

## **Annual Media Conference, 31 March 2009**

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Chairman of the Board of Directors

### **Saying goodbye to the past**

#### **Supervisory mandate and public opinion**

FINMA has been operating as an integrated financial supervisory authority since 1 January, and after just a few weeks – without any special advertising budget – it has already received a great deal of public attention. This is of course due to the headlines ‘False Start’ being one of the more sympathetic, generated in connection with the difficult decisions that had to be taken in the first few months and the criticism this attracted from sections of the general public, politicians and the media.

The benchmark for our decisions is not public opinion, however. A supervisory authority is bound only by its mandate. This means making decisions based purely on relevant factors and independently both of the interests of individual supervised institutions and their representatives and of emotions and external pressures. FINMA’s mandate is to protect creditors, investors and insured persons and ensure the smooth functioning of the financial markets. This is and remains our overriding objective. The best protection is a stable financial system that creates confidence. However, this confidence and stability has been severely compromised by the financial crisis. Trust has been lost as a result of the failed business strategies and inadequate risk control of some supervised institutions. Extraordinary measures were required to restore stability to the financial system. The question is therefore, has our system of supervision fulfilled its remit and achieved the objectives set?

From our perspective, the answer to this question is yes – but with one proviso. Yes because after the crisis broke out we took independent, prompt and appropriate action. Even with the benefit of hindsight and self-critical reflection, FINMA would have taken the same course of action in all areas and made the same decisions. Thanks to the joint efforts of politicians, the Swiss National Bank and the financial market supervisor, we have so far managed to stabilise our financial system and prevent the situation from deteriorating further. The measures introduced last autumn were effective and have been incorporate into international efforts. What sets Switzerland’s measures apart, however, is their cautious preparation and rapid implementation. Even the release of a limited amount of client data to the US Department of Justice in February was solely to defuse an escalating month-long conflict which, if not brought under control, would probably have had catastrophic consequences for the financial system and ultimately the Swiss economy. The FINMA Board of Directors took this decision based on the Swiss Banking Act, which allows the supervisory authority to initiate protective measures when

supervised institutions are faced with the threat of insolvency or serious liquidity problems. It (unfortunately) became necessary for FINMA to intervene in this way as all other possible avenues for fending off a criminal lawsuit had failed. FINMA's decision was thoroughly prepared, was taken as late as possible, and succeeded in averting the real and immediate danger of a crisis that would have threatened the very existence of the Swiss financial system. Waiting any longer would have greatly endangered stability and was therefore no longer an option.

As I said, however, there remains a proviso regarding whether or not we fulfilled our remit, namely that the supervisory authorities did not recognise the warning signs that emerged in previous years pointing to the causes of the recent upheaval. Yet even if they had recognised them, it is still not certain whether they would have had the power, the means or the (political) support to intervene in a timely way and turn the situation around. Neither national authorities nor international committees had the foresight, the independence or the expertise to counter these undesirable developments – an impotence with consequences that triggered far-reaching corrections. This section of history must not be allowed to repeat itself.

The repercussions of the financial crisis – not to mention a host of other incidents – have placed an extremely heavy burden on the former SFBC, FOPI and Anti-Money Laundering Control Authority since mid-2007. We address this in our 2008 annual reports and in today's presentations, which are intended in particular to highlight the corrective action that has been taken to date and the preventive measures planned at international level to protect the financial system. We also want to show you how we plan to develop our supervisory organisation within the current legal framework.

### **FINMA – a successful start...**

The full entry into force of FINMASA also marked the official completion of the FINMA project. External project expenditure totalled some CHF 8.5 million, CHF 4.7 million of which related to capital goods. The authorities involved spent a total of over 4,000 working days on the project. Their efforts paid off, as the new authority took over its mandate at the start of the year without any major hiccups, complete with a new management organisation and a new telephone and IT infrastructure. FINMA will also be moving to a joint location at Einsteinstrasse in Bern in the second quarter of 2009.

FINMA is reliant on efficient and highly skilled staff. The legislator has authorised FINMA to issue its own personnel regulations. As a result, the entire workforce has received new employment contracts. The Board of Directors has set out the employment relationship under public law in an ordinance, with a stronger focus on performance compared to the Federal Administration coupled with flexibility in terms of remuneration. 285 full-time positions are currently filled, while more than 50 positions are still vacant.

From a legal perspective, under the management structure chosen for FINMA the Board of Directors and Management Board are collective bodies. In accordance with FINMASA, in addition to overseeing management the Board of Directors is also responsible for making judgements on matters of substantial importance and issuing the authority's ordinances and circulars. In view of the tasks assigned to the Board of Directors, individual Board members must be well versed in at least one specialist area by virtue of their practical or academic activity. Solid, international professional experience is also essential depending on the nature of the matters of substantial importance in question. One question raised publicly in this regard is whether the organisation is too close to the

financial sector. Our experience to date has shown us that this proximity is indispensable. The skilled combination of theory and practice is one of the strengths of this organisation. Any conflicts of interests are disclosed and a decision taken based on applicable law and regulations. To organise its work as efficiently and transparently as possible, the Board of Directors has established committees from among its members (appointment and remuneration committee, strategy committee, audit committee, takeover committee). These committees are tasked with supporting the Board of Directors in preparing resolutions of the Board of Directors and overseeing the Management Board. When preparing regulatory matters, the Board of Directors also recruits specialists from among its ranks to advise the Board of Directors and the Management Board. As part of its responsibility for FINMA's strategic focus at the highest management level, the Board of Directors also maintains contacts with key individuals, authorities and organisations both in Switzerland and abroad. This gives it the opportunity to report on important developments and raise important issues while at the same time serving as a valuable tool for fulfilling its strategic remit.

### **... but there is still a great deal of work ahead**

The situation on the financial markets has prompted the Board of Directors and FINMA's executive body to examine the affairs of banks and insurance companies that are of systemic importance to the financial system on a more in-depth level than it would normally. Many of the decisions that have to be taken are complex and require a great deal of time and careful thinking. We must also invest a lot of time in dealing with – and learning from – the consequences of the financial market crisis, which will help shape the future development of our supervisory activities and applicable regulation. There are a variety of international initiatives to be adopted and shaped, but we can only play an active part in this process if the supervisory authority is directly represented in the relevant international bodies and committees. We therefore need not only to maintain our position but also to build on it where possible. Financial sector companies that operate internationally require an internationally networked system of supervision. This is particularly important for Switzerland, where the financial sector is so significant. FINMA is currently represented in around 50 international working groups and is at the forefront of developments in many areas.

Finally, we need to keep a close eye on developments in the field of collective investment schemes and monitor the progress of other banks and insurance providers which have also been affected by the financial market crash. The same goes for organisational changes and developments in stock exchange business models. Further action is still required with regard to market supervision. For example, the commission of experts on financial market offences and market abuse has proposed a review of the law on insider dealing, extensions to the sanctions that may be imposed in cases of market abuse and significantly more streamlined procedures for dealing with such cases – something that has been eagerly awaited by the supervisory authority. This would make market supervision more effective.

FINMA intends to confront the challenges posed by the dynamically changing market environment head-on and will do everything it can to fulfil even the highest of expectations. The Swiss regulatory framework and the role of self-regulation have proved their worth in principle. What we need to do now is pave the way for their continued development and further reinforce our system of supervision in order to close any gaps that may still pose a danger for our financial centre and its reputation, particularly at international level.