



Media Release

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Swiss Federal Banking Commission issues money laundering ordinance

Following a public consultation procedure, the Swiss Federal Banking Commission (SFBC) has issued a money laundering ordinance which contains more stringent due diligence requirements for banks and securities dealers. The ordinance will take effect on July 1, 2003 and replaces the 1998 money laundering guidelines¹.

January 17, 2003 – The final version is largely identical to the draft which was released for comments by the SFBC in July 2002². The reactions to this first draft were generally positive. In the course of drafting the final version of the ordinance, many details raised by participants to the public consultation were included, to the extent possible, in the final version. The ordinance contains a number of changes compared to the draft version. However, they do not affect the key additions to the 1998 guidelines³ which are the rules requiring systematic recording of all higher risk business relationships and the more detailed investigation of business relationships as well as computerized monitoring of transactions remain unchanged.

Through this ordinance, the SFBC is determined to further contribute to the prevention of money laundering and as such considers its implementation as a priority. The ordinance follows international anti-money laundering standards and takes into account the developments achieved through the Financial Action Task Force on Money Laundering (« FATF »), which is the most important international organization in the prevention of money laundering and terrorism financing.

While the ordinance issued by the SFBC outlines the due diligence duties relating to higher risk business relationships, the Agreement on the Swiss Banks' Code of Conduct with Regard to the Exercise of Due Diligence, which has been revised by the Swiss Bankers Association and is also published today⁴, stipulates the identification procedures for all client relationships.

¹ SFBC Circular 98/1

² [SFBC Media Release](#) July 8, 2002

³ SFBC Newsletter No. 25 lists the most important changes since the consultative draft.

⁴ [see: http://www.swissbanking.org/en/home/medienmitteilungen.htm](http://www.swissbanking.org/en/home/medienmitteilungen.htm)



The money laundering ordinance will take effect on 1 July 2003. The SFBC has set a transitional period of one year for the implementation of certain provisions, during which the 1998 guidelines will continue to apply.

The ordinance contains the following key points and additions:

- Financial intermediaries are required to take a *risk-based* approach to the prevention of money laundering. In the case of *higher risk business relationships*, the ordinance prescribes *additional investigations*, such as those relating to the origin of the funds. As a result, financial intermediaries must first define risk criteria for their particular business activity and use them to identify and flag all existing and new higher risk business relationships internally.
- In the case of *all other business relationships*, however, no additional investigations are necessary apart from the usual identification procedure as defined in the CDB due diligence agreement.
- The decision to commence business relationships with *politically exposed persons* from abroad must be taken by the firm's *senior executive body*, as is presently the case. It remains prohibited to accept any assets which the financial intermediary knows, or has reason to suspect, are the *proceeds of crime*. This includes in particular any funds stemming from *corruption* or the misuse of public funds within or outside Switzerland.
- The ordinance stipulates that the instruments currently used to prevent money laundering are also applicable to the prevention of the *financing of terrorism*. Where the investigating of the background of unusual or suspicious transactions reveals links with a terrorist organization, the financial intermediary must report the matter to the Money Laundering Reporting Office promptly.
- If there are doubts about a business relationship, particularly where the relationship involves a significant volume of assets, financial intermediaries must seriously consider whether to make use of their *right to report* such doubts to the Money Laundering Reporting Office.
- With the exception of smaller institutions, all banks and securities dealers must use computerized systems to *monitor transactions*. These systems are intended to help them identify unusual transactions, which must be investigated and assessed within a reasonable period of time following identification. If necessary, additional investigations of the business relationship must be initiated.
- Pursuant to the standards developed by the Financial Action Task Force (FATF) to prevent the financing of terrorism, the ordinance requires that all *cross-border wire transfers* must contain details of the party remitting the funds.
- *Subsidiaries* belonging to a consolidated group of financial intermediaries, which is monitored by the SFBC, may request to be supervised by the SFBC if they routinely comply with the obligations of the ordinance.



Eidgenössische Bankenkommision
Commission fédérale des banques
Commissione federale delle banche
Swiss Federal Banking Commission

- The current practice has been formalized in that financial intermediaries must now ensure that their *establishments outside Switzerland* comply with the fundamental principles laid down in the ordinance. Swiss banking groups must report any resulting competitive disadvantage to the SFBC. The Commission will then seek a solution on a case-by-case basis in cooperation with the authorities and institutions concerned.
- Financial intermediaries with foreign establishments must monitor their legal and reputational risks on a global basis. They must ensure that they receive the relevant information required for this purpose from their foreign establishments. The group's internal control bodies and external auditors must be in a position to *access* information held in all foreign establishments concerning specific business relationships. The same principle applies vice versa to foreign banks operating in Switzerland.
- The provisions of the ordinance also apply to *correspondent banking relationships*. Banks without any physical presence at their place of incorporation (shell banks) may not maintain any correspondent bank accounts.