

RVP Bulletin

How to Deal with Swiss Financial Market Supervision



Dr. Alois Rimle, LL.M. rimle@rvpartner.ch

Zurich, June 2014, Nr. 3

Contents

Optimizing Supervision	. 1
Optimization goal	. 1
Swiss financial market supervision	.2
Exercising supervision with discretion	.2
Legal framework for exercising supervision	.3
Optimal supervision and potential to optimize supervision	.3
Tendency towards Extensive Supervision	. 4
Protection of customer interests	.4
Avoiding legal risks	.4
Avoiding reputation risks	.4
Extensive exercise of supervision as "logical result"	.4
Communication with Supervisory Authority	. 5
Supervisory relationship	.5
How do supervisory authorities think	.5
Conflict avoidance strategy	.5
Confrontation strategy	.6
Informed-reserved approach	. 7
Means to Optimize Supervision	. 7
Knowledge of supervisory law	. 7
Knowledge of procedures and persons	. 7
Relationship management	. 7
Flying under the radar?	3.
Acting, not asking?	3.
Proactive instead of passive	. 9
Request for clarification by telephone	. 9
Anonymous clarification request by e-mail	. 9

Abbreviations	.12
Agreement after filing of an appeal	11
Request for a formal decision	11
Escalation	11
Cooperative way of finding a solution	11
Application with little chance of success	10
Rectification of license application	10
Formal license application	10
Written clarification request with indication of name	10

Optimizing Supervision

Optimization goal

What does optimal financial market supervision mean from the perspective of an enterprise in Switzerland which is supervised by FINMA or which is a member of a self-regulating organization? Supervision is optimal for the supervised person or entity if the supervisory authority does not ask for more than what is required as a minimum under supervisory law. In such a case, the restrictions applicable to one's own business activities will be as little as possible. This Bulletin is intended to show how supervised persons or entities can best deal with Swiss financial market supervision and improve their supervisory situation.