



SFBC finds that Laxey Partners Ltd *et alii* infringed their duty to disclose

10 March 2008 – The Swiss Federal Banking Commission (SFBC) ruled on 7 March 2008 that Laxey Partners Ltd *et alii* (Laxey) infringed their disclosure obligations under Art. 20 of the Stock Exchange Act when building their stake in Implenia AG by using contracts for difference with underlying Implenia AG shares mainly during the first quarter of 2007. The SFBC will, as a result, file a criminal complaint with the Federal Department of Finance as required by law.

Having completed a comprehensive investigation and administrative procedure, the SFBC issued a declaratory ruling stating that Laxey *de facto* placed Implenia shares with counterparties (parking), thus making sure to be able to redeem the shares at any time through contracts for difference. As Laxey retained in this way potential control over the voting rights associated with these shares, the latter must be attributed to Laxey. This strategy corresponds to an indirect share acquisition according to stock exchange legislation, and is therefore subject to disclosure obligations.

Investors such as Laxey are not regulated by the SFBC and, consequently, are not subject to the SFBC's prudential supervision. Therefore they cannot be prosecuted under supervisory provisions. However, by issuing a declaratory ruling against investors the SFBC retains authority over its investigations and the procedure resulting from those investigations: the SFBC can make a ruling stating that disclosure obligations have been infringed and communicate this ruling to the interested parties, including affected market participants, in order to uphold market transparency and integrity. A ruling of this kind can be challenged before the Federal Administrative Court and, subsequently, before the Federal Supreme Court.