



## Media release

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### **The SFBC authorizes the transfer of funds to payment cards and other payment systems subject to certain restrictions**

**The Swiss Federal Banking Commission (SFBC) sets out its practice in the field of deposits from the public and authorizes the transfer of funds up to CHF 3000.- per client to payment systems such as department store client cards, mobile phones or internet. Such funds must only be used for the purpose of purchasing goods and services and shall not yield interests. The modification enters into force on July 1, 2004.**

June 16, 2004 – The SFBC has recently been confronted to an increasing number of cases raising the question of whether certain modern payment means (e.g. department store client cards and gas station cards) and certain payment systems (e.g. systems allowing for the payment of small sums through the Internet or mobile phones), on which funds are transferred before the purchase of goods or services (pre-payment services), fall under the prohibition to accept funds from the public.

Payment means such as credit cards had until now been characterized by the fact that the bill was settled after the purchase by way of an invoice or through a direct settlement system. This type of operation is covered by article 3a(3) of the Banking Ordinance<sup>1</sup>, according to which, funds that are received either in consideration of a contract which object is the transfer of property or the performance of a service, or as guarantee, are not considered as deposits. When a purchase has taken place and the consideration is provided at a later time or when the payment made by the credit card company is repaid, the operation is merely that of a differed payment.

However, some new payment facilities are intended either partially or exclusively to effect pre-payments (pre-payment systems) or for the purpose of a future use (e.g. phone cards). Such payment means and systems are also developed for the purchasing of goods and services. The difference with traditional payment means and systems is that the service or good to be bought is not yet determined. Regardless, the transfer of funds to these payment means and systems, as well as the procurement of such means or systems does not present the typical characteristics of deposits and are accordingly not perceived as such.

The SFBC hereby sets out its practice by introducing a modification to its Circular 96/4 “Public Deposits for Non-Banks”. Payment means and systems not subject to the su-

<sup>1</sup> Unofficial English version available online at :  
[http://www.kpmg.ch/library/attachments/tbanking/Implementing\\_Ordinance\\_SR952\\_02\\_6939136.pdf](http://www.kpmg.ch/library/attachments/tbanking/Implementing_Ordinance_SR952_02_6939136.pdf)



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

pervision of the SFBC can only be used for the purchasing of goods, and services and the funds received for such purpose can only be used for the execution of the related transactions. Moreover, the payment of interests on these funds is prohibited. In order to avoid that these payment means and systems be used for the deposit of more significant amounts, the rules stipulate a maximum limit of CHF 3000.- per client for each payment means provider or for each payment system manager. These clarifications were elaborated with a view to accommodate clients and their daily needs. Systems to be partially or exclusively used for the withdrawal of funds are not covered by these rules and therefore require an authorization pursuant to the Banking Act.