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# ÉDITORIAL

## Le Revenu de base inconditionnel ou le summum du sociétal stérile

En Suisse, nous voterons, le 5 juin prochain, sur le concept même du Revenu de base inconditionnel (RBI). Il est question de modifier la Constitution fédérale de la manière suivante:

*Art. 110a (nouveau) Revenu de base inconditionnel*

*1 La Confédération veille à l'instauration d'un revenu de base inconditionnel.*

*2 Le revenu de base doit permettre à l'ensemble de la population de mener une existence digne et de participer à la vie publique.*

*3 La loi règle notamment le financement et le montant du revenu de base.*

À présent, si on se réfère à la documentation des partisans de cette initiative, on apprend que "inconditionnel" veut bien dire ce que la langue de Molière lui prête: soit sans aucune condition, sans aucune contrepartie, sans rendre compte. Nous avons, jadis, connu le communisme mais il s'agit là d'une situation inédite puisqu'on distribuera de l'argent à l'ensemble de la population - le "on" bien-sûr c'est les autres! - sans demander de prestation en échange.

Les initiants articulent les chiffres de 2500 CHF par mois et par citoyen de ce pays et à vie. Il est prévu 625 CHF par mois pour un enfant. Faites le calcul. Un couple avec deux enfants recevra un total de 6250 CHF par mois. Pour celles et pour ceux à qui cela ne suffit pas, le travail sera quand-même encouragé. Les dépositaires de cette initiative populaire le clament haut et fort: c'est un minimum offert pour vivre dignement.

Faisons l'impasse sur les problèmes éducatifs que cette initiative purement sociétale - c'est du marketing politique - va poser. Et, parlons du financement. Les initiants, qui au passage fustigent le système économique actuel, proposent plusieurs pistes de financements. Elles vont d'une augmentation de la TVA, à une taxe sur toutes les transactions financières jusqu'à mobiliser les fonds actuellement alloués à nos différentes assurances sociales.

Là où le bât blesse est comment pouvons-nous critiquer le système libéral que nous avons et lui demander encore de nous financer un Revenu de base inconditionnel? La machine va automatiquement le produire par les mêmes biais que nous lui reprochons. À savoir, la maximisation du profit à tout prix, avec sa résultante de dommages collatéraux. Il est incohérent de se plaindre d'un système et dans le même temps lui demander de nous subsidier d'argent gratuit pour que tout un chacun puisse se réaliser sans devoir travailler.

Le RBI n'est de loin pas la panacée. Il fige encore d'avantage l'individu dans le confort de la machine. En outre, pour que le PIB progresse de manière à produire les quelques 200 milliards de francs annuels nécessaires, il faut veiller à ce que la machine économique ne s'enraye pas.

Le remplacement de toutes les assurances sociales actuelles, qui ont pour le moins le mérite - *sur la base de la solidarité et des cotisations obligatoires* - d'allouer les ressources là où elles sont vraiment nécessaires, créerait plus de précarité qu'autre chose. Sans citer le choc social. Qui travaillera pour alimenter le RBI et qui en jouira en allant à la plage?

Il n'y a rien de plus anti social. Le concept même du RBI ressemble plus à du vent ou à de la poudre aux yeux qu'à un véritable projet de société qui a mûrement été réfléchi.

Vu ce qui précède, c'est un texte qu'il faudra se dépêcher de rejeter.

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**Meylan Finance Sàrl**
**Membre du GSCGI**

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# CIFA AT A GLANCE

CONVENTION OF INDEPENDENT FINANCIAL ADVISORS
A Non-Profit Foundation
A Non-Governmental Organization in general consultative status with the Economic and Social Council of the United Nations

The Convention of Independent Financial Advisors (CIFA) was created on 14 December 2001 in Geneva at the initiative of a group of financial entrepreneurs, all members of the Swiss Association of Independent Financial Advisors (SAIFA/GSCGI/SVUF).

The non-profit Swiss foundation aims to strengthen the role of independent financial advisors (IFAs) at the international level as they are the best guarantors that the interests of investors are preserved at all times.

The success of CIFA can be measured in four ways.

**First**, it has created a highly successful annual congress – the International CIFA Forum – which attracts delegates from CIFA's partner federations and associations, individual IFAs, bankers, regulators and journalists, establishing the event as one of the major international forums for the financial intermediation community. After five conferences in Geneva (2003-2007), then Prague (2008), Paris (2009), Madrid (2010), Monaco (2011, 2012, 2013, 2014 and 2015), CIFA will hold its:

**14th International Forum in Monaco from May 31st to June 3rd 2016**

The **second** measure of CIFA's success: the number of its partner associations has more than quadrupled since the first Forum of 2003. Today, CIFA cooperates with over 70 national associations – mostly professional IFA bodies, whose combined membership is estimated to top 1 million individual IFAs – but also other associations active in closely related fields, such as fund management, financial analysis and financial training certification. The original European base of these partnerships has been significantly extended over the last years to all Continents.

The **third** measure: CIFA has become the first and only NGO in financial intermediation with consultative status with the Economic and Social Council of the United Nations. Since 2007, CIFA is in a position enabling it to make recommendations in legislative projects of the UN-ECOSOC.

In recognition of its significant work with the Economic and Social Council of the United Nations, CIFA was awarded the General Consultative Status with ECOSOC in 2015.

Only 137 NGOs worldwide enjoy such a high level status — please read the article CIFA's NEW ADVISORY ROLE AT THE UNITED NATIONS, TRUSTING MAGAZINE nr.7, page 12.

CIFA enjoys a consultative status with UNCTAD as well.

CIFA has also entered into various collaboration agreement with other UN agencies.

**Fourth** measure: CIFA is the possessor and custodian of the Charter of Investors' Rights.

## THE CHARTER OF INVESTORS' RIGHTS

This Charter has as its goal the definition of the fundamental and inalienable rights of the investor.

The Charter was drafted by the Convention of Independent Financial Advisors (CIFA), a non-governmental organization with consultative status at the Economic and Social Council of the United Nations.

CIFA is the possessor and custodian of this Charter.

The Charter aims to underline the principles, both straightforward and permanent, of the investor so as to benefit from a legal framework which preserves private property and comprises goods resulting from the activities, be they personal property or intellectual, of the investor.

# CIFA AT A GLANCE

The Charter attempts to respect the legislation, traditions and customs of all the countries which ratify it.

**Article 1**
Private property is protected according to the contents of this Charter of investors' rights. Private property is defined as the entirety of goods and rights that exist, as well as all revenue and obligations relating to it that are not recognised as the property of a member state of the United Nations. Private property resulting from ancestral, historic or tribal rights is equally covered by this Charter.

**Article 2**
Only private property constituted or acquired under universally accepted moral norms is protected by this Charter. All private property acquired or constituted under constraint or duress, or by way of intimidation or any other criminal manner, is excluded from protection by this Charter.

**Article 3**
The investor is a person, physical and moral, who is in possession of the right of disposal of his or her private property and is, simultaneously, the beneficiary of income and obligations which accrue to him.

**Article 4**
All acts of expropriation or confiscation of private property and revenues are forbidden. All investors have the right to protect themselves, by all legal means, against all acts of expropriation or confiscation by a state or private organization that is directly or indirectly subordinated to it.

**Article 5**
The investor has the right, freely and without constraint, to dispose of the totality of all of his or her assets which constitute his private property as well as the income attributable and conforming to their needs and aspirations. Any restrictions on the rights of disposal of these goods are not acceptable without the agreement of the owner who gives free consent without constraint.

**Article 6**
The investor has the right to protection of his private sphere. The investor is the sole decision-maker regarding the choice of means of investment structure which guarantees the best protection for his private sphere.

**Article 7**
The investor has the right to use his best judgement to find the most appropriate way for his private property and revenue to yield a profit. He has the right freely to choose the structures and institutions that he judges will more than adequately accommodate the components of his private property as well as the revenue which results.

**Article 8**
The investor undertakes to arrange his assets in a manner that respects the habits, customs as well as the legal framework of the countries in which he invests.

**Article 9**
The investor has the right to expect from states and governments good structures, supervision and adequate surveillance of the market place. He or she is free, and at the same time personally responsible, for all investments which proceed forth.

**Article 10**
The investor undertakes to respect the fundamental rights of mankind as defined in the Charter of the United Nations.

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# LES MEMBRES DU GSCGI

## Networking & la Vie de nos Collègues d'ailleurs

### FECIF informs...

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*Honorary Chairman*
*and President of the*
*Consultative Committee*
* * *

* * *

*GSCGI*

*is Member of*

*FECIF's Board*

### FECIF NewsFlash 16/2016 — ESMA: Guidelines on sound remuneration policies under the UCITS Directive and AIFMD

**Executive Summary** — The European Securities and Markets Authority (ESMA) has published its final Guidelines on sound remuneration policies under the UCITS Directive and AIFMD.

**Analysis** — Article 14a(4) of Directive 2009/65/EC("UCITS Directive"), as amended by Directive 2014/91/EU ("UCITS V Directive")provides that ESMA shall issue guidelines addressed to competent authorities or financial market participants concerning the application of the remuneration principles set out under Article 14b of the UCITS Directive ("UCITS Remuneration Guidelines"). This final report sets out the final text of the guidelines on remuneration policies required by the UCITS V Directive and also provides fora targeted revision of the Guidelines on sound remuneration policies under the AIFMD (ESMA/2013/232) ("AIFMD Remuneration Guidelines"), which were originally published on 3 July 2013. The guidelines in Annexes III and IV will be translated into the official languages of the EU and the final texts published on the ESMA website. The deadline for compliance notifications will be two months after the publication of the translations. The UCITS Remuneration Guidelines will apply from 1 January 2017, subject to the transitional provisions stated there in. The amendment to the AIFMD Remuneration Guidelines will apply from 1 January 2017.

ESMA has also written to the European Commission, European Council and European Parliament on the proportionality principle and remuneration rules in the financial sector.

**Sources** — *The above-mentioned relevant documents (Guidelines and the letter to the European Council and the European Parliament) are available upon request to either FECIF or GSCGI.*

* * *

### FECIF NewsFlash 15/2016 — DG Justice: Consultation on an effective insolvency framework within the EU

**Executive Summary** — The DG Justice of the European Commission has opened a consultation on an effective insolvency framework within the EU. The consultation runs until 14th June.

**Analysis** — The lack of a harmonised approach to insolvency prevents the proper functioning and development of capital markets, and therefore it is necessary to address the issue at EU level. The Capital Markets Union Action Plan states that the Commission will propose a legislative initiative on business insolvency, including early restructuring and second chance, drawing on the experience of the Commission Recommendation on a new approach to business failure and insolvency addressed to the Member States (the "Insolvency Recommendation") adopted on 12 March 2014. The initiative would seek to address the most important barriers to the free flow of capital, building on national regimes that work well. This finding has been confirmed by the Five-Presidents'-Report on "Completing Europe's Economic and Monetary Union" which lists insolvency laws among the most important bottlenecks preventing the integration of capital markets and therefore to be addressed as a priority. The Single Market Strategy foresees an initiative regarding second chance. This consultation seeks stakeholders' views on key insolvency aspects. In particular, it seeks views with regard to common principles and standards which could ensure that national insolvency frameworks work well, especially in a cross-border context. This consultation questionnaire can be filled out online, it is available here *(https://ec.europa.eu/*

# LES MEMBRES DU GSCGI

## Networking & la Vie de nos Collègues d'ailleurs

*eusurvey/runner/InsolvencyJUSTA1).* The responses will be used to identify which aspects may possibly be dealt with in the legislative initiative and which in other possible complimentary actions in this field. However, the results of the consultation are without prejudice to any action the Commission may take in this field. The responses will be taken into account in the Commission's impact assessment report in parallel with the results of an external study carried out for the Commission and other available information.

**Sources —** *The above-mentioned questionnaire is available upon request to either FECIF or GSCGI.*

More information at this link:
*http://ec.europa.eu/justice/newsroom/civil/opinion/160321_en.htm*

* * *

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### *What is CIFA?*

The founding principles of CIFA are built around an ethical reflection and **the reform of the world-wide financial system.** Through its many assignments, CIFA is working towards a unique goal: putting finance back at the service of investors.
CIFA is regrouping 70 professional associations, which represent more than one million individuals or legal entities involved in the **financial intermediation** worldwide.
In 2007, CIFA, through its active participation in the works of various United Nations organisms, obtained the **«special consultative status» with the United Nations** in the framework of the Economic and Social Council (ECOSOC). In 2015, CIFA has obtained the **«general consultative status» with the UN-ECOSOC. CIFA is the only NGO within global finance with such a status!**


CIFA invites you to discover
**TRUSTING**

Published bi-annually, it contains important information on the various activities of CIFA, such as the annual Forum, and its close cooperation with partner associations. TRUSTING publishes also articles written by worldwide experts on management, investment, regulation and taxation.

The 8th edition of the magazine is available for free download on:

**www.cifango.org**

The White Paper about previous Forums is available for free download as well.

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## JURISTES & FISCALISTES

# A practical guide to the new European Succession Regulation

*...article Sabine Herzog, Jacopo Crivellaro and Basil Kirby (Zurich)*

### The essential answers for testators and beneficiaries

On 17 August 2015, the new EU Succession Regulation *(Regulation (EU) No. 650/2012)* came into effect in 25 European Union Member States *(the UK, Denmark and Ireland chose to opt-out)*. While the Regulation is an important improvement on the current legal situation both for beneficiaries and testators in cross-border successions within Member States, considerable difficulties arise particularly with regards to residents of countries not bound by the Regulation. It is thus important for all parties involved in – or planning – an international succession to understand the principles now governing cross-border successions involving one or several of the Member States where the Regulation is applicable *(the "participating Member States")*.

To the extent that a person is a national or a *(current or future)* resident of a participating Member State – or owns assets located on the territory of a participating Member State – he or she will have to take the new Regulation into consideration. The following article thus pragmatically assesses the most important issues and questions raised in the context of cross-border successions involving participating Member States and third countries.



### What is the objective of the new Regulation?

The Regulation provides conflict-of-laws rules that determine which courts are competent for – and which law applies to – successions involving one or more participating Member States. Moreover, it provides for recognition and enforcement of decisions and instruments in succession matters. However, the Regulation does not in itself harmonize the substantive succession law of the various participating Member States. Therefore, the rules relating to forced heirship, the capacity of a testator or the substantive legal validity of transfers, for example, are questions that remain governed by the various domestic laws of the Member States.

The idea behind the new Regulation is to avoid situations where a court *(or several courts)* dealing with an estate are required to apply various laws to distinct assets of an estate, depending on the location and character of the assets or the nationality of the testator. To the contrary, the new Regulation aims at ensuring that a court – ideally the court of the testator's last habitual residence – rules on the succession as a whole by applying its own domestic law.

### When should I be concerned with the Regulation?

In theory, the Regulation does not bind any country except the participating Member States. In practice, however, anyone who has a connection with a participating Member State *(i.e., nationality, habitual residence or assets in any of those States)*, should be concerned by the potential impact of the Regulation.

### Which courts are competent to rule on a succession and which law is normally applicable to a succession?

As a general rule, the courts of the Member State in which the testator had his or her "habitual residence" are the competent courts to rule on the whole of the estate *(Article 4 of the Regulation)*. Similarly, the general rule is that the succession as a whole shall be governed by the law of the State in which the deceased had his or her "habitual residence" at the time of death *(unless the deceased was manifestly more closely connected with a State other than the State where he had his "habitual residence", in which case the law of that other State would apply). (Article 21 of the Regulation)*

In order to determine "habitual residence", the competent court should conduct an "overall assessment of the circumstances of the life of the deceased during the years preceding his death and at the time of his death." *(Preamble 23 of the Regulation)*

***As an example, a French, German or Dutch national with habitual residence in France will have – pursuant to the Regulation and with some exceptions assessed below – his whole estate ruled upon by French courts applying French law.***

### What if I am a not a national of a participating Member State but nevertheless reside in one of those Member States?

Given that the connecting factor between competent court and/or applicable law and a succession is the testator's ***"habitual residence"***, whether one is a national of a non-

*...cont'd on page 9*

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## A practical guide to the new European Succession Regulation

*...article Sabine Herzog, Jacopo Crivellaro and Basil Kirby (Zurich)*

*...cont'd from page 8*

participating Member state is not relevant. The Regulation will apply and the courts of the participating Member State of habitual residence will be competent to rule over the entirety of the estate. Absent a choice of law *(see No. 7)*, the law applicable to the succession as a whole will be the law of that Member State.

The Regulation, however, provides that a court seized in order to adjudicate a succession may, under certain circumstances, decide not to rule on one or more assets located in a third State "if it may be expected that its decision in respect of those assets will not be recognized [or] declared enforceable in that third State." *(Article 12 of the Regulation)* Further, pursuant to Preamble 54, the Regulation will respect special rules that impose restrictions or affect the succession with respect to certain assets, where these rules are based on important economic, family or social considerations. The Regulation nonetheless limits the application of such special rules. By way of example, forced heirship rules that are more restrictive than those of a Member State should not take precedence over the laws of a Member State identified pursuant to the testator's ***"habitual residence"***.

***The succession of a Japanese national who has his habitual residence in Austria will be governed by Austrian law and Austrian courts will rule over the whole estate. Austrian law would apply notwithstanding the existence of more restrictive forced heirship rules in Japan. However, Austrian courts might, at the request of one of the parties, refrain from ruling on particular assets located in Japan or in third countries if the court's decision is unlikely to be recognized and enforced in these countries.***

### What if I do not have my habitual residence in a participating Member State, but have assets located there?

The situation of a person not ***"habitually residing"*** in a participating Member State but who has assets located there will nevertheless fall under the Regulation, in which case the courts where the assets are situated might be competent to rule on the whole – or part – of the estate. The courts of a participating Member State will rule on the whole of the estate – i.e., including any assets located in nonparticipating Member States – provided that the deceased was either a national of said Member State, or had his previous ***"habitual residence"*** in that Member State and, at the time the court is seized, a period of not more than five years has elapsed since that "habitual residence" changed. *(Article 10(1) of the Regulation)* Otherwise, the courts of the participating Member State will only be competent to rule over the assets located in this Member State. *(Article 10(2) of the Regulation)* In such a case, the courts of the Member States ruling on the assets located in their territory should apply the law of the testator's ***"habitual residence"***, and not their own law.

***A Swiss national residing in Zurich but with assets in Germany*** *(such as a bank account or real estate)* ***may be subject to the German court's competence for assets situated in Germany. If the Swiss resident is also a German national, the German courts might even assume jurisdiction to rule over the whole estate. However, the German courts would be applying Swiss law, as the law of the testator's habitual residence.***

### What are the consequences of being a national of a participating Member State?

Nationality will play a role to the extent that the testator who is not residing in a participating Member State has assets located there *(whereby the participating Member State's courts might rule over the whole of the estate, see No. 0)* or where a person wishes to choose a particular law to apply to its estate *(see No. 0)*. Otherwise, having the nationality of a participating Member State will not influence the applicable law and competent courts for the succession, as these depend on the notion of ***"habitual residence"***.

However, being a national of a participating Member State might nevertheless have an impact on the applicable law and the competent courts in the context of a cross-border succession involving a third country. Indeed, the applicable law and competent courts will depend on the conflict of laws rules of the place of residence of the testator. The conflict of law rules might lead to the application of the law of the place of residence/domicile of the testator, of the law of nationality *(i.e. the law of a Member State)* or of the law of the location of an asset. In this case, a thorough assessment of the legal regime...

*Cet article est disponible en version intégrale sur le website -- www.gscgi.ch -- et en zone "membres" dès Mai 2016.*

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# JURISPRUDENCE

## Swiss Settlor of US foreign grantor trust not liable to pay stamp duty on investments made by the Trustee *(A. v. Administration Fédérale des Contributions, Arrêt du 29 septembre 2015, Tribunal AdministratifFéderal)* ...article by Gillian Roth (Geneva)

This interesting case involved Swiss Pension Funds ("Pension Funds") which invested in US law Common Trust Funds ("CTFs") which were offered to them as investments by a US bank. The way they did this was by first settling discretionary revocable grantor trusts governed by US law. The US Bank was appointed Trustee of the trusts. Then, in its capacity as Trustee, the Bank invested in the CTFs. The Bank obtained a Swiss tax ruling back in 2003 as to whether Swiss stamp duty would be payable on the purchase of the CTFs. The ruling concluded that Swiss stamp duty was not payable as although the CTFs were similar to shares in investment funds, which are investments subject to stamp duty, as the Pension Funds could not be said to be actually trading in Switzerland, no stamp duty was payable in Switzerland.

However, problems arose when in 2010, during an audit of the Pension Funds' manager by the Swiss Federal Tax Authority, the latter noted that the CTFs were listed as investments in their books. After various discussions, the Federal Tax Authority revoked the ruling in 2011 with retroactive effect to 2007 and stamp duty for CHF43,834.93 plus interest was charged on all investments the Pension Funds made in CTFs between given dates in 2007 and 2010.

The Pension Funds contested this charge and appealed to the Swiss Federal Administrative Tribunal. In allowing the appeal, in its judgment, the Tribunal set out the four formal conditions required to be fulfilled in order for stamp duty to be payable, one of them being the involvement of a Swiss securities trader *(the other three being the existence of a document subject to stamp duty, the transfer of property for value, and the absence of an exemption)*. Stamp duty is payable if the formal requirements are present. The economic reality of a transaction is irrelevant. It is the taxpayer's obligation to keep its books in order and notify the tax authorities of taxable events. The Tribunal also set out the nature of tax rulings and the basis of their issue and their limits, emphasizing the principle of "good faith". The Tribunal continued to discuss trusts in general and the Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition which entered into force in Switzerland on 1 July 2007. It understood, inter alia, that legal ownership of trust assets lies with the trustee whilst beneficial ownership lies with the beneficiaries. The Tribunal acknowledged that the Pension Fund could in theory be said to be trading in securities under applicable Swiss law and that the CTFs invested in were shares in collective investment funds, that is to say, documents subject to stamp duty, which were acquired for value and that no exception to the rule can be found. The only question subject to dispute was that of the Pension Fund's participation in acquiring the CTFs. The Pension Fund argued that the CTFs acquired by the Trustee remained the property of the Trustee and that it itself did not participate in the transactions. It also argued that it relied on the tax ruling issued to the Bank in 2003. The lower Tax Authority argued that, as the trust was revocable, and as the CTFs were listed in the accounts of the Pension Fund, this was all proof that it itself acquired ownership of the assets, and that in these circumstances, the conditions contained in the 2003 ruling granted to the Bank which, in particular, states that no Swiss securities trader is to be involved in the transaction, were not fulfilled.

The Swiss Federal Administrative Tribunal, allowing the appeal, ruled, however, that only a transfer of legal ownership was relevant for stamp duty. The only instance where the tax authority is to consider beneficial ownership is where the law refers to it or in the event of tax evasion. In this case, it was not the Pension Fund which was the legal owner of the trust assets, and thus ownership of the CTFs was never transferred to it under applicable Swiss law. As settlor and beneficiary of a discretionary and revocable trust, the Pension Fund was the beneficial owner of the trust's assets, and from a legal point of view, the Bank which, in its capacity of Trustee, had the sole and independent right to manage or dispose of the trust assets, was the sole legal owner. As the lower Tax Authority stated in the 2003 ruling, the investment vehicle used should be qualified as a two layer structure with on the one hand a trust relationship between the Pension Fund and the Bank and on the other hand transaction entered into by the Bank in its capacity as Trustee which would remain the owner of the CTFs acquired up until revocation of the trust or respectively until it exercises its discretionary powers under the trust. The Tribunal then considered whether the whole transaction constituted tax evasion. Although the Pension Fund clearly saved tax by using this investment vehicle as it was not subject to stamp duty on the transactions made by the Trustee but of which it was the ultimate beneficial owner, nevertheless, the legal form chosen was in conformity with US law and thus could not be qualified as unusual and only used to escape paying tax. Thus, the conditions required for tax evasion were not fulfilled.

Thus, the Tribunal allowed the appeal and ruled that the transactions in question were not taxable as a Swiss securities trader was not involved in them. In reaching the decision, the Tribunal insisted on the fact that it adhered to the legal form of this case and not the economic reality. This case is thus an example of the recognition of the common law trust structure by a Swiss Federal Authority and the respect by it of the separation of legal and beneficial ownership, in this case for stamp duty purposes, only the legal ownership being relevant here. Also, the fact that the trusts here were revocable in nature did not change the Authority's view.

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# ASSURANCE PROFESSIONNELLE

## Exemple de Sinistres

### Assurance Responsabilité civile professionnelle: ...

**Pas de cas de sinistre**

**à signaler**

**dans cette édition.**

* * *

### Assurance Cadre Responsabilité Civile ... *pour les Membres du GSCGI*

Le GSCGI offre à ses membres une couverture cadre d'assurance exclusive, négociée avec les assureurs AXA et Liberty. Ces deux assureurs seront nos partenaires exclusifs autorisés à présenter les couvertures des trois risques précités aux conditions préférentielles pour nos membres.

Ces couvertures étendues et complètes — **Responsabilité civile professionnelle (RCPI); Responsabilité des dirigeants (D&O); Assurance Fraude (FR)** — offrent une sécurité accrue aux gérants dans leur activité quotidienne. L'assurance professionnelle met les professionnels à l'abri de situations inattendues et génératrices de conséquences financières parfois dévastatrices, comme celle évoquée plus haut.

Vous retrouverez d'autres exemples de sinistres dans les prochaines éditions du WealthGram.

Pratiquement, les membres pourront s'adresser au Secrétariat du GSCGI, ou à la Commission Assurances, pour obtenir tous les renseignements.

Un formulaire spécifique du GSCGI a été édité pour obtenir les offres des assureurs, il figurera sur le site web du Groupement et sera donc à disposition des membres. Il devra être rempli par le gérant pour demander les offres avec la preuve de sa qualité de membre et envoyer confidentiellement au courtier. Le GSCGI n'aura pas accès à ces informations.

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# PLACEMENTS & TECHNIQUES DE GESTION

## Normalization of credit markets

*Published on Riskelia's Blog http://www.riskelia.com/blog*

Since mid-February, risky debts, notably corporate credit and emerging bonds, have considerably improved and even led the rebound in risky assets. This broad based improvement may be a turning point in the deflationary cycle which has prevailed in global financial assets since May 2015.

As a matter of fact, credit used to lead global equities lower and presently are leading equities higher since all risky debts display positive performance since the start of year 2016 *(figure 1)* as opposed to negative year to date performance on developed equities. This positive development on risky debt is particularly compelling on investment grade bonds which is currently highlighted as the most attractive asset class by Riskelia's Radar *(figure 2)*.

For the first time since 2014, the easing of the credit spreads is generalized over all risky debts contrary to the relief of 2015 where US corporate credit spreads remained wide *(figure 3)*. This positive contagion may be revealing of an improvement in risky assets through the debt markets.

Accommodative policies carried out in 2014 and 2015 used to impact foreign exchange markets first and then spread to the equities through the devaluation of local currencies. Now that the ECB new round of quantitative easing has reflected positively on the credit market in the first place, the domination of credit over equities may resume in a world of stagnant if not deflationary corporate profits as showed in figure 4. In a poor inflation environment where central banks endeavored to provide support for the debt market in every form, it is not a surprise that the debt market, more responsive to moral hazard, has outshined equities as illustrated in figure 5.

Figure 1: Dynamics of risky debts *(corporate credit in the US and EU, emerging debt in USD)* since 2013 *(base 100)*


Figure 2: Riskelia's scores on the main assets classes

| | | 12W | 4W | 1W | Score | Trend | Bubble | Egty Tail | |
|---|---|---|---|---|---|---|---|---|---|
| Equities -42% | Equities America | -11% | -42% | -48% | -29% | ↓ | -31% | 19% | -1.1 |
| | Equities Europe | -29% | -53% | -62% | -57% | ↓ | -63% | 25% | -1.8 |
| | Equities Asia | -23% | -26% | -44% | -38% | ↓ | -53% | 29% | -1.3 |
| Hedge Funds -10% | Hedge funds HFR | -26% | 0% | -4% | -10% | ↓ | -78% | 63% | -1.5 |
| Currencies -16% | FX G10 vs USD | -40% | -27% | -25% | -10% | → | -19% | 17% | 0.2 |
| | FX G10 vs Yen | -19% | -63% | -63% | -41% | ↓ | -66% | 38% | -1.1 |
| | FX Emerging vs USD | -20% | -18% | -11% | 3% | → | -12% | 22% | -0.1 |
| Commodities -17% | Commodities Oil | -27% | -7% | -18% | -30% | ↓ | -67% | 48% | -0.6 |
| | Commodities Base metals | -15% | -19% | -14% | -10% | → | -25% | 33% | -0.6 |
| | Commodities Precious Metals | -24% | -14% | -2% | 5% | → | -4% | 20% | 0.5 |
| | Commodities Grains | -18% | -41% | -40% | -32% | ↓ | -40% | 24% | 0.0 |
| Corporate Credit 12% | iBoxx USD Investment Grade | -17% | -41% | 9% | 29% | → | 19% | 3% | -0.5 |
| | iBoxx USD High Yield | -41% | -15% | -21% | -24% | ↓ | -35% | 33% | -2.4 |
| | iBoxx EUR High Yield | -45% | -33% | -32% | -27% | ↓ | -34% | 26% | -1.7 |
| | iBoxx EUR Investment Grade | 33% | 54% | 66% | 71% | ↑ | 65% | 20% | -0.4 |
| Bonds Emerging 57% | Bonds Emerging | 6% | -13% | 43% | 57% | ↑ | 37% | 11% | -1.0 |
| Bonds OECD 14% | Bonds World Inflation | -58% | -23% | -19% | -23% | → | -19% | 17% | 0.5 |
| | Bonds Europe Germany & UK | -48% | 47% | 33% | 38% | ↑ | 73% | 47% | 0.2 |
| | Bonds US | 14% | 58% | 86% | 55% | ↑ | 61% | 28% | 0.5 |
| | Bonds Asia | -18% | -6% | 7% | -13% | ↑ | 35% | 39% | 0.8 |

Figure 3: Rolling 250 days z-scores on spreads of risky debts. *(base 100)*

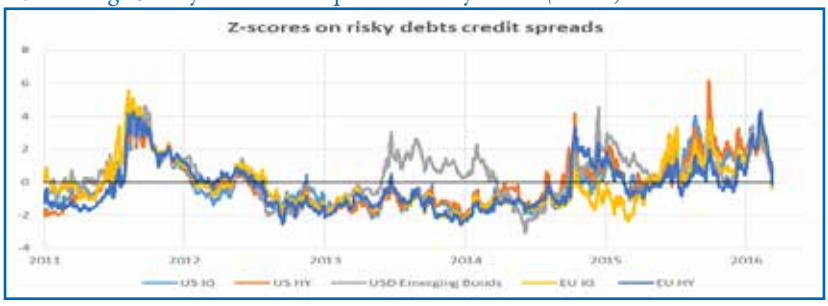


Figure 4: 12 month forward earnings on the S&P 500 and the Euro Stoxx 50


Figure 5: Risk adjusted returns of equities and corporate debts in the US and in Europe since 2006

| | Euro Stoxx 50 | EU IG | EU HY | S&P 500 | US IG | US HY |
|---|---|---|---|---|---|---|
| Annual Return | 1.5% | 4.1% | 5.5% | 7.1% | 5.7% | 5.7% |
| Annual Volatility | 24.1% | 2.8% | 4.7% | 20.7% | 5.5% | 5.9% |
| Risk adjusted return | 0.06 | 1.46 | 1.17 | 0.34 | 1.05 | 0.95 |
| Quantile of 10% Worst Drawdown | 43% | 3% | 11% | 29% | 5% | 8% |
| Worst Drawdown | 59% | 9% | 37% | 55% | 16% | 33% |

Riskelia
Decoding Financial Markets

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# PLACEMENTS & TECHNIQUES DE GESTION

## Pourquoi les marchés financiers sont-ils devenus extrêmement volatils au premier trimestre 2016?

*...article de Daniel Fermon*

SOCIETE GENERALE
Corporate & Investment Banking

Un mot vient à l'esprit quand nous repensons aux évolutions des marchés financiers sur le premier trimestre 2016, c'est le mot volatilité. Ainsi, les variations ont dépassé les 20% entre le plus haut et le plus bas atteint sur la plupart des classes d'actifs: c'est bien sûr le cas du pétrole qui est descendu à près de 27$ le baril pour remonter à 40$ à fin mars, ou des indices boursiers notamment chinois qui ont décroché à nouveau, affichant une performance négative de 25% au plus bas pour se retrouver à -15% à la fin du premier trimestre 2016. Certes, les mouvements de panique avec une spirale baissière ininterrompue annonciateur de crise économique ont été contenus mais la nervosité observée sur les marchés a impliqué cette forte hausse de la volatilité. Les raisons de cette inquiétude sont connues: prix du pétrole en chute libre depuis 18 mois sur fond de surproduction, économie chinoise qui ralentit mais qui reste encore l'un des principaux moteurs de l'économie mondiale avec une croissance attendue à 6% cette année, hausse des taux américains amorcée en 2015 et qui va se poursuivre en 2016 et enfin risque européen toujours présent avec la question posée par le référendum anglais sur le maintien ou non de la Grande Bretagne au sein de l'Union Européenne (Brexit).

Conséquences et analyses des phénomènes de marché que nous observons aujourd'hui:

**1) Baisse du prix du baril de pétrole:** Conséquence positive, elle redonne du pouvoir d'achat aux ménages. Conséquence négative, elle a un impact sur les compagnies pétrolières et sur leurs investissements. Elle touche particulièrement les acteurs américains du pétrole de schiste ainsi que ceux de l'offshore dont les gisements sont profonds par nature et donc plus coûteux à extraire. D'où une incertitude qui rejaillit sur les banques via des provisions pour créances douteuses. Certains investisseurs l'ont analysé comme un indicateur avancé d'une récession mondiale à venir. Mon analyse est différente car je pense que c'est en raison d'une surabondance de pétrole actuellement que les cours ont chuté. Comme aucun acteur pétrolier majeur ne souhaite pour l'instant réduire sa production, les cours du pétrole devraient rester volatils avant de se stabiliser à des niveaux proches des niveaux actuels fin 2016 à 40$ le baril.

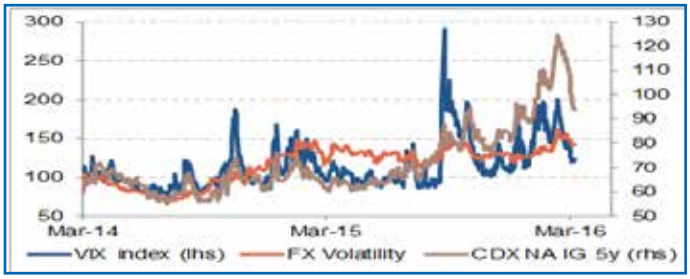
**2) Bourse chinoise à nouveau en baisse:** la croissance économique de 6.9% en 2015 est au plus bas depuis 25 ans et laisse craindre un ralentissement plus brutal en 2016 avec des conséquences importantes sur les secteurs miniers et industriels. Comme le ralentissement chinois va se poursuivre, il faudra s'attendre à d'autres déceptions en ce qui concerne l'économie chinoise. Il semble donc trop tôt pour revenir sur ce marché.

**3) Hausse des taux de la Fed:** le changement d'attitude de la Fed qui a entrepris sa première hausse des taux depuis 2006 le 16 décembre dernier inquiète certains investisseurs qui comparent la période que nous vivons actuellement à 1937 où les soutiens mis en place par le gouvernement et la Fed avaient été retirés entrainant une chute des marchés financiers. Comme la politique prudente de la Fed devrait continuer à rassurer les marchés, nous n'anticipons pas de krach boursier au second trimestre même si la hausse des taux américain devrait se poursuivre compte tenu d'une économie qui reste dynamique.

**4) Baisse des bourses européennes:** Les difficultés européennes sont toujours présentes avec l'absence d'un objectif commun qui pousse le gouvernement britannique à réclamer des réformes rapides. Les britanniques doivent ainsi se prononcer par un référendum le 23 juin prochain sur le maintien ou non de la Grande Bretagne dans l'Union Européenne (Brexit). Bien que les sondages donnent une avance pour le maintien dans l'Union Européenne, il ne faudra pas négliger l'inquiétude que suscite ce référendum.

A plus long terme, il est probable que les prévisions de croissance économique devraient rester bien en deçà des attentes. Il faudra alors apprendre à vivre avec une croissance mondiale plus proche des 2% que des 4% auxquels nous nous étions habitués. En résumé, la visibilité sur la croissance des économies mondiales a rarement été aussi faible avec des économies développées qui peinent à retrouver les niveaux de croissance d'avant la grande récession de 2008/2009 et des pays émergents qui subissent de plein fouet la baisse du prix des matières premières. Le second trimestre devrait être lui aussi volatil et devrait donc offrir de nouvelles opportunités d'investissements.

Indices de volatilité des actions américaines, du forex et du crédit depuis 2 ans




Source: SG Cross Asset Research/Thematics, Bloomberg

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## L'AVIS DE L'ANALYSTE

# The Hong Kong Dollar, Rock Solid

*...article by Prof. Steve H. Hanke*

The currency speculators are restless, again. Many, like George Soros and Kyle Bass, are reportedly taking aim at the Hong Kong dollar (HKD). HKD bear circles think China's renmimbi (RMB) will lose value against the U.S. dollar (USD) as China's economy slows down and capital flight from China continues. This, it is asserted, will put pressure on the HKD, and force its devaluation. Thus rendering the fixed rate of 7.8 HKD/USD null and void, and pumping profits into the pockets of those who bet on a devaluation of the HKD.

Like past speculative attacks against the HKD, this will fail and the bears will be forced back into hibernation, suffering large losses. What is fascinating is how so many experienced currency speculators, like George Soros, can be so ill-informed about Hong Kong's monetary setup. This is far from the first speculative attack on the HKD; the most massive occurred during the Asian Financial Crisis of 1997-98. We cannot forget hedge fund guru Bill Ackerman's well-advertised "bet the house" attack against the HKD in 2011. It failed badly.

The currency speculators aren't the only ones ill-informed about Hong-Kong. Financial journalists -- even veterans with Hong Kong market experience -- clearly don't understand the currency board system that governs the course of the HKD. For example, Jake van der Kamp, a columnist at the South China Morning Post and former analyst at Morgan Stanley, recently fanned the speculative flames by penning a provocative column titled "From a Currency Board to a Banana Republic Manipulation." This brought out a response from John Greenwood, the architect of Hong Kong's currency board system, installed in 1983, and a member of the Currency Board Committee of the Hong Kong Monetary Authority. Greenwood politely took van der Kamp to the woodshed and told him that he didn't know what he was talking about, and van der Kamp had the good sense to admit that he had sinned.

So, why is there so much confusion about exchange rates – particularly fixed exchange rates delivered by currency board systems, like Hong Kong's? To answer that question, we must develop a taxonomy of exchange-rate regimes and their characteristics. As shown in the accompanying table, there are three types of regimes: floating, fixed, and pegged.

In fixed and floating rate regimes the monetary authority aims for only one target at a time. Although floating and fixed rates appear dissimilar, they are members of the same free-market family. Both operate without exchange controls and are free-market mechanisms for balance-of-payments adjustments. With a floating rate, a central bank sets a monetary policy, but the exchange rate is on autopilot. In consequence, the monetary base is determined domestically by a central bank. With a fixed rate, there are two possibilities: either a currency board sets the exchange rate and the money supply is on autopilot, or a country is "dollarized" and uses the U.S. dollar, or another foreign currency, as its own and the money supply is again on autopilot.

Under a fixed-rate regime, a country's monetary base is determined by the balance of payments, which move in a one-to-one correspondence with changes in its foreign reserves. With either a floating or a fixed rate, there cannot be conflicts between monetary and exchange rate policies, and balance-of-payments crises cannot rear their ugly heads. Floating and fixed-rate regimes are inherently equilibrium systems in which market forces act to automatically rebalance financial flows and avert balance-of-payments crises.

| Type of Regime | Central Bank | Exchange Rate Policy | Monetary Policy | Source of Monetary Base | Conflicts between Exchange Rate and Monetary Policy | Balance-of-Payments Crisis | Exchange Controls |
|---|---|---|---|---|---|---|---|
| Floating | Yes | No | Yes | Domestic | No | No | No |
| Fixed | No | Yes | No | Foreign | No | No | No |
| Pegged | Yes | Yes | Yes | Domestic and Foreign | Yes | Yes | Probably |

...cont'd on page 15

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# L'AVIS DE L'ANALYSTE

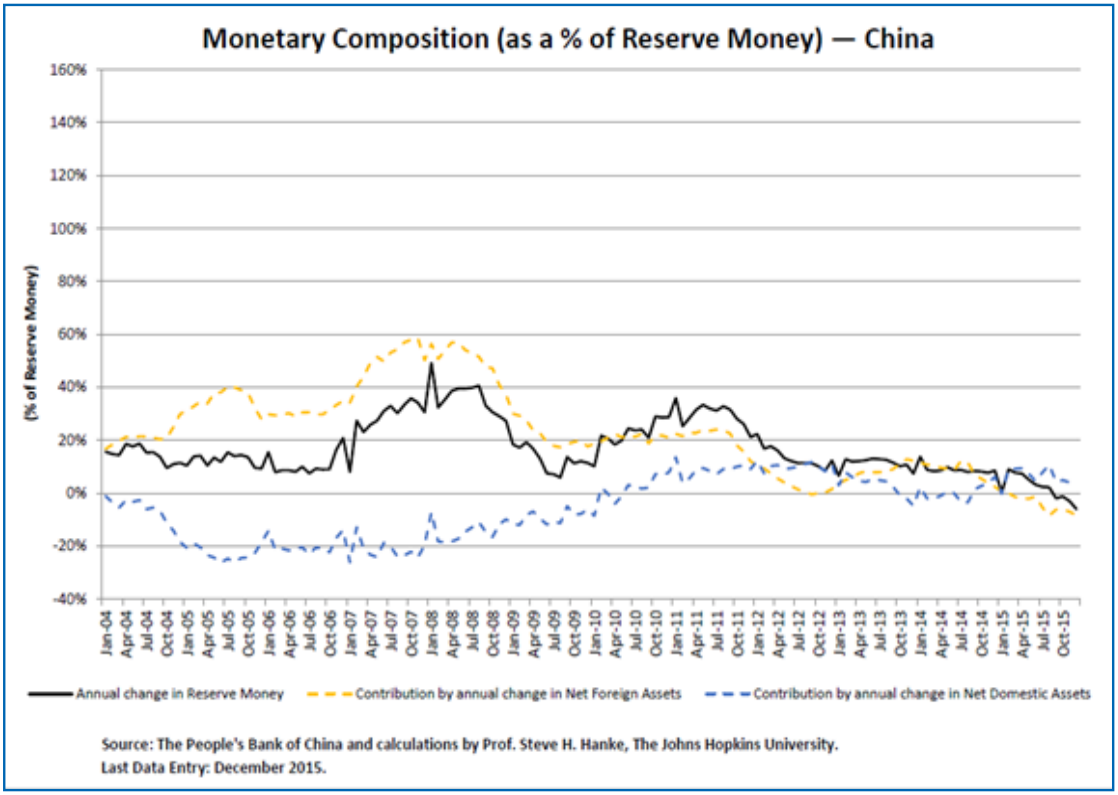
## The Hong Kong Dollar, Rock Solid

...cont'd from page 14

Most people use "fixed" and "pegged" as interchangeable or nearly interchangeable terms for exchange rates. In reality, they are very different exchange-rate arrangements. Pegged-rate systems are those in which the monetary authority aims for more than one target at a time. They come in many varieties: crawling pegs, adjustable pegs, bands, managed floats, and more. Pegged systems often employ exchange controls and are not free-market mechanisms for international balance-of-payments adjustments. They are inherently disequilibrium systems, lacking an automatic adjustment mechanism. They require a central bank to manage both the exchange rate and monetary policy. With a pegged rate, the monetary base contains both domestic and foreign components.

Unlike floating and fixed rates, pegged rates invariably result in conflicts between monetary and exchange rate policies. For example, when capital inflows become "excessive" under a pegged system, a central bank often attempts to sterilize the ensuing increase in the foreign component of the monetary base by selling bonds, reducing the domestic component of the base. And when outflows become "excessive," a central bank often attempts to offset the decrease in the foreign component of the monetary base by buying bonds, increasing the domestic component of the monetary base. Balance-of-payments crises erupt as a central bank begins to offset more and more of the reduction in the foreign component of the monetary base with domestically created base money. When this occurs, it is only a matter of time before currency speculators spot the contradictions between exchange rate and monetary policies and force a devaluation, interest-rate increases, the imposition of exchange controls, or all three.

As the accompanying monetary composition chart makes clear, China's RMB falls into the pegged regime category. The RMB's monetary base has foreign and domestic components that move around. In addition, China imposes capital controls. So, the RMB bears might be smelling blood.




That's not the case with the HKD, which is linked to the USD via a currency board. As such, the board's monetary base *(reserve money)* must be backed by foreign reserves...

**Steve H.Hanke**

*Steve H. Hanke is Professor of Applied Economics at the Johns Hopkins University in Baltimore, MD. He is also a Senior Fellow and Director of the Troubled Currencies Project at the Cato Institute in Washington, D.C. You can follow him on Twitter: @Steve_Hanke*

*Cet article est disponible en version intégrale sur le website -- www.gscgi.ch -- et en zone "membres" dès Mai 2016.*

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# IN GLOBO

## Banquier US accusé d'une fraude de 25 millions

Andrew Caspersen, ayant fréquenté l'Université de Pinceton puis ensuite l'Université de Havard de Droit *(Honored Law School),* est issu d'une famille de financiers qui avaient vendu quelques années auparavant l'affaire familiale pour plusieurs milliards de dollars.

Selon le procureur de Manhattan, il avait mis au point une "ligne de facilité de crédits" qui promettait des rendements alléchants. Il avait entre autres persuadé le directeur d'un hedge fund de lui transférer des millions de dollars l'an passé provenant d'une fondation de charité. Il a géré ces fonds en les investissant dans des options sur les indices en quelques semaines. Le montant total du détournement, selon l'accusation, atteint les 95 millions de dollars. Le cas de Caspersen pose de nombreuses questions, surtout sur la façon dont la société de gestion auprès de laquelle il était employé, la société PJT, active dans les fusions et les placements privés et coopérant étroitement avec le géant Blackstone Group LP, aurait omis de surveiller l'activité d'un cadre de haut niveau qui gérait en son sein une escroquerie.

Caspersen a refusé de répondre à l'acte d'accusation alors que son avocat, Dan Levy, affirmait que la totalité des montants gérés avaient été perdus dans les opérations effectuées.

Caspersen, dont la famille est milliardaire, a commencé sa carrière chez Coller Capital, où il a travaillé pendant dix ans pour rejoindre ensuite la société Park Hill Group, qui faisait partie de BLACKSTONE. Il s'est spécialisé dans les placements secondaires de private equity. Park Hill a été cédée par Blackstone en octobre 2015 à PJT Partners. PJT a déclaré avoir renvoyé Caspersen et être outrée par le comportement de ce dernier.

Selon les affirmations des enquêteurs, la fraude a démarré en juillet 2015. Un mois avant, Park Hill aurait aidé Irving Place Capital *(autre société de placements privés)* à lever 500 millions de dollars en vue de restructurer un de ses fonds datant de 2006. Selon les documents communiqués à l'autorité de régulation, Caspersen était chargé de cette opération. Quatre mois plus tard, Caspersen a contacté le directeur d'un hedge fund et lui a offert de participer à la restructuration de ce fonds ***"avec des rendements sans risque supérieurs à 15% sur des placements privé"***.

Ce que le directeur du hedge fund ignorait, c'est que le compte "Irving Place III SPV LLC" était contrôlé par Caspersen, et n'avait aucun lien avec la société Irving Place.

Le montage de Caspersen a duré six mois. Il a perdu la presque totalité des montants recueillis en spéculant sur des options du S&P500. Il a réussi 3 mois plus tard à persuader l'investisseur à remettre 20 millions de dollars, car la fondation de sa famille, a-t-il laissé sous-entendre, avait placé un montant important au vu des grosses opportunités qui venaient de se faire jour.

Caspersen a tenté, début mars, d'inciter un autre investisseur institutionnel à placer 50 millions de dollars qu'il promettait de rembourser au 31 mars!

Suite à des plaintes des investisseurs, PJT a découvert l'escroquerie il y a deux semaines, après enquête interne, et a déposé une plainte auprès du procureur Preet Bharara du district de New York.

Le grand-père de Caspersen avait fondé la firme Beneficial Corp. qu'il a vendue en 1998 pour 8 milliards de dollars après 28 ans d'existence.

**PCH**

## Ancien trader de la Deutsche Bank exclu à vie des services financiers

Michael Ross Curtler, ancien trader à la Deutsche Bank, a été banni à vie des services financiers au Royaume-Uni après son inculpation pour escroquerie dans le cadre de la manipulation du LIBOR aux Etats-Unis.

La FCA — Financial Conduct Authority — a banni Curtler de l'industrie financière pour manque ***"d'honnêteté et d'intégrité"*** après son inculpation pour fraude aux Etats-Unis. L'organe de surveillance relève que Curtler a plaidé coupable en octobre 2015 à la Haute Cour de New York pour son rôle actif de conspiration et d'entente visant à manipuler les soumissions de cours de la Deutsche Bank utilisés aux fins d'établir le London Interbank Offer Rate ou libor.

***«Michael Ross Curtler a admis qu'il s'est impliqué dans un comportement malhonnête en transmettant les soumissions de la Deutsche Bank pour le LIBOR. La malhonnêteté doit l'exclure des services financiers de Grande-Bretagne. Conséquemment, il doit être interdit de toute activité financière»*** a déclaré le directeur de la FCA, M. Mark Steward.

**PCH**

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# IN GLOBO

## SEC investigates ex-JPMorgan debt traders

[...] The top US securities watchdog has launched an investigation into government debt trades made by two former JPMorgan Chase employees who left the bank earlier this year after a dispute over compliance procedures *(the amount of reserves taken for certain Treasury trades known as strips)* [...]

[...] The Securities and Exchange Commission inquiry, which is in its early stages, steps up the pressure on JPMorgan and comes amid greater regulatory scrutiny of the opaque $13tn Treasury market [...]

[...] Finra is also investigating the circumstances of the disclosures JPMorgan made when explaining the traders' exit, a person familiar with the matter said [...]

*Read more: http://www.ft.com/intl/cms/s/0/6b0616e4-f854-11e5-803c-d27c7117d132.html#axzz44mrOyQ9j*

*Source: Financial Times - Apr. 3, 2016* CFB

## Panama Papers: Biggest Banks Are Top Users of Offshore Services

[...] Offshore companies created in Panama, the British Virgin Islands and elsewhere can be impenetrable to authorities—and anyone else poking around. That has made them legitimate vehicles for wealth protection and tax planning, but also hideaways for tax dodgers, frauds and worse [...]

[...] Some of the world's biggest banks, whose clients seek discretion, operate next to the offshore specialists that create and register companies, find "nominee" directors and shareholders to take the true owners' place on forms, and assemble complex, bespoke structures [...]

[...] According to the International Consortium of Investigative Journalists, HSBC Holdings PLC, UBS Group AG and Credit Suisse AG were some of the heaviest users of company-incorporation services provided by Mossack Fonseca, the Panamanian firm whose massive trove of internal documents the investigative-reporting group says it has seen [...]

*Read more: http://www.wsj.com/articles/biggest-banks-are-top-users-of-offshore-services-1459817165*

*Source: The Wall Street Journal - Apr. 5, 2016* CFB

## A Dodd-Frank Watchdog Still Growls, on a Slightly Tighter Leash

[...] Two events this week suggest that federal regulators are losing ground against "too big to fail" financial institutions [...]

[...] ...insurance firm, MetLife, fought back in the courts, and won a big victory on Wednesday. A federal judge struck down the "systemically important" designation for MetLife [...]

[...] Its effect was immediate ... General Electric made a regulatory filing to shed its designation as a systemically important firm and to be freed from the Fed's oversight [...]

[...] Another big score for the industry? [...]

[...] Imagine a situation like the lead-up to 2008. A.I.G. placed huge and risky bets over a relatively short period, rapidly turning itself into a danger to the system. The council, operating under new restrictions meant to slow it down, might not be able to stop another A.I.G. before it's too late. [...]

*Read more: http://www.nytimes.com/2016/04/01/upshot/a-dodd-frank-watchdog-still-growls-on-a-slightly-tighter-leash.html?rref=collection%2Fsectioncollection%2Fupshot*

*Source: The Wall Street Journal - Mar. 29, 2016* CFB

## AI progress fails to convince all investors

[...] Isaac Newton may have been one of the finest minds of all time, but he turned out to be a miserable investor. "I can calculate the motions of the heavenly bodies, but not the madness of people," he lamented after losing a fortune in the South Sea bubble [...]

[...] Artificial intelligence techniques, investment algorithms that can autonomously learn, adapt and scour vast data sets for tradable patterns [...]

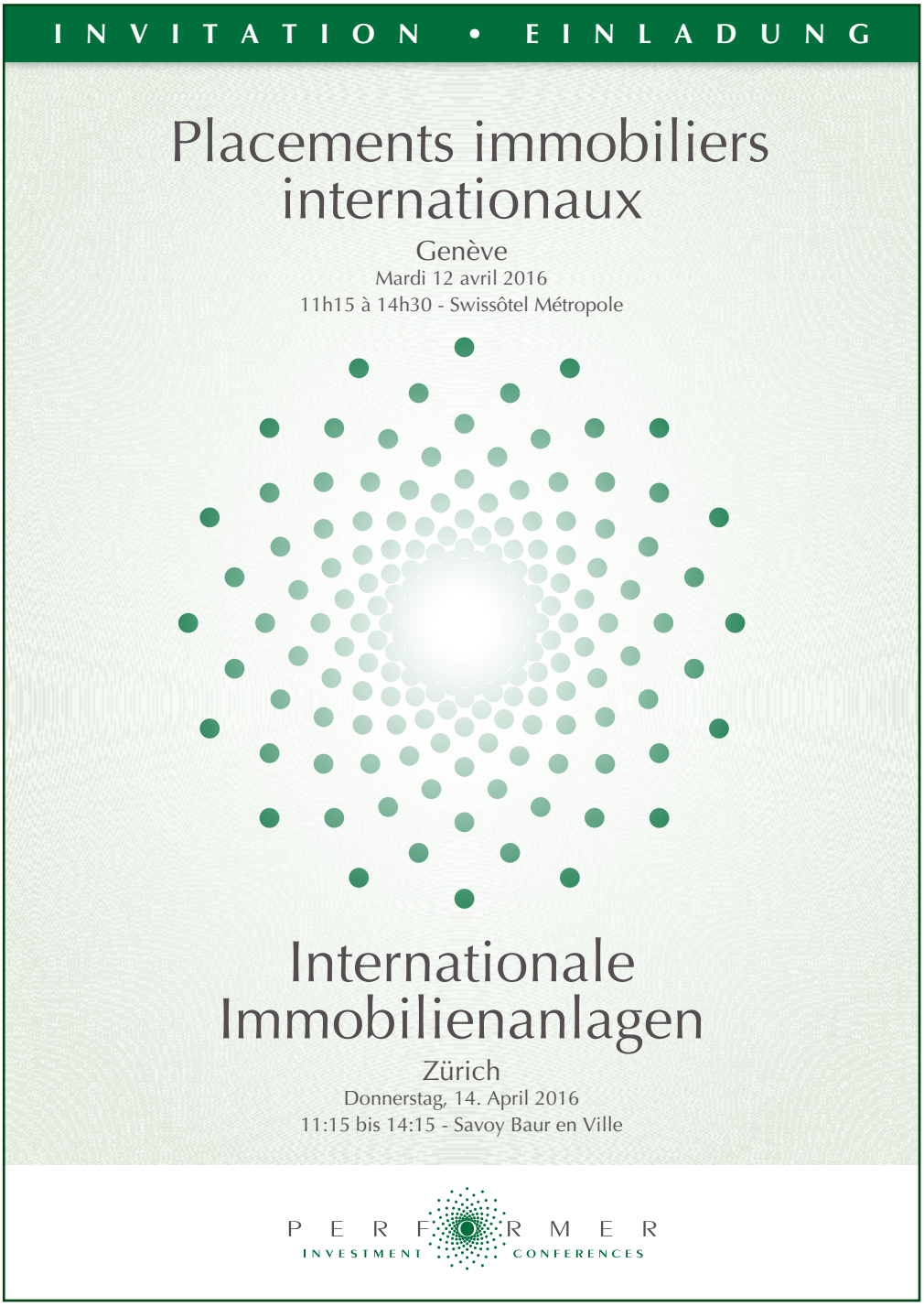
[...] But some "quantitative" financiers (quants) are sceptical that these tools are any more than a somewhat better mousetrap, and argue that areas such as "machine learning" are overhyped and AI used as a marketing gimmick [...]

[...] Algorithms that may look ingenious and backtest superbly against historical data have a nasty habit of unravelling when confronted with unforgivingly fickle financial markets [...]

*Read more: http://www.ft.com/intl/cms/s/0/1c249b10-ed49-11e5-888e-2eadd5fbc4a4.html#axzz44mrOyQ9j*

*Source: Financial Times - Mar. 25, 2016* CFB

## GLOBAL EVENTS




**Le GSCGI est Partenaire de cette conférence.**

Programme: *http://www.performer-events.com/*

Inscription: *http://www.performer-events.com/inscription*

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# AGENDA OF GSCGI's MONTHLY CONFERENCES

**Nous vous informons que,**
**pour des raisons indépendantes de notre volonté,**
**la réunion mensuelle prévue pour le mois d'avril**
**a été annulée.**

* * *

**May 27, 2016/Geneva — Orateurs:** *...tba...* **FUNDANA SA, Membre du GSCGI**
**June 24, 2016/Geneva — Orateurs:** *...tba...* **Société Générale, Membre Partenaire du GSCGI**

* * *

*Réservez ces dates!*
*Les thèmes de Conférence sont communiqués par invitation et sur le site du Groupement — www.gscgi.ch*
*Non-Membres bienvenus — Inscrivez-vous!*

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# LA REUNION MENSUELLE DU GSCGI

## 2016, Mar. 11 - Geneva: Surveillance prudentielle des GFI (LSFin-LEFin):

*Comment s'y préparer?*

*...article by Cosima F. Barone*

***Pour sa 3ème réunion mensuelle de 2016, le GSCGI a organisé une conférence-débat, avec des orateurs de choix, sur le thème de la "surveillance prudentielle" à laquelle les GFI seront soumis dès que les nouvelles lois LSFin-LEFin auront terminé leur parcours parlementaire.***

GROUPEMENT SUISSE DES CONSEILS EN GESTION INDÉPENDANTS - GSCGI
SCHWEIZERISCHE VEREINIGUNG UNABHÄNGIGER FINANZBERATER - SVUF
ASSOCIAZIONE SVIZZERA DEI CONSULENTI FINANZIARI INDIPENDENTI - ASCFI
SWISS ASSOCIATION OF INDEPENDENT FINANCIAL ADVISORS - SAIFA

INVITATION / INSCRIPTION

CONFERENCE-DEBAT 11 MARS 2016 Genève

Nous avons le plaisir de vous convier, ainsi que vos collègues et ami(e)s, à notre prochain déjeuner-conférence qui aura lieu à Genève, sur le thème suivant, d'actualité certaine et de grand intérêt pour les conseils en gestion indépendants et les gestionnaires de fortune indépendants...

**Surveillance prudentielle des GFI (LSFin-LEFin):**
***comment s'y préparer?***

...avec la participation des panelists suivants:

**ME STÉPHANIE HODARA EL BEZ** (Modératrice)
*Associée, ALTENBURGER Ltd. Legal & Tax, Genève, Zürich et Lugano.*

**ME BIRGIT SAMBETH GLASNER**
*Associée, ALTENBURGER Ltd. Legal & Tax, Genève, Zürich et Lugano.*

**ME YVES NIDEGGER**
*Conseiller National, siégeant à la Commission des affaires juridiques qu'il a présidée, à la Commission judiciaire, à la Commission des affaires extérieures, ainsi qu'à la Délégation chargée des rapports avec le parlement français. Chef de la Commission Veille Juridique du GSCGI.*

**EMANUELE ZANON DI VALGIURATA**
*Membre de la Direction générale, Responsable du Private banking à Genève, Banque Morval S.A., Membre Partenaire du GSCGI.*

**MAURICE EMERY**
*CEO, Kestrel S.A., Membre du GSCGI*

**ETIENNE GAULIS**
*Administrateur, Courtage en assurances & Gestion de patrimoine et placements, PATRIMGEST SA, Membre du Conseil du GSCGI et chef de la Commission Assurance Professionnelle.*

**ME STÉPHANIE HODARA EL BEZ** (Modératrice)
*Stéphanie Hodara El Bez est avocate aux barreaux de Genève et de New York, titulaire d'une licence en droit de l'Université de Gené et d'un LL.M. de Boston University (USA). Elle est associée de l'Etude ALTENBURGER Ltd legal + tax et est responsable du Te Banking & Finance du bureau genevois de cette Etude. Me Hodara pratique dans les domaines du droit bancaire et financier et droit des sociétés. Elle conseille des gérants indépendants, des gestionnaires de fonds, ainsi que des banques et des négociants valeurs mobilières, dans les domaines contractuels et réglementaires. Elle les représente également dans le cadre de procédu nationales et internationales ou vis-à-vis des autorités de surveillance des marchés financiers. Me Hodara donne régulièrement c conférences dans le domaine du droit bancaire et financier et notamment sur le sujet des projets de lois LSFin/LEFin qu'elle suit près afin d'accompagner ses clients dans la mise en œuvre des changements à venir.*

**ME BIRGIT SAMBETH GLASNER**
*Avocate, LL.M. Banking and Financial Law, Boston University.*
*Associée de l'Etude ALTENBURGER LTD legal + tax, Genève, Zurich et Lugano.*
*Responsable romande du Département Résolution de conflits nationaux et internationaux.*
*Médiatrice assermentée civile, commerciale et pénale.*
*Vice-présidente, Genève, CSMC Chambre Suisse de Médiation Commerciale, Section Romande.*
*Ancienne Juge suppléante auprès des Tribunaux genevois.*
*Membre du Conseil de la Fédération Suisse des avocats FSA.*
*Ancienne Membre du Conseil de l'Ordre des Avocats de Genève (2009-2016). Présidente de sa Commission ADR.*

**ME YVES NIDEGGER**
*Yves NIDEGGER a rejoint le Barreau de Genève en 1998, en l'Etude OLTRAMARE HOCHSTETTER EARDLEY REISER avant fonder sa propre Etude en 2001.*
*Me Nidegger a présidé la Commission judiciaire du Grand Conseil genevois où il a siégé aux Commissions législatives et des finan Depuis 2007, il est élu au Conseil national où il siège à la Commission des affaires juridiques qu'il a présidée, à la Commission judiciaire, à la Commission des affaires extérieures, ainsi qu'à la Délégation chargée des rapports avec le parlement français.*
*Yves Nidegger dirige la Commission Veille Juridique du GSCGI.*

**EMANUELE ZANON DI VALGIURATA**
*Emanuele Zanon di Valgiurata est – depuis 2003 - responsable du private banking pour Banque Morval S.A.*
*Né en 1966, il obtient une licence en droit de l'Université de Turin (Italie), suivie par une certification en management de la Harv Business School.*
*Il débute sa carrière professionnelle en 1990 à Paris en tant que analyste financier, d'abord au sein du groupe Banque Finindus ensuite, au sein du département de «Corporate Finance» chez Banque San Paolo Paris.*
*En 1993, il rejoint le groupe bancaire familial MorvalVonwiller Holding à Genève pour développer la gestion privée de portefeuille p les clients de la banque.*
*Banque Morval S.A. est Membre Partenaire du GSCGI.*

**MAURICE EMERY**
*Après avoir obtenu sa Maîtrise Fédérale de Comptable en 1982, il a fondé sa propre fiduciaire à Neuchâtel qui, en 1989, a fusion avec le groupe Kestrel.*
*Kestrel S.A. est un intermédiaire financier suisse qui offre ses services pour la constitution et la gestion de sociétés, d'entreprises étrangères et ou de Trusts ainsi que la gestion de portefeuilles et de fortune. Kestrel est un membre actif de la "Swiss Associat of Trust Companies (SATC)", du "Groupement Suisse des Conseils en Gestion indépendants (GSCGI)" et est affilié à l'"Organis d'autorégulation des gérants de patrimoine (OAR-G)".*
*Maurice Emery est un membre de la "Society of Trust and Estate Practitioners (STEP)".*

**ETIENNE GAULIS**
*Administrateur de PATRIMGEST SA, société active en Courtage en assurances & Gestion de patrimoine et placements,*
*Etienne Gaulis est Membre du Conseil du GSCGI et dirige la Commission Assurance Professionnelle du Groupement.*
*PATRIMGEST SA est une société de courtage en assurances indépendante installée à Lausanne depuis plus de dix ans, dont l'acti englobe le courtage, l'optimisation et la gestion de portefeuilles d' assurances toutes branches, la gestion de patrimoine et les pla ments.*

* * *

En introduction, **ME STÉPHANIE HODARA EL BEZ**, modératrice, indique les grandes lignes du débat qui portera sur les divers aspects liés à la surveillance prudentielle découlant des nouvelles lois de finance — **LSFin** et **LEFin**.

Elle mentionne, notamment, l'*iter* législatif, la médiation, la relation des GFI avec leurs banques dépositaires, et les solutions *(assurance professionnelle; portfolio monitoring, reporting et compliance outsourcing)* déjà à la portée de tout GFI qui anticipe diligemment sa nouvelle organisation plutôt que de subir, au tout dernier moment, les diverses pressions des autorités financières.

Le GSCGI, en particulier grâce au travail dévoué de ses commissions *(sur base bénévole)* et avec le concours de ses membres ayant développé des solutions utiles pour la profession, apporte une véritable valeur ajoutée à tout GFI.

En outre, le statut de Membre du Groupement lui permet de bénéficier d'avantages exclusifs.

Il est important de souligner, une fois encore, que le Groupement à fondé, en 2012, le magazine mensuel **"The IFA's WealthGram"** dont le but premier est de faire connaître les talents, expériences et activités de ses membres, par le biais d'une vaste distribution "online" en Suisse, en Europe et dans le monde entier.

Ce magazine représente une occasion unique aux membres du GSCGI, et également aux non-membres, de communiquer la capacité unique et majeure des GFI suisses, qui est celle d'avoir une grande compétence de "gestion internationale" accumulée pendant des décennies et que les collègues d'autres pays nous envient. Genève est le berceau du "wealth management" et la capitale mondiale du "private wealth management". Disons-le au monde!

Le sponsorship d'une édition mensuelle du "WealthGram" est ouvert à tous *(Suisses et étrangers)*. Toutefois, les membres du GSCGI restent prioritaires et bénéficient de tarifs "très" préférentiels.

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## 2016, Mar. 11 - Geneva: Surveillance prudentielle des GFI (LSFin-LEFin):

*Comment s'y préparer?*

*...article by Cosima F. Barone*

Me Stéphanie Hodara El Bez rappelle, en quelques slides *(à droite)*, l'évolution législative et réglementaire sur le thème de la future surveillance prudentielle des GFI, inspirée vraisemblablement par le besoin de permettre aux opérateurs suisses l'accès au marché de l'Union Européenne.

Il est indéniable que le poids de surveillance imposée en Suisse à été considérable, allant de l'échange de renseignements sur demande à FATCA, de la loi GAFI à l'échange automatique de renseignements et conformité fiscale, et en dernier les nouvelles lois de finance — **LSFin** et **LEFin** — dont la mise en application est prévue pour 2018.

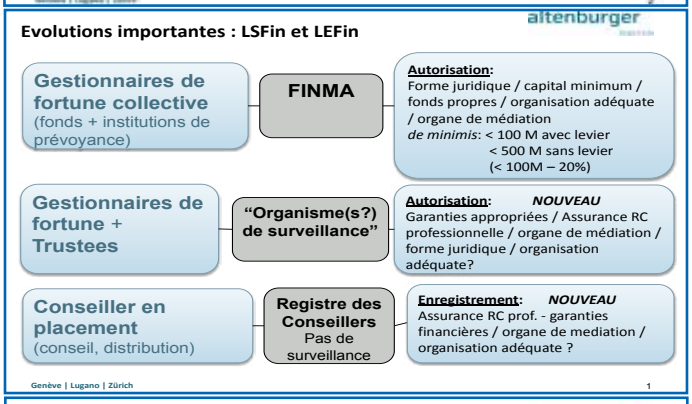
Ces nouvelles lois prévoient la surveillance de deux catégories d'opérateurs financiers indépendants en Suisse: (1) les gestionnaires de capitaux collectifs, et (2) les GFI et trustees soumis aux mêmes règles.

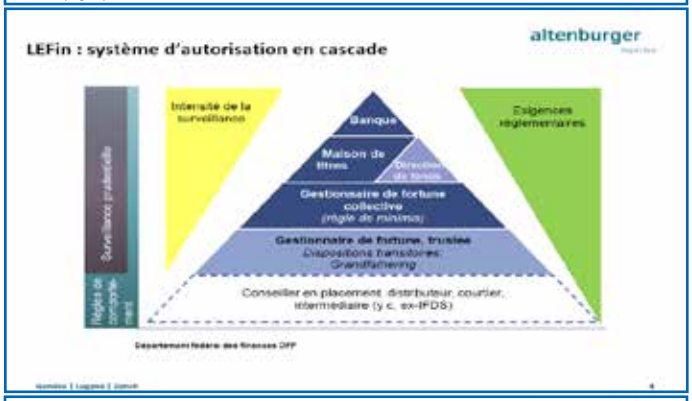
La nouveauté apportée par le législateur réside dans ces deux catégories, alors que les gestionnaires de fortune collective restent soumis aux règles LPCC *(Loi sur les Placements Collectifs de Capitaux)*, excepté pour l'aspect de la distribution *(il ne sera plus nécessaire d'obtenir une licence de distribution)*, et à la surveillance directe de la FINMA. GFI et trustees devront obtenir une autorisation, avoir un capital déterminé en garantie de leurs activité ou avoir souscrit une assurance professionnelle (RC), et avoir une organisation adéquate.

L'**Organe de Médiation**, prévu par la nouvelle législation, représente également un élément de nouveauté. Les GFI devront s'y affilier. L'autre nouveauté majeure sera l'**Organisme de Surveillance** (OS), étatique ou semi-étatique *(un ou plusieurs)*, soumis directement à la FINMA. En d'autres termes, les OAR seront exclus de la "surveillance prudentielle", choix du législateur dont le GSCGI se félicite car, à ses yeux, il est un des corollaires à la restauration de la reconnaissance internationale que notre pays a perdu avec l'introduction du système OAR lors de la mise en place de la loi anti-blanchiment d'argent (LBA) en 2000.

Le système d'autorisation en cascade — **LEFin** — apporte une simplification législative importante en Suisse, largement expliqué par le législateur Daniel Roth *(Chef du Service juridique du Département fédéral des finance - DFF)* lors de son passage au GSCGI le 22 janvier 2016 *(voir compte-rendu de la conférence dans le WealthGram de février 2016)*. A noter, en particulier, que le conseiller à la clientèle ne sera pas soumis à surveillance, mais il aura l'obligation d'enregistrement et...

*Cet article est disponible en version intégrale sur le website -- www.gscgi.ch -- et en zone "membres" dès Mai 2016.*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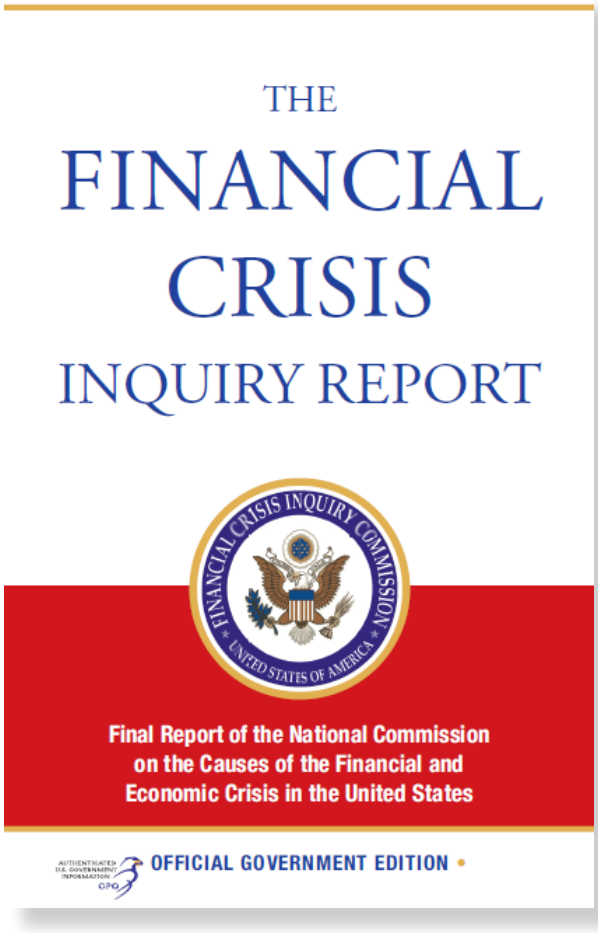
# BOOK REVIEW

## The Financial Crisis Inquiry Report, *Official Government Edition*




The Independent Federal Agency "National Archives" Opens the Financial Crisis Inquiry Commission Records...

*Press Release... http://www.archives.gov/press/press-releases/2016/nr16-45.html*

The U.S. Government 663 pages review of the 2007-2008 crisis can be downloaded here...

*Full Report... https://www.gpo.gov/fdsys/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf*

***A website — www.fcic.gov — does host a wealth of information beyond what has been presented in the published FCIC report.***

* * *

## Some Insightful Data...

— *From 1978 to 2007, the amount of debt held by the financial sector soared from $3 trillion to $36 trillion...*

— *By 2005, the 10 largest U.S. commercial banks held 55% of the industry's assets, more than double the level held in 1990...*

— *On the eve of the crisis in 2006, financial sector profits constituted 27% of all corporate profits in the United States, up from 15% in 1980...*

## Some Conclusions...

— *This financial crisis was avoidable... The captains of finance and the public stewards of our financial system ignored warnings and failed to question, understand, and manage evolving risks within a system essential to the well-being of the American public. Theirs was a big miss, not a stumble.*

— *Widespread failures in financial regulation and supervision proved devastating to the stability of the nation's financial markets... More than 30 years of deregulation and reliance on self-regulation by financial institutions, championed by former Federal Reserve chairman Alan Greenspan and others... opened up gaps in oversight of critical areas with trillions of dollars at risk...*

— *Dramatic failures of corporate governance and risk management at many systemically important financial institutions were a key cause of this crisis...*

— *The government was ill prepared for the crisis, and its inconsistent response added to the uncertainty and panic in the financial markets... The government's inconsistent handling of major financial institutions during the crisis—the decision to rescue Bear Stearns and then to place Fannie Mae and Freddie Mac into conservatorship, followed by its decision not to save Lehman Brothers and then to save AIG—increased uncertainty and panic in the market.*

— *The failures of credit rating agencies were essential cogs in the wheel of financial destruction... From 2000 to 2007, Moody's rated nearly 45,000 mortgage-related securities as triple-A. This compares with six private-sector companies in the United States that carried this coveted rating in early 2010. In 2006 alone, Moody's put its triple-A stamp of approval on 30 mortgage-related securities every working day. The results were disastrous: 83% of the mortgage securities rated triple-A that year ultimately were downgraded.*

*etc.*

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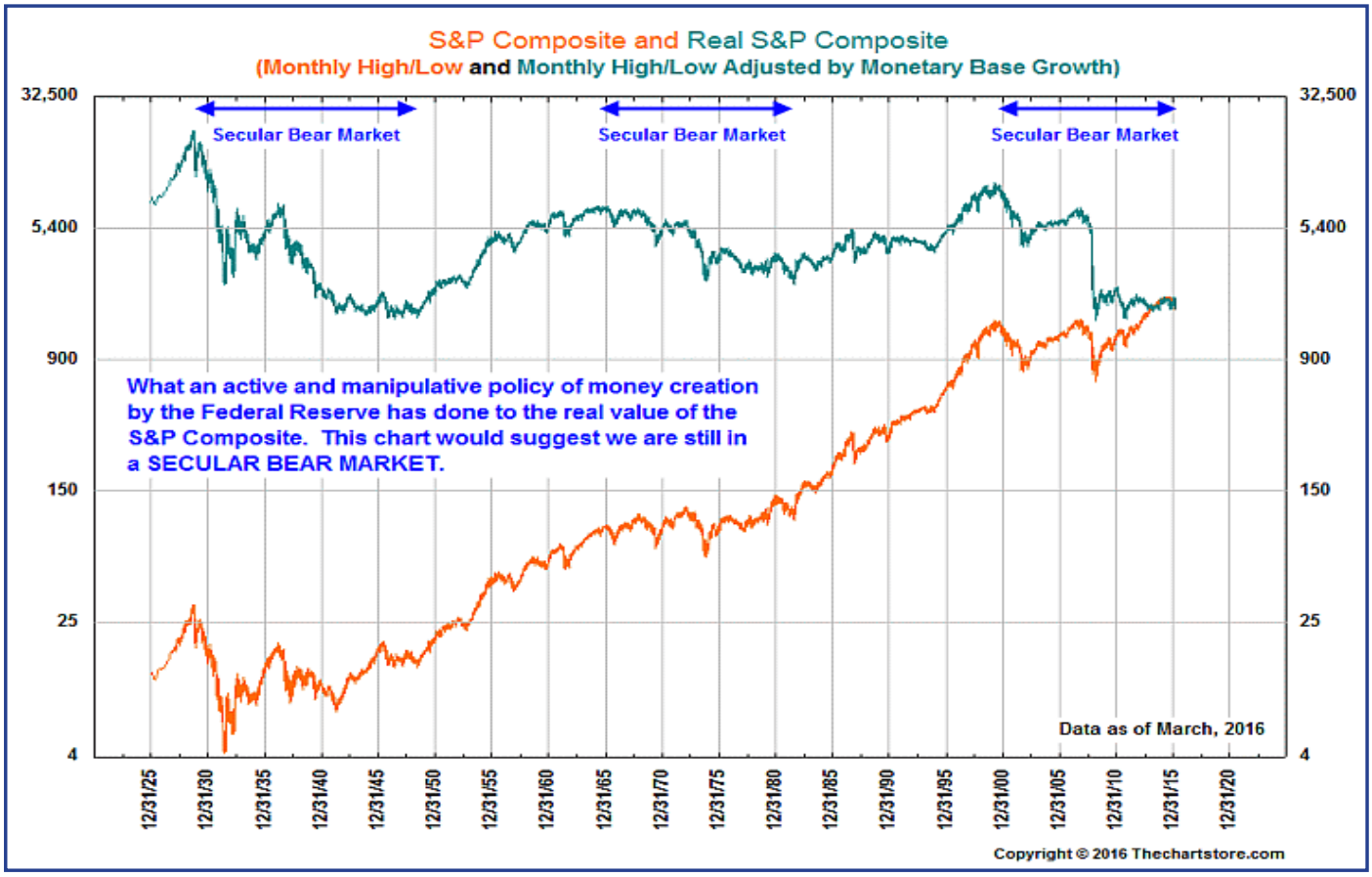
# CLIN D'OEIL À L'HISTOIRE

## Bull or Bear?




According to the above historical graph *(The Chart Store - www.thechartstore.com)* three secular bear markets have occurred over the past 100 years or so.

In real terms, however, and this may come as a huge surprise to some, the "real" Standard & Poor's Composite index has not yet exited the secular bear market that began at the turn of the century. In other words, all the price hype could have been caused by ***"active and manipulative policy of money creation by the Federal Reserve"***, said Ron Griess of The chart Store.

*Historical graph: courtesy of www.thechartstore.com*

Cosima F. BARONE, FINARC SA
*Membre du Conseil du GSCGI,*
*www.finarc.ch -- c.barone@finarc.ch*

# LA PAROLE EST A VOUS

Le Conseil du GSCGI et le Comité de Rédaction de "The IFA's Wealth Gram" invitent les Membres et Partenaires du Groupement à partager leur expérience et connaissance avec les collègues en fournissant des articles sur des thèmes divers: (a) actualité, (b) techniques de gestion, (c) analyse fondamentale, technique et globale, (d) fiscalité, (e) régulation, etc. Annoncez et adressez vos écrits à wealthgram@gscgi.ch le plus rapidement possible. Les non-Membres également peuvent fournir des articles et sponsoriser Wealth Gram.

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CONVENTION OF INDEPENDENT FINANCIAL ADVISORS
A Non-Profit Foundation
A Non-Governmental Organization in general consultative status with the Economic and Social Council of the United Nations

XIV[TH] INTERNATIONAL CIFA FORUM
MAY 31 - JUNE 3, 2016
HOTEL HERMITAGE — MONACO

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| Wednesday 1 June: | Macro Topics |
| Thursday 2 June: | Associations' Day 1 |
| Friday 3 June: | Associations' Day 2 |


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