



## **Scope of the IFA – structured products and other financial vehicles**

21 July 2006 – On 27 April 2005, the Swiss Federal Banking Commission (SFBC) published its opinion on structured products and other financial vehicles which led to a vigorous discussion. Such discussion was necessary and useful as it resulted in the solution of the new Federal Act on Collective Investment Schemes (CISA) which has been lately adopted by the Swiss Parliament. Structured products clearly differ from collective investment schemes and do not fall under the scope of the CISA. Certain transparency regulations must be met, which improve the investor protection compared to the current situation. Those regulations will be put in concrete terms by self-regulation and minimal standards will be introduced.

Under the new provisions of the CISA the published opinion will be outdated. Therefore, the SFBC during its last session decided to repeal it with immediate effect.

Consequently, the SFBC will no longer verify whether a structured product is similar to a collective investment scheme and falls under the scope of the CISA. Structured products therefore may be freely sold in and from Switzerland with immediate effect. The SFBC however expects that issuers or guarantors resp. distributors be banks, insurance companies, security dealers or foreign institutions under an equivalent prudential supervision. These conditions are similar to the ones set forth in art. 5 CISA. Furthermore, the prospectus and public advertising must clearly disclose that such product is not a participation in an investment fund and consequently is not under the supervision of the SFBC. As a result, investors in such products are not protected by the Federal Act on Investment Funds (IFA). After the entry in force of the CISA, a simplified prospectus must be published. The Swiss Bankers Association and the SWX Swiss Stock Exchange are currently defining its minimal content.

The SFBC will still intervene in the case of a clear circumvention of the provisions of the IFA or the future CISA. For example, if a certificate had an underlying of one single foreign investment fund that is not registered for public sale in and from Switzerland (indirect distribution).