



## **SFBC Enforcement Strategy** (as of October 2007)

### **1 Enforcement – implementing supervisory law**

Where necessary, the SFBC enforces supervisory law using coercive measures available under administrative law. The SFBC identifies infringements of the law and other irregularities and implements corrective measures as well as sanctions to the extent that it is authorised to do so by law. The SFBC thereby supports and supplements its monitoring activities.

### **2 Ensuring markets with integrity as mandated by law**

Investors, creditors and the public in general are entitled to integrity in markets and in market participants. This entitlement is codified in supervisory law. Via enforcement, the SFBC performs its supervisory duties as laid down in banking, stock exchange, collective investment schemes and anti-money laundering legislation. The aim of carefully considered and professional enforcement is to remove irregularities as well as enhance the credibility of supervision in the financial market and amongst the general public in Switzerland and abroad.

### **3 Enforcement with measured judgement**

The outcome of the SFBC's proceedings can have a far-reaching impact on the legal positions of the parties concerned. Therefore, before initiating such proceedings, the SFBC considers all the relevant circumstances carefully and explores alternative options. It looks at criteria such as the risks for creditors and investors, the seriousness of the infringement or contravention of supervisory law involved, as well as the time of its occurrence. It also considers the functions held by those responsible. Top-level functions are subject to more stringent requirements under supervisory law. Other important factors, however, include the resources available, public expectations and the measures that have been taken by the parties concerned. Proceedings may only be initiated once approval has been granted by a member of the SFBC's management.

### **4 Rapid and focussed proceedings**

The SFBC conducts its proceedings promptly and decisively, normally within six to twelve months or more rapidly. This is in its own best interests, and generally also those of the parties involved. It opposes any attempts by the parties to slow down proceedings. It continually checks whether the object of the proceedings can or must be restricted. Particularly in cases where there is considerable media interest, the general public and the parties involved expect a speedy conclusion to the proceedings. The SFBC takes this into account, although the legal requirements for fairness always take precedence.



## **5 Fair and transparent proceedings**

The SFBC carries out its proceedings fairly and rigorously safeguards the parties' statutory procedural rights such as the right to access files and the right to be heard. It informs the parties concerned that proceedings have been instigated, keeps them updated as to their progress, and notifies them should proceedings be discontinued. In exceptional circumstances, it may delay providing such information in the interests of the proceedings. The SFBC never resorts to any form of harassment in its proceedings.

## **6 No proceedings against persons no longer holding their functions**

The SFBC does not normally conduct supervisory proceedings against any individual who is no longer active in the sector it supervises. This policy ensures the best use of its own resources and avoids costs for the parties concerned. Nevertheless, if there are reasonable expectations that an individual acquires a position of responsibility in the regulated sector, the SFBC will examine any outstanding allegations against him or her and make a determination in respect of the position in question, if necessary in a formal procedure. Such persons are informed by letter from the SFBC as to these principles, which are also published on its [website](#). In contrast, and within the framework of its legal obligations, the SFBC will press charges against any person in specific circumstances such as following investigations of stock market offences punishable under criminal law or violations of disclosure requirements under banking law.

## **7 Selective use of mandated investigators of the SFBC**

Where possible and expedient, the SFBC appoints specialist third-party agents to perform activities such as on-site investigations of matters relevant to supervisory issues. These mandated investigators are selected in a transparent process and the SFBC monitors their activities as well as the resulting costs that have to be covered by the parties involved.

## **8 Internal separation of functions and organisation**

Wherever possible, the SFBC ensures that the people engaged in the ongoing monitoring of institutions are not the same as those responsible for proceedings against those institutions. The SFBC ensures that all departments involved have a standard, coherent approach to proceedings. It provides training for those in charge of enforcement, thereby setting and maintaining a professional standard. It draws from enforcement activities the conclusions necessary for supervisory activities.

## **9 Communication on enforcement**

The SFBC *does not generally* provide any information on individual proceedings, nor does it confirm, deny or comment on its investigations or individual actions and steps,



even when invited to do so. The SFBC reserves the right, however, to correct information that is wrong or misleading.

If the SFBC decides, *in exceptional circumstances*, to inform the media of certain proceedings, it does so actively. In such cases, it generally gives the name of the institution involved and states the object of the proceedings. It does not disclose the names of private individuals, for reasons of protection of personality rights. Even in cases where it provides active information, it normally provides no details concerning aspects of the proceedings such as their status, the various steps involved or the exact schedule. If the SFBC has issued information on certain proceedings, it will generally provide information regarding their outcome on an active basis immediately following its decision. If it discontinues the proceedings, it can decide not to issue any information if those concerned so request.

In cases of media interest, the SFBC notifies the parties concerned of its information policy. Media releases are submitted to the parties shortly before general release.

Once decisions have been taken regarding takeover offers made to minority shareholders in listed companies, the SFBC normally immediately issues information on the measures taken and the reasons for them, to the extent that they are of significance to market participants.

The SFBC communicates immediately bankruptcy orders and protective measures that have a direct impact on creditors of institutions supervised.