

## foreign banks . in switzerland .

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### **Consultation: Revision of the Financial Market Infrastructure Act (FMIA)**

Dear Ms Keller-Sutter

Thank you for the invitation to comment on the draft revision of the Financial Market Infrastructure Act.

Our Association contributed to the comments of the Swiss Bankers' Association with which it is fully aligned.

We remain at your disposal for any questions. We thank you for your attention.

Best Regards

ASSOCIATION OF FOREIGN BANKS IN SWITZERLAND



Raoul Würzler  
Secretary General



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Scientific Advisor

## Revision of the Financial Market Infrastructure Act

AFBS was involved in drafting the comments of SBA which it fully endorses. AFBS would like to insist on a few points which are of particular concern to the foreign banks.

### Issuer Obligations

AFBS is opposed to the introduction of state regulation instead of self-regulation regarding issuer obligations. There is no understandable reason apparent which would justify this shift. Neither is there a change of scope of regulation nor have there been incidents justifying such a modification of approach. Furthermore, the majority of international trading centres refer to self-regulation for such aspects. It is more flexible and allows to respond more rapidly to developments.

AFBS also agrees with SBA that regulation on issuers should be aligned to international practice, in particular EU Market Abuse Regulation, rather than follow own paths. This assures comparability and eases compliance by internationally active players. It is furthermore important to restrict regulatory obligations to the necessary elements rather than imposing all-encompassing measures. In this sense it cannot be understood why there should be document conservation of 15 years, which is a duration not known in any other instance; it should therefore be aligned with standard duration of conservation of 5, maximum 10 years.

Such measures of simplification are key to preserve attractiveness of the Swiss financial market place.

### Identification of Beneficial Owners

As with regards to regulatory approach AFBS also estimates that regimes governing market supervision should be harmonised with those of major existing trading venues and international standards. In all these venues contracting party and/or person in charge for the investment decision are to be disclosed. There is no point in not following that same approach in Switzerland. Such processes are already well-established in financial firms and it should be possible to apply them also in Switzerland. This would assure consistency in applying processes and procedures as well as in identifying disclosure items.

### Monitoring and Suspicious activity reports

Market participants have implemented monitoring systems to try to detect insider trading. However, the systemic monitoring has to remain the responsibility of the trading venue / market supervisory authority. Individual market participants do not have the necessary data to detect all suspicious activities, especially when the insider is using several relations with different institutions.

Imposing the monitoring duty upon market participants which merely have a partial view of their clients' activities would lead to them having to assume responsibility they cannot technically assume. This weakens attractiveness of the market place and must therefore be avoided.