



LET'S TALK ABOUT...

FINANCIAL LEXICON EDITED BY THE SWISS ASSOCIATION OF ASSET MANAGERS

Cross Border

In finance cross border activities include all forms of offers and promotions of investment products and services, consultancy and advisory, contacts with commercial purposes, which Swiss institutions supply to clients who have their domicile abroad. Involved institutions are banks, namely their relationship managers, as well as independent portfolio managers, fund managers and promoters, independent financial advisors and so on.

Of course such activities are customary and widely diffused but, year after year, the authorities in many countries, in particular European states and the US, have more and more pressured Switzerland and asked for strictest application of their domestic regulations in terms of banking and financial activities, solicitation and promotion, while hardly sanctioning those behaviour that they consider breaking such rules. Their pressure has also been fuelled by a series of resounding "incidents" in which Swiss banks were involved.

Really such position is widely contrasting with the Swiss attitude, which has always been very available in opening its financial market to foreign actors. However the pressure also has taken the FINMA, the Swiss Financial Market Supervision Authority, to act, requiring banks to supply evidences of sensibilization, training, internal organization, reports of events and foreign activities, all related to the cross border matters. Actually independent portfolio managers are not directly supervised, so far, by the FINMA, and comply with the rules and codes of behaviour which are set by their private Self-Regulatory Bodies. That may be a problem for them in carrying on cross border businesses, because that kind of control may be viewed as not sufficient in several countries.

Thus cross border activities must now be operated with great caution, because foreign laws and operational directions may be pretty complex and severe if broken; moreover such rules often interact and relate with tax matters, which are an even "hotter" topic in relating with some countries. Albeit the businesses of banks and independent portfolio managers are increasingly switching from the offshore to the onshore areas, being the latter the management and advisory on official and tax disclosed assets, some activities carried on abroad may nevertheless be viewed as active and specific solicitations. It is then better to record any elements and just act in response to a client's request, then leaving "sensitive" steps to be handled in Switzerland. - *GLT*

The views expressed are not necessarily those of the Swiss Association of Asset Managers