

Regulations and financial centre

REACHING SATURATION POINT

The Federal Department of Finance has just published its “*Swiss Guidelines for Financial Market Policy*” . This document consists of some 30 pages, which can be downloaded from the site www.dff.admin.ch. It is the result of an in-depth study by an interdisciplinary committee commissioned by the Federal Council in March 2002. We shall reflect upon some of its issues.

Firstly, we should note that this study has many positive aspects. One of them is the interest in getting different government departments and services, whatever their level of involvement with the financial sector, to work together on the same draft. The think tank includes representatives of the Federal departments of finance, foreign affairs, justice and police, the Seco (State Secretariat for Economic Affairs) , the Swiss National Bank (SNB) and the Federal Banking Commission (FBC). Furthermore, one of the principles put forward in it is to follow an “*integral approach and policy across a variety of fields*” which requires “*a high degree of co-ordination between the groups involved*”. This kind of dialogue should enable the country’s different bodies to express themselves with one and the same voice both at home and abroad. The financial community, eager for security and legal predictability, can but congratulate itself on this undertaking.

Similarly, it is welcome news to see that “*the maintenance of the substance of banking secrecy*” is one of the three cornerstones of the financial sector policy.

Moreover, the “*Guidelines*” are clearly in favour of maintaining and increasing the international competitiveness of Switzerland’s financial centre. On this subject they say, “*in order to retain its attractiveness as a base for (financial) corporations and to be able to offer the financial sector good conditions in global competition, Swiss policy has to ensure a suitable legal and institutional environment*”

This leads us quite naturally to take a closer look at the evolution of the “*legal environment*”. One appendix to the “*Guidelines*” entitled “*Ongoing select reform projects*” can help us in this respect. The list of regulations involved is mind-boggling. Every sector is touched: financial market supervision, corporate law, fiscal sector, combating crime, opening up markets/competition and miscellaneous. This lengthy inventory gives us an idea of the resources that need to be mobilized by the banks in order to follow the exponential evolution of financial regulations.

No sector is spared. As for the cost/efficiency criterion, it only figures in fifth place of “*the general principles for achieving the objectives*” in the “*Guidelines*”. On this subject one can read that “*efforts should be made to evaluate planned regulatory amendments for their relevance to the financial centre taking account of their costs and benefits for the economy*”. The cost/efficiency criterion, derived from the principle of proportionality, must occupy a prominent

place in our authorities' regulation drafts, otherwise to maintain and increase international competitiveness as mentioned above, will only remain a pious hope.

It just so happens that the supervisory authorities of the largest financial centres are well aware of this. It was because of the foreseeable costs that the British FSA recently decided against forcing banks to verify the identity of their existing customers in the fight against money laundering. Likewise, in accordance with the principle of proportionality, the American Treasury is hesitant to oblige banks to keep copies of the documents provided to identify their customers.

Our intention is not to take a stand for or against the decisions of foreign authorities. But it would be regrettable if, despite the principles that are so clearly asserted in the "*Guidelines*", Switzerland were to lose its competitive advantage that pragmatic regulations offer. Unfortunately, recent developments are revealing that financial operators are having more and more trouble in coping with the truck loads of new regulations that are being dumped on the sector.

Another point worthy of our attention is that several times the "*Guidelines*" stress the importance of international standards in regulations. We quote the following extracts, "*A promising approach to creating clear game rules and preventing instabilities is the creation and implementation of internationally recognised standards in the area of finance*". Further on, it also states that, to be credible, Switzerland "*must be at the forefront in the competition regarding standards and their implementation.*"

This is one of the fundamental aspects of the problem. Indeed, one of the arguments frequently used for the introduction of new regulations in Switzerland is the necessity to adapt to international standards.

Current affairs provide us with an interesting case in this respect. The draft revision of the Basel Capital Accord (Basel II) offers a lively debate. This agreement is unquestionably an "*international standard*". However, the United States has already made it clear that it only intends to oblige a limited number of large banking group (one out of 200 banks!) to apply it. Some countries, including China and India, have indicated that they quite simply have no intention of applying these standards.

The Swiss authorities must therefore be careful about imposing on Swiss banks standards that are only international in name. If not, the risk of creating a warp in competition could prove to be serious. This would be contrary to the objective of increasing the competitiveness of the financial centre, as described in the "*Guidelines*".

In conclusion, this desire to adopt international standards, even if they are configured to Swiss specifications, should be thought about in a broader context. There is a serious risk of the Swiss political world losing the initiative regarding regulation, on the one hand, to the supervisory authorities and, on the other, to international organizations that have no political legitimacy but are drawing up, more or less in isolation, the standards in question. This phenomenon will inevitably lead to a democratic deficit.