Background information, 5 September 2008

Background information on the Swiss Financial Centre Dialogue Steering Committee's report to the Strategy Committee

The work of the Swiss Financial Centre Dialogue Steering Committee to date

In November 2007 an agreement was reached between Federal Councillor Hans-Rudolf Merz and the heads of the associations in the Swiss financial services sector on enhancing the dialogue on a sector-spanning strategy for the Swiss financial centre. The common goal is to draw up proposals in close cooperation which sustainably improve conditions and thereby international competitiveness in the Swiss financial sector.

To this end the Swiss Financial Centre Dialogue Steering Committee was created drawing on representatives from the authorities and the financial sector.[1] The Swiss Financial Centre Dialogue Steering Committee coordinates and manages the operational work in this project. It expands on and studies the proposals outlined by the financial sector in the *Swiss Financial Centre Master Plan* and carries out in-depth examinations of other topics. Its findings are submitted to the Financial Centre Dialogue Strategy Committee (Strategy Committee) for approval. Based on these findings, the Strategy Committee pinpoints specific measures and paves the way for the requisite implementation measures. The (Swiss Financial Centre Dialogue) Steering Committee has so far held three meetings. The Strategy Committee will go into the findings of the Swiss Financial Centre Dialogue Steering Committee in greater depth in November.

First meeting of the Swiss Financial Centre Dialogue Steering Committee on 31 January 2008

At its first meeting, the Swiss Financial Centre Dialogue Steering Committee prioritised the measures and topics suggested by the private sector and the Confederation and devised a work schedule. Four mixed working groups were assigned to examine in greater detail the topics of hedge funds/private equity, collective capital investments in general, international developments as well as the plausibility of possible economic consequences of recommended measures.

[1] The Financial Centre Dialogue Steering Committee is chaired by the Director of the Federal Finance Administration (FFA), Peter Siegenthaler. The Co-President is Urs Ph. Roth, Chief Executive Officer and Delegate of the Board of Directors of the Swiss Bankers Association (SBA). The authorities are represented in the Financial Centre Dialogue Steering Committee: Philipp Hildebrand, Vice-Chairman of the Governing Board of the Swiss National Bank (SNB), Daniel Zuberbühler, Director of the Swiss Federal Banking Commission (SFBC), Monica Mächler, Director of the Federal Office of Private Insurance (FOPI), Urs Ursprung, Director of the Federal Tax Administration (FTA), Dina Beti, Head of the Legal Division of the Federal Finance Administration (FFA), Alexander Karrer, Head of the Monetary Affairs and International Finance Division (FFA), Tanja Kocher, Head of FDF Communications. The financial sector is represented by: Lucius Dürr, CEO Swiss Insurance Association (SIA), Gérard Fischer, President of the the Swiss Funds Association (SFA), Urs Rüegsegger, CEO SIX Group, Matthäus Den Otter, CEO Swiss Funds Association (SFA), Claude-Alain Margelisch, Deputy Chief Executive Officer, Swiss Bankers Association (SBA), Marc Schluep, Head of Corporate Development, SWX Swiss Exchange, Stefan Tobler, Head of Staff Board of Directors & CEO, Swiss Bankers Association (SBA), Susanne Brunner, Swiss Insurance Association (SIA), Thomas Sutter, Head of Communication Switzerland, Swiss Bankers Association (SBA).

Background information, 5 September 2008

Second meeting of the Swiss Financial Centre Dialogue Steering Committee on 14 May 2008

At the second meeting, the Swiss Financial Centre Dialogue Steering Committee recognised the initial, provisional findings of the working groups and set targets for further work.

Third meeting of the Swiss Financial Centre Dialogue Steering Committee on 2 September 2008

At the third meeting, the Swiss Financial Centre Dialogue Steering Committee scrutinised the findings of the work, approved proposals for their implementation and revised the remaining work schedule. The decision was taken to file a request with the Strategy Committee in November for the implementation of a first package of measures.

Initial measures to strengthen the competitiveness of the financial centre

1. Competitive tax treatment of hedge funds and private equity

Attractive tax levels compared to foreign countries can be achieved through the appropriate structuring of private equity or hedge funds of the companies linked to the funds and their supporting institutions. At the heart of the matter is the question of tax treatment of compensation models in private equity and hedge funds in the different legal funds structures and funds models. A circular from the Federal Tax Administration should clarify the possibilities of tax planning covered by the law and its consequences in particular for fund managers. The circular defines the tax limits and thereby provides legal certainty concerning planning options in present tax law. In this way the appeal of locating high value-add activities in the areas of hedge funds and private equity is increased.

2. Abolition of 'Swiss finish' for collective capital investments

Thanks to the 'autonomous adaptation' of Swiss law to comply with the UCITS III Directive, the investment rules governing Swiss securities funds are in line with those defined in the EU's minimum standards with regard to authorisation, organisation, supervision, investment policies and information obligations. Due to the fact that Swiss securities funds are consistent with European Community law, foreign collective capital investments which are UCITS III compliant, fulfil a priori all the conditions in Art. 120 para. 2 of the Federal Act on Collective Capital Investments for public distribution in Switzerland. However, because the regulatory framework places stricter conditions on Swiss securities funds than the European minimum requirements, for public distribution in Switzerland in addition to the two-thirds rule[2] there are other stipulations (known in the market as "Swiss finish") which have to be met. As the majority of these requirements do not markedly increase investor protection, the SFBC intends to forego the "Swiss finish" requirements. Since the appeal of Switzerland's fund market is likely to be enhanced as a result,

[2] SFBC practice, whereby at least two thirds of the investments in the portfolio must without reservation comply with this term so long as the investment policy is expressed in the name or in the company.

the Swiss Financial Centre Dialogue Steering Committee supports this measure, which will require an amendment of Art. 31 para. 4 of the Ordinance on Collective Capital Investments. The SFBC is planning a brief consultation on this matter.

3. Extending voluntary subordination for asset managers

Asset managers in Switzerland who manage foreign collective capital investments should in future be able to voluntarily submit themselves to SFBC supervision more easily. This would involve an amendment to the law (deletion of Art. 13 para. 4 of the Federal Act on Collective Capital Investments and the introduction of an article stating that persons qualify for authorisation as long as their place of domicile or residence is in Switzerland and that they comply with the general authorisation requirements). With this measure, asset managers under supervision in Switzerland could also manage non-EU compatible funds.

4. Improvement in monitoring of foreign financial market regulation

Changes to regulatory measures in other major financial markets, i.e. the USA and the EU, increasingly have a swift impact on Switzerland. The monitoring of foreign regulatory efforts should therefore be optimised by setting up a closed electronic information network between the authorities and associations. In addition, a body should be established so as to carry out situation appraisals, reach agreements and introduce necessary measures as required.

5. International standard setting in the field of financial crime

A technical working group on international standard setting in the field of financial crime is to deal with setting standards (i.e. based on the FATF, the OECD and the UN) in the areas of combating money laundering, terrorist financing and, in a secondary role, tax offences. The working group is also to take care of the mutual exchange of information on regulatory developments and coordinate statements on specific international regulatory projects in multilateral bodies.

Schedule of further work

The following work is to be continued or freshly undertaken in connection with the measures outlined above:

- **Insurance sector initiatives:** Various initiatives are being elaborated in the insurance sector. These include the question of whether and how the Swiss and EU insurance markets can be brought even closer together. To that end, the corresponding EU legislation will be compared with Swiss law. The economic impact of such scenarios will also be analysed.

  In order to achieve this goal, a key prerequisite will be the mutual recognition of the regulatory frameworks, which could then form the basis of Europe-wide insurance activities. An answer will also have to be found to the question of whether this can be achieved by means of mutual administrative measures, or whether an extension of existing damage insurance agreements is required.

- **Introduction of a selective reporting procedure for collective capital investments:** Art. 17 of the Federal Act on Collective Capital Investments is to be amended and implemented in the Ordinance on Collective Capital Investments. A reporting procedure of this nature would, in contrast to both existing authorisation procedures (standard and simplified procedures), ensue without being examined by the SFBC. These products would only come under the SFBC's supervision after their launch. The supervisory authority could intervene from then on, however, if the need were to arise.

- **Recognition of Swiss funds abroad:** Where the interests of Swiss fund producers are clearly evident, the exportability of Swiss collective capital investments and the recognition of asset managers of collective capital investments from foreign supervisory authorities outside the EU (e.g. Japan, BRIC countries, Taiwan, Hong Kong and the Gulf States) should be improved within the scope of all available opportunities (conclusion of Free Trade Agreements or other bilateral agreements or mutual recognition at the level of the supervisory authorities).
- **Double taxation of collective capital investments:** The Federal Department of Finance (FDF) negotiates amicable agreements on the refunding of withholding taxes with various countries when revising double taxation agreements or during new double taxation agreement negotiations and in international correspondence between the competent national tax authorities, as long as it is in Switzerland's interests. The aim is the improved inclusion of collective capital investments and also the new legal forms unit trusts and limited partnerships for collective capital investments in mutual double taxation agreements.
- **Extending the target investor group for single-investor funds:** As a result of the authorisation of single-investor funds for certain qualified investors, this category of collective capital investments has experienced a veritable boom. A change in the practices of the SFBC or the amendment of Art. 5 para. 1a of the Ordinance on Collective Capital Investments should thus be examined.
- **In-depth analysis of the unit trust sector, real estate funds sector and single manager hedge funds/funds of hedge funds sectors:** Another area in need of analysis is the possibility of launching investment companies with variable capital (unit trusts), created with the Collective Investments Act, of which only limited use has so far been made. The recommendations for measures to improve the conditions for real estate funds should also be examined. To complement the hedge funds/private equity working group other measures to increase the attractiveness of Switzerland as a production location for collective capital investments should be examined.
- **Analysis of partial problems in the tax sector relating to collective capital investments:** A mixed working group under the leadership of the Federal Tax Administration should carry out the analysis.
- ***Plausibility of the measures to be implemented and the development potential in relation to employment, added value and tax returns*****:** The current activities are to be pursued.

The Swiss Financial Centre Dialogue Steering Committee will report to the Strategy Committee on progress in this work in the Spring of 200