



## **Media Conference, April 19, 2005**

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### **Regulation – circumspect and in tune with the market**

#### **I.**

Throughout history, state regulation has always been regretted as being more or less of a burden. The pages published in the official compilation of laws enacted have more than once been counted meticulously. However, criticisms have focused on financial market regulation over the past few months by coining new expressions such as “regulatory jungle” or “tidal wave of regulation”, almost suggesting an organised campaign.

Such tumult has not swayed the Banking Commission from its fundamentally liberal stance. The Banking Commission has openly provided detailed information on its position to date, playing an active part in the justified debate over the scope, depth, density and coordination of Swiss financial market regulation. It has engaged in dialogue with those directly involved while consciously steering clear of public confrontation. That said, the latest Annual Report provides a perfectly clear account of the Banking Commission's stance.

#### **II.**

Regulation in itself is not a bad thing. A world-leading financial centre such as Switzerland needs sound, credible regulation that does not involve economic policy-makers intervening in the market. In this age of global markets, Switzerland cannot claim exception from international standards, namely those of the Basel Committee on Banking Supervision or the International Organization of Securities Commissions (IOSCO). Instead, it must apply these standards in a reasonable and selective manner that makes full use of the room for manoeuvre allowed at national level. This is a point on which no one disagrees.



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

### III.

Of course, the Banking Commission has always approached every regulatory project with a cautious and circumspect attitude. It has never been afraid to refine its standards where necessary.

This necessity, together with the closely related aspects of proportionality and effectiveness, must be judged critically from the outset. Differentiation requires that the specific characteristics, size and risks of individual business activities and institutions be taken into account. We must never lose sight of our duty to uphold freedom of trade and facilitate the country's competitiveness in the international arena. Our rules must be straightforward and in tune with the market. Their implementation should not be permitted to disrupt the fundamental economic balance between costs and benefits. The process of regulation must involve those affected at the earliest possible stage and on an ongoing basis, and it must meet the general public's need for transparency.

A meeting of the Banking Commission and the Swiss Bankers Association has heralded an agreement on their going about future regulatory plans. This agreement has since borne its first fruit in respect of the implementation of Basel II. Regulatory plans for the medium term are being drawn up and priorities are being determined. In a joint effort, high level representatives will set the stage for regulatory projects right from the outset and seek to identify options and differentiation opportunities.

### IV.

Self-regulation has essentially already proven itself a worthwhile complement to state regulation in Switzerland for some time and the Banking Commission more than welcomes it. Self-regulation lightens the government's workload, encourages rules that suit the market and can be adapted where appropriate. It does, however, need to be embedded in a framework of state regulation. It only carries any serious weight if it is recognised by the regulator as a compulsory minimal standard. It has to be said that the current arrangement, overseen by the regulator, still has room for improvement and expansion. The Banking Commission has thus begun promising talks with the Swiss Bankers Association.

### V.

I have already stressed the importance of proportionality and effectiveness, as well as the circumspect approach the Banking Commission adopts with regard to regulatory projects. Director Zuberbühler will explain things in more detail using the example of the differentiated Swiss implementation of the new Basel II Capital Accord. Before he does so, however, our Vice-Chairman, Professor Zufferey, will present two examples that illustrate how regulation can actually be beneficial to the financial sector: the licencing of asset managers for institutional investors and the new Collective Investment Act.

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To conclude our media conference, I can tell you that we will be submitting a draft of a circular that is of great importance to the Swiss financial centre for consultation in the next few weeks, namely the circular "Internal Surveillance and Control".



Does this contradict the ethos of restrained, deliberate regulation that has just been explained? I can assure you with a clear conscience that it does not. We regulate where necessary and to the extent necessary, and this is a case of necessity. The circular has a crucial role to play from our point of view. We want banks to take responsibility for themselves. In Switzerland, it would befit the banks perfectly to be the leading industry in terms of corporate governance.

The 16 members of the "Bank Auditing and Monitoring" working group, headed by our Vice-Director Kurt Bucher, have put a great deal of thought into every last detail of the draft. Six members represented the banks and four the audit firms, ensuring that the parties concerned by the circular had a major say in its drafting.

The circular describes the tasks, responsibilities and reporting requirements assigned to the following functions:

- compliance and risk controlling
- internal audit
- audit committee
- board of directors

It also explains the views of the Banking Commission and the concerned parties on the independence of the members of the Board of Directors. It calls on banks that are required to establish an audit committee to organise the process by which suspected irregularities are reported ("whistle blowing").

True to the quest for differentiation, various forms of exemption and relief are envisioned for

- private bankers
- subsidiaries of domestic and foreign banks
- and branches of foreign banks in Switzerland.

The criteria for compulsory establishment of an audit committee will affect about 40 of the 350 banks in Switzerland.

To sum up:

- The affected parties (banks and audit firms) have had considerable involvement in the drafting of this essential circular.
- It does not create any new, direct duties of supervision, but instead encourages banks to take responsibility for themselves.
- It offers reasonable scope for differentiation.