

Organisation, mandate and governance

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The *Zinskommission* had a two-tier structure. An extended commission, presided over by Leu and consisting of nine further members of the councils, met quarterly and set general policy. An inner or executive commission under Heidegger, which began with three members and later grew to eight, conducted the business.¹ All the members were drawn from the Small or the Great Council and served, at least initially, without remuneration. The first salaried secretary, Hans C. Huber, was engaged only in 1778, more than two decades after the foundation. The arrangement resembled the collegiate administration of other offices of the republic: a board of councillors, supported by a secretary, deciding collectively and accountable to the councils that had appointed them.

The rules for the custody of assets reflected the same collegiate spirit. The capital and the securities were kept under a system of three keys: one held by the secretary and two by keyholders appointed by the council, so that no single person could gain access alone.² The principle is familiar from the treasuries of the old Confederation. The Bernese state treasure, stored in a vault beneath the town hall, was protected by a door with eight locks whose keys were distributed among eight members of the government, and counting the treasure was forbidden.³ The four-eyes and six-eyes principles that modern banking supervision requires for access to safe custody and for the release of payments are, in this sense, a codification of practices that the Swiss republics applied to their public funds centuries before any supervisory authority existed.

The business with depositors followed fixed rhythms. Deposits were accepted twice a year, in May and after Martinmas, the traditional term day of the rural credit economy on 11 November.⁴ During the first six months a deposit earned no interest. Thereafter the commission paid three per cent to public offices, guilds and foundations and three and a half per cent to private depositors. Depositors could withdraw their funds every six

months, whereas the commission reserved to itself a notice period of four years for repayment of its own obligations.⁵ The differentiated rates are revealing. Public and charitable funds, the anchor clients, received the lower rate, perhaps because their managers valued security above all and because the state had a direct interest in keeping the cost of this capital low. Private depositors, whose funds were more mobile, were paid a premium. The asymmetry of notice periods, generous to the commission and strict for the depositor, was a crude but effective device of liquidity management, which in a modern bank would be achieved through maturity matching and liquidity buffers.

The mandate of the commission was, in its original form, exclusively external. The Zurich authorities did not want the *Zinskommission* to compete with private lenders in the domestic market for mortgages and commercial credit. The early rules therefore confined its investments to foreign territories.⁶ The purpose was, in the words of the Historical Dictionary, the management of foreign capital investments for large public and private fortunes.⁷ This restriction reveals the macroeconomic logic of the enterprise. Zurich had ample credit at home and a surplus of savings. The commission was an instrument for exporting that surplus. Its success is measured by the returns it brought home from abroad.

The legal character of the commission, a question of more than antiquarian interest, has puzzled commentators since the nineteenth century. The historians who prepared the 2020 report for the city of Zurich describe the commission, in a phrase drawn from the older literature, as a peculiar semi-state organism: a bank for foreign capital investments without a state guarantee, but under state direction and supervision.⁸ Each of these elements has a modern counterpart. The public capital of 50,000 gulden was a form of endowment capital, comparable to the *Dotationskapital* that cantons still provide to their cantonal banks. The management by councillors appointed by the councils corresponds to the governance of a public-law institution (*öffentlich-rechtliche Anstalt*). The absence of a guarantee, by contrast, distinguishes the *Zinskommission* sharply from the cantonal banks of the nineteenth century, most of which were created with a full state guarantee for their liabilities.

From the perspective of a lawyer trained in both the civil law and the common law, the arrangement also invites comparison with a trust. The depositors entrusted funds to a body that held them in its own name, invested them at its discretion within a defined mandate, and paid the income to the beneficiaries after deduction of its costs. The state, as settlor and supervisor, supplied the first-loss capital and appointed the managers.

What the arrangement lacked, by modern standards, was a clear separation between the assets of the commission and those of the state. Precisely this lack became dangerous in 1798, when a foreign occupying power claimed the assets of the Zurich state as its own. The depositors of the *Zinskommission* then discovered that their protection depended on whether their money was treated as belonging to the republic or to themselves, a problem that section VIII below takes up.

The governance of the commission also raises the question of conflicts of interest. The councillors who ran the *Zinskommission* belonged to families that were themselves depositors, and in some cases borrowers, of the institution. The same men sat in the councils that supervised the commission and decided on the policy of the state towards the foreign powers whose bonds it held. There is no evidence in the literature consulted for this chapter that the commission was abused for private advantage. The long survival of the institution suggests that its managers were, on the whole, prudent. But the structure concentrated information, influence and capital in a small circle and presupposed a degree of mutual trust within the Zurich patriciate that the modern law of governance no longer takes for granted. The rules on independence of board members, on related-party transactions and on the separation of supervisory and executive functions that apply today to cantonal banks and to public pension funds can be read as a belated answer to the risks that the founders of 1755 managed through social control.

1 Notes

1. Saller, “50 Prozent Eigenkapital: Die Bank Leu, Teil zwei”, cited above. ↩
2. Saller, “50 Prozent Eigenkapital: Die Bank Leu, Teil zwei”, cited above. ↩
3. SRF News, “Bern wäre reich – hätte Napoleon den Staatsschatz nicht erbeutet”, <https://www.srf.ch/news/napolons-sieg-gegen-bern-1798-bern-waere-reich-haette-napoleon-den-staatsschatz-nicht-erbeutet>.
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4. Saller, “50 Prozent Eigenkapital: Die Bank Leu, Teil zwei”, cited above. ↩
5. Saller, “Rathausobligationen: Die Bank Leu, Teil drei”, cited above. ↩
6. Toni Saller, “Schwarze Flecken: Die Bank Leu, Teil eins”, Inside Paradeplatz, 2 January 2019,

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<https://insideparadeplatz.ch/2019/01/02/schwarze-flecken-die-bank-leu-teil-i-%EF%BB%BF/>. ↩

7. HLS, Baumann, “Bank Leu”, cited above. ↩
8. Brengard, Schubert and Zürcher, Die Beteiligung der Stadt Zürich ... an Sklaverei und Sklavenhandel, cited above, p. 19: “eigentümlicher halbstaatlicher Organismus, eine Bank für auswärtige Kapitalanlagen ohne Staatsgarantie, aber unter staatlicher Leitung und Aufsicht”. ↩

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