Overview of banks and securities dealers

2013 was marked by a further narrowing of margins in interest and commission business, continued growth in mortgage business and increasing uncertainty in cross-border business. Consolidation of the Swiss banking sector continued, though less rapidly than expected.

In 2013, the economic environment once again presented a challenge for banks and securities dealers in Switzerland. With interest rates still at extremely low levels, banks experienced a further decline in their interest income. The debate over cross-border advisory activities persisted, creating continued uncertainty.

Consolidation in the wealth management market

The international pressure on cross-border wealth management grew in 2013. At the end of 2012, Germany had rejected the tax agreement negotiated with Switzerland. In France, a number of proceedings were initiated against Swiss banks accused of providing active assistance to tax flight. These events, coupled with the political debate over the Lex USA, prompted some major financial players to announce publicly that they would be severing ties with clients who are unable to demonstrate that their tax status is in order.

Meanwhile at the end of August 2013, the DoJ launched a programme to end the tax dispute between the US and Swiss banks,[33] giving the latter until 31 December 2013 to opt voluntarily for one of the three categories agreed between the DoJ and the SIF. It was already clear that the implementation of this programme would tie up considerable resources at the institutions concerned, and would result in high internal and external costs. In addition, banks that report themselves voluntarily for category 2[34] will have to pay a fine which may be substantial.

Interest rate risks and mortgage growth

Monitoring and managing interest rate risks remains extremely important, and FINMA once again carried out supervisory reviews of a number of commercial banks in 2013 to gain in-depth insight into their risk management. This important topic is also regularly addressed in discussions with the banks, and where necessary they are instructed to carry out organisational measures or increase their equity capital.

Decline in commission income

While the equity markets performed better than in previous years, bond market yields remained very modest. Most client portfolios continued to hold large amounts of liquidity. As a consequence, the majority of Swiss financial market players experienced a further decline in their commission income. Earnings also came under pressure following the Federal Supreme Court's decision[35] on retrocessions. There is no sign yet of a turnaround. The result is that the critical mass which every bank requires in order to remain profitable over the long term is also growing.

The euro and sovereign debt crisis

Although the measures enacted by the Troika (European Commission, ECB and IMF) have led to a stabilisation of the economy in certain European countries, the structural weaknesses remain and the situation could deteriorate rapidly once again.

FINMA therefore maintained the enhanced supervisory control measures that it imposed at the start of the crisis on certain Swiss institutions of European banking groups which faced greater risks as a result of the euro and sovereign debt crisis. These include more detailed reporting and the limitation of intragroup positions. The corresponding FINMA Circular 2013/7[36], which entered into force on 1 July 2013, formalised and clarified the practice that had been common for some years regarding the limitation of Swiss banks' intra-group foreign exposures. FINMA's aim is to reduce the financial and operational interdependencies within a banking group and ensure appropriate protection for creditors of Swiss banks.

[33] See section on Cross-border financial services, p. 26.
[34] See section on Cross-border financial services, p. 26.
[35] See Federal Supreme Court decision 138 III 755.
[36] See FINMA Circular 'Limitation intragroup exposure – banks' (German version) (http://www.finma.ch/d/regulierung/Documents/finma-rs-13-07-d.pdf.

'Too big to fail' decrees

At the end of December 2013, FINMA issued two decrees to Credit Suisse and UBS concerning special requirements under the provisions for systemically important banks contained in the Capital Adequacy Ordinance (CAO). They set out in detail the implications of the two financial groups' systemic importance, which was established by the SNB early in the year. In accordance with FINMA's decision, UBS AG and Credit Suisse AG are subject to special requirements at single entity level. Because of its current size and function within the Credit Suisse Group, the Neue Aargauer Bank does not have to comply with the special requirements.

The decrees stipulate for the first time the level of the progressive component for the two groups and single entities, which is determined by market share in Switzerland, and its overall size. The progressive component results in additional capital requirements and is reset each year. FINMA can grant rebates to take account of measures adopted by the banks to improve their overall resolvability; none were granted, however, in these first-time decrees.

As prescribed in the CAO, FINMA is obliged to grant rebates under certain conditions at single entity level so that financial groups do not hold a level of capital deemed excessive under the ordinance. Reducing quantitative requirements on regulatory capital is the authority's preferred measure because it is transparent. Since the ordinance sets out that a minimum level of 14% of risk-weighted positions cannot be breached, further rebates have been necessary. Contrary to the CAO, the two FINMA decrees treat direct and indirect holdings in subsidiaries equally. Where necessary, overall investment values are regarded as risk-weighted positions and not as deductions for holdings.

Zürcher Kantonalbank declared systemically important

In a decree dated 1 November 2013, the SNB declared Zürcher Kantonalbank to be systemically important. The key factor in this decision was the bank's important role in the domestic deposit-taking and lending business as well as in payment services. The decision to designate Zürcher Kantonalbank as systemically important lay within the authority of the SNB. FINMA was consulted in advance of the decision and supported it.

It is FINMA's task to define the particular legal requirements that Zürcher Kantonalbank must fulfil on account of its systemic importance. Specifically, systemically important banks must comply with special capital, liquidity and risk diversification rules. FINMA will now have to define the content and scope of these requirements.

A systemically important bank must provide an emergency plan in order to satisfy FINMA that systemically important functions can be maintained independently of the other parts of the bank and without interruption when faced with the threat of insolvency. If the bank is unable to demonstrate this, FINMA must order it to adopt the necessary measures.

Retrocessions

In November 2012, FINMA published FINMA Newsletter 41 (2012)[37] in which it informed market participants of its expectations concerning their treatment of retrocessions from a supervisory perspective. Having obtained an overall picture of the risk situation of the supervised institutions and their implementation of the newsletter in the first quarter of 2013, FINMA continued working on the issue in the context of its ongoing supervisory activities.

FINMA initiated specific measures at a number of institutions, especially when the expectations set out by FINMA in the newsletter had not been complied with. In general, banks have adopted a range of expedient measures, in particular in the area of transparency vis-à-vis clients and in the design of contract documentation.

The assessment of any claims clients may have against the institutions is a matter for the civil courts and is not part of FINMA's remit. The general approach adopted by banks to retrocessions will remain a topic of supervisory activity in 2014.

[37] See FINMA Newsletter 41 (2012) 'Supervisory measures – retrocessions' (http://www.finma.ch/e/finma/publikationen/Lists/ListMitteilungen/Attachments/49/finma-mitteilung-41-2012-e.pdf).