

In the area of banking law, the banking ordinance has been revised effective April 1, 2008. According to the new law, securities dealers who receive money from their clients for securities trades are now subject to the banking statute, they were previously exempted. Active securities dealers must apply for a permit within one year.<sup>76</sup>

The Federal Banking Commission changed its anti-money laundering ordinance to implement the proposals of the Financial Action Task Force (FATF), effective July 1, 2008. Further, the Federal Banking Commission released a circular, effective May 1, 2008, enumerating instructions to avoid any abuse of the markets and defining accepted market practices for securities trades. The circular explicitly lists all behaviors that violate the supervisory laws or article 6 of the Stock Exchange Act.<sup>77</sup>

In the field of self-regulation, the Swiss Bankers' Association amended its code of conduct as to the standard of care of banks (CDB 08), effective July 1, 2008. CDB 08 aims at regulating the start of a business relationship between a bank and a client.<sup>78</sup>

Finally the new capital market supervision law (FINMAG) became effective on January 1, 2009. This law integrates the supervision of banks, insurance companies, and other financial intermediaries into one regulating authority, the FINMA.<sup>79</sup>

## B. INTELLECTUAL PROPERTY RIGHTS

The revision of the copyright law became effective on July 1, 2008. It deals mainly with the implementation of the WIPO-Agreements into national law. Switzerland's participation in the international harmonization of copyright law and the respective adjustment of the protection level should assist the global fight against copyright piracy.<sup>80</sup> On the same day, changes to the Federal Patent Act became effective. They aim at fostering Switzerland's position as a place of research, development, and science. They adjust the patent law to the technical progress that has been achieved in the past years in international developments. The specific rules it adopts are intended to guarantee patent protection for biotechnological inventions.<sup>81</sup>

## C. TAX

On January 1, 2009, the first provisions of the Corporate Tax Reform II became effective. They have the dual purpose of avoiding double taxation, on the one hand, and the

## VII. Switzerland-Developments in Swiss Commercial Law

### A. FINANCIAL MARKETS/BANKING

On February 1, 2008, an Ordinance Regarding the Preliminary Enactment of Organizational Regulations of the Financial Market Statute became effective. It deals with the establishment of the new supervisory authority for financial markets.<sup>75</sup>

72. Ley Ordinaria (B.O.E. 2007, 55).

73. Ley Ordinaria (B.O.E. 2007, 16) (rectifying law passed on Nov. 23, 2007).

74. Real Decreto (B.O.E. 2004, 4) (rectifying law passed on Mar. 5, 2004).

75. See Verordnung über die vorzeitige Inkraftsetzung von organisatorischen Bestimmungen des Finanzmarktaufsichtsgesetzes [Organizational Rules of the Financial Market Supervision Act], Jan. 16, 2008, AS 269 (2008), available at <http://www.admin.ch/d/egg/cr/2007/20072823.html>.

76. FED. DEPT OF FIN., SUBORDINATION OF THE CUSTOMER'S CURRENCY TRADERS UNDER THE BANK ACT (Mar. 14, 2008), available at <http://www.efl.admin.ch/aktuell/medieninformation/00462/index.html?lang=de&msg-id=17808>.

77. Press Release, Fed. Banking Comm'n, FBC Adopted Amendments to the SFBC Money Laundering Ordinance (Jan. 28, 2008), available at <http://www.ebk.admin.ch/e/aktuell/index.html>.

78. See Swiss Bankers Ass'n, Revised Due Diligence Agreement: Switzerland Maintains its Leadership in the Fight Against Money Laundering, CDB 08 (Apr. 7, 2008), <http://www.swissbanking.org/en/home/richtlinienundempfehlungen.htm>.

79. Fed. Dept of Fin., Full Implementation of the Financial Supervision Act (Oct. 15, 2008), <http://www.efl.admin.ch/aktuell/medieninformation/00462/index.html?lang=de&msg-id=22004>.

80. Press Release, Fed. Dept of Justice & Police, The Adjustments of the Copyright in the Digital Age Come into Force (May 5, 2008), available at <http://www.ejpd.admin.ch/ejpd/de/home/dokumentation/mi/2008/2008-05-21.html>.

81. Press Release, Fed. Dept of Justice & Police, Revised Patent Act Comes into Force (May 21, 2008), available at <http://www.ejpd.admin.ch/ejpd/de/home/dokumentation/mi/2008/2008-05-210.html>.

imposition of taxes reducing substance on the other. Economic double taxation of corporate profits distributed to individual shareholders by way of dividends (i.e. taxation of a tax on profits at the corporate level and income tax at the shareholder level) shall not be abolished altogether but be reduced to a level that is competitive with others adopted internationally.<sup>82</sup>

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82. FED. DEPT OF FIN., UNTERNEHMENSSTEUERREFORM II [CORPORATE TAX REFORM II] (2007), <http://www.efd.admin.ch/themen/00796/00800/01132/index.html?lang=de>.