



## Media Release

Contact Tanja Kocher / Communication  
Phone +41 31 323 08 57  
Fax +41 31 322 69 26  
E-mail tanja.kocher@ebk.admin.ch  
Embargo November 13, 2001, 14.00

### **SFBC orders removal of bank's general manager**

Investigation by supervisory authority in Montesinos case concluded

**November 13, 2001 – The Swiss Federal Banking Commission (SFBC) has concluded its investigation in the case of the former Head of Secrecy of Peru, Montesinos. In its final decision it ordered the removal of Bank Leumi le-Israel (Switzerland) Ltd.'s General Manager. With regard to the other banks involved in the investigation, no measures needed to be ordered.**

In November 2000, approximately USD 114 mio. on accounts with banks domiciled in Switzerland were blocked in the context of penal proceedings conducted by the Public Attorney of the Canton of Zurich against Vladimiro Lenin Montesinos Torres for alleged money laundering, pursuant to which the SFBC investigated into the activities of five banks: Bank Leumi le-Israel (Switzerland) Ltd., Fibi Bank Switzerland Ltd., Banque CAI (Suisse) Ltd., UBS Ltd. and Bank Leu Ltd.. The two latter banks had terminated their banking relationship with Montesinos before the penal investigation had started.

In its investigation the SFBC sought clarification whether the banks had acted in compliance with the Federal Act on Money Laundering and the SFBC Directive on Money Laundering with regard to due diligence and reporting duties.

The SFBC discovered significant shortcomings with Bank Leumi le-Israel (Switzerland) Ltd. in opening banking relationships with politically exposed persons (PEPs). In its August 28, 2001 decision the SFBC ruled that the bank did not exercise due diligence with regard to Montesinos and had fallen short of clarifying the source of funds in cases of unusual transactions. Despite significant amounts deposited and indication of activities in arms dealing, it did not investigate any further. In establishing the banking relation it based itself solely on information provided by an important customer of its mother company. The bank failed to recognize Montesinos' PEP quality even though publicly accessible information would have enabled to do so with reasonable efforts.

In the course of the proceedings, several deficiencies of Bank Leumi le-Israel (Switzerland) Ltd.'s organizational setup were discovered. Even though the bank's policy does not allow establishing banking relationships with PEPs, no checking procedures were in place for identifying potential customers as such or examining existing banking re-



relationships against this background. Furthermore, the SFBC found fault with inconsistent regulations on competence, inadequate internal reporting, incomplete internal guidelines and insufficient internal control mechanisms in the private banking department.

Due to his position in the hierarchy of the management of Bank Leumi le-Israel (Switzerland) Ltd., the General Manager is to be held responsible for organizational deficiencies within the bank. He is also alleged to have accepted the opening of accounts with Montesinos personally despite formal shortcomings in the opening procedure. Furthermore, he is held co-responsible for not recognizing the PEP quality of Montesinos. The SFBC denied him the fitness and properness for holding the position of general manager of a Swiss bank and ordered he be removed from his position immediately. In the meantime, this order has become final. The general manager resigned from his position by September 15, 2001.

Bank Leumi le-Israel (Switzerland) Ltd. accepts SFBC's order and has taken further measures to eliminate organizational shortcomings. For checking on the implementation and adequateness of such measures, the SFBC ordered a special audit to be held in 2002. This audit will have to be conducted by an auditor other than the bank's ordinary auditor appointed according to banking legislation.

Regarding the four other banks involved in the investigating proceedings by the SFBC, no measures had to be taken.

UBS Ltd. and Bank Leu Ltd. recognized Montesinos' PEP status in time based on publicly accessible information and terminated their banking relationship with him before allegations for corruption against him became public in the second half of the year 2000. UBS Ltd. and Bank Leu Ltd. did not have reasonable suspicion that the funds deposited with them were of criminal origin. For this reason, no reports were made to the Federal money laundering reporting agency. But due to reputational risks, the banks resolved to terminate their business relationship with Montesinos. The assets were transferred to Bank Leumi le-Israel (Switzerland) Ltd. and Fibi Bank Suisse Ltd..

Banque CAI (Suisse) Ltd., which had « inherited » the banking relationship due to the merger of Canadian Imperial Bank of Commerce (Suisse) Ltd. in September 2000, and Fibi Bank Suisse Ltd. did not discover the PEP quality of Montesinos in time, just as Bank Leumi le-Israel (Switzerland) Ltd. did not. CAI only realized Montesinos was a PEP when the videotape was published featuring him bribing Peruvian MP's. Banque CAI (Suisse) Ltd. reacted immediately to the subsequent press coverage and reported to the Federal money laundering reporting agency.

This report entailed the opening of penal proceedings by the Public Attorney of the Canton of Zurich against Montesinos for alleged money laundering, as was reported by the Federal Department of Justice and Police on November 3, 2000. This again induced Fibi Bank Switzerland Ltd. to report its Montesinos funds to the Federal money laundering reporting agency.



The SFBC concluded from its investigations into the Montesinos case as follows:

- Careful investigation into the possibility of a customer's PEP quality is a precondition for compliance with SFBC's PEP rules and guidelines. Customers will not always disclose such backgrounds or make false statements. Even the more important it is for the bank to look into sources of information generally accessible to the public.
- With the exception of UBS Ltd., none of the banks involved contacted Montesinos in person but had based themselves solely on information provided by third parties. This is insufficient in the case of significant private banking relationships.
- It may be desirable for an individual bank to terminate a banking relationship in case of doubts even though it need not be reported to the Federal money laundering reporting agency. However, in view of the Swiss banking centre as a whole, the problem is not resolved if the funds are transferred to a different bank.

The SFBC set up a working group for amending its anti money laundering directives (SFBC-Circ. 98/1) and the Agreement on the Swiss banks' code of conduct with regard to the exercise of due diligence (CDB 98) which will deal with the above conclusions apart from findings as in its Abacha report ([www.ebk.admin.ch/e/aktuell/archiv.htm](http://www.ebk.admin.ch/e/aktuell/archiv.htm)).

In conclusion, emphasis is made to the fact that mechanisms set up in the battle against money laundering are effective. The obligation to report to the Federal money laundering reporting agency as set forth in the Money Laundering Act contributed considerably to the discovery of the Montesinos case. The banks involved blocked assets attributable to Montesinos and reported them to the Federal money laundering reporting agency. Thanks to the proactive attitude of the Swiss authorities of justice and police, the Peruvian authorities were in a position to receive information on the assets blocked which enabled them to submit a formal request for legal assistance.

#### Note

To be informed as quick as possible please accredit to  
[www.ebk.admin.ch/d/aktuell/default.htm](http://www.ebk.admin.ch/d/aktuell/default.htm)