

Supervision without new law

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The Commission's conclusion in its report for 1977 was cautious. Only after the full use of the existing supervisory instruments, it wrote, would it become apparent "whether changes are necessary from the point of view of creditor protection and the soundness of the banks".¹ This restraint reflected the Swiss approach of the time. The Banking Act of 1934 was a framework law that left much to the banks themselves, and the Commission was a small authority with a secretariat in Bern. The authorities preferred to strengthen self-regulation and to use the existing law before asking Parliament for new powers.

The preference for self-regulation shaped the response to Chiasso in two directions. In the field of prudential supervision, the Federal Council presented a draft revision of the Banking Act to the public on 22 December 1982, with a consultation period until 30 June 1983. The Commission obtained a legal opinion on whether administrative sanctions comparable to the contractual penalties of the due diligence agreement could be introduced for banks whose deficient organization had made violations possible.² In the summer of 1984 the Federal Council decided to propose only a partial revision of the Banking Act in place of the total revision it had begun, and the Commission reported that the work was delayed by the question whether finance companies should also be supervised. In the field of client relations, the banks and the National Bank chose a private agreement, discussed below, which gave the Commission a description of prohibited conduct without any change in the statute.

1 The Chiasso branch after the scandal

For the Kreditanstalt's branch in Chiasso the affair was a long humiliation. Swissinfo's retrospective of 2002 noted that the branch needed eleven years to restore its reputation.³ The bank appointed new management, reorganized the branch and integrated its business into the controls of the

Lugano regional office and the head office. Texon's assets, in particular the participations in the Italian companies, were managed and gradually disposed of. For the bank's staff in Ticino, the experience left a lasting awareness that personal client relationships, however profitable, had to remain subject to central control.

For the wider Lugano financial centre, the affair had a double effect. It damaged the reputation of the Ticinese banks in the rest of Switzerland, where Chiasso became shorthand for the risks of Italian money. It also accelerated a process of professionalization in which the big banks and the larger Ticinese institutions introduced the controls that the new agreement required. Chapter E.I describes how the Lugano banking market grew in the following decades, and Chapter D.IV how the same banks faced the money laundering cases of the 1980s.

2 Notes

1. EBK, Jahresbericht 1977 (above), 32: "Erst nach voller Ausschöpfung der Aufsichtsinstrumente wird sich zeigen, ob sich vom Standpunkt des Gläubigerschutzes und der Solidität der Banken Änderungen aufdrängen." ↩
2. EBK, Jahresbericht 1982, 6–7, <https://finma.ch/FinmaArchiv/ebk/d/publik/bericht/pdf/jb82-d.pdf> ("Der Entwurf wurde der Öffentlichkeit am 22. Dezember 1982 vorgestellt; die Vernehmlassungsfrist läuft bis zum 30. Juni 1983"), and on the legal opinion concerning administrative sanctions comparable to the contractual penalties of the agreement; EBK, Jahresbericht 1985, 8, <https://finma.ch/FinmaArchiv/ebk/d/publik/bericht/pdf/jb85-d.pdf> ("Im Sommer 1984 beschloss der Bundesrat, anstelle der eingeleiteten Total- nur eine Teilrevision des Bankengesetzes vorzuschlagen"). ↩
3. SWI swissinfo.ch, "La grande leçon du scandale Texon" (above). ↩

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