti-money laundering measures.

ABSORBING OFFERS

Do middlemen have fewer conflicts of interest than banks?
P. M. In theory, yes, as they work in a single area, while banks are able to work in several, a freedom that exposes them to some conflicts of interest. However, if one takes into account the extremely rigid regulations to which banks must adhere, regulations intended to prevent such conflicts of interest, one finds that both middlemen and banks face the same scenario, especially if internal regulation is effective.

What code of ethics should they live by?
P. M. Ideally, it should be the same as a banker's management ethic. The client should always come first.

How can they prevent the loss of clients, particularly if they are to last on the market?
P. M. It all depends on the size of the management entity. Does it have a critical mass relative to its volume in managed assets and its costs? That's the question. The subjugation of middlemen to the LBA and OBC-CA will considerably impact the costs and fees of some. The profitability and consequently the viability of smaller companies is, at the present time, uncertain.

In light of the increasing number of middlemen in the industry, what's next for wealth management in Switzerland?
P. M. Some shake-up can be expected if one takes into account this growing phenomenon. A decline in the number of middlemen doesn't seem likely in the near future. Mergers and takeovers are possible, without which smaller entities would be squeezed out of the market.

It is apparent, furthermore, that many middlemen are hopping on the bank bandwagon by becoming subsidiaries. In general, wealth management is still a global industry. With growth, it is possible to expand one's clientele in accordance with increasing demographic trends and the growing insolvency of social security systems that result from this, as thorough studies conducted by Merril Lynch, Cap Gemini, and Ernst & Young's "World Health Report", for example. They confirm that Switzerland remains a dominant market leader thanks to its financial know-how. ■

Didier Planche

Enforcing good standard will bring an added attraction to the industry

Angela Knight has been Chief Executive of APCIMS, the Association of Private Client Investment Managers and Stockbrokers, since 1997 Elected a Conservative MP in 1992, she became a front-bencher in 1995 and was Treasury Minister in John Major's cabinet.

Angela Knight

How significant is APCIMS's relationship with CIFA?
Angela Knight: CIFA is an umbrella organization which is bringing together the view of independent asset managers throughout Europe. It should provide a good platform for exchange, as one of the most important changes facing the industry now is the move within the European Commission for financial standards. In this context, it is crucial that the view of the practitioners be heard and that they understand each other. Being able to participate in the European debate is essential and CIFA is providing such an opportunity.

Surely, CIFA is not alone in bringing together the view of financial advisors at an European level?
A.K. Other types of groups exist. Those who operate within the EU meet in Brussels. CIFA takes a different, broader view. As APCIMS, we are contributing and participating in a number of panels, for instance in the Expert Group on Securities Industry – related to the European Commission – , of which I am a member.

How do you stand with respect to the EU Financial Services Action Plan? In your

> **What is even more significant is the amount of assets under management, 240 billion £**

speech at APCIMS Annual Conference of November 2003, you sounded somewhat critical, regarding especially the 2005 deadline.
A.K. The deadline has to be flexible, since the Action Plan which consists of many directives equates to a large programme of change. There are certain areas of activity which are affected by almost all of them. There needs to be a pragmatic implementation against a sensible timetable. The desire to get greater harmonization means that if you want to bring together all of 15 States, everyone has got to make adjustments. Now, costs are highest when the process is rushed. One should not forget the objectives however: opening up the market, bringing down barriers and offering a better deal to the investors.

Returning to the Financial Services Action Plan, there does not seem to be much room left for bargaining, since most everything appears to have been already decided...
A.K. Much as already been written on the 32 plus proposals Action Plan, not one of them being yet implemented. Even though it has passed trough the EU process, each directive has several mandates within it. Much of that work has not started, as there is a difference between principles and their implementation. Thus, the 2005 deadline is also a matter of interpretation.

You were speaking of 15 countries. Now they will be 25 as of May. Does that change anything?
A.K. As far as new proposals are concerned, it makes it more difficult, since we move from 15 to 25 market practices. But as long as the will is here and legislation is created from an evidence based approach, the financial services industry can be improved.

Can you tell me more about APCIMS and its role within the UK?
A.K. The 224 member firms on 500 sites we represent occupy about 8000 persons.
What is even more significant is the amount of assets under management, 240 billion £. Among those firms are a few private banks and many independent wealth management firms, not part of larger enterprises. To give some more information, the number of clients per firm ranges from 400 to 100'000, averaging 15'000.

The spectrum is then quite wide?
A.K. These are firms whose customers are individual investors. Indeed, APCIMS has total coverage of private firms for private clients.

But this has not always been the case, especially at the beginnings of APCIMS in 1992...
A.K. APCIMS has been founded by a group of stockbroking firms who wanted to have a representative body. It started with about 20 firms in 1992 to the size we have now.

What services do you provide for your members?
A.K. We seek to beneficially influence the environment. To this end, we interact with government agencies and we work for the interest of our members in Brussels. We also run seminars, workshops and an annual conference. Every week, there is an event which assists our members in understanding how the future will be.

How has been your experience with CIFA this far?
A.K. Last year's conference has gathered a good number of participants and it is not often that a first event is this well attended. The agenda of this year's conference covers all the areas which are of concern. Tax matters, investment techniques are all common subjects with which we deal on a daily basis.

Is there still a place for independent advisors and wealth managers in an increasingly complex technical and regulatory environment?
A.K. The actual demand for good financial advice will increase due to wealth increase and also because governments are no longer providing the source of pensions people expect. The question arises as to who will respond to this increasing demand. There will be a consolidation, because of the finite size a firm will have to attain in order to be competitive. Regulation increases overhead costs, but it also has an other side. Enforcing good standards will bring an added attraction for wealth management. ■

Mohammad Farrokh

EU legislation for cross-boarder services in the insurance sector

EU legislation in the insurance sector provides for the effective exercise by Community-based insurance companies of the fundamental freedoms guaranteed by the EC Treaty, namely the freedom of establishment, freedom to provide services and free movement of capital. Specifically, EU legislation harmonizes the existing national supervisory regulations to the extent necessary to allow insurance undertakings established in one Member state ("home Member state") to set up a subsidiary/branch – under freedom of establishment – or provide cross-border services in another Member state ("host Member state") – under freedom to provide services.

Accordingly, any undertaking having its head office in one of the Member states, and authorized in that State, is allowed to offer its insurance products for sale under the initial authorization of its State of origin ("home Member state"), through either subsidiaries/branches or under the freedom to provide services throughout European territory.

In the first case, the undertaking may be required to comply with national tax and company legislation of the State in which the subsidiary/branch is located and to pay a fee to the supervisory authority of that State. By contrast, in the case of free provision of services, the undertaking is not obliged to have recourse to host structures.

1. THE SECOND COORDINATING DIRECTIVES ON NON-LIFE AND LIFE INSURANCE

1.1. Non-life insurance

On June 22, 1988, the Council adopted Directive 88/357/EEC (the second Directive on non-life insurance) under which the authorization system has evolved from an originally territorially limited national procedure to one with Community-wide validity. The Directive distinguishes between "large risks" (concerned with large undertakings) and "small risks" (concerned with private individuals). In the first case, an insurance company may provide its services in another Member State – i.e. the State where the risk is situated – without authorization from that State and under the supervision of the home Member State. In the case of small risks, the host Member state may require authorization by its own supervisory authority and the application of its own legislation, including tax law.

1.2. Life assurance

Directive 90/619/EEC (the second Directive on life assurance) achieved the effective exercise of freedom to provide services. The Directive distinguishes between cases where policyholders act on their own initiative in seeking assurance in another Member state

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and those where insurers approach policyholders. In the former cases, insurance companies are subject to the control of the Member state where their head office is located ("home Member state") without the need of further authorization from the Member state where the service is being provided ("host Member state"). Conversely, in the latter case host Member states may apply their own national rules.

2. THE THIRD COORDINATING DIRECTIVES ON NON-LIFE AND LIFE INSURANCE

The third coordinating Directives have gone much further: they expressly forbid any prior or systematic substantive control of insurance policies and policy documents. Such control is only possible in those cases specifically provided for in Community Directives, such as compulsory third-party motor insurance. Moreover, under the "single authorization system", an insurance undertaking may carry on anywhere in the European Union those activities for which it was authorized in its home Member state. Such activities may be carried on either under the freedom to provide services or, alternatively, under the right of establishment. In the latter cases, should the company set up a branch/subsidiary in the host Member State, it will have to comply with the applicable legislation of that State.

2.1. Non-life insurance

On June 18, 1992, the Council adopted Directive 92/49/EEC (the third Directive on non-life insurance), which introduced the single authorization system. Accordingly, it provides for a system of cooperation between the supervisory authorities of the Member states, whereby the activities carried out under the freedom to provide services, come under the supervision exercised by the supervisory authority of the country where the insurance company has its registered office ("home Member state").

In other words, the competence of the supervisory authority of the home Member state is extended to the activities of their national undertakings carried out in another Member state ("host Member state") under the freedom to provide services throughout the EU. Symmetrically, they lose the supervision of Community free services providers operating in their territory.

Not only prior communication of documents is abolished, including contractual conditions and scales of premiums, but companies without an establishment in the countries in which they wish to operate also are not obliged to have a systematic recourse to host structures.

Thus, the third Directive extends the approach adopted for large risks in the second non-life Directive.

2.2. Life assurance

In the case of life assurance, Directive 92/96/EEC (the third Directive on life assurance) mirrors the provisions of the third non-life insurance Directive, by introducing a single authorization system throughout the Union, by the State in which the company has its registered head office ("home Member state").

In other words, the authorization granted by the home Member State is valid for the whole territory of the European Union and permits the insurance company to carry on business by means of either the establishment of subsidiaries/branches, or the provision of cross-border services.

On October 15, 1997, the European Commission adopted a draft interpretative Communication on "freedom to provide services and the general good in the insurance sector". This Communication launched a wide consultation exercise concerning the problems associated to (1) the freedom to provide services and, (2) the general good, in the light of the third coordinating Directives on life and non-life insurance.

The draft Communication recalls, among others, that the Third Directives have expressly forbidden any prior or systematic substantive control of insurance policies and policy documents. It further indicates that the maintenance of such a system by certain Member states may not be justified on grounds of the general good "since the conditions set by the Court of Justice have not been met, in as much as this is an area which is already the subject of harmonization at Community level". ■

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1. Council Directive 88/357/EEC of June 22, 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC (OJ L 172 of July 4, 1988, p. 1-14).

2. Council Directive 90/619/EEC of November 8, 1990, coordination of laws, regulations and administrative provisions relating to direct life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/217/EEC (OJ L 330 of November 29, 1990, p. 50-61).

3. Articles 6.3, 29 and 39 of Directive 92/49/EEC; Articles 5.3, 29 and 39 of Directive 92/96/EEC.

4. It should be stressed that both life and non-life insurance directives do not cover motor vehicle third party liability insurance, which are governed by a separate set of directives.

5. Council Directive 92/49/EEC of June 18, 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (OJ L 228 of August 11, 1992, p. 1-234).

6. Council Directive 92/96/EEC of November 10, 1992, on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directive 79/267/EEC and 90/619/EEC (OJ L 360 of December 9, 1992, p. 1-27).

7. OJ C 365 of December 3, 1997, p. 7-27.

The laborious hunt for terrorist money

Where exactly are we with the state repression of terrorist and criminal money?

In the field, criminologists find that it has little effect. It seems that states, their laws, their police and magistrates evolve in one dimension, whilst the terrorists and Mafiosi, their networks, the traffic in arms, drugs, explosives and money, evolve in another. The two rarely meet during the confiscations, arrests and seizures that do little real harm to these villains.

- Islamic terrorists accept such seizures and captures with fatalism: we are in the hands of God; we continue to make conversions in prison, where Allah will decide where to guide us.

- Organised crime takes it in its stride. Losing 10% of its cocaine? So what – it's less than corporate tax. Arrests? They regenerate the criminal élites – just as an intelligent hunt stimulates game without eradicating it: see Darwin (survival of the fittest). Finally, the intentions of governments are trumpeted well before their troops slowly take to the field. The criminal world moves fast: a response is found on the same day, offshore companies can be replaced by other more impenetrable organisations.

At the beginning of the 21st century, the main battlefield of world chaos is these chinks in space and time. Tracking terrorist and criminal funds therefore means operating in two dimensions: space and time.

a) The battle in uncontrolled space

– Zones outside of the law, or "grey zones", spaces between the territories effectively policed by real nation states.

– Spaces that fall through the gap between ministries, or between the specific "territories" of departments (drugs, human trafficking, terrorism, smuggling, etc.).

b) The battle against time

– Dangerous and aggressive entities, equipped with hi-tech resources, today have a huge advantage in the field of time over slow and ponderous states, paralysed by administrative and legal inertia. How? Why?

A terrorist or criminal organisation today normally operates from a zone outside of control (mountains, large cities, etc.). There it accumulates cash, which it has to recycle in the legitimate economy to enable it to circulate by electronic means. It employs financial experts for this purpose. Operating with the help of swarms of lawyers and financial advisors, these "pros" are constantly seeking legal loopholes throughout the world, studying legislative changes with a single objective: to create front companies to hide the real origin of funds. For each major transaction, an offshore company is created and then eliminated immediately. Everything happens fast. Firstly, there is a powerful incentive not to make a mistake. The money launderer answers with his life for sums handled for the network or the Mafia. There is only one penalty: death. Much more effective than a medal or an end-of-year bonus...

These "pros" know that governments and international organisations forget and soon lose interest. Too close to the virtual world of the media, politicians believe that all problems that they raise are ipso facto resolved. Just look at the worldwide ecological and social forums: "in five years, greenhouse gases will have been reduced by 50%", "in five years the number of poor will be halved". And five years later? Nothing has really changed... But in the field, far from the effects of the declaration, what can be done to combat this fast-moving and changing criminal activity of money laundering? Before any form of repression, a realistic diagnosis of the disease is required in order to understand the huge difficulties of the operation. Below we examine the two main conceptual obstacles that hamper the tracing of terrorist money.

1) Is the entity referred to as "Al-Qaeda" really an organisation?

No. A child could work out that "Al-Qaeda" is not an organisation, in the sense that, remaining in the field of terrorism, the IRA is an organisation. In brief, "Al-Qaeda" is not a sort of IRA that is fanatically Islamic instead of being Catholic.

Since the month of August 1998 and the two attacks in Nairobi and Dar es-Salaam, "Al-Qaeda" has suffered the worst wave of repression in history. 5,000 individuals presented as "members" have been captured in 58 countries around the world; they come from at least as many countries, if not more.

In addition, hundreds of other detentions have occurred in secret in the Arab world.

All of this happened, you will note, before the war in Iraq in spring 2003 and the attacks that followed in Riyadh (Saudi Arabia) and Casablanca (Morocco).

Let us now take a look at two large organisations that need to operate around the globe: one is a multinational and the other an intelligence service – General Motors and the CIA. What would remain of these two giants if, worldwide, 5,000 to 6,000 of their staff were thrown into prison, their offices closed, their archives ransacked, their working equipment, bank accounts and funds confiscated? Nothing. Manifestly "Al-Qaeda" is of a very different nature, because even after five years of unprecedented repression, cells that draw inspiration from it are still striking unhampered, and in 2004 who knows?

2) The war on terrorism in the United States: bureaucracy and confusion
Sometimes a newspaper investigation achieves something out of the ordinary. By revealing the reality, the press uncovers and educates, thus fulfilling its mission. Such an investigation appeared in the *Chicago Tribune* on 10 February 2003. It concerned a period in the life of a young women who left her job at a merchant bank after "9/11" through patriotism to take up a post (at a lower salary) at the money laundering unit of the State Department's counterterrorism unit. The report was entitled: Following the money – A hard-charging banker left Goldman-Sachs to join the State Department's Counterterrorism finance and designation unit, tracking the financial trail and battling a bureaucracy.

Four major facts emerge from an attentive reading of this investigation:

1) The battle plan of the Bush administration:
We want to detect, disrupt and dismantle terrorists networks before they reach the US shores; the mission of the banking counterterrorist is simple: hampering terrorist financing abroad. So much for the ideal, but what about the reality?

2) This young woman and her administration seem to be deprived of all autonomy, of all original thought in the face of the media:
"The nature of this job is that you're at the mercy of events... At the State Department

The American antiterrorist effort therefore believes that the groups and individuals that it tracks are stable and, in the Western fashion, have a fixed and permanent identity. This was true during the Cold War, but today, at least in Europe, it is totally false

(...) senior staff members gather every morning in the office of the new counterterrorism chief. It's a lot about the crisis du jour... Often, whatever terrorism related news is in the headlines... It's almost like CNN runs your day"

3) The federal counterterrorist operation is horrendously complex:
"A hectic, often frustrating routine... This amorphous thing called the war on terrorism... Frustrations of trying to coordinate among the many agencies involved in antiterrorist efforts...

In Washington, antiterrorism programs sprawl across countless federal agencies, from the CIA to the FBI, from the National Security Agency to the Pentagon, from Customs to Coast Guards".

4) The basic task is drawing up terrorist watch lists, the names of individuals and groups:
"the US maintains lists of groups and individuals designated as terrorists...".
The American antiterrorist effort therefore believes that the groups and individuals that it tracks are stable and, in the Western fashion, have a fixed and permanent identity. This was true during the Cold War, but today, at least in Europe, it is totally false.

[*And even absurd in the Near East. For example, a resident in Arabia has ten local cards and permits, a permanent visa, etc. None of them properly describes his real civil status. Let us call him Jean, Pierre, Maurice, Dupont. A local document is in the name of Mr Jen Duron, another of Mr Bire Maurice, the third, Mr Dugont Mauric, and so on (with no exaggeration). There is no computer trace in any office, consulate or airport of a Mr Dupont, who could also, without impediment, have a local chequebook and a bank card, in the name of Mr Bire Maurice. The same applies to his colleagues. What we are looking at is the watch list concerning them and "tracking" their finances... and they have fixed European family names. Just try it with "Ali bin Mohammed al-Bagdadi" (Ali, son of Mohammed, born in Baghdad)...*]

Conclusion: "It is relatively easy to deposit and move money many places with few questions asked, or paper trails left. International finance experts predict that is unlikely to change anytime soon."

This comes as no surprise when we see how this young woman (overworked and underpaid) plays the difficult hand that she has been dealt. In such cases, what would happen even to great chess masters if they had to play without being able to focus, between incessant flurries of e-mails and telephone calls, on a chess board with shifting positions and ephemeral pieces – and without knowing when the game was finished, or even if its would end one day? ■

Xavier Raufer * – March 2004

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The worldwide freeze of "Al-Qaeda" funds

Since the first attacks in August 2001, 59.2 million dollars held by "Al-Qaeda", or by close entities or companies, or by individuals deemed to be "members", has been frozen, or confiscated, in one hundred and twenty nine countries throughout the world. 70% in Europe, Eurasia and North America, 21% in the Near East (Saudi Arabia, the Emirates, etc.), and 8% in Southern Asia. ■

Source: report, July 2003, by a group of United Nations experts charged with monitoring the application of UN resolutions to combat terrorism

Does the EU Directive "on taxation of savings" violate the freedom of movement of capital?

by Marc Dassesse

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I. INTRODUCTION

The Council Directive 2003/48/EC of 3 June 2003 "on taxation of savings income in the form of interest payments" was published in the Official Journal of the European Union on 26 June 2003[1].

Even though Member States are committed to adopt and publish before 1 January 2004 "the laws, regulations and administrative provisions necessary to comply with [the] Directive"[2], it is yet far from certain that they will have to "apply these provisions from 1 January 2005"[3].

It will only be the case if the Member States decide "by unanimity, at least six months before 1 January 2005"[4] whether:

– (i) the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra "apply from that same date measures equivalent to those contained in this Directive, in accordance with agreements [still to be] entered into by them with the European Community, following unanimous decisions of the Council";

– and whether (ii) "all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories (the Channel Islands, the Isle of Man and the dependent or associated territories in the Caribbean) apply from the same date [1 January 2005] automatic exchange of information in the same manner as is provided for [in the Directive for all Member States, except Luxembourg, Belgium and Austria], (or, during the transitional period … apply a withholding tax on the same terms as are [applicable during that period to Luxembourg, Belgium and Austria])"[5].

Notwithstanding these uncertainties, the adoption of the Directive, and the fact that Member States are committed to adopt and publish national laws and regulations transposing it by 1 January 2004, is an important milestone the effects of which are already reverberating in the EU throughout the market for retail financial services.
Yet, as will be explained below, the Directive is fraught with contradictions in terms of its justifications and stated objectives, and the question can be asked whether it is not in breach of the freedom of movement of capital and payments provided for by Articles 50 to 60 of the Treaty establishing the European Community (hereafter the Treaty).

II. THE COMMUNITY REGIME ON CAPITAL MOVEMENTS AND PAYMENT PRIOR TO 1 JANUARY 1994[6]

The Treaty of Rome, which came into effect on 1 January 1958, recognised four basic freedoms:

• Free movement of persons,

• Free provision of services,

• Free movement of goods,

• Freedom of establishment.

Those freedoms were, as a rule, unconditional as from the end of the so called transitional period. This meant that an individual or a corporation could avail itself directly before a national court of the benefit of these freedoms if faced with a national law or regulation which restricted the full exercise of the same. To facilitate the full exercise of these freedoms, the Council adopted over the years various directives. However it is important to bear in mind that in the Community legal order a directive may never supersede a provision of the Treaty. In other words, the unconditional nature of these four freedoms meant that individuals (which term includes legal persons) could avail themselves of the benefit of the same even in the absence of adoption of any directive meant to facilitate their exercise.

The position was however totally different with respect to the freedom of movement of capital and payments. Pursuant to article 67 (i) of the Treaty of Rome, the Member States were under the obligation to lift restrictions to the free flow of capital but only "to the extent necessary to ensure the proper functioning of the Common Market".

1. OJ L157/38
2. See Directive, Article 17.1
3. See Directive, Article 17.2
4. See Directive, Article 17.3
5. See Article 17.2 (i) and (ii)
6. For a comprehensive review, see, among others, J.P. Raes, "The European Community Regime on the Free Movement of Capital". A Turkish version of that paper has been published in January 2002 by the Economic Development Foundation (Istanbul) under the following title: "EU legislation on the free movement of capital and Turkey's harmonisation", in the series "The process of Turkey's accession to the EU" (Book no.9).

It was for the Council to determine the extent to which the lifting of such restrictions was necessary. The Council did so by adopting, over the years, a number of directives which progressively did away with a large number of restrictions.

Thus, contrary to the other freedoms, the freedom of movement of capital and payments under the Treaty of Rome was not unconditional: it could only be relied upon by individuals to the extent that a national law or regulation restricting a particular movement of capital or payment could be held to be contrary to one of the directives adopted by the Council.

Additionally, the Treaty of Rome provided in Article 61 (ii) that the liberalisation of bank and insurance services should progress concurrently with the progressive liberalisation of capital movements.

As a result of this link, credit institutions could only be entitled, in terms of Community law, to provide banking services at the retail level, including receipt of deposits, on a cross-border basis if liberalisation of private savings throughout the Community had also become effective as a matter of Community law[7].

This was the key achievement of the 1988[8] Capital Directive 88/361/EEC of 24 June 1988 . Adoption of this directive by the Council required unanimity. Such unanimity could only be achieved because at the time, as evidenced by the "Whereas" of the directive, the Commission was (already!) in the process of preparing a directive on the taxation of savings. At the time, this proposed directive on taxation of savings appeared likely to be adopted unanimously by the Council.

In a regime[9] in which a private individual is prohibited from having a bank account outside the Member State in which he is resident, he has no alternative but to entrust his savings to local credit institutions. In turn, the tax authorities of the Member State of residence of that individual can, by appropriate legislation, enlist the assistance of the domestic credit institutions to ensure that local savers comply with their fiscal obligations. This can be achieved by giving the tax authorities more or less unlimited access to the records of the local credit institutions, or by imposing on local credit institutions a duty to report automatically to the tax authorities the payment of interest which they have made to local residents, or by imposing on the local credit institutions the obligation to withhold tax on any payment of interest made to local residents. Obviously, a mixture of the three is possible.

As soon as a private individual is authorised to entrust his savings to a credit institution established outside his Member State of residence, this whole system becomes totally ineffective.

For reasons which go beyond the scope of the present article, the proposed directive on taxation of savings to which reference is made in the "Whereas" of the 1988 Capital Directive was eventually withdrawn. Thus, Member States ended up in an uncomfortable situation: of the one part, their residents could open bank accounts abroad freely. On the other part, their national tax authorities had no instrument, in terms of Community law, allowing them to get (easy) access to the financial dealings of their local taxpayers abroad, especially when they had chosen to open a bank account in a Member State having strict banking secrecy rules.

As soon as a private individual is authorised to entrust his savings to a credit institution established outside his Member State of residence, this whole system becomes totally ineffective

III. THE PRESENT COMMUNITY REGIME ON CAPITAL MOVEMENTS AND PAYMENTS

The adoption of the so-called Maastricht Treaty, amending the Treaty of Rome, provided Member States with the opportunity to backtrack on the amount of freedom they had granted to their citizens under the 1988 Capital Directive.

True, under the Maastricht Treaty, the freedom of movement of capital and payments has become a full fledged freedom, on a par with the other freedoms[10].

The key provision to that effect is Article 56 EC which reads as follows:

"Within the framework of the provisions set out in this Chapter all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited.
2. Within the framework of the provisions set out in this Chapter, all restrictions on payments between Member States and between Member States and third countries shall be prohibited".

However, as always, the devil is in the detail: the words "within the framework of the provisions set out in this Chapter" at the beginning of both paragraphs of Article 56 means that the freedom thus affirmed is subject to the other provisions of the same Chapter, namely Articles 57 to 60 EC, which allow Member States to restrict that freedom in several respects.

For the purposes of the present article, particular attention must be paid to Article 58 EC which reads as follows:

1. The provisions of Article 56 shall be without prejudice to the right of Member States:
(a) to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;
(b) to take all requisite measures to prevent infringements of national law and regulations, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.

2. The provisions of this Chapter shall be without prejudice to the applicability of restrictions on the right of establishment which are compatible with this Treaty.

3. The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article 56."

In other words, Member States may, among others, differentiate in their tax laws between taxpayers who are resident and who are non-resident, as well as in respect of the place where the capital of their taxpayers is invested.

7. For a comprehensive review, see, among others, M. Dassesse, S. Isaacs and J. Penn, EC Banking Law, Second Edition, 1994, Lloyds of London Press at page 235 sq.
8. OJ L178/5 dated 8 July 1988.
9. Such as was in force in France and Italy prior to the adoption of the 1988 Capital Directive.
10. It can, in some respects, even be called a super freedom: namely, contrary to what is the case of the other freedoms, the freedom of movement of capital and payments is applicable, as a rule, not only as between Member States but also as between Member States and third countries.

This discretion is however subject to an important proviso: The possibilities of differentiation provided for by Articles 58 (1) and (2) EC may not constitute the means of arbitrary discrimination or a disguised restriction of the free movement of capital and payments as defined in Article 56 EC.

Thus, the measures taken pursuant to Article 58 (1) (a) or (b) must be proportionate to the objectives pursued, and these objectives must themselves be compatible with the provisions of the Treaty.

Article 58 (1) (a) must be read in conjunction with the explanatory Declaration which was included in the Maastricht Treaty, and which reads as follows:

"The Conference affirms that the right of Member States to apply the relevant provisions of their tax law as referred to in Article 58 (1) (a) of this Treaty will apply only to the relevant provisions which exist at the end of 1993. However, this Declaration shall apply only to capital movements between Member States and to payments effected between Member States."

The main effect of this Declaration was thus to introduce a standstill on intra-EU differentiation: Member States are allowed to maintain only the discriminately fiscal measures that existed as of 31 December 1993.

In other words, the Declaration considerably limits the potential use of the freedom of differentiation provided for by 58 (1) (a). However one has to bear in mind that, in terms of the Community legal order, the Declaration does not carry the same strength as an express Treaty provision.

The last sentence of the Declaration means that the standstill clause does not apply in respect of capital movements and payments between Member States and third countries.

In other words, Member States were permitted to continue competing with each other by introducing evermore favourable tax measures for taxpayers resident in third countries, in order to attract their savings or investments to their territory, whereas they lost their freedom to continue to do so with respect to taxpayers resident in other Member States.

Thus, contrary to what may be presumed by a superficial reading of the first sentence of the Declaration, the discriminatory fiscal measures referred to therein are not fiscal measures to the detriment of taxpayers resident in other Member States , but instead tax measures which grant more favourable treatment to taxpayers resident in other Member States than to local taxpayers.

A parallel may be made in this respect with the present day situation regarding tax-free shopping at EU airports: It is only available to travellers bound for non-EU destinations.

IV. The Communication of the Commission on certain legal aspects concerning intra-EU Investment.

On 1 January 1994 Articles 73 (b) to 73 (h) of the EC Treaty governing capital movements and payments came into effect. Since the ratification of the Amsterdam Treaty, the numbering of these Articles has been changed to Articles 56 to 60 EC reviewed above.

As aforesaid, in contrast to what was provided by the pre-Maastricht Treaty regime, the provisions of Articles 56 to 60 EC are "directly applicable".

In order to clarify the extent to which national laws and regulations restricting directly or indirectly the cross-border flows of capital and payments could be viewed as incompatible with the new Community regime embodied by Articles 56 to 60 EC, the European Commission adopted "Communication on certain legal aspects concerning intra-EU investment" . The objective of the Communication was to indicate to national authorities and economic operators how the Commission construes these Articles, on the basis essentially of the case law of the European Court of Justice (ECJ).

By its very nature, however, the Communication has no binding authority, except for the Commission itself. It is the ECJ which, in the Community's legal order, has the final say in terms of the proper construction of Articles 56 to 60 EC.

In addition, attention must be paid to the fact that in as far as the Communication bases itself on the case law of the ECJ, it is essentially basing itself on case law which predates the coming into force of Articles 56 to 60 EC.

In other words, the ECJ case law to which reference is made in the Communication essentially relates to the pre-Maastricht capital movements regime, which regime was not qualified by the "fiscal carve-out" introduced by Article 58 EC with effect from 1 January 1994.

"In such circumstances, ECJ case law relating to the previous capital movements regime….seems somewhat irrelevant in the light of the step backwards in terms of fiscal discrimination in the present [post-Maastricht] regime."[12]

IV. THE GENERAL SCHEME OF THE TAXATION OF SAVINGS DIRECTIVE (HEREAFTER, THE DIRECTIVE)

Suffice it to recall, for the purposes of this article, that the Directive as adopted essentially provides as follows:

Whenever a payment of interest is made by a paying agent established in a Member State to a private individual resident in another Member State, acting for his own account and in a private capacity, the paying agent (which, in most cases, will mean the bank with which the beneficiary has an account) must:

- In the case of all Member States save Belgium, Luxembourg and Austria, communicate to its tax authorities, who will in turn pass on that information to the tax authorities of the Member State of residence of the beneficiary, specific information, as laid down by the Directive, regarding such payment;
- In the case of Belgium, Luxembourg and Austria, withhold tax at rate initially set at 15%[13] on the payment made to the beneficiary, unless the beneficiary (at the option of the Member State where the paying agent is established), authorises the paying agent to release all relevant information to his tax authorities, or produces a tax certificate issued by his tax authorities.

NB: continued on **www.cifafound.ch**, where the entire article is available on a PDF file.

11. OJ C 220/06 dated 19 July 1997.
12. J.P. Raes, The European Community Regime on the Free Movement of Capital, at page 16.
13. To be increased after 3 years to 20% for the subsequent 3 years, and to 35% thereafter.

A European Examination Framework for Financial Advisers: The EFPA Model

In the past year the European Financial Planning Association (EFPA) has set out to create a new examination structure for the financial services industry in Europe. The starting point, presented in this article, addresses the key strand of financial advice.

The EFPA curriculum is designed to raise standards across the financial services sector in Europe and to improve consumer protection by ensuring that those involved in financial consultancy have a sound understanding of key principles as well as the skills to implement recommended actions.

In co-ordinating the various structures, the following key issues were identified:

- The current examination matrices of various examinations structures are confusing and inflexible.
- There are inconsistencies and differences in standards between qualifications for the same activity.
- The examination structure and numerous associated designations are confusing.
- There is a cost to firms when staff moves between activities if they must be (re)-examined on the same content.
- There are gaps and inconsistencies in examination provisions.
- Some syllabuses cover content areas in greater depth than others.
- There is a requirement to ensure that practitioners remain up to date via regular assessment of competence.

ADDRESSING PRACTITIONERS

Practitioners previously assessed as competent, will, at a given transitional date, have an opportunity to be grandfathered within the new structure. Moreover, transitional arrangements should enable those taking examinations and working towards attaining competence to transfer into appropriate programs or otherwise make new arrangements.

EFPA is also keen to address existing and planned mechanisms for ensuring that practitioners maintain their competence.
It is likely that such a competence updating/reclassification system would involve regular assessment and training, particularly to ensure regulatory, legislative and product knowledge.

> **The goals are to benchmark the examinations standards against national/European standards and work to ensure that this curriculum is accepted as an international benchmark**

The Financial Planning practitioner is placed at the pinnacle of the structure. The distinction between advising and planning is blurred because financial planning is an integral part of the whole advice process but the two practitioners can nevertheless be distinguished by the complexity of their clients' financial structure and net worth and by the level of training each professional has undertaken.

The syllabus must be regularly reviewed and where appropriate, amended. We in Europe are currently experiencing a period of massive change within the financial sector, particularly in the retail area (financial services) and as the nature of the market transforms and companies react to new and changing legislation and regulation, new and innovative products will be brought to the market.
The EFPA examination framework will need to reflect and adapt to these changes while accredited examining bodies will also need to update their syllabuses and assessment methodologies accordingly.

The curriculum content is comprehensive and appropriate in relation to both the learning outcomes and the indicative content. Constant assessments must be undertaken to ensure that it remains so.

The goals are to benchmark the examinations standards against national/European standards and work to ensure that this curriculum is accepted as an international benchmark.

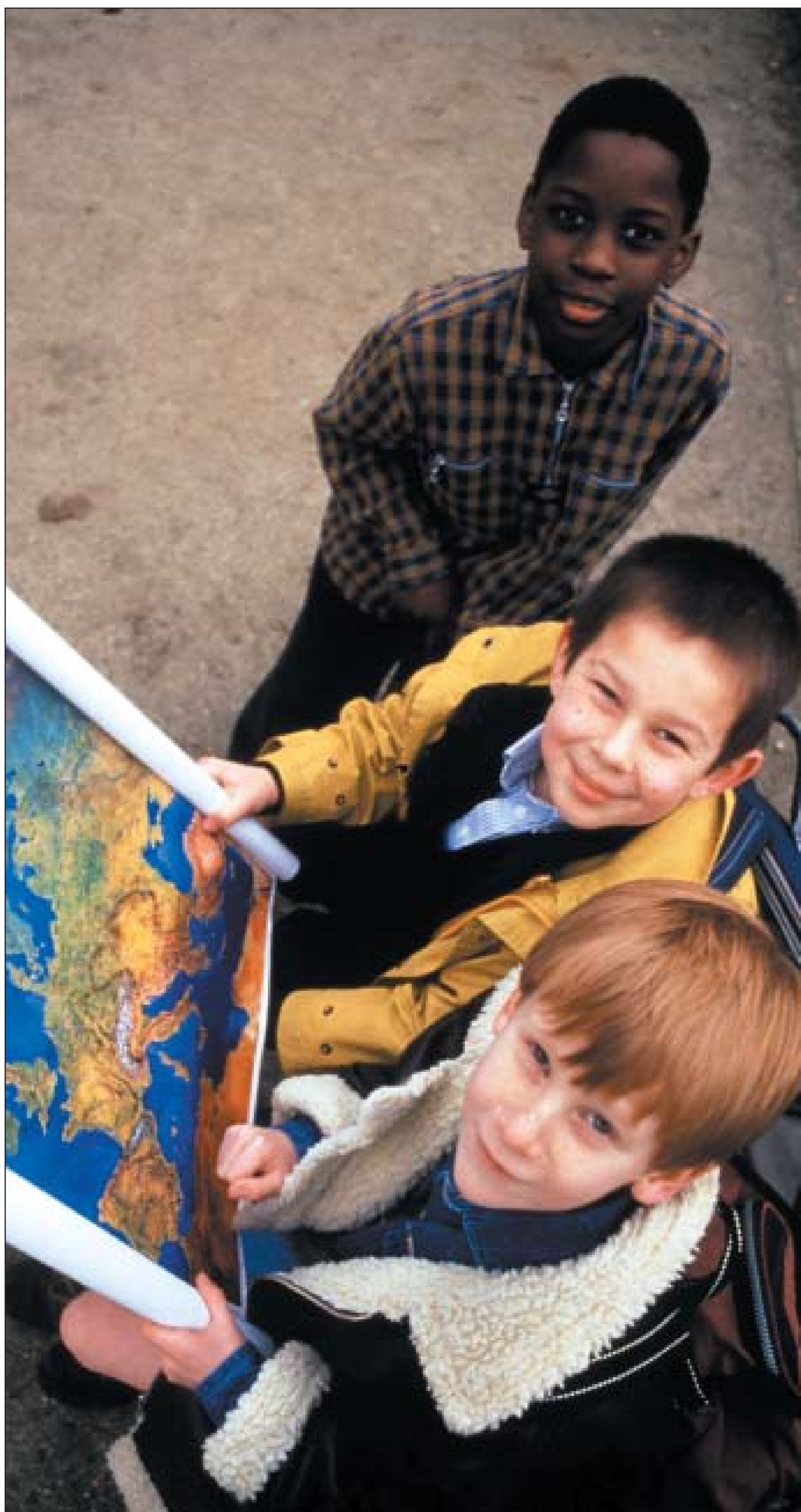
Transitional arrangements must be designed to recognise existing achievement and partial achievement in a manner that does not discriminate against existing practitioners or partially qualified candidates. Institutions are generally eager to know what arrangements will be in place for those partially qualified through current examinations and what recognition there will be for the prior 'old' examinations under the new arrangements. Also, what level of authorisation, for example, will be granted in the new structure for examinations and certifications / diplomas held currently? There appears to be little appetite for requiring existing practitioners to undergo wholesale or partial re-qualification on the basis of new examinations; nor is such action justifiable.

One could argue that there should be no exemptions policy at all because 1) consistency of approach and fairness are very difficult to achieve and 2) other qualifications may not have undergone the same quality assessments / accrediting procedures as those approved under the new examination framework. There would, in any case be very limited exemptions available based on very specific parameters of achievement and any exemptions should reflect different forms of prior achievement, including any regional dimension, e.g. overseas qualifications. Another approach could be to combine a no exemption policy with recognition of prior achievements through an educationally linked credit-based system. The introduction of a new examination framework affords the opportunity to simplify the basis on which exemptions are currently offered from existing examinations.

The following general principles could underpin any exemptions policy in order to improve consistency and reliability:

- Incorporation of a means of recognising prior achievements based on credits;
- Use of national and international qualification frameworks to inform considerations of claims of qualifications equivalency; and
- Identification of criteria for setting precedents and resolving conflicts.

Institutions are very supportive of periodic assessments for maintaining competence but are not; on the whole, enthusiastic that this should be a formal requirement. Many institu-



The new generation *© Communauté européenne, 2004*

> The wide-ranging views of how frequently assessments should take place and the format they should adopt give weight to the view that these matters are best left to institutions

tions indicate that they already have regular testing as part of their training and competence schemes and that, subject to inspection and evaluation; they would prefer to continue this modus operandi. Areas that are generally covered are product knowledge, compliance and money laundering.

Institutions should be able to implement a training and competence programme depending on their specific business and risk-profile, taking into account the experience of individual staff within their staff rolls. Such assessments must be the responsibility of institutions to ensure that an individual's competence is assessed in a manner and frequency appropriate to that individual. The wide-ranging views of how frequently assessments should take place and the format they should adopt give weight to the view that these matters are best left to institutions.

The following may be seen as a summary of possible benefits to institutions.

- Transferability of qualifications. There may be a reduction in training/examining costs for jobs that cover more than one main activity or for those persons shifting into a different but related field.
- The new examinations framework should allow for the easy and straightforward transfer of staff, avoiding unnecessary re-qualification and associated study time;
- International standards and cross recognition will assist cross-jurisdictional transferability.
- A reduction in the costs incurred by firms (e.g. sorting out errors and managing complaints)

The new framework for the EFPA / EFA Curriculum:

- Set standards for the development of a single, modular exam system, ensuring consistency as well as flexibility;
- Simplify the alphabet soup of qualifications, making it clearer for everyone – consumers, employers and new entrants to the industry – to see what a person is qualified to do also across boarders.
- The framework and proposed modules shall generally be seen to be helpful and logical as a starting point for the new examination structure
- Streamline the current plethora of exams and develop internationally recognised standards so that employees are able to move between jobs more easily
- Establish performance measures for the administration and delivery of EFPA-accredited exams.
- Require employees to demonstrate that they are keeping up-to-date with developments in the marketplace.
- The structure reflects more accurately the complexity of the relationship between selling, advising and planning, in so far as these are separate activities.

There is the inclusion of ethics in the curriculum (Or ethics and Code of Conduct / professional responsibility). The complete array of socially responsible, ethical and sustainable investments is reflected more fully in the modules.

Fundamentally – what is a European Financial Adviser'? There are a variety of assessment methods, including national available and nationally accredited qualifications, that may be suitable in assessing these skills and it is up to institutions to choose the method they deem most appropriate for this purpose. The assessment of advice skills is likely to be carried out in the workplace.
However, the knowledge, understanding and application underpinning these skills can be picked up and assessed synoptically through EFPA / EFA's module for examinations.

The European Financial Planning Association (EFPA) is Europe's largest standard setting and certification organisation for financial planner and financial advisers. Currently situated in twelve countries, EFPA expects to have national Affiliates in fifteen countries by the end of 2004. ■

Susan Middelboe is a Board Member, and Michael Fawcett Chief Executive Officer of the European Financial Planning Association (EFPA), Rotterdam.

French business culture

Gilles-Guy de SALINS
(Vice-President, Association Nationale des Conseils Diplômés en Gestion de Patrimoine / National Association for Graduates in Wealth Management – A.N.C.D.G.P.) contribution to TRUSTING – The Independent Financial Advisor, prior to the 2nd CIFA 2004 Forum

If I tell you that the French do not conduct business like other people in the world, I believe that you will trust me. I should know, for I am French. However, besides the joke, there is a reality. So let us discover how the trade is organized on the other side of the lake:

As in other countries we have notaries, accountants, barristers, lawyers, solicitors, bankers, portfolio managers, and the like. Our pension industry is both State regulated (mainly) and in the hands of insurance companies, to make it short.

We have IFA's: In this respect there are three levels of IFA's expertise. Firstly the "guide" who is in fact a financial products sales person, who, in France, is covered by the recently voted law of 01/08/2003. Secondly, the "adviser" who is also regulated under the same law as Consultant in Financial Investments (CIF). Thirdly the "planner" who is, to some extend, comparable to a GP (general practitioner) outside the medical scene, covering all aspects of an individual's wealth management (in French CGP for Conseil en Gestion de Patrimoine). He has legal advice authority through two French Ministry of Justice Departmental Orders dated 19/12/2000 and 01/12/2003.

- The 1972 law has been upgraded as of August 1st 2003 to regulate the sale of financial products and advice related to this: IFA/Sales. However, under the decree to be, to operate, one needs a professional card from each and every supplier one registers with. Its validity is of two years only, which questions the future of clients if not renewed at expiry. The motto "best advice, best offer" is also difficult to achieve due to floor volume imposed by suppliers to allow for a registration production code. We are still lobbying for a global card, and clear rights upon the "property" of the client base.
- The same law, under a new «advisor only» heading, the CIF, organises the financial advisory level. Indeed the law dictates that the IFA/CIF sells a truly independent advice to the final client. Once effected, he then changes his hat as a Dr. Jekyll & Mr Hyde (although there is nothing to hide) and goes back to a sales talk. He is then supposed to sell the perfect product in all transparency. First step: fees, second: commissions. In the law, it is compulsory for the IFA/CIF's to provide compliance, capital adequacy, reporting and training. Since bankers, through lobbying, exempted themselves from this double talk and charge, guess where should go the customer for at least simplicity?
- Nevertheless, the four French professional associations, amongst which ANCDGP, will be in charge of monitoring the respect of professionalism and deontology of their members who will chose the IFA/CIF trade, under rules to be written by the newly created Authority of Financial Markets (AMF).
- Third step, the planning. Not only financial planning. Therefore the Planner, in the French inception of the term (IFA/CGP) or GPP for Global Patrimonial Practitioner, is mostly graduated from some 40 Universities and "top" Schools that deliver mainly a Master's Degree. (One year after 4 years of law or economic studies, or a BA in law and economics plus 2 years in wealth management). It is therefore a post-graduate discipline. Therefore, today, the inception of the CIF is a real threat to the survival of the planner. What is at stake is the qualification of the architect of the planning process in as much as the CIF text, as written today, establishes the CIF as the ultimate intermediary, before and above the planner. This is nonsense. ANCDGP continues to try to introduce a bill so that this profession is recognised under a dedicated law. At least, pursuing talks with the French Ministry of Justice, we would like to see the use of the CGP name restricted and protected.

> ...French people do not conduct business like other people in the world...

To help us out in this fight for recognition, the European integration in this field is logical: from the pure sales (guide) level to the financial services (adviser) step, then to up to the ultimate all inclusive family office (planner) this is the only common road tomorrow. The wealth manager, planner, Conseil en Gestion de Patrimoine or CGP in French, must be recognised as a profession and not an activity.

CGP training is open to all in two parallel ways: an initial university cursus from graduation, or a professional curriculum through the same channels on adapted timetables. Experience accounts for some credits, and in the end, the same level of diplomas are achieved. However, despite this, there are still some French independent people, at all three levels, who still show today no qualification at all. After a short period of grandfathering imposed by a coming decree, this will be eradicated.

ANCDGP articles of association aim to represent all French training organisations that deliver a postgraduate diploma. As mentioned this is mainly the 5-year's Master Degree, the norm recognised at pan European level. Incidentally, the head of the French legal system, the Conseil d'Etat (State Counsellor) confirmed ANCDGP's legitimacy as official representative of the graduates on 03/06/2002.

Port of call of all official training, ANCDGP's goals are to monitor a common minimal/maximum base for each of the three levels of French IFA's. By right of incorporation, it has access to all programs taught in France. Since no one can be sure of a career as IFA only, it has already established ties with ACGP, the Association of Graduates from the Banking Institute (CESB), and speaks in the name of each graduate, independent or employee. On another front, let us recall that every underlying trade behind advisory services heading is governed by a dedicated law: real estate, insurance (both life and risk), portfolio management, CIF, sales … Indeed, all ancillary business, in turn full-fledged professions themselves, are truly regulated, "chartered", trained for and accredited. To advise to the full, the global planner requires these cards. If he does not possess them, or if the said professions are not registered inside the planning company, the planner needs to set up ties with external practises: fiscal and legal services, estate planning, independent or multi-tied insurance brokerage, real estate services (sales and management), portfolio management, CIF and sale of financial products etc. All these aspects, and more, are touched and/or developed in the training process of an IFA/CGP, according to the main targets of the universities' program developers. However, since they have a common base of economics or law, the end graduates have a comparable level.

Therefore it would be quite counter productive, both on a European viewpoint and on a legal perspective, that current French legislation moves the top range activity (planning at GPP level) below CIF capacity. Lawyers and notaries in particular would have some problems in becoming full-fledged commercial IFA's. Finally one does not understand under the current legislation why IFA's would need accreditation while bankers would not, but still train at the same universities for the same degrees! ■

The International Center FAME

Geneva's diverse mixture of state and private schools, universities and other institutions of higher learning provides world-class standards of education, within a rare international framework.

Our nation is one of the few countries to emphasize practical vocational training. Over 90% of young people, having completed their education system in Switzerland leave with a diploma or professional certificate. Like reinforcing this assertion the city of Calvin spends more than a quarter of its budget on education (compared with 14.2% in the United States and 11.3% in Japan). In the 20th century alone, personalities as famous as Jean Piaget, Ansermet and Jaques-Dalcroze immediately spring to mind, they have left a deep impression on European and world culture.

The University of Geneva has a long tradition of welcoming foreign students. The institution is linked with four leading institutes teaching international, ecumenical, development and European studies. One of them, the Graduate Institute of International Studies, is a teaching and research institution dedicated to the study of international relations at graduate level. Its staff and 650 students come from all parts of the world. Students go on to careers in the diplomatic service and national administrations, or join international companies. The institution seeks, in association with the Graduate Institute of International Studies, to promote the exchange of ideas and information, training and research in the fields of international money, banking and finance.

Finally, a unique partnership between the academic and financial worlds, the International Center for Financial Asset Management and Engineering (FAME) supports cutting-edge education through a doctoral program in Finance in association with leading academics worldwide. The University of Geneva has signed 125 bilateral agreements with European Universities for exchange programs.

THE INTERNATIONAL CENTER FAME

The International Center for Financial Asset Management and Engineering (FAME) is a private foundation created in September 1996 by an initial group of 21 leading partners of the finance and technology community together with three academic Institutions of Geneva.

Endowed with CHF 21 million, the Institution is involved in advanced and applied research, executive education, and doctoral training with the goal of becoming a privileged interface between practitioners and academics in the field of asset management and financial engineering. Its ambition is to convert the Lake Geneva region into the intellectual capital of the world of asset management and financial engineering. The Center sponsors activities organized along four major axes : Executive Education, Doctoral

The FAME doctoral program in finance has the ambition to become the number one doctoral program in Europe

Program, Research, and Interfacing Activities. Its Executive Education courses provide a wide palette of opportunities for the finance professional.

FAME has become one of the major European providers of advanced executive education in finance. As of this year FAME and the Swiss Banking School have joined forces in Executive Education. The Swiss Banking School provides cutting edge education for executives of financial institutions to improve management capabilities and professional expertise, it is now co-operates with internationally renowned academics and professionals in order to stay at the forefront of global developments in banking and finance. The Certificate in Financial Asset Management and Engineering is a 5 weeks immersion program, planned to provide intensive training in the state-of-the-art techniques and practices of asset management, as well as financial engineering. Launched in 1997, the Doctoral Program in Finance is a joint offer of the University of Geneva, the University of Lausanne, and the Graduate Institute of International Studies in Geneva, tied later by the University of Neuchâtel.

VISION FOR THE FUTURE: 3 DISTINCT FEATURES

The FAME doctoral program has 3 distinct features a full offering of Ph.D. level courses in finance doctoral research carried out in collaboration with first-rate partners in the financial industry and in the intellectual environment provided by highly renowned academic institutions and full financing of all degree candidates. A wide variety of top level research events help students and faculty stay at the research frontier stimulating new thinking. The executive education program, including the hands-on Certificate FAME and the Geneva Executive Courses in Finance, keeps providing important spillovers into the academic part of FAME. And last but not least, the large number of distinguished academic visitors that come to Geneva and Lausanne every year, teaching courses in the doctoral and executive programs, making joint research with local faculty, or to give seminars, constantly opens up new perspectives.

A wide variety of top level research events help students and faculty stay at the research frontier stimulating new thinking

The program is structured along three phases. The Preliminary Phase consists of one of the Master/DEA programs in economics or finance organized by the member institutions in Geneva and Lausanne. The First Phase features specific PhD level courses covering advanced financial theory and the techniques for research in finance. The Second Phase is devoted to the writing of a doctoral thesis. Students take selected courses according to their interests and are involved in international academic activities. ■

By Didier Perrin

Independent Asset Managers & Hedge Funds

The importance of a qualitative approach to risk management and due diligence.

Biagio Zoccolillo

...“ Manager selection is more an art than a science” is something you hear with regards to hedge fund investing...

Biagio Zoccolillo, SVP and Head of the Independent Asset Managers department at Mirabaud & Cie, Geneva

Johan Olson, VP and Head of marketing, alternative investments at Mirabaud & Cie, Geneva

We have the impression that the Independent Asset Manager industry is in full expansion: what reading do you make from this evolution?
B.Z. The industry is presently growing by number of Independent Asset Managers: there are two kinds of new entrants, on one hand experienced and entrepreneurial bankers with their own portfolios of clients taking on the challenge of establishing their own company respectively joining established companies in the market. The aim of these entrepreneurs are mainly to focus on their client relations, providing a tailor made service and “escaping” the administrative, bureaucratic work and politics of bigger institutions.

On the other hand, there are several companies from the surrounding countries establishing themselves in Switzerland in order to benefit from our excellent infrastructure and availability of well-educated, professional and multilingual staff.

The market is expected to consolidate in the coming years because of:

- many Independent Asset Managers are close to retirement,
- the lack of critical mass as to assets under management,
- the administrative and legal framework is getting more complicated.

Compared on an international scale, your bank is a rather small player in the finance / wealth management industry: what are your competitive advantages?
B.Z. Yes, we are a rather small institution and although we have been growing at rather important yearly rates (the last 10 years from 60 to 280 employees) due to the ongoing mergers in the industry we hardly can catch up and compared with other players in the market we actually are becoming smaller. Our competitive advantage is the result of many factors such as our “human size”, continuity (i.e. decisions taken on a long term view basis, speak to the same interlocutor over time etc) and transparency, client driven approach, tailor made solutions and short decision process.

What are the products that your group offers to Independent Asset Managers?
B.Z. Our bank was one of the first banking institutions to perceive that performance could be improved by judicious use of alternative investments, and was one of the pioneers in the early 1970s of this new approach to the management of clients’ assets in Switzerland.

We manage fund of funds and use a selection of external funds of various types. Our in-house products include offshore funds reserved for our clientele and funds registered in Switzerland.

You mentioned that your “human size” enables you to offer tailor made services: what about alternative products?
B.Z. Depending on the needs expressed by Independent Asset Managers with whom we develop relationships, we can create “tailor made” investments funds subject to adequate volumes.

We also offer a service called managed accounts, where we offer tailor made hedge fund portfolios according to each clients specific investment objectives composed by single hedge funds "line by line".

What are the advantages of alternative products if they are integrated in the asset management of a conventional portfolio?
B.Z. Hedge funds enable us to reduce the overall volatility of our traditional portfolios. Typically we participate meaningfully in positive equity and bond markets and preserve capital in bear markets.

What are the qualitative aspects of due diligence and risk management?
J.O. Manager selection is more an art than a science" is something you hear with regards to hedge fund investing. The truth is that due diligence and risk management when investing in hedge funds is both an art and a science. What you need to decide is how much effort to put on the quantitative side (science) and how much effort to put on the qualitative side (art) of the equation.

Our bank has been active in the area of hedge fund investing for some 30 years and obviously noted the evolution of the industry over the years. Our experience is that the qualitative due diligence and risk management is paramount and should represent the majority of the due diligence you conduct on an individual hedge fund when you first invest as well as on an ongoing basis. We have however noticed that the reliance on quantitative analysis, due diligence and risk monitoring has increased over the last 10 years with the arrival of institutional investors starting to allocate assets to hedge funds.

What is important when carrying out the qualitative due diligence and risk management of hedge fund mangers?
J.O. In the last few years with the arrival of institutional investors in the hedge fund space, we have noticed the increased reliance of quantitative research, due diligence and risk monitoring by some of the newer companies providing investment management services and advice to these institutions.

Value at Risk (VaR), correlation analysis and other metrics are used to monitor performance of hedge funds. We agree that this area of due diligence is important however we argue that quantitative work should represent roughly 1/3 of the equation and the rest spend on qualitative research. One problem is obviously that qualitative research demand more human resources and has to be carried out by someone with long experience of hedger fund investing.

VaR is an interesting monitoring tool but lets face it. We have experienced at least one 10 standard deviation event in at least one market every year for the past decade. We also know that correlation are seldom stable over time and goes out the window in "stressed" periods going from negative/ zero correlation to a perfect +1, something we tend to forget in between crises.

Before looking at the different areas where qualitative due diligence is important we need to define risk. Simply put risk is the chance of an unwanted outcome. One way to learn about risks is to look at previous problems that occurred and try not to repeat them. The last decade is full of examples like valuation issues of the Granite fund, Impact of haircuts on LTCM or fraud allegations at the Manhattan Fund. Risk management from a qualitative standpoint is not about eliminating risk, you cannot make money without taking risk and your risk rules should not extinguish return. It's more about ensuring that you both understand what risks you are taking and that the balance between risk and reward is in proportion.

Johan Olson

Risk management from a qualitative standpoint is not about eliminating risk, you cannot make money without taking risk and your risk rules should not extinguish return. It's more about ensuring that you both understand what risks you are taking and that the balance between risk and reward is in proportion

Finally none of us will be able to predict the next " surprise" but we need to assume that there will be new ones.

In which areas of alternative investments is qualitative due diligence most important and what would be the important questions you would like to have answered?
J.O. Strategy: The manager should be able to coherently describe their investment philosophy and investment process and also be able to describe their past performance. Past performance is numbers but you need to probe and understand how these numbers were achieved. Was it using the same strategy, was it a team approach and with what resources as to analysis, administration and other support was the track-record achieved.

You need to look at their methodology in terms of portfolio turnover, risk/return, viability of approach and money managements. Basically you are looking for someone with a unique discipline to a specific strategy and who are able to strictly adhere to their style.

STRUCTURE

The organization has to exhibit an adequate infrastructure. We have seen many brilliant fund managers starting their own hedge funds alone with a Bloomberg only to fail because the lack of a sufficient organization to help with all aspects of running a hedge funds besides managing the money. You are looking for a professional team with strategic makeup and size. Legal and accounting framework, Prime brokerage relationship, trade execution capabilities are other factors you need to examine and at the same time make sure that there is no conflict of interest in any of these areas.

PRINCIPALS

Do we like them? The stability and consistency of the fund managers need to be assessed. Industry background, personal and business ethics, employment history, personality traits and track record are other factors of importance. Here experience and industry contacts is important since you need to check with other industry participants to get information on the principals. You also would like to ask for references and use these references in your due diligence. After having conducted hundreds of manager interviews you get a sort of gut feeling for who is good and who is not and after leaving the manager meeting you know if you will give the manager money or not.

COMMITMENT

Why is the hedge fund manager doing what he is doing? You would like to see that the manager has put a significant portion of his net worth in the fund he manages. You also would like to have a balance between what he will earn on management and performance fees versus the return on his own investment. There is always a risk that a fund grows to big and becomes an annuity product for the management team. The result being that they are not as " hungry" as they use to be or becomes more cautious in their investment strategy to protect their huge asset base rather than produce the returns you expect them to.

Operational review. Included analysis of prospectus, pricing methodology (mark to market), independence of administrator, reviewing financial statements (audited if possible), segregation of duties between front and back office, relationship with counter parties, compliance, use of leverage in accordance with guidelines etc. In the operational review you also would like to include the fund terms and look at things like lockup, redemption policy, soft dollar arrangements, and compensation. How is the fund team remunerated between salary, bonus and incentives?

These are some of the factors that are important in the due diligence process in order to get some qualitative insights on individual hedge fund managers and their funds. One problem is that it is difficult to quantify qualitative insights. One idea is to attribute an attractiveness rating or score to the different areas on which you conduct the due diligence.

Is this initial due diligence sufficient to protect your investment from any negative surprises?.
J.O. Obviously not and to cite Leslie Rahl "Risk management is a journey, not a destination. It is not a one time exercise to implement best practices tools, but rather a lifetime's odyssey". The most important part of the qualitative due diligence and risk management is the ongoing monitoring and analysis of the hedge fund manger. The information you receive from the manager on a monthly basis is just that, information from the manager. You need to get very close to your different hedge fund managers and establish an ongoing dialogue with each of them. travel extensively and meet eye to eye as frequent as is possible with the manager, make regular checks with the funds administrator and prime broker to assure yourself that the sailing is smooth. The fund manager will sometimes travel and come to you but the on-site visits is more important since you will be able to see for yourself and talk to more people involved in different areas of the fund. Qualitative due diligence and risk management is time consuming and demands a lot of resources from the team involved in hedge fund allocation.

We have seen many new industry participants establish themselves over the last few years where the emphasis has been on quantitative analysis. Gathering information data and crunching number is relatively easy with low barriers to entry. Qualitative capabilities however demands substantial human resources, is time consuming and requires industry professionals with extensive experience of hedge fund investing, carrying out the due diligence. To have long term success in the hedge funds business its important to incorporate and establish a platform for qualitative due diligence and acknowledge its importance in the overall due diligence and risk management in the day to day running of the business. ■

It's Spring again!

Managed assets are back on track. Placement fund acceptance is on the rise among private and institutional investors alike. Things are looking good despite tough competition.

By Véronique Bühlmann

In 2003, the wealth of funds grew just about everywhere. This growth is fuelled by an increase in placement fund value as well an in influx of liquidities. In Switzerland, net income climbed to 13 billion francs, the amount invested in funds reaching a total of 429 billion (a 9% increase relative to 2002). This figure represents only 87% of the record-breaking highs experienced in August of 2000. But, nevertheless, it still adds up to an overall satisfactory performance (11% higher) when compared to the February 2003's all time lows. At 4 billion, net returns remain modest, but, as the Swiss Funds Association (SFA) notes, they are in actual fact slightly higher since certain funds have not yet been included in the current statistics.

CONSTRUCTION: THE BIG WINNER

Outside of monetary funds which have declined in wealth from 98 billion francs to settle at 92 billion, their market share reduced to 22% (a 3% decline), all other funds remained more or less stable in comparison to the year before. Therefore, as in 2002, the market share of debenture funds was 26%. Fund shares regained a portion of their former territory in 2002, but the increase in their wealth (over 8 billion francs) is due more to their performance than to the influx of new liquidities which only amounted to 2 billion francs. With a market share of 26%, they are still below the 32% they reached in 2001. Benefiting from the meagre returns from the bonded loan market, construction enjoyed a surge of some 3 billion francs to the extent that some had to temporarily freeze new subscriptions. At the end of 2003, they reached a total wealth of 19 billion which accounts for 4% of the total market volume of funds, a market share that has virtually doubled in just a few years.

A SWISS LEADER IN EUROPE

At the end of 2003, 3,852 funds were listed for public distribution in Switzerland, an increase by 186 units. The dominance of foreign funds, particularly those of Luxemburg remained clear as day (3,261 funds), but things seem to be changing. As the SFA remarked, "the increase in the number of funds is lower than in previous years.
This might be due in part to index saturation, but as a first logical outcome: all major European and American funds are listed on the Swiss market, spanning an array of funds.

The new European directive on funds does not anticipate cross-border mergers of funds. Similarly, the possibility of casting cost-creating providers beyond national borders remains restricted. That's the hard reality

Thus 703 foreign funds have been recently admitted, of which 517 have been pulled from the market". As the SFA concluded, "this suggests that different providers have revised their fund options and eliminated doubling."

The increase in Swiss legal funds is stronger than previous years: 91 units. The "new" Swiss legal funds are also as present as those of new foreign legal funds (95). This change may basically be explained by the creation of "other fund" products which, today, make up the majority of Swiss legal fund offers with a total of 340 units. Of this number, 51 units fall into "Other funds with particular risks". This is comprised almost entirely of Hedge Funds modelled after the fund's fund approach. In this arena, Switzerland has managed to take the position of front runner, at least within the European market."

On the whole, fund markets are heading in the right direction, with steady growth in their portfolios. Funds in portfolios of securities is 21% on average and tops off at 35% for foreign private clients as opposed to 28% for Swiss private clients. This also marks an increase among institutional clients (16% for local clients and 11% for foreign clients). The SFA therefore estimates that the growing potential remains significant.

EUROPE MUST RATIONALIZE ITS APPROACH

Following the Swiss example, Europe has enjoyed a similar progression: the wealth of funds in Europe increased by 9 % up to September 2003, representing 3.581 billion euros. But as the SFA notes, despite the implementation in February 2002 of the new European directive on funds, "business has hardly crossed national borders within Europe." It accounts for 400 to 500 billion euros or approximately 12% of Europe's total wealth in funds.

Currently, the 28,300 funds distributed in Europe represent some 900 providers which have their own wealth management departments and a large number of products. "If," writes the SFA, "these products do not receive massive amounts in the years to come, pressure to regroup them and rationalize lines of production will build up. Economic and political constraints seem to make inevitable a more driven push from a concentrated fund industry to a something more fragmented. The new European directive on funds does not anticipate cross-border mergers of funds. Similarly, the possibility of casting cost-creating providers beyond national borders remains restricted. That's the hard reality."

SUCCESSFUL DISTRIBUTION

In this fund network which is essentially doing well in terms of development of collective vehicles as a privileged instrument of wealth management showing strong trends and particularly an improved flexibility in management. But the trend towards transparency is undoubtedly the most significant development and will have the most profound influence over product offering. In this regard, the turn of events surrounding Threadneedle Investments is quite interesting. In late November, 2003, a year after the registration of its first funds for distribution in Switzerland, Threadneedle Investments announced the signing of an agreement with Fundlab, the interactive fund division of Credit Suisse. Christian Pellis, regional sales director to Europe, and explained that, "For a few years now, the third-level distribution networks have been playing an increasingly important role in Threadneedle's strategy. Clients and there advisors demand a wide range of products and these distribution agreements provide an excellent means of accessing a diverse array of products. Our objective is to establish a strong relationship with all our distributors, and to offer them first-class service and sales support." Recently, a study conducted by the FERI Trust placed Threadneedle among the top 10 in Europe for investment fund distribution.

This example seems to indicate that even if business is not yet booming across borders, it is active in addressing the rationalisation needs of promoters and the demand for better management results. Indeed, the steady improvement in information technology sectors and the provision of high-performance fund selection media, which is evident in the placing of a new analysis and fund marketing software on Standard & Poor's "Fund Insight", can only increase the selective nature of demand.

THE FUND'S FUND'S FUND…

The transparency and improved selection process are opening doors to the creation of a wider assortment of fund funds. In order to minimize risk, these were formerly used mainly in hedge funds, but they are becoming more and more popular in traditional management as is the case of World Gold Expertise Fund OF Lombard Odier Darier Hentsch & Cie, lauched in September 2003. With this multi-managerial product, the promoter presents itself less as an expert on a given fund, and more as one capable of selecting the best managers in that sector and blending their different investment styles in a manner that will ensure reliable returns on investments. LODH pushed the multi-management reflex relatively far as it also placed one of the best hedge funds on the market, an F3. In this case, organization follows the guidelines of alternative management which, in order to perform well, must often limit its scope to the exploration of specific niches. Consequently, if the F3 reaches a certain volume it must have a body of managers adequately diverse in background to not influence their performance and to not alienate itself from niche products. Furthermore, if demand requires rather short reimbursement and purchase deadlines, through its flexibility, the F3 structure is able to address this need.

While a certain number of products make up the best of breed category, for example management firms having recently received an award – further resembling standard marketing products made exclusively by funds obtained after qualitative assessment – have enjoyed a certain degree of success among the most risk-free sectors of clientele. According to estimates by the Schroder group, it would seem that fund's fund market should grow from 30% to 40% until 2007, which suggests assets in the order of 700 billion euros. These encouraging figures are not surprising in light of the fact that S&P Investment Services is about to propose its own selections of fund's funds to investors.

ALLOCATION OF SECOND GENERATION ASSETS

But the multi-managerial structure is not necessarily synonymous with external management firms. The inconveniences resulting from market difficulty in passed years encouraged the demand for products capable of generating absolute value, meaning clear returns such as Libor, plus an additional percentage. To achieve this, within an asset group, the manager allows itself a certain degree of freedom to play with subcategories. The first of this type to enter the Swiss market was Core-Plus debenture funds of Clariden bank. Invested at at least 60% in investment grade bonds, the funds can draw from other sectors of the bond market, particularly high yield bonds, asset backed securities, emerging debt, convertible bonds, or use hedge funds. Each division will evidently be managed by specialists of that sector, both within and without the bank. Strong in the bond industry, the bank launched the Total Return Fund which targets positive returns in 12 months, regardless of market conditions. The fund can invest up to 60% of shares but it may also invest as much as 40% in alternative investments (hedgefunds or construction with 20% on each) or go as high as 100% in fixed

rate options. These products that offer absolute returns – such as inflation plus 5% as on the British market – may be considered to be asset allocation funds and will be privy to a larger scope of investment opportunities. Indeed, traditional asset allocation funds are generally limited to shares, bonds, and money markets, and have had a marginally flexible geographical allocation. In these new products, the range of markets (such as construction, commodities, and foreign currency) and management styles (value, growth, hedge funds) is significantly broader with more dynamic asset allocation options.

In this highly innovative framework, the question of fees attached to funds seems to become a secondary concern when one notes that a number of new hedge funds are renouncing the attachment of price to performance. The increased access to index resources such as the Exchange Traded Funds is anything but foreign to these new developments. ■

By Véronique Bühlmann

Sarbanes-Oxley Act: if you can't beat them, join them

By Mohammad Farrokh

As the Enron story is being reenacted once again with the Parmalat scandal, it is high time to highlight the consequences of such affairs on the supervision of multinational companies. These are by no means minor, and only the smallest firms will be spared, inasmuch as they operate at local level and keep off financial markets. For all the others, the Enron affair has launched a process which is far reaching, even though it is still somewhat too early to fully account for the ripple effect this will have on European firms. The direction however to which the changes point is unmistakable, and that is a widening of the scope of efforts being made to reinforce international supervision of audits. "High quality accounting principles and the availability of high quality audits of public companies is critical to the proper functioning of securities markets and the protection of investors", reads a press release issued on February 5 by IOSCO (International Organization of Securities Commission). The previous day, the standard setter and cooperation forum, had just inaugurated its new Madrid Headquarters. In this context, the Parmalat affair is actually turning out to be a good thing for the US Securities and Exchanges Commission (SEC), to make the case for increased supervision more acceptable on this side of the Atlantic. Indeed, the SEC has seized the opportunity to strengthen its position in the framework of IOSCO, which has announced the setting up of a task force to be led jointly by SEC and the Italian Consob to "review implementation of existing standards, including current mechanisms for international cooperation". This emphasis on international cooperation may be seen as a welcome departure from the unilateral approach which the US administration has adopted following the Enron scandal.

In the aftermath of the Enron affair, the US Congress has passed the Sarbanes-Oxley Act (SOX) which is widely regarded as the most significant audit and corporate governance reform in recent history. What makes the SOX a landmark legislation is also that it is meant to be applicable outside the United States. It took some time following the enactement of the SOX by US Congress in July 2002 for the international financial community to fully comprehend the implications of the Act. Arguably, enforcement of such regulations beyond the borders of the US may be regarded as an improper extension of US law to non-US companies. The rippling effect of the law is still being felt on both sides of the Atlantic, while certain compliance dates are pending on the agenda. Thus, non-US issuers that are listed in the United States will have until July 31, 2005, to comply with the new listing rules written in the SOX. The very fact that final rules apply equally to US and non-US issuers mark a significant departure from existing practice in that US agencies had not previously sought to impose corporate governance standards to European companies. Actually, the SEC, which is responsible for the implementation of the Act, may exempt non-US companies from certain of its provisions, and it has moved to do so to some extent. In 2003, the SEC has created a new government agency to oversee the implementation of the SOX, known as PCAOB (Private Companies Accounting Oversight Board) which has now largely taken over dealings with non-US companies and government agencies. Never mind the sovereignty of other States, no less than full compliance with American supervisory authorities will be required from those European firms falling within the scope of the Sarbanes-Oxley Act. However, the SEC has shown some responsiveness to potential conflicts of jurisdiction arising from an undiscriminate enforcement of Act. Thus, non-US issuers are encouraged to bring to SEC's attention rules which stand in potential conflict with their home jurisdiction. The SEC has namely made known that it was ready to permit non-management employees to sit on the audit committee of a foreign private issuer if they do so pursuant to home country legal requirements. The allusion to German companies, whose personnel must as a rule be represented on such committees, is obvious even if it has not been made in an explicit way. This willingness to compromise on minor issues may also be regarded as a token response to at least one German company which had hinted at a possible delisting

of its shares. This option, however, is rather theoretical given dissuasive procedures applicable to such cases under existing US markets regulations which make a delisting hardly practical.

There is no detracting from the fact however that European accountants and auditors failing to abide by the rules laid down in Washington will be liable to severe penalties under the Act. Now, it is critical that all investors and companies based in Europe familiarize themselves thoroughly with the SOX. In effect, the scope of the Act is not limited exclusively to those non-US companies whose securities are traded publicly in the United States. In certain circumstances, many if not all European firms are liable to be subject to what is termed as "general principles of extra-territorial jurisdiction". These principles, which are applicable in particular to antitrust situation, should lead to renewed attention to document preservation practices. Failure to do so may result in severe criminal penalties, including a prison term up to 20 years. Other companies, namely in the insurance sector, have spontaneously chosen to abide by SOX rules, in view of possible litigation with US-based clients.

Even though nearly everybody in the European corporate world is potentially concerned with the SOX, auditors are still those mostly at risk. Among them uneasiness at the prospect of being directly liable to US law is widespread albeit muted. It is not yet known whether envoys acting on behalf of the PCAOB will actually make sure that US regulations applicable to European companies are respected. But the drive for compliance will be stronger inasmuch as Europe has clearly signalled its intention to follow the lead of the US and enact equivalent legislation. Incidentally, the generalization of SOX like procedures should result in considerable increase as far as auditing costs are concerned, by about 30% based on experiences already been made by American companies.

This equality under US corporate governance principles should not obfuscate the gap still existing between the two sides of the Atlantic. Such differences are obvious in the field of accounting standards which are still wide apart, although there are signs pointing towards some sort of prospective convergence. In this perspective, International Accounting Standards (IAS) have been reworded in 2003 to be designated as International Financial Reporting Standards (IFRS), which is more than a mere cosmetic move. The idea is allegedly to pave the way for a subsequent merging with the US GAAP. This may not prove easy, allowing for the differences in approach between the two accounting systems, the latter being very much a set of mandatory regulations, while IFRS – which will be generally applicable to European companies as of 2005 – are rather viewed as guidelines, however elaborate. ■

By Mohammad Farrokh

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ANASF
(Associazione nazionale promotori finanziari)

Elio Conti Nibali, President of ANASF

ANASF (is the main professional association which represents the Italian financial advisors with 12,000 members. The Association was founded in 1977, by financial players (called financial advisors), with the aim to obtain the acknowledgement of the profession through the creation of a National Register. A first, partial recognition came in 1985, through the emanation of the Consob (Italian Security Regulator) Regulation on the solicitation of the public saving, outside the offices of the banks. From then, the engagement of ANASF always has addressed to the awareness of the Institutions and the savers on the importance of a public Register.

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In October 1988, the Congress of the Association instituted the "Register of Self-discipline of the financial advisers", that represented the first step towards the officialization of a code of behaviour (Code of Ethics) for the professionals enrolled.

1) AIMS AND ORGANIZATION OF THE ASSOCIATION

1.1 Aims:

A) to protect the moral, professional and financial interests of promotori finanziari by promoting the image of the profession in the eyes of the investors, institutions and the public opinion in general;

B) to provide members with advice relating to problems and disputes which concern their professional activity;

C) to promote training and refresher courses

for members and the creation of specific degree courses in preparation for the profession;

D) to promote forms of coordination and cooperation with the organizations that represent other financial market sector workers on a national, European and international level;
E) to promote a single European Public Register of sector workers with a common code of conduct, which allows members to work on the basis of reciprocal recognition.

1.2 Organization of the association
The organizational bodies of the ANASF are defined in the articles of association (art. 7).

The supreme body is the National Conference, which represents all the members of the association and consists of elected delegates.

The National Council consists of 25 members and is elected by the National Conference from among the delegates.

The National Council nominates the Chairman of the Association, two Deputy Chairmen, the Treasurer and the other five members of the Executive Committee.

The members of the executive committee are in charge of specific areas. At present these areas are: Decentralization, Evolution of the Profession, Foreign Affairs, Training, Organization, Development of the Association and Fiscal Aspects.

Regionally, the ANASF is divided into Committees consisting of between 5 and 15 committee members according to the total number of members in the region.

Another organizational body of the association is the Board of Arbitrators, which is in charge of checking compliance with the self-regulatory code of conduct for promotori finanziari and deals with sanctionary procedures in the event of breaches of the code.

2) WHAT A PROMOTORE FINANZIARIO IS

A *promotore finanziario* is the only savings industry sector worker authorized to meet investors outside banks, stock brokerage companies or investment management companies, and offers financial instruments and investment services. To practice the profession, the promoter must be registered in the national public register of *promotori finanziari* kept by Consob.

The promoter is a professional able to offer investment advice aimed at helping customers choose the financial products and services

Your Global family office in Geneva.
info@tmp-sa.com
The place to be.
TM & PARTNERS SA

Aldo Varenna, Head of International Relations

which meet their requirements: after analysing the customer's investment needs, the promoter proposes suitable solutions from among those offered by the firm they work for, takes orders for the investments, delivers the documents involved, and receives the money to invest. After this, the promoter periodically reanalyses the customer's financial situation and suggests suitable changes according to market trends or the changing needs of the customers themselves.

The single national public register of promotori finanziari was set up for the first time by law No. 1 of 2 January 1999.

In order to remain in the register, promotori finanziari are required to pay an annual sum to Consob known as "supervisory dues". Deletion from the register may be ordered by Consob on the request of the promotore finanziario him/herself, if one of the requisites for registration is lost, if the supervisory dues are not paid, or due to striking off.

The professional qualification exam is presently held by Consob three times a year. It consists of a series of questions which have to be answered in a fixed time (30 minutes) and an oral interview, which only the candidates who pass the written test have to face.

3) ADVANTAGES AND SERVICES FOR THE MEMBERS

The ANASF covers all the aspects which revolve around our business: safeguarding the figure of promotore; the need to promote the advisory aspect; the association's considera-

> **A *promotore finanziario* is the only savings industry sector worker authorized to meet investors outside banks, stock brokerage companies or investment management companies, and offers financial instruments and investment services**

The Milan Stock Market

tions during positive and negative market phases; presence in the debate concerning financial service costs; and safeguarding investors as valuable assets to defend.

The association offers its members several services and opportunities. In particular, it provides advice on the subject of social security through a well-known expert manager of INPS (the Italian Public Social Security Body), who gives opinions and offers advice on the subject of pensions. Another of the services offered is fiscal advice and, lastly, legal advice.

Moreover ANASF members may also obtain several discounts thanks to agreements the Association has stipulated (such as those with travel agents and for advanced trading programs). Lastly, in the part of the www.anasf.it site reserved to members, there are several tools useful for the daily work of promotori finanziari.

Through its means of communication (web site, PF and PF News, monthly inserts in Milano Finanza, press releases, articles in the main Italian sector newspapers, and participation in programmes and interviews on sector radio and television), the association mainly pursues two aims: to defend the image of *promotori finanziari*, and to spread the professional role that *promotori finanziari* play and their attention to the safeguarding investors.

4) ANASF IN EUROPE

The Association's re-launched foreign commitment goes in the direction of an increasingly more effective and concrete lobbying action, through renewed commitment in the Fecif (European Federation of Financial Advisers and Financial Intermediaries), consolidated relations with other European professional associations and participation in internationally important events which ensure benefits for members in the medium-long term. ■

The ANASF also believes it is essential to proceed along the road towards pan-European certification. In fact the Association had already realized this in 2002, when it set up EFPA Italia, which has since then certified several *promotori finanziari* with the title of Financial Adviser and Financial Planner.

A GROUP OF PROFESSIONALS

… WHICH CULTIVATES QUALITY
WITH PATIENCE AND WHICH REINFORCES ITS
PRINCIPLES WITH CARE …

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DFP – first mover in setting standards for financial planning in Europe

Rainer Juretzek, President

SUMMARY

The “Deutsche Gesellschaft für Finanzplanung e.V. (DFP)” was founded in 1995 to establish a professional profile and develop quality standards for financial planning in Germany. By developing the Professional Profile for Financial Planners, the Code of Ethics, the Principles of Financial Planning and the 5 Phases of Financial Planning the first recognised market standards could be established. The DFP is member of the Fédération Européenne des Conseils et Intermédiaires Financiers (FECIF)

I. HISTORY

Financial advisers and people brokering investments or insurances – even if they give good advise – have one of the lowest reputations of all professions with respect to qualification and moral standards in Germany. Only recently even banking institutes have lost their former higher reputation due to negative media news. They were accused to either insufficient capability or the unwillingness to give customised advice.

In 1995, the desire of a small group of qualified financial planners to change this unsatisfactory situation, led to the foundation of the Deutsche Gesellschaft für Finanzplanung e.V. (DFP). It was clear from the outset, that only an interdisciplinary approach could prove successful. This was consequently mirrored in the founding members which come from the banking sector, independent financial advisers/planners and respective companies, tax and legal advisers, and researchers from the academic world. In the following working committees two-third of the financial planning market in Germany at that time were present.

In 1995, the desire of a small group of qualified financial planners to change this unsatisfactory situation, led to the foundation of the Deutsche Gesellschaft für Finanzplanung e.V. (DFP).

It did not take long until the next step was to be taken. As Europe is more and more integrating, a co-operation on European level is the natural next step. Therefore in 1997 the first agreement of co-operation was signed with the Chambre National des Conseils Expert Financiers (CNCEF) Paris. In the following year 1998 DFP was – together with the European Academy for Financial Planning (EAFP) – one of the main engines for the development and the foundation of the European Financial Planning Association (EFPA) in December 2000.

When institutions with exclusively close ties to the banking sector became dominant, the members of the DFP moved forward to found the European Federation for Financial Professionals (EFFP) as an independent certification institute for qualified financial advisers and planners irrespective their origin, be it banking, insurance, independence or anywhere else – *working in close co-operation with CIFA and FECIF*.

II. STANDARDS FOR FINANCIAL PLANNING

The DFP has developed within 18 months after its foundation the following standards for qualified financial advise and planning:

Professional Profile of Financial Planners
The financial planner is obliged by the professional profile to carry out financial planning conscientiously and to the welfare of his or her client. It defines minimum requirements for educational and professional training and the professional experience. It defines the way to behave as financial planner with respect to professional subjects and describes the main areas of activity for financial planners. Additionally it calls for a continuous vocational training.

Code of Ethics for Financial Planning
They give the ethic rules for the profession, as we have

- **Integrity and Confidentiality**
- **Objectivity and Neutrality**
- **Competence and Professionalism**

Principles of Financial Planning (GOF),
In 7 principles it is defined how a state-of-the-art financial planning has to be carried out:

Completeness
– the client's data have to be complete

Holistic
– the client's parameters are to be linked with exogenous economic, socio-economic, and tax parameters

Individuality
– a financial plan must mirror the client's individual situation

Correctness
– a financial plan must be calculated correctly and the assumptions must be plausible

Understandability
– a financial plan has to be understandable for the client

Duty for Documentation
–a financial plan must be in writing in order to make a check of the calculations and results possible

Compliance with Code of Ethics

5-phases of financial planning
5-phases of financial planning describe the whole process of financial planning:

Placing of order
defines which questions have to be answered before an order of the client finally is placed incl. payment schemes

Data collecting
defines which data are necessary for the development of a financial plan and respectively which have to be collected

Analysis and planning
defines how a financial planning has to be carried out (contents, processes, assumptions), arguments for recommendations

Documentation
includes information about which data have to be stored in writing.

Up-dating
includes the necessity to keep the financial plan up to date and to use it as a tool for continuous customer relationship

All these principles are accepted standards in the financial planning industry in Germany.

III. FURTHER ACTIVITIES OF DFP

Media-information
DFP offers information for media especially if expert knowledge is needed.

Customer Information
Customers have the opportunity to ask DFP for financial advisers and financial planners. The DFP provides a national network of experts in all areas of financial planning. These information can of course be used by members and customers as well. Furthermore DFP develops informational material that helps customers to distinguish qualified from not qualified advisers and planners.

Promotion of Research
DFP supports research activities in the area of financial planning by announcing a competition. The focus is on promoting doctoral theses and examination works, that give new insights into financial planning. The fact that there is no comparable research competition for financial planning, highlights one of its main problems. Financial Planning is not a scientific discipline but grew up in the industry. Therefore we lack a scientific basis to fall back on. To build up this founding will become one of the tasks of DFP in the close future.

Professional Association
As professional association the DFP represents the financial planners in Germany against private and governmental institutions. In 1998 DFP was furthermore involved in the design of the Chartered Expert for Private Investments and Financial Planning by the Chambers of Commerce. It is represented in the hearings of the German Financial Regulation Authority (BaFin) and at the Chamber of Commerce with respect to questions of vocational training for financial service industry. Currently DFP makes its contribution to legal developments, i.e. the transfer of EU-directives in national law, in order to guarantee an adequate regulatory framework for financial planners and advisers in Germany. ■

The Chamber of Industry and Commerce and the Stock Market of Frankfurt/Main

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The French Asset Management Association (AFG) at a glance

An interview of Pierre Bollon, Director General

Who are the members of the AFG?
The Association française de la gestion financière (AFG) is the professional organisation for the third-party asset management industry. It draws together all companies involved in the management of portfolios and French OPCVMs (i.e. collective investments in transferable securities, the French term for UCITS or mutual funds) and therefore covers both investment funds and individual portfolio management. The clients of AFG members include both private (retail) and institutional investors. The French management market is very advanced. It leads Europe in the field of investment funds (over 1,000 billion Euros) and ranks among the world's leaders in general asset management (1,600 billion Euros). Major management companies, often members of banking or insurance groups, are joined by vast numbers of entrepreneurial companies and, of course, foreign groups' subsidiaries. Among them are Swiss managers, very present throughout history, who have grown in number and importance over the last few months. They are welcomed with open arms!

Can financial advisers become members of the AFG?
No. Our association only includes companies approved by the Financial Markets Authority (AMF) to act in individual portfolio management, an activity that is the monopoly, alongside banks, of course, of companies specialising in the management of portfolios or OPCVMs. Management companies are subject to very strict regulations: prior approval, recourse to a custodian/depository, means obligations, stringent controls… It is the price they have to pay for their fiduciary responsibility!

Consultancy activities are federated within other associations, which whom we meet reg-

> The clients of AFG members include both private (retail) and institutional investors

ularly for work meetings and maintain excellent relations. This clear distinction between management/consultancy is, I think, less strict than in other countries, notably Switzerland. But the rules governing consultancy and, more globally, marketing, are they not constantly changing?

Yes, and largely on our own initiative. We should distinguish between these two points. With regard to marketing, the main issue is to better clarify responsibilities. Let us take a concrete example. If a well managed equity fund is sold to an investor in need of a short-term investment, the manager should not be in a position where his liability may be incurred, that is to say if this latter is not in effective control of the marketing network at issue. The danger, one that is present throughout Europe and across the Atlantic, is that the disappointed client, and therefore the courts, is going to automatically go for the 'deep pocket' in cases of misselling. This situation is ultimately detrimental to the investor since it limits commercial dynamism and therefore competition.

Another just as essential and intricately interwoven factor is the issue of the independent financial adviser. This activity, although it is witnessing a growth, is all-too underdeveloped in France, where the banking and insurance networks account for nearly 95% of the distribution of OPCVM funds. For this reason, together with the advisers' associations, we have pushed for the creation of the status of 'financial investment adviser', as established by the Financial Security Act of August 2003. We believe that this profession will develop in leaps and bounds over the next few years, mainly because savers' confidence in the profession will have grown as a result of these regulations and because the latter will necessitate membership of an association recognised by the AMF, continuing education, civil liability cover, etc…
These efforts must now become widespread at European level.

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Can you give us a few concrete priorities for the future?
The first is clearly to continue to deserve the confidence that our clients place in us, be they retail or institutional investors.
To achieve this, the management industry must go on bringing them added value. This latter is based essentially on its professionalism and relies on its transparency and integrity.

To conclude, I would like to emphasise two points:

- The first concerns innovation. This constitutes the heart of the financial management industry. We must not allow the trend for regulations that is steadily taking hold throughout the world to eclipse the permanent contribution made by university ('academic') and applied research, a field in which France is, in fact, very well placed. We should clearly encourage not only new, or so-called 'alternative', management techniques, but also refinements in terms of asset allocation, for example. We should encourage the founding of entrepreneurial companies (beware the risks involved in the introduction of excessive minimum capital requirements…) and the constitution of powerful European groups.

- The second point, need we say more, is the need to apply pressure to costs and push for the swift introduction of the European management market. For some countries this will mean abandoning their specialist fields, be it tax affairs or the protection of the domestic market, and therefore making certain sacrifices. However, this is the only way that European management companies will be able to rely on the scene of world affairs. The greatest Swiss, French, German, Italian, Spanish managers must be able to continue to develop in future alongside the many small companies in existence…

As you will note, all these topics fit neatly in with those that will be broached at the 2nd international CIFA forum! ■

Advantages for Independent Investment Management of using a Universal Bank with a multi-local presence

Driven by the bull-market years and the growing success of their personalised service, Independent Financial Advisors (IFA's) have multiplied alongside bank restructuring. They now occupy an important place in the Swiss wealth-management industry with around 12% of the market. Nevertheless, Independent Investment Management has not been spared by the fundamental changes taking place in the financial world. On the contrary, new control requirements and the increasingly technical nature of investment management impose ever higher expenses on these often small entities. The industry has assessed the extent of the investments required and the highly heterogeneous independent investment management universe is changing rapidly through disposals, mergers and specialisation of IFA's in more structured companies.

IFA's are carrying out this consolidation efficiently and with their usual reactivity and pragmatism, strengthening the services provided to their increasingly demanding and well-informed clients.

Crédit Agricole Indosuez (Suisse) SA has specialised in wealth management in Switzerland for over 50 years. Its objective is to provide its IFA's clients and their own customers with the strength and range of capabilities of one of the world's leading banks, over and above the basic custodian-bank services. Present in Geneva, Lausanne, Zurich, Lugano and Basle, its specialised staff are reactive and have developed strong relations with their IFA's, delivering a top-grade service on transparent and competitive terms. This service is supported by efficient systems and experienced account managers capable of putting together tailor-made solutions to suit clients' needs together with the support of a full-range of experts in fields such as Real estate, Financial engineering, Investment funds, Estate planning services, Commercial banking, Foreign exchange, Advisory & structured products, Fund services, Global custody, etc.

In addition to your own expertise and valuable relationship, your banking partner is there to bring you the specialist's answer that will be, at one point or another, critical to your client's success. ■

Jean-Pierre LAGANE
Head of Independent Financial Advisors at Crédit Agricole Indosuez (Suisse) SA

Property investment: beyond the "coup de cœur" and friends' advice

"French Riviera: charming, tastefully decorated villa with stunning sea views from its huge terrace…".
One day or another you may be captivated by such an ad, the start of a dream you will want to share with friends and relatives. Everyone will have their own opinion and give the best advice. But the dream may become a nightmare, from trying to choose the right property through to the final stage of going through the legal documentation and all the covenants. Property investment involves rearranging your assets and may be concluded successfully only with support from the appropriate specialists such as your account manager or your private banker.

Bear in mind that buying your main property is one thing, but investing in a second home or a property to let - especially abroad – is quite another. The market, legal framework, financing and costs - and even the language – may be completely different! Except in very special circumstances, such a decision needs careful forward planning.

Just forget your best friends' advice, before you fall out with them. For a standard, or even quite a large investment, there may be no point in setting up complicated legal structures, which only generate annual costs often without really avoiding financial and tax charges. No one is in a better position than your lawyer and/or your private advisor to consider all the ramifications of such an investment on you, your family, your other

Dominique ROBIN
Financial Engineering / Real Estate Dpt
at Crédit Agricole Indosuez (Suisse) SA

plans… and your asset allocation. Last but not least, they can advise on the tax implications, from the date of exchange of contracts through to final disposal of the property, and ensure the correct tax returns are completed and that all aspects of the law are observed. On the basis of a rational assessment, the ownership structure needs to be defined in advance (direct ownership or through an appropriate legal structure such as an SCI – a non-trading property investment company – in France) and the financing finalised with the appropriate arbitrage between cash and mortgage loan, bearing in mind the financial charges and the spread of your other assets.

The next step will be to define the investment criteria (where, what and why) to identify as precisely as possible the preferred property (location, budget, objectives, etc.) and focus the estate agent and/or chartered surveyor's search. Once a property has been identified, proper due diligence must be carried out to ensure you are aware of any potential problems, before coming back to your banker and lawyer to finalise the transaction.

It is worth bearing in mind that the cost of initial studies and structural surveys is nearly always lower than the cost of rectifying problems subsequently… and can save much future heartache.

A property investment is generally made on a long-term basis with an objective of asset diversification and to protect capital to be eventually transferred to your heirs. These factors will be taken into consideration in the initial survey with your financial manager and your private banker. You may spot your "coup de cœur" tomorrow when reading your newspaper or during your next holiday. Be ready for it and in a position to negotiate a good deal while preserving your interests and optimising the management of your assets. ■

Structured Products: A Deterministic Tool for Asset Management

Recent years have witnessed an exponential growth of investment structured products. Once reserved to institutional investors, they have now become readily accessible to private individuals, wealthy or simply affluent. This evolution has given rise to a paradox: in many countries, retail investors are being proposed, through distribution networks of large banks, structured products with a high degree of complexity, sometimes disconnected from any economic scenario or even from any rationale investment strategy.

We believe that going back to basics can help use structured products for what they are good at: giving access to a selected pay-off profile in a deterministic manner, i.e. without the interference of error-prone humans. Before proposing a structure, we always ask the following questions. How different from the market's anticipation is the view of the investor? Is he/she looking for a return or for a capital gain? What is the level of risk aversion? Or, in other words, how necessary is a capital protection? In view of the investment horizon, how much important is the market timing?

The art of the product designer is to find the one pay-off and time profile that will answer best all these expectations. Our experience tells us that "simplicity is of the essence". First of all, simple structures are very often the best performing, even if they could appear initially less attractive (for God's sake, lets try and stop hiding structuring difficulties being "casino" style convolutions!). Then, most will agree, rarely a multi-layer intricate formula will translate a well formulated strategy (bells and

Frédéric LAMOTTE
Head of Advisory & Structured Products at
Crédit Agricole Indosuez (Suisse) SA

whistles tend to reduce option costs but at the same time limit the return that can be "reasonably" expected). Finally, but not the least, we are very adamant that simplicity is key in secondary market transparency and liquidity. Structured products are there to stay because they provide an efficient answer to specific anticipations in a risk-controlled framework. And like an architect designing a home, we should always keep in mind a founding principle of modern finance: the "size of a dream" is always commensurate with its probability to become reality. ■

A new direction for Private Banking activities with very wealthy clients?

One may ask if Independent Financial Advisors (IFA's) and Private Bankers should change their approach to dealing with high net worth individuals (HNWI's)?

At Crédit Agricole Indosuez (Suisse) SA ("CAIS") we believe we should, and have already pioneered such a change.

We think that very wealthy customers must be served by a dedicated and experienced team of professionals that combine a dual expertise in private wealth management and corporate & investment banking. Such an approach is we believe the key to future success.

This new trade must add value and requires a global financial expertise which can be obtained from the combined efforts of a universal bank and IFA's. Such "dual expertise cross fertilization" to be carried out within the Swiss Private Bank would fit well with the behaviour and investment needs of the HNWI class of pro-active clients who participate actively in the management of their wealth.

Very wealthy clients seek a broad range of advisory services and alternative asset classes that will properly address the needs of their overall wealth. Some may also wish to source into various forms of fresh equity capital to be raised through private placements, and for this reason we feel that this class of HNWI's must have access to not only co-investment opportunities in exclusive deals, but also to sophisticated advisory services as well as new capital sources.

This concept will cover a broad scope of deals such as – private equity, including capital development transactions, asset structured finance, LBO and LMBO, real estate investment proposals – and of banking services, such as M&A advice, asset disposals, private placements, acquisition finance, tax and estate planning.

Obviously, such a change in strategy requires careful diligence as to the suitability of both the business proposals and the customer profiles. Both IFA's, and private & investment bankers need to better understand the investment strategy and the overall financial needs of their very wealthy clients.

Such a client-focused strategy targets the very wealthy customers, family offices and multi-family offices and entrepreneurs, who are directly involved in managing their financial affairs. IFA's who are often close to HNWI's, family offices and entrepreneurial businessmen, will create value if they can successfully implement such a dual expertise when marketing their largest customers.

This strategic change in the terms of private banking for very wealthy clients creates a potentially new area of co-operation between IFA's and the bank with the objective for IFA's to acquire additional private assets and to create greater added value for this HNWI class of private customers. This new direction for conducting private banking business by IFA's with their very wealthy customers is already underway. ■

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The role and importance of European IFA

Recent research supports the view that the role and importance of European Independent Financial Advisers (IFA) firms in the distribution process will expand quite dramatically over the coming years.

By Vincent J. Derudder

The European public will become more used to the idea of independent advice and the accessibility of new products and this trend will be complemented by the political movement to a Single European Market in Financial Services.

IFAs retained between 30% and 56% of the investment market in the major European member states.

In 2004, IFAs will collect worldwide more than US$ 300 billion worth of fees on the "mass affluent" individual customer segment with liquid assets between € 100,000 and € 1 million.

The European intermediary community includes approximately

- 250,000 private individuals exercising this profession as a main occupation (representing approximately 40,000 legal entities),
- About 150,000 are members of national professional associations (38 at today's count).

Country	% of Savings Funds
Great Britain	56%
Belgium/Netherlands	51%
Germany	36%
Scandinavian Countries	35%
Italy	34%
Spain	30%

The professional activities of advice and mediation are today penalised by extremely constraining regulations, the soaring cost of compliance procedures, the development of new technologies, and the demands of a generally distressed and ill- informed clientele.

CUSTOMERS

The end customers of the average IFA are middle class business- and professional people who do not manage their own money but are below the levels required for private banking services. Typically they would be investing between € 50,000 and € 250,000 as a lump sum to commence a personal pension or a life policy. Often they will have to reinvest the proceeds of a tax-driven investment that has matured.
They are often professionals and company directors who wish to make additional savings provisions in a tax efficient manner, often wishing to place funds with an international rather than local organisation.

We estimate that there are 30,000,000 such investors in Europe. A large proportion of them mistrusts the ability of their government to provide them with a decent retirement.

MARKET SUPPLIERS

Over the last 25 years, an increasing number of financial institutions have come to accept the growing importance of cross-border sales activity in Europe.

For some, whether life companies, fund groups or banking operations, this realisation has led to activities in just one or two target countries (Clerical Medical, Scottish Mutual).

Country	Number (Private individuals)
Germany	100,000
Great Britain	40,000
Italy	35,000
Spain	20,000
Switzerland	6,000
France	3,000
Luxembourg	3,000
Greece	3,000
Baltic states	3,000
Netherlands	3,000
Belgium	3,000

For others, the experiment has been more diversified. In recent years, some institutions have gone so far as to establish separate subsidiary companies that have been specifically set up to promote and trade Financial Services related products on an international basis (Hansard, Flemings, Prudential).

Others have made strategic investments in operations that appear to offer a developing distribution base (Aberdeen Asset Management, Lombard, Kleinwort Benson, Scottish Life International).

IFA ORGANISATIONS

Comparatively few IFA firms operate internationally. A handful of Anglo-Saxon IFA groupings are working to develop new agent outlets in more than one European country (such as DBS in Germany) but these tend to be focused on expatriate clientele. Inter-Alliance, an UK-based network listed on the AIM market of London has recently acquired an operation based in Cyprus.

IFA firms have been the targets of large international groups such as Deutsche Bank, and Dexia ("Rekord" in Germany and "Financière Exelmans" in France are amongst the acquisitions of this group) acquiring IFA firms for cash at a multiple estimated to be closed to 8 times EBT.

However, the European Commission has launched consultations to seek the views of industry and other interested parties on the future regulation of financial conglomerates (i.e. single financial entities that offer a range of financial services such as banking, insurance and securities). In the opinion of the Commission, the objective of one wholesale financial market and open and secure retail markets cannot be achieved without state-of-the-art prudential rules and supervision. The phenomenon of financial conglomerates has grown fast and although specific prudential issues are being discussed separately in the banking and insurance sectors, the continuing trend towards closer corporate links between financial institutions across sectors and across borders gives rise to new concerns that require new legislation.

As a matter of consequence, Deutsche Bank has already announced that it will sell in a very near future all its non-core business participations in insurance and distribution ("Allianz", etc.).

In an unrelated issue, Prudential, the largest UK life insurance company, is going to reduce its sales force in the UK by 2,000 jobs during the year 2001, to concentrate on independent distribution and has closed its French operation.

EUROPEAN COMPLIANCE ISSUES

The formulation of European legislation for financial services, whilst being done for the protection of consumer's interests must be applicable without pointless restraints for practitioners.

It remains a hard task for the European Commission in view of, amongst other things, the paltry enthusiasm of national civil servants, based on their narrow view of society, for anything that might represent the slightest change in their little practices or privileges.

The "time bomb", which in the very short term is constituted by the pensions problem, reinforces the political need to attack the ensuing problems sooner than later, even if the politicians are showing a certain reluctance for European harmonisation of legislation, that would take a more liberal direction, and be more genuinely concerned with consumer interests, than certain national administrations might wish.

The failure of the state pension systems will open unprecedented prospects for European financial advisers and intermediaries called upon to assist the anxious consumer in the right choice of options and alternatives for the sound management of his or her inheritance.

However, the lack of training and organisation of certain financial advisers and intermediaries can create problems and the industry must tackle the provision of quality training courses and ensure assistance for adviser and intermediary integration, in close co-operation with its national member associations.

European Union legislation is broadly designed to create a "level playing field" throughout the financial service arena. In reality, however, many "local" hurdles continue to exist and this often frustrates the operating activities of foreign product suppliers – despite the fact that national (basic) product requirements are consistent throughout the continent.

Compliance issues and operating (marketing) restrictions across continental Europe vary from country to country.

Despite these gaps and niche opportunities certainly surface on a regular basis throughout Europe. Local "knowledge" and advice are essential in the monitoring of local legislation, the identification of opportunities and any subsequent introduction of products to promoters and distributors.

The EU proposal for a comprehensive legislation not only deals with insurance intermediaries but also with the more general issue of information to be given to the client when selling insurance contracts. This issue is critical, as the EU wants, (and the action plan requires it), to elaborate a "consumer-focused" legislation. However, potential policyholders should be equally informed, regardless of the nature of the provider that they deal with.

Regarding the life sector, the current proposal simply specifies the information to be given regarding surrender and paid-up values.

Finally, the proposal tries to define what information as to his status should be given by the intermediary and what should be disclosed by the insurance undertaking.

EUROPEAN PENSION AND INVESTMENT MARKET

The European pensions and personal investment market is undergoing a period of rapid change. The financial pressures of an ageing population combined with governments'

Country	Population in millions	Value of pension assets (€m)	Pension assets as a % of GDP	Pension assets per capita (€000's)
Belgium	10,2	24	11%	2
Denmark	5,3	145	84%	27
Finland	5,1	39	35%	8
France	58,0	93	7%	2
Germany	82,0	303	14%	4
Italy	57,4	89	7%	2
Netherlands	15,6	490	127%	31
Norway	4,4	34	233%	8
Portugal	9,9	10	9%	1
Spain	39,3	21	4%	1
Sweden	8,9	110	66%	16
Switzerland	7,1	282	117%	40
UK	59,0	991	77%	17

needs to cut spiralling welfare budgets are the chief driving forces fuelling the trend towards greater private pension provision.

The current value of private Pension Funds in Europe is thought to be € 2.82 trillion (Source: Mercer/FT), the bulk of which is concentrated in the two largest markets – the UK and Netherlands. Over the next decade these funds are anticipated to grow dramatically as governments reduce their dependence upon state “pay-as-you-go” schemes, which rely on the social security contributions of the employed to pay the pensions of the retired.

The economic impact of private Pension Funds cannot be overstated. In several European countries, including Ireland and Netherlands, the value of domestic Pension Funds exceeds stock market capitalisation. Moreover, in the Netherlands and Switzerland these assets represent over 100% of gross domestic product.
Global demand for pensions will spark growth for investment managers and financial advisers, according to the conference of the National Association of Pension Funds in the US.

Private pensions should provide a global bonanza for investors, managers and financial advisers in the next century but economic and demographic trends could undermine their funding.

A figure of € 237 bn has been put on the size of the third-party mutual fund market in France, Germany, Italy and Switzerland alone. In a poll of 800 senior investment executives, sector analysis found that France has the largest fund market in these four countries but is the smallest user of externally managed funds. Growth in demand for third-party funds is likely to be highest in France and Italy, although previously the highest demand has been in Germany. Assets in external funds are predicted to grow by 20% in these two markets.

The latest Annual World Wealth Report produced by Merrill Lynch shows the global asset management industry for private investors – the famed HNWI – is in good shape and facing a rosy future in terms of growing capital inflows. The total wealth of the world HNWI is € 17.4 trillion, up from € 7.2 trillion ten years ago. Even with the asset-value collapse in most markets, the market serving rich people grew by 5%. By the turn of the century, it is estimated to reach € 23 trillion, with annual growth at 10%.

Europeans are not only healthier than ever before but are also living longer, according to a report from Eurostat, the statistical office of the European Commission.
A better standard of living is increasing life expectancy across Europe.

The biggest increase in pensioners is expected in the Netherlands, with the number of over-sixties increasing by 64% compared with 28% in Portugal.

THE EUROPEAN MONETARY UNION

Post Euro-phoria, the consensus among government experts bankers is that there will be a massive shift out of US-dollar-denominated securities. JP Morgan expects that within five years private investors in non-European countries will have switched €750 bn to €1 trillion out of dollar securities into Euro-based financial instruments.

DEVELOPMENTS IN PENSION FUNDS

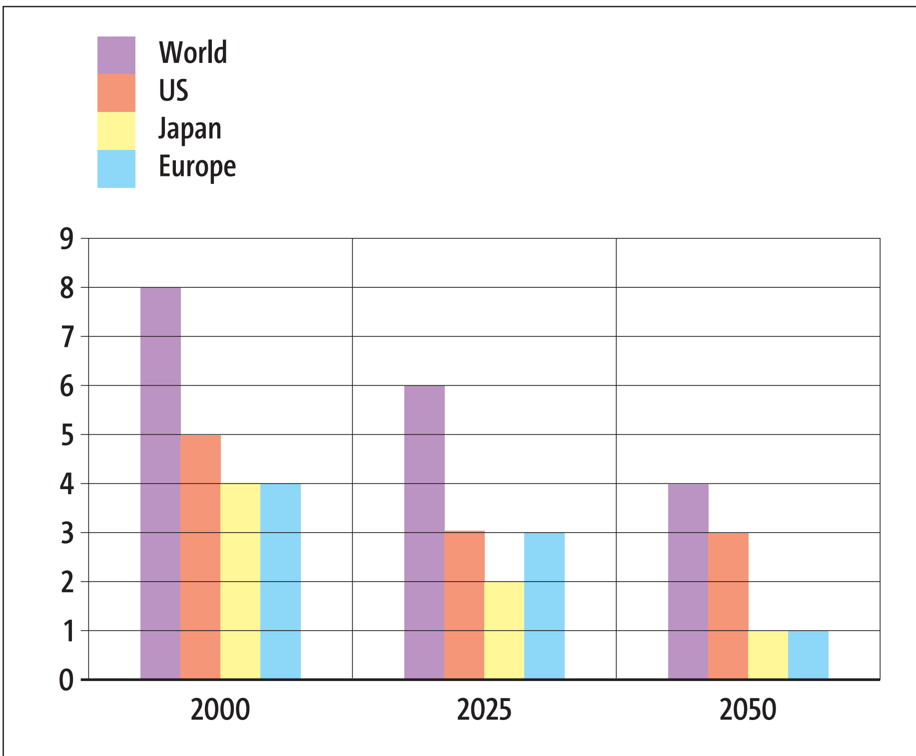
The European pensions market is undergoing a period of rapid change. The financial pressures of an ageing population combined with governments’ need to cut spiralling welfare budgets are the chiefs of the chief driving forces fuelling the trend towards greater private pension provision.

There is no coherent pension “market” as such in Europe. The three Pillar system of pension provision is widely used, but each country has a different balance between state and private provision. This means that the threat of the demographic time bomb – the impact of any depopulation on state welfare systems – varies considerably from country to country.

The greatest problems arise in countries such as France and Italy which have very generous state pension systems and underdeveloped private pension markets.

Germany also has a serious pension problem with the state scheme being in deficit. In several central and Eastern European countries,

Number of “workers” to 65 + years old
(Source: US Dept. of Commerce)



the switch from under funded state schemes to private funding plans has been swift and dramatic. (*Financial Times: The Future for European Pensions*)

There are some signs of demand from multinationals for a Pan-European pension scheme. However, despite the single market's achievements in terms of the free movement of persons, goods, services and capital throughout the Union, pension schemes have continued to operate mainly on a domestic basis.

There are moves to bring forward the possibility of fully portable European pensions. The first development has been the Directive on supplementary pensions for posted workers, has technically come into effect on 25 July 2001.

The market is keenly aware of the sales potential of pan-European pensions. Luxembourg announced that it is establishing two new vehicles, which will be virtually tax-free and have a totally flexible structure.

AUSTRIA

Austria's pension system is thought to be one of the world's leaders in terms of pension expenditure, not because of its demographic structure but because of the generosity of the system. Contributors can obtain 80% of the average of their 15 best years of income as a pension.

Therefore, pension expenditures absorb 15% of GDP and contribution rates are among the highest in Europe.

The IFA market is growing in importance (1,800 individuals).

BELGIUM

Belgian Pension Funds are expected to benefit from an overhaul of the country's pension laws. These changes are likely to result in the relaxation of the legal obligations and bring state pension provision in line with EU legislation.

There are currently approximately 3,000 intermediaries operating in Belgium. Flemish and French speaking Broker representative groupings exist although much cross-border activity by IFAs is still largely limited.

FRANCE

The French state pension scheme faces major challenges in a country with an increasing retired population. It is a highly charged political issue that may not be solved for some time and this is leading many individuals to make their own independent pension arrangements.

There are presently only a few IFAs that are properly operating in France. The IFA community is growing slowly with around 1,500 active in the market. Many of these appear willing to embrace "foreign" products.

GERMANY

Whilst Germany may be a world leader in many areas, its over-stretched pension system is badly in need of repair. It has become clear that high unemployment and unfavourable demographics make change to the existing pay-as-you-go system necessary.

IFAs in Germany are still broadly unregulated. Estimates of the numbers of IFAs vary from as few as 10,000 to as many as 900,000… Around 20,000 are dedicated to the business on a full time basis and these offer real distribution potential.

ITALY

Public pension expenditure in Italy grew from about 5% of GDP to over 15% in the early 1990's, outpacing all other categories of primary government expenditure and making Italy one of the biggest spenders on pensions in Europe. This has led to a move away from the state system towards private pensions.

Intermediaries (around 40,000 are active) are becoming more relevant in the distribution process. "Independence" is a recent development that is proving to have attractions as a growing number of foreign product supplier's look to enter the market. The growth and role of IFA in Italy is being encouraged by politically strong representative groupings.

NETHERLANDS

The national savings and pension's law of 1953 shifted part of the burden of pensions away from the state system onto voluntary privately financed schemes. Over 90% of the workforce now belongs to a private supplementary scheme and it is usual for retiring employees to enjoy a pension of 70% of their final salary. Dutch investors are felt to be conservative with equities representing only 29% of funds invested as against 77% in the UK.

The Netherlands boasts a well-structured and large IFA sector. Requirements for foreign products (excluding institutional fund management) are limited, however, given the quality and diversity of local product suppliers.

SPAIN

Spain is increasingly moving away from the state pension system.
A politically strong association serves the IFA market of (approximately) 5,000. There are currently good opportunities for foreign suppliers.

SWITZERLAND

A strong fund management culture exists throughout the Swiss intermediary market and three associations promote the interest of their (total) membership of around 1,000 firms.

UK

With its well-developed pension system and high level of regulation the UK market is probably the most developed in Europe.

Generally, IFA firms tend to be good at selling but would benefit from assistance in the areas of marketing administration and business management.

Selecting and understanding unfamiliar international products to offer to their clientele and building up a "value added" relationship with specific product providers are two of the major issues IFA firms are facing together with creating a residual value for a business built up over the years, very often from scratch.
Based on a small stable number of clients today, it is fairly clear that most IFA firms could increase their portfolio of clients reasonably easily through a better marketing approach and with the help of some supportive technical assistance (administrative, legal and financial). ■

By Vincent J. Derudder

Asian Markets for 2004

Without question, Asian economic activity should continue to surpass that of the rest of the world during 2004, particularly that of the developed world. Growth in most of Asia has surged over the last one year and we forecast that this rate of activity can be maintained in the coming twelve months. On the other hand, the political calendar will become very active over the course of 2004 as three Presidential elections are scheduled to be held (Taiwan in March, Philippines in May and Indonesia in July) along with four Parliamentary/ National Assembly general elections (Malaysia, South Korea, India, Indonesia and Thailand). Investment opportunities, as well as new risks, abound.

The Crédit Agricole Asset Management team in Hong Kong

China will remain the engine of growth for the rest of Asia...

China will remain the engine of growth for the rest of Asia as it has increasingly replaced the position previously held by the U.S., due to the country's incredible appetite for capital goods, equipment, machinery and raw materials/basic commodities. China has also emerged as the world's most significant consumer of commodities in order to fuel the country's rapid economic expansion. We anticipate that external pressure will remain on China regarding its currency policy. A weak Renminbi ensures that China can continue to attract huge amounts of foreign direct investment, which will help to create more new jobs, as social stability remains the top priority for the leadership in Beijing. China will continue to make decisions based on domestic considerations and will not pander to obvious US election induced rhetoric.

The long awaited, much anticipated recovery of the **South Korean** economy also looms large during 2004. This development, along with the political element, will dictate our investment decisions towards the country in 2004. The unprecedented impeachment of President Roh Moo Hyun certainly does not help matters ahead of the National Assembly elections scheduled for 15 April. The impeachment move could disrupt government decision making as the country struggles to revive its fragile economy and deal with the nuclear ambitions of North Korea.

Thailand will need to call a general election by January 2005, however, we anticipate the election to be brought forward to possibly December to capitalize on the overwhelming approval ratings for tycoon Prime Minister Shinawatra. However, Bangkok is vulnerable as the Muslim insurgency in the South is a real threat.

India's ten-year old reform program is now paying dividends in the form of a much higher level of economic activity

India's ten-year old reform program is now paying dividends in the form of a much higher level of economic activity fuelled by the country's well-educated labor force, the government's huge commitment to infrastructural development linking this vast country and a better rural economy. India will elect a new government over a three-week period commencing 20 April. The current BJP coalition government led by Vajpayee and the main opposition Congress Party both support and share the same ideology on the economy and the reform agenda, which can only bode well for further gains and overall development for India. India remains our most significant strategy bet.

We observe three main risks to the performance of the Asian regional stock markets over the course of the next year –
1) domestic and external political events;
2) a collapse of the US$;

3) excessive equity capital raising exercises by Asian corporations.

1) 2004 is shaping up to be a pivotal year for political developments throughout the Asian region. Not since year 2000 has there been scheduled such a vast array of Presidential, Parliamentary and General Assembly elections across the region involving almost every country. This year represents one of the most active political calendars in the history of Asian political development. A total of eight plebiscites are scheduled and one leadership transition anticipated during the year. Undoubtedly, events leading up to these elections and the formation of new governments and leaders following the elections will have significant implications with respect to the direction of the reforms agenda, policy planning, the sustained viability of individual economies and currency movements. Indeed, election outcomes will ultimately dictate important consequences for the performances of financial markets.

2004's inaugural plebiscite was held on 20 March in **Taiwan**. President Chen Shuibian attempted to double the stakes by also introducing a potentially divisive defense referendum outlining the country's intentions towards China to coincide with the general election. Consequently, we continue to advocate an underweight investment stance for portfolios towards the Taiwan market during the first quarter of 2004. The uncertain outcome of the Taiwan election, coupled with the assassination attempt on President Chen while campaigning, resulted in the Taiwanese market tumbling. A recount of the votes is the only hope left for the KMT, but either result is not promising as a DPP confirmed victory will leave the market depressed, and a KMT victory will likely result in uprisings in the South. Either way, the political risk premium in Taiwan has risen.

We expect a big victory for Malaysia's new Prime-Minister Badawi, in the March General Election, which will solidify his leadership mandate in the country.

Local politics notwithstanding, the **U.S. Presidential election** cycle in 2004 could manifest itself in the form of greater U.S. protectionism rhetoric and threats, particularly from the Democratic Presidential nominee, John Kerry. This would be an obvious attempt to appeal to a domestic audience increasingly concerned by mounting job losses in both the manufacturing and now services sector. Fear of U.S. protectionism is a real threat as politics enters the equation. However, the recent decision by the Bush Administration to withdraw punitive tariffs on imported steel in order to avert a looming international trade war was certainly a positive development to tone down the risk. China and India unfortunately remain the focus of attention of U.S. policymakers. Asian markets are very wary of this type of activity.

> **Asian corporations are notorious for taking advantage of the opportunity presented by sharply rising equity markets to raise fresh capital.**

2) **A collapse of the US$** would create significant problems. But we can expect that Asian regional currencies will continue to rise against the Greenback. The other big question is whether or not Asian Central Banks will continue to be the major buyer of U.S. Treasury debt in 2004, as was the case during 2003. This unique arrangement greatly helped to underwrite the surge in U.S. economic activity that was largely the result of aggressive fiscal spending by the Bush Administration. A dollar crash would spell the end of Asia's rapid growth.

3) The other prominent risk factor regarding the sustainability of the recent strong performances of the Asian regional stock markets remains the possibility of **excessive, large-scale capital raising exercises by Asian corporations**. Asian corporations are notorious for taking advantage of the opportunity presented by sharply rising equity markets to raise fresh capital.

This has particularly been the case over the course of 2003, when US$ 52 billion was raised, and could serve to put a brake on stock market performances in the Asian region during 2004 if indeed the dilution effect from these capital-raising exercises is prohibitive. We forecast US$ 75-80 billion to be raised during 2004, ranking as the second highest annual total in Asian financial history. This would give rise to a consolidation phase in these markets due to the capital raising initiatives.

Although the U.S. remains a vital customer for Asia, the emergence of a sustained level of domestic demand combined with better economic policies by governments with an emphasis on reforms introduces the possibility of more broad-based growth for the region. As such, we would argue and recommend that any excessive market weakness represent an opportunity for investors to either increase or initiate new positions in the Asian region.

Although clearly challenging, we remain confident regarding Asia's medium term prospects for a return to a sustainable level of economic growth and believe that our strategy remains well placed to benefit from this recovery. ■

By Ray JOVANOVICH

Arktos Tour 2002-2004 with the support of Mirabaud & Cie

CERTAIN PERSONAL VALUES ARE ESSENTIAL TO MOVE AHEAD.

These days, many goals still seem far in the distance. Nevertheless, some independant individuals are determined to go beyond appearances : people gifted with a combination of perseverance, self-confidence and a clear sense of reality. With this frame of mind we continue to support Mike Horn's latest expedition as we move towards new horizons, building on our experience, our network of competences, and our openness to the world.

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