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## Foreign exchange traders

The Swiss Federal Banking Commission (SFBC) estimates that about 150 foreign exchange (forex) traders are registered as financial intermediaries in Switzerland, who have not been subject to regulation under Swiss banking and finance legislation. In particular forex traders managing accounts for more than 20 individual clients did not fall under SFBC supervision in the past, as long as those accounts were not interest-bearing and were only used to execute customer orders.

In recent years, the SFBC has seen a growing number of complaints, especially from smaller investors, regarding transparency, liquidity and risk disclosure, let alone the substantial losses sometimes suffered by these investors.

The SFBC took action in November 2007 by proposing an amendment to Article 3a paragraph 3 section c of the Swiss Banking Ordinance. Forex dealers will be required to apply for a banking status under the Swiss Banking Act of 1934, as amended. At the same time, security dealers and precious metal traders continue to be exempted with their client accounts under said Article 3a paragraph 3 section c. A banking status under the Swiss Banking Act requires a minimum paid-in share capital of Sfr10 million (\$9 million) and further equity requirements to appropriately cover credit, operational and other risks. Bank management members in Switzerland must meet certain professional standards. A Swiss bank must also meet organisational standards, providing for separate corporate bodies for supervision, management and control.

From April 1 2008, existing forex traders in Switzerland are required to register with the SFBC. The registration process ends on June 30 2008. One year later, that is, on March 31 2009, forex traders must meet the above requirements and must have applied for a banking licence.

It is expected that many forex dealers will not be able to obtain a Swiss banking licence because they may not be able to meet the capital and/or organisational requirements. Instead of applying for a banking licence they may explore other legal avenues, such as teaming up with a Swiss bank or Swiss security dealer for example and acting as an independent asset manager, converting their business model by no longer accepting deposits from the public, or by offering their forex products by means of securities or through mutual funds.

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