

LALIVE

Geneva Doha Zürich

LALIVE is pleased to invite you

Tuesday 11 December 2012 from 11AM to 1PM at 35 rue de la Mairie, Geneva

to a Roundtable on

SWISS FEDERAL SUPREME COURT DECISION ON RETROCESSIONS: LESSONS TO BE LEARNT

In collaboration with the **Association of Foreign Banks in Switzerland (AFBS)**, lawyers from LALIVE's Geneva and Zurich offices will review the recent decision of the Swiss Federal Supreme Court on retrocessions as well as the current international and Swiss regulatory context. They will highlight the key points on which financial intermediaries need to focus when reconsidering their fee models.

PROGRAMME

Presentation by Alexander Troller, Dr Simone Nadelhofer, Sandrine Giroud, Nicolas Ollivier from LALIVE on the following topics:

- The sequel to the retrocessions saga: the 2012 decision of the Swiss Federal Supreme Court
- International and Swiss legislative and regulatory context: EU MiFID II, UK Retail Distribution Review, German Honorarberatungsgesetz, upcoming Swiss Financial Services Law
- Next Steps
 - Actions/reactions towards clients
 - New definition of the mandate
 - New fee models

Q&A session

There will be plenty of room for questions and discussion. Do not hesitate to communicate your questions and comments in advance by sending an e-mail to wuergler@foreignbanks.ch

Please register by no later than
5 December 2012 at seminaire@lalive.ch



The latest Swiss Federal Supreme Court decision on retrocessions was published at the end of October. It clarifies that banks are liable to pay any commission received in the context of management mandates to their customers or investors, even if such commission remunerates distribution activities performed by the banks. Advance waivers by customers are void unless they have received detailed information about the scope and amount of the payments to be received. In addition, the Court does not distinguish between payments from third party intermediaries and payments made within the same banking group, the focus now being very much on existing and potential conflicts of interest.

This decision is expected to affect considerably the Swiss financial industry, all the more so since several similar cases are pending before the Courts and the decision will likely set a precedent. In parallel, the current international trend towards more transparency and disclosure in financial activities and towards

indeed contains proposals to restrict retrocessions or to ban them altogether, a point which should be also covered in Switzerland by the upcoming Financial Services Law.

The pressure for transparency and disclosure as well as the criticism of retrocessions and commission payments remain strong. Banks and financial intermediaries will have to reflect on how to adapt. The challenge resides in finding a solution that allows for a combination between a transparent and competitive remuneration practice and the assurance of sufficient revenue to finance the increasing regulatory and infrastructure costs.

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