Eidgenössische Finanzmarktaufsicht FINMA
Autorité fédérale de surveillance des marchés financiers FINMA
Autorità federale di vigilanza sui mercati finanziari FINMA
Swiss Financial Market Supervisory Authority FINMA

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The elephants in the room

Ladies and gentlemen

For the past few weeks, it seemed that deregulating the financial sector was the only item on the agenda. That, at least, is how statements by the US administration and some European states have been interpreted. Sector representatives and associations throughout Europe have taken them at their word and added their voice to the clamour. “Less is more” and “one in, two out” are popular slogans that, for all their superficial appeal, fail to do justice to the issue. As Chair of FINMA, speaking from our perspective as supervisory authority and regulator, I would argue that it is not simply a case of less is more: the key issue is targeting. What matters is not quantity but quality. I would like to address this point in my comments today and also set out FINMA’s fundamental position concerning its regulatory and supervisory activities.

Our work as supervisor and regulator is governed by clearly articulated principles, one of which is that we adopt a risk-oriented approach. Where there are substantial risks to the system or financial market clients, supervision must be intensive and regulation should impose exacting requirements. One specific instance is capital adequacy requirements. Strongly capitalised institutions are the bedrock of a sound and secure financial centre. We must not forget the lessons of recent history.

FINMA’s approach does not mean that we insist on absolute security everywhere and at any price. Nor do we see supervision as a way to remove all possible causes of risk. We do not believe the same level of security is necessary where the risks involved are smaller. Mistakes can and will happen. The possibility of failure can never be wholly eliminated. What we can do, however, is identify the risks that are really important, address them as early as possible, and be prepared for the worst. Rules are essential to achieving that. Without them, we cannot fulfil our statutory remit to protect creditors, investors and policyholders.

Some time ago, a politician commented that FINMA focuses on the less important details but fails to see the elephant in the room. The “elephant” he was referring to is the big risks and not, for example, big institutions. I intend to show that, far from this being the case, our activities are targeted precisely towards identifying the elephants – the gross errors, the problem areas and the major risks – and responding to them appropriately, through regulation, supervision, or crisis response.

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FINMA’s regulatory approach is differentiated and principle-based

Let me begin with a few words about regulation. Contrary to widely held opinion, FINMA is first and foremost a supervisory authority. It applies the existing laws and ordinances. But it also has a responsibility – albeit subordinate – for the implementing regulation. Our regulatory activities provide transparency and legal certainty; but we adhere to a key principle, namely that regulation should be proportionate to the circumstances.

When I say that, where possible, FINMA adopts a differentiated and risk-oriented approach, that means we do not simply treat smaller institutions the same way as larger ones. We are often accused of applying a one-size-fits-all strategy. This is, however, a fundamental misconception that is often based on subjective views. One important example of differentiation is the capital buffers for banks, which depend on the bank’s size and thus the risk it poses. There are numerous other cases where the level of detail in the rules differs widely. Large institutions, for example, must comply with more precise rules on liquidity management. Smaller banks and insurance companies are subject to less stringent corporate governance requirements in areas such as the composition of the board of directors. FINMA’s approach is anything but indiscriminate.

Some rules, however, must apply equally to all supervised institutions. It is unacceptable, for example, for smaller banks to apply anti-money laundering regulations less strictly when accepting client funds. That may sound rather strange in the case of domestic banks whose clients are not from risk countries. The same rules must apply to everyone, also in the interest of safeguarding the reputation of the entire financial centre and maintaining access to foreign markets. This is crucial and no exceptions can be tolerated.

It would therefore be wrong to gauge regulation solely on the basis of volume. In purely quantitative terms, however, Swiss regulation measures up rather well. At around 1,135 pages, the size of FINMA’s rulebook has remained more or less stable since 2014. We have issued new circulars and ordinances in the interim, but we are always looking for ways to simplify or even do away with regulations. When it comes to the sheer number of financial regulations, Switzerland also compares very well with other countries. Some – specifically the EU, UK and US – have many times more than we do. On international bodies, Swiss representatives – including FINMA specialists – routinely argue for streamlined and principle-based standards and against over-regulation. Inevitably, this is not visible to the public at large or industry associations, but I have experienced it at first hand.

Quite often the sector itself wants regulation, for the sake of clarity. Recent examples include the Financial Market Infrastructure Act and the circular on online and video identification. If we are really serious about new technologies, we have to put in place a new, intelligent and pragmatic system of rules. Such a framework, and the legal certainty it creates, are vital to success and must also ensure adequate protection for clients and investors.

As you can see, there are very good reasons for regulation. The blanket accusation of regulatory overkill is misplaced. In fact, FINMA focuses on the essentials and, wherever possible, gives supervised institutions flexibility and responsibility when implementing principle-based regulation.

FINMA's supervision is differentiated and resource-oriented

FINMA applies the differentiated approach equally to its core activity of supervision – as it must, because FINMA is a lean organisation that has to concentrate its resources where they are most needed. We have kept headcount steady for four years, despite being entrusted with new tasks, such as first-time licensing of exchanges and trade repositories as well as monitoring trading facilities and compliance with trading requirements. For FINMA as an authority, efficiency has been and remains a central objective.

Consequently, our institutional supervision is risk-oriented. We systematically assign all supervised institutions to categories based on their size and risk to the system and financial market clients. FINMA also allocates dynamic ratings that reflect institutions' current condition. We rate them on key areas of banking supervision related to business conduct, such as money-laundering prevention. Our assessment dictates the intensity of supervision and how we use our resources. Simply put: the bigger the institution or the more problematic its situation, the more intensively we supervise it. On average, FINMA spends a hundred hours a year supervising one of the smallest banks – those in category 5 in our system. For banks in category 4, the figure is more than eight times higher. For the domestic systemically important institutions – PostFinance, Raiffeisen and Zürcher Kantonalbank – it is thirty times higher: three thousand hours per institution and year.

This demonstrates the differentiated nature of our supervision and how efficiently we use our resources. We aim to increase that efficiency further by, for example, improving the cost-effectiveness of the audit firms that conduct regulatory audits on our behalf. We will use the capacity freed up to deal with newly emerging issues such as cyber attacks and risks associated with supervised institutions' outsourcing of business activities.

FINMA must be ready to intervene when things go wrong

The clear risk-orientation of our supervisory activities also means that we cannot – and do not want to – control and standardise across the board. A functioning market economy depends on institutions being allowed to fail. In 2016, twelve banks exited the Swiss market, for a wide range of reasons. The market environment for the sector as a whole remains challenging, not least because of persistently low interest rates.

If an institution really gets into difficulties, FINMA must be able to act fast. FINMA staff must protect creditors as a matter of urgency and act with the diligence necessary to achieve that. We have specialists for these tasks who can intervene rapidly, precisely where needed and, if possible, preventively. For this reason, FINMA recently pooled all its crisis prevention and management expertise in a dedicated Recovery and Resolution division with three main tasks: emergency planning, in particular for systemically important banks; crisis management, which involves overseeing restructuring and recovery efforts; and conducting insolvency proceedings if all attempts at recovery fail. So FINMA accompanies supervised institutions in every phase, as it were from the cradle to the grave, to protect both creditors and the system as whole even in the event of an involuntary market exit. I would like to add that we also favour effective restructuring law for insurance companies, where a clear legislative basis is needed.

As I have explained, FINMA does not pursue a zero-risk strategy. We cannot prevent everything – just as traffic police cannot prevent all accidents. But we can exert a preventive effect and limit the damage when things do go wrong. When it comes to our supervision and regulation, therefore, it is not a case of less is more: what matters is targeting.

Thank you.