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

Press release

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FINMA sanctions foreign exchange manipulation at UBS

The Swiss Financial Market Supervisory Authority FINMA has concluded enforcement proceedings against UBS AG (UBS) regarding foreign exchange trading conducted in Switzerland. FINMA found that over an extended period of time the bank's employees in Zurich at least attempted to manipulate foreign exchange benchmarks. In addition, employees acted against the interests of their clients. Risk management, controls and compliance in foreign exchange trading were insufficient. By breaching control requirements and owing to the misconduct of its employees, UBS severely violated the requirements for proper business conduct. Alongside the imposition of other corrective measures, FINMA has ordered UBS to disgorge a total of CHF 134m. It has also initiated enforcement proceedings against eleven persons involved in the case.

In October 2013, FINMA initiated enforcement proceedings against UBS on the grounds of suspected market abuse in foreign exchange trading. An investigator mandated directly by FINMA examined market conduct at the Foreign Exchange division of the UBS Investment Bank in Zurich, as well as scrutinizing the internal management processes and internal organisation of controls. The ruling of 11 November 2014 issued by FINMA concludes the proceedings.

FINMA investigated three other Swiss banks regarding misconduct in foreign exchange trading. The shortcomings that emerged there can be remedied by corrective supervisory measures without requiring enforcement. FINMA's investigations are thus concluded.

Excellent international cooperation

Numerous investigations into foreign exchange trading have been initiated against banks around the world. During its investigation of UBS, FINMA coordinated closely with a number of foreign authorities. The cooperation was excellent and was particularly close with the Financial Conduct Authority (FCA) in the UK.

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Improper business conduct at the bank

During its comprehensive investigations, FINMA found serious misconduct of employees in foreign exchange trading and in precious metals trading. This comprised:

- **Manipulation of benchmarks**: The bank's foreign exchange traders repeatedly, and over extended periods of time, attempted to manipulate foreign exchange benchmarks so as to generate profits either for the bank or third parties. In this context, there was also collusion with other banks.
- **Acting against the interests of clients and counterparties**: Foreign exchange traders acted unacceptably frequently against the interests of their clients and counterparties. This conduct was partly coordinated with other banks. Several foreign exchange traders:
  - actively triggered client stop-loss orders to the advantage of the bank
  - engaged in front-running
  - engaged in risk-free speculation at the clients' expense when making partial fills, where at least part of clients' profitable foreign exchange transactions were credited to the bank
  - disclosed confidential client identifying information to third parties
  - in individual cases engaged in deception regarding sales mark-ups and excessive mark-ups associated with an internal product of the bank.

In the improper business conduct in foreign exchange and precious metals trading**,** electronic communication platforms played a key role. The abusive practices were evidenced in the information exchanged between traders in chat groups. FINMA examined thousands of suspicious chat group conversations between traders at multiple banks (see detailed report).

Severe violation of organisational requirements

The unacceptable behaviour revealed by the investigation violated rules against manipulative conduct, as well as the duty to safeguard client interests and to comply with internal directives. Severe organisational shortcomings in foreign exchange trading at UBS facilitated those violations:

- **Insufficient risk assessment:** UBS's risk assessment of foreign exchange trading was insufficient. Conducting proprietary and client trading simultaneously and managing the information obtained from clients can lead to conflicts of interest. These risks were heightened by the incentive system in which variable compensation was on average triple the basic salary. Compliance was of little relevance to performance evaluation. Neither conflicts of interest, specific incidents such as the LIBOR case, nor notifications from whistleblowers resulted in the introduction of appropriate measures to capture or limit these risks.

- **Insufficient controls:** The bank did not have adequate control instruments in place to identify violations of market conduct rules, manipulative conduct or breaches of the bank's duty to act in the interest of its clients. There were no adequate internal directives for foreign exchange trading. The desk supervisors ignored their monitoring functions.

- **Insufficient compliance**: The compliance function within the Foreign Exchange division was insufficiently developed. Compliance issues were not stressed enough in internal training or the evaluation of staff. Neither were employees sufficiently sensitised nor were there compliance controls in place at the trading desk.

Conclusion and measures imposed by FINMA

FINMA has concluded that UBS severely violated the requirements for proper business conduct owing to the bank's insufficient internal controls and the intolerable conduct of its employees. FINMA has therefore imposed the following corrective measures:

- **Disgorgement of illegally generated profits and avoided costs**: The severe breaches of supervisory law allowed the bank to generate unjustified revenues or avoid costs. FINMA has therefore ordered the disgorgement of illegally generated profits and avoided costs amounting to CHF 134m.
- **Measures on variable compensation**: FINMA has for a period of two years limited the maximum annual variable compensation to 200% of the basic salary for foreign exchange and precious metals employees globally. A special review and approval process will be introduced for other high earners of the Investment Bank in Switzerland who receive variable compensation that exceeds 200% of the basic salary.
- **Automating foreign exchange trading**: UBS is obliged to automate at least 95% of its global foreign exchange trading.
- **Separation of client and proprietary trading**: FINMA has ordered that effective measures must to be taken to manage conflicts of interest. In particular an organisational separation of client and proprietary trading should be introduced.
- **Measures already imposed**: Complementing actions already taken by UBS itself, FINMA had ordered initial supervisory measures in April 2014. They included:
    - strengthening of the compliance function
    - introduction of monitoring and analysis tools
    - limiting the utilisation of certain communication media
    - a prohibition of certain employee transactions, and
    - strengthening of the whistleblowing process.
- **Third party review**: FINMA will appoint a third party to check the full implementation of the measures.

The bank displayed cooperation during the enforcement proceedings.

Proceedings against eleven employees and managers

FINMA has initiated enforcement proceedings to determine the knowledge and conduct of involved persons up to the highest level of the Investment Bank’s foreign exchange business. This concerns eleven of the bank’s former and current employees.

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