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Autorité fédérale de surveillance des marchés financiers FINMA
Autorità federale di vigilanza sui mercati finanziari FINMA
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Market integrity: a strategic priority for FINMA

Ladies and gentlemen

Properly functioning markets are essential to a healthy and prosperous economy. We need financial markets for efficient capital formation and allocation, and we also need them so that market participants can share in economic growth and wealth creation. The success of financial markets hinges on their liquidity and the participation of a broadly diversified investor base. But this participation in financial markets is only attractive if investors are confident of being treated fairly, prices are reliable and the risk of market manipulation is low.

In recent years, the biggest, most high-profile cases of market manipulation have occurred in over-the-counter (or OTC) trading outside exchanges. We all remember the scandals involving foreign exchange and interest rate benchmark rigging. FINMA's role in these cases was to investigate how Swiss institutions were involved, but the misconduct was taking place in global, not local, markets. It is worth saying that we have seen some signs of improvement in these areas. Self-discipline and the quality of control processes seem to be improving. Several interesting self-regulation initiatives have been launched, including the FX Global Code developed by the Bank for International Settlements and the work done by the Fixed Income Markets Standards Board, where the major Swiss banks are represented. FINMA would welcome the implementation of such codes as self-regulation in Switzerland.

Where do the local Swiss financial markets stand? Are the issuers of Swiss securities, and Swiss institutional and retail investors disadvantaged by market abuse? The following example illustrates the negative effects of market manipulation on liquidity and investor appetite. A few years ago, investors looking at investing in the listed shares of smaller and medium-sized Swiss banks warned us that the sector was "uninvestable", as the stability of the share prices looked implausible to them. After extensive investigations, we could prove that some banks were indeed distorting prices by trading unfairly in their own shares. We launched enforcement proceedings in several cases and made them public. Since then, there have been no further signs of any unfair influence on these share prices. Price volatility went up considerably and we have not received any more complaints from investors.

I would like to say straight away that market conduct in Switzerland seems to us largely correct. But there are still cases – in fact a growing number of them – that end up in our net. It is difficult to say whether this is the result of better detection or a changing behaviour of market participants.

Why have I chosen to address this topic? FINMA is determined to make a long-term positive impact on business conduct in financial institutions, as clearly stated in our strategic goals. Market integrity is one of the four issues on which we concentrate. The other three are conduct in cross-border business, the fight against money laundering, and correct conduct at the point of sale. We have already talked publicly at length about the first two of these topics, and we will have plenty of opportunity to discuss conduct at the point of sale as the Financial Services Act (FinSA) progresses. Summing up, supervision of market integrity is a core task for FINMA, and I want to take this opportunity today to highlight our efforts on this front.

Market supervision is becoming more effective

Occasionally we hear it said that the “old boy network” has always exploited insider information to take advantage of the market and that this is a risk that every investor is aware of. But that is not how we see it: insider trading and market manipulation are not victimless crimes. Market abuse distorts pricing mechanisms, with negative knock-on effects on trust and ultimately the economy as a whole. My earlier example, in which potential investment in bank shares was effectively a no-go for professional investors, illustrates the real consequences of this type of behaviour.

So what is today's situation in Switzerland? In 2013, regulations defined in the Stock Exchange Act banning insider trading and market manipulation came into effect, enabling FINMA for the first time to enforce market conduct rules against individuals across the board, within or outside of institutions we supervise.

The legislation also gives us more effective tools. At present, the data provided by stock exchange surveillance units only tells us which securities dealers have traded which volumes of a particular security. However, the surveillance units have no idea of the identity of the individuals behind a transaction. FINMA has to request this information from the dealers. In future, probably in January 2018, the identity of the beneficial owner will also be reported automatically. This will significantly enhance the quality of the suspicious activity reports submitted by surveillance units. FINMA will be able, essentially at the push of a button, to analyse the trading behaviour of individuals and companies, and determine whether they are using manipulative strategies. Plainly, this is bad news for those who do not abide by the rules.

How does FINMA approach market supervision?

Every year, in its role as market supervisor, FINMA investigates hundreds of reports of market abuse. Around 60% of these are reported by Swiss stock exchange surveillance units, a further 20% by foreign authorities, and the remainder comes from our in-house specialists and market whistleblowers.

In 2016, FINMA analysed around seven million transactions executed at irregular time intervals or in unusual market conditions. In around 600,000 cases, we could identify the beneficial owners, the clients and the circumstances surrounding the order and its execution. In some instances relating to 500 of those transactions, we obtained extensive information from supervised institutions.

The tools and facilities available to our market supervision specialists have also improved enormously. Big data – some people refer to it as regulation technology or RegTech – has helped enormously, not least because it enables us to reconstruct complex cases. The data trail contains all the information we need.

Some examples of market manipulation and insider trading

I have already mentioned how some banks were trading illegally in their own shares. Another more recent example concerns a provider who was manipulating the price of underlying assets in structured products.

We are currently working on a number of cases of possible market abuse in Switzerland, including reports of insider trading at several listed companies. We are investigating cases of a practice known as “spoofing” in which large-scale fake orders are placed and withdrawn with the aim of achieving an unfair advantage. In another case, we are examining whether an issuer was supporting the price of its own shares by means of "wash sales”, a practice in which the individual, or entity involved, buys and also sells the same shares, or does so in agreement with a third party. And finally, we are also investigating several cases of front running where an insider – a bank employee for example – uses confidential information about an upcoming transaction to submit transactions for their own account.

What do we need to make market supervision even more effective?

Regulation and supervision have already been substantially strengthened, but there are ways in which market supervision can be further enhanced. While FINMA has excellent tools for dealing with supervised institutions such as banks and securities dealers, its powers outside this area are limited. Here, for instance, it cannot appoint an investigating agent.

Another step towards more effective market supervision would be the introduction of comprehensive reporting requirements for securities dealers. In Europe, banks and securities dealers have to report suspicious transactions in line with the STR requirements. This is not the case in Switzerland. Every year, the competent supervisory authority in England receives around 2,000 of these reports. Experience shows that reports of this kind are the best source of high-quality information.

Conclusion

A properly functioning market is a public good. However, structural problems, insider trading and market manipulation can call the fairness and transparency of a market into question. In past years, we have successfully campaigned for improved regulations and tools to enable us to combat market abuse more effectively, and we have made progress. We will continue to pursue suspected cases consistently and tenaciously. Big data does not forget, and that helps us. Market participants – and this is perhaps my most important message here today – should know that market supervision remains a key strategic priority for FINMA.