Annual Report 2015
IFU I BLI Business Law Institute
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contents</td>
<td>2</td>
</tr>
<tr>
<td>Editorial</td>
<td>4</td>
</tr>
<tr>
<td>Strategy</td>
<td>6</td>
</tr>
<tr>
<td>Competence Centre Network and Cooperative Enterprises</td>
<td>8</td>
</tr>
<tr>
<td>Competence Centre Healthcare Enterprises</td>
<td>21</td>
</tr>
<tr>
<td>Competence Centre Public Enterprises</td>
<td>26</td>
</tr>
<tr>
<td>Competence Centre Enterprise and Governance Design</td>
<td>29</td>
</tr>
<tr>
<td>Competence Centre Financial Markets</td>
<td>46</td>
</tr>
<tr>
<td>Employees</td>
<td>53</td>
</tr>
<tr>
<td>Partners</td>
<td>55</td>
</tr>
<tr>
<td>Functions and mandates</td>
<td>56</td>
</tr>
</tbody>
</table>
Strategic and financial partners

- ABZ
- IG Genossenschaftsunternehmen
- Die Mobiliar
  Versicherungen & Vorsorge
- Raiffeisen
- fenaco
- mobility
  car sharing

Other financial partners

- suissimage
- SUISA
- reka
- coop
- Migros
- WIR
  Bank
- GLB
- planen bauen einrichten
- Creditreform

Project partners

- Rasenberger Toschek
- FNSNF
- luzerner kantonsspital
- Stadt St. Gallen
- Kantonsspital
  St. Gallen
2015 will go down in the history of the IFU | BLI as a very successful year. Once again, the research output and training output could be increased in both quantitative and qualitative terms, a monograph, a larger study and five scientific articles were published. The research report Corporate Governance of Cooperative Enterprises shows for the first time the requirement profiles for Switzerland and implementation possibilities for the Corporate Governance of Cooperative Enterprises, a comprehensive project report with a new holistic, integrative Corporate Governance approach. The project Berne Commentary on Cooperative Law presented a draft version of the systematic part. A pioneering project “Fit & Proper Requirements for Members of the Board of Co-operative Banks” was successfully implemented and completed in the Competence Centre for Financial Markets for the EACB (European Association of Cooperative Banks). Member banks from 11 countries were surveyed by means of questionnaires in relation to Best Practice with regard to compliance with the standards of regulatory authorities and the training standards of their top management and the results were used for in-depth analysis.

A number of specialist forums and CEO / VRP discussion forums on fundamental cooperative science issues were established for the IG Cooperative Enterprises.

Progress was also made in the internationalisation of the IFU | BLI. In addition to the now routine research projects / publications with Austrian and German colleagues and the pioneering study for the EACB, we were increasingly able to include management delegations from foreign companies, such as the South Korean ICOOP, in training modules. The scientific support of a group of international companies then led to the establishment of a cooperative service hub in Switzerland. Finally, Prof. Dr. F. Taisch was invited by the International Economic Forum of the Americas 2015 to speak about how different business models, particularly investor-oriented and cooperative models, together with NGOs and governments can make a contribution to the balanced global economy.

Within the area of healthcare enterprises, we implemented various training programmes for cantonal hospitals with great success. The CAS “Law, corporate management and leadership in the healthcare sector” for the Lucerne Cantonal Hospital (LUKS) was greatly praised by the participants, management and hospital council because of its trans- and interdisciplinary, substantive and didactic conception. In this respect, interdisciplinary live cases from everyday hospital life were developed by the participants in the presence of several professors from the fields of law, business, ethics and medicine. Furthermore, in the last course, a potential benefit of 270 million CHF was achieved by the projects implemented by the participants in the context of their theses.

Within the area of marketing, our website was revamped in terms of content and graphics and a CRM (Customer Relationship Management) was initialised, which should be introduced in 2016.

Finally, we succeeded in qualitatively increasing the IFU | BLI employee base (i.e. employees at high levels of seniority); the institute had 12 employees at the end of 2015. We welcome Ms Melanie Köpfli, MLaw, LL.M., Mr Andreas Gmünder, MLaw and Dr. Nadja Germann, as the head of the Competence Centre for Public Enterprises and member of the executive board, as well as the new addition to the board of directors, Prof. Dr. Martina Caroni.
We would like to thank all strategic and financial partners and project partners for the positive and successful collaboration and their support!

January 2016

Prof. Dr. Franco Taisch,  
Chairman of the Board of Directors IFU I BLI

Prof. (FH) Dr. Alexander Jungmeister,  
CEO IFU I BLI
Institute strategy

The previously formulated strategy for the IFU | BLI Business Law Institute also proved itself in 2015 and was specifically extended. The individual competence centres are all grouped according to content around the competence core of our institute “trans- and interdisciplinary corporate management with business administration and law” and supplement each other with regard to content and synergies can be exploited. For example, competence in financial markets and financing operations helps to correctly structure cooperative financial innovations, or our Corporate Governance competence in family business, cooperatives and banks is also called for in the healthcare sector. Our basic strategy is aimed at thematic leadership in research, teaching and scientific transfer in the corresponding competence centres. All relevant corporate management tasks are treated in view of holistic corporate management including all dimensions, especially financial market related themes. The IFU | BLI is consistently oriented towards the needs of the enterprises, which are critically reflected on in the context of basic and applied research. In this respect, the focus is on the needs of personal enterprises. We made slight substantive additions and sharpened two competence centres; the “Cooperative Enterprises” are now more comprehensive “Network and Cooperative Enterprises” and “Corporate Management and Law” has become the more holistic “Enterprise and Governance Design”.

The IFU | BLI now has 5 strategic competence centres:

- Network and Cooperative Enterprises
  (formerly: Cooperative Enterprises)
- Public Enterprises
- Healthcare Enterprises
- Enterprise and Governance Design
  (formerly: Corporate Management and Law, Family Business)
- Financial Markets
Important publications


The Competence Centre for Cooperatives [The Competence Centre for Network and Cooperative Enterprises] is our longest-running Competence Centre in years and has been operationally active within the Institut für Unternehmensrecht [IFU – Business Law Institute] since 2011. The Competence Centre implements the objectives and the concept of the IFU BLI within the field of network and cooperative enterprises. As was stated in the recent 2015 Peer Review of Research, we are already well on the way towards becoming an internationally leading Competence Centre. The Competence Centre for Network and Cooperative Enterprises creates lasting value through interdisciplinary research, training and further education, academic transfers, shaping the legislation process, as well as working with stakeholders and the public. The Competence Centre for Network and Cooperative Enterprises is an important strategic partner of the IG Genossenschaftsunternehmen [IGG – Cooperatives Organisation].

As people-orientated companies, cooperatives are the antithesis of capitalist-orientated joint stock corporations. Today they are already of great politico-economic importance – the biggest cooperatives represent 15% of Switzerland’s GDP – and, in the context of the current discussions of values, they possess great economic potential. They stand out due to their particular governance structure in terms of sustainable business, which has been firmly established for decades in the case of many cooperatives and goes back to the tradition of the Middle Ages [cf. die Allmendgenossenschaften [The Common Land Cooperatives], Elinor Ostrom]. The 2009 financial crisis put sustainable, ethically responsible and democratic businesses back into the spotlight. There is an increased need for both a widespread and detailed interdisciplinary academic engagement with cooperatives and their business environment. In the year of the report, the examination of a few policy questions from cooperative academic research and the detailed examination of the systematic section of the Bernese Commentary on Cooperative Law were the focus.

Research

In 2015, the Competence Centre for Network and Cooperative Enterprises focused on the following research topics:

• The structure of networks and cooperatives
• The structure of cooperative banks and their challenges
• Cooperative DNA as a basis for differentiation strategies
• Strategy development in cooperatives
• Perceptual space in cooperatives
• Corporate governance in cooperatives
• Fields of action concerning legal and regulatory conditions for cooperatives

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Research Projects in Detail

"The International Cooperative Alliance (ICA) Blueprint – a strategy for multiplying the cooperative model?"

[Project completed under the leadership of Professor Dr. F. Taisch, co-authored with Professor (FH) Dr. A. Jungmeister and Dr. I. D’Incà-Keller, MLaw]

In 2013, the International Cooperative Alliance (ICA), which represents and promotes the interests of cooperatives as an independent and non-governmental organisation, presented a strategy on cooperatives' social and economic developments to the United Nations – the ICA Blueprint².

On the economic system level, on which the rules and the protagonists of economic events are determined, the ICA Blueprint advocates replacing widespread value growth-driven organisations, ideally through a cooperative business model. This is under the assumption that cooperatives can contribute to easing global problems, such as "damage to the environment and the consumption of resources, an unstable financial sector, increasing inequality and gaps in worldwide business leadership, as well as a loss of trust in political and economic organisations […]". On a [national] legal system level which, for some protagonists, determines the legal framework of their economic trading, the ICA Blueprint calls for a unified "legal framework" for cooperative forms of business. Finally, on an individual company or an association level, start-ups and growth of existing cooperatives are to be encouraged in order to implement the aims laid out in the ICA Blueprint by 2020.

The strategic framework employed in the ICA Blueprint addresses various design levels. However, the ICA Blueprint does not provide the necessary clarity as to which of the levels mentioned above the strategy is based on. The understanding of the strategy within the Blueprint was clarified in the study, based on the economic reality and legal status of cooperatives in Switzerland as an example, with the help of a methodological pattern and was critically reflect ed upon. The result was clear trade recommendations, substantiated in the ICA Blueprint, as well as critical success criteria for strategic growth in existing cooperatives or success criteria for establishing new cooperatives.

The project was successfully concluded with the publication of an article in the Marburg Colloquium. The publication appeared in English in 2015³.

"Clicks or Bricks – the Challenge of Cooperative Relationship Banking"

[Project completed under the leadership of Prof. (FH) Dr. A. Jungmeister, co-authored with Prof. Dr. F. Taisch and S. Schmid, MLaw]

Structural change – from widespread networks of branches close to customers to streamlined, automated and centralised branch networks reduced to the bare necessities – it was not only the 2008 financial crisis that affected banks. According to statistics from the Swiss National Bank, the number of branches of all banks has gone down by approx. 40% since 1987 (4,117 total branches) to 2008 [2,583 branches], the year 1990 in particular, brought many merges and closures. The locally active cooperative banks in Switzerland and in Germany are

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based on another business model: on traditional cooperative values, such as a good customer relationship, classic retail banking, they are located close to the customers with many branches and they are not related to risky international investment banking. An anachronism against the trend? Based on the data available, the research attempts to demonstrate the structural change of cooperative banks in Switzerland and Germany, to analyse it against the backdrop of legal framework provisions and to reflect on the related effects.

The results show the successful structural change of the cooperative banks in Switzerland and Germany against the backdrop of the legal framework provisions, based on empirical data. Strategic challenges lie in, amongst others, tighter regulation, new competitors, such as non-and near banks and technological changes. The cooperative banking of the future will probably require fewer but re-positioned and re-designed branches with local engagement and a local-themed character, as well as new, more experience-orientated banking applications on mobile platforms.

The project was successfully completed with the publication of an article in the Zeitschrift für das gesamte Genossenschaftswesen [Cooperative Movement magazine] 1/2015 pp. 23-40, Frankfurt May 2015 as well as an IGA [International Institute of Alpine Cooperative Research] lecture of which there is a copy in the publication.

"Bernese Commentary on Cooperative Law"

(Ongoing project under the leadership of Prof. Dr. F. Toisch and Dr. N. Fabrizio, co-leadership)

Starting point
A value change can be seen within society and business concerning the types and methods of business trading and of operating. The pure one-dimensional maximising of profit is no longer the measure of all things. Against this backdrop, cooperative thinking gains importance as a real alternative to the joint stock corporations around the world. Despite the increasing societal and economic reputation of cooperative businesses, as well as the evolution of cooperatives that has taken place in recent decades, a comprehensive academic paper on Swiss Cooperative Law is missing from legal practice. These gaps should be closed within the framework of a comprehensive commentary on the relevant provisions of the Swiss Code of Obligations (Art. 828 - 926 of the Swiss Code of Obligations [OR]) in the renowned Bernese Commentary. The Bernese Commentary was founded as early as 1909 and has developed over decades to be one of the most comprehensive and most important works of Swiss judicial literature.

The project supported by the SNF (Schweizerischer Nationalfond zur Förderung der wissenschaftlichen Forschung – Swiss National Science Foundation), “Foundational study on Cooperative and Association Law in accordance with OR – comprehensive commentary on the legal provisions (Art. 828 - 926 OR) within the Bernese Commentary, including a systematically analytical general section”, was started in October 2011.

Alongside creating additional academic value and closing up existing academic gaps within Cooperative Law, the project requires a post-doctoral position. Dr. Ingrid D’Incà-Keller, MLaw, an academic assistant, will, within the context of her dissertation, “Mezzanine Financing of Cooperatives”, identify financing options for cooperatives and evaluate them according to different situations. At the same time, the particular permissibility and limits of mezzanine financing instruments for cooperatives will be examined.

Method
An interdisciplinary approach underlies the whole research project for these reasons: the object of research outlined, which is based on the root discipline, "Law", is also being researched
from the perspective of the neighbouring disciplines of Economics and Social Sciences. The exchange with foreign institutes on the subject of cooperatives was especially intensive during the UN's International Year of Cooperatives in 2012. The first concept of Comparative Law was established thanks to the academic exchange at the Berlin, Nuremberg and Vienna Cooperative Congresses. The exchange with foreign institutes was also able to be more detailed in the years 2014 and 2015.

**Status**

During the reporting years 2011 and 2012, the research project primarily focused on Swiss law. All Swiss literature in existence since 1880 was initially collected and completed by the current Swiss case law on collectives. These sources were categorised and the relevant information regarding the writing and case law concerning Cooperative and Cooperative Association Law was saved in a working database. As a result, there are bibliographical references for approximately 900 publications up until 2012. The subsequent analyses of the sources collected that were carried out confirmed the hypothesis that the existing fundamental literature is not current or where there are relatively new treatises, only picks up on selective aspects concerning Cooperative Law.

The first step in order to close up these holes in the framework of a comprehensive commentary on the relevant provisions of the Code of Obligations (Art. 828 - 926 OR) was on the one hand to present the detailed analysis of the existing commentary on Cooperative Law. On the other hand, a methodical approach was developed, as well as an arrangement of the systematic section, which constitutes the first of three planned volumes. A detailed project plan for the first volume of the Bernese Commentary on Cooperative Law was developed on this basis. The revision and updating of Volume 1, as well as the workshops involved with it were expedited.

Intensive foundational research, which should serve the actual review and updating of the first section of the commentary, proved indispensible. At the same time, foundational but also extensively unclarified or contentious legal questions were worked out, in particular concerning the cooperatives’ purpose, financing and the minimum number of members for a cooperative; corresponding solutions were presented and a systematic and analytical presentation of comprehensive themes was made by the project team, consisting of Prof. Dr. Peter Forstmoser, Prof. Dr. Franco Taisch, Dr. Tizian Troxler and Dr. Ingrid D’Incà-Keller, MLaw. The knowledge acquired on Cooperative and Cooperative Association Law is incorporated within various publications, reports and presentations.

In Zeitschrift zur Rechtsetzung und Praxis im Gesellschafts- und Handelsregisterrecht (Magazine on Legislation and Practice in Company and Commercial Register Law), an essay on the topic of “The aim of the cooperative – yesterday and today” was published. (Forstmoser/Taisch/Troxler/D’Incà-Keller, Der Genossenschaftszweck – gestern und heute, in: REPRAX 2/2012, p. 1 in seq.). From today’s perspective, there are no more compelling reasons to retain the historic statutory restrictions on the purpose. The cooperative can be used as a legal entity to implement the ideal cooperative aims – and this will possibly be unchanged in the future. At the same time, however, it is no longer necessary to limit the use of the cooperative as a legal entity to those self-help cooperatives developed in the 19th century.

Further opening for the purpose of a legal understanding of the reality of a typical cooperative appears to be appropriate. Only cooperatives whose main or exclusive aim is to achieve a yield with a view to dividend distribution remain excluded.

What is more, a Federal Court decision on the minimum number of members for a cooperative (Bundesgericht Schweiz – Swiss Federal Court 4A 729/2011) gave cause for a critical discussion (Taisch/Troxler, Mindestmitgliederzahl bei Genossenschaften, Besprechung des Urteils Minimum number of members in cooperatives, discussion of the judgment) BGer 4A 729/2011
Prof. Dr. F. Taisch and Dr. N. Fabrizio gave an introduction to cooperatives in Switzerland to a delegation from ICoopKOREA from Seoul on 26th October 2015.

dated 25th May, AJP 11/2012, p. 1646 et seq.). The outcome of the judgment discussed proved to be appropriate. However, the Federal Court’s reasoning was not convincing in several respects: the actual central issue, the impasse, was not examined more closely; the conclusion that only a grace period or the dissolution of the cooperative would be available if the cooperative falls below the minimum number of seven members, appears misguided; and the decision contains, in relation to general self helps, an unnecessary obiter dictum with a misguided potentially explosive power. Hope remains that the dissolution, despite the alternative reasoning of the Federal Court, did not take place solely because the cooperative had less than the minimum number of members and that the registration authorities will implement this decision with sound judgement.

Thematically, the possibilities and limits of cooperatives’ raising capital were finally the focus. For cooperatives, only raising capital through the accumulation of profits and the allocation of which to legal or free reserves, as well as the issuing of share certificates is explicitly legally regulated. These two possibilities are predominantly the only limited ways of raising capital for cooperatives contained within the literature and case law. Financing instruments sui generis are neither fundamentally researched in the cooperative literature nor are they the focus of concrete jurisprudence. In theory, they are the subject of isolated research on the analogous adaptability of profit participation certificates from stock corporation law and profit participation certificates in cooperative law. The possibilities for raising capital in a cooperative as an individual legal entity are legally, but not conclusively (enumerative), regulated within the Swiss Code of Obligations. Rather there is a legal loophole in this area, which can be closed sui generis with financing instruments tailored to the characteristic features of Cooperative Law. Constructs are to be considered here which emulate the profit participation certificates under stock corporation law, but do not copy them. A Federal Court judgment (BGE 104 III 206) in relation to share certificates (Federal Court judgment 4A_363/2013 dated 28.04.14) prohibited the issuing of share certificates for cooperatives which for the moment excludes this possibility of financing as an option for cooperatives. However, a publication from the project team critically deals with this (ref. Publication “Unzulässigkeit von Beteiligungsscheinen bei Genossenschaften” (Inadmissibility of share certificates in cooperatives), in: Jusletter July 2015 (Forstmoser/Taisch/Troxler)).

In the meantime, a rough first draft of the systematic section of the Bernese Commentary is available. The publication of the first volume is planned for 2016.

“The Corporate Governance of Cooperatives”

(Project completed under the co-leadership of Prof. Dr. F. Taisch, Prof. (FH) Dr. A. Jungmeister and Dr. N. Fabrizio)

The aim of the study, which was commissioned by the IG Cooperatives’ Organisation, is to formulate the specific requirements of modern corporate governance for cooperatives in Switzerland based on laws, existing Soft Law Codes at home and abroad, as well as current objectives based on practice. The study is based on an interdisciplinary and multi-method approach, taking into account economic, statistical, historical and legal aspects. Following a review and a survey of cooperatives on the topic, the study points out that the Swiss Code of Best Practice cannot be used for cooperatives without some adaptations. The following challenges, in particular, are to be proactively addressed:

• Outsider’s view (arrangement of multiple stakeholder orientation; in addition, motivating the members to be aware of their rights);
• Situational dimension (including cooperatives’ DNA, which requires a clear, definitive strategy);
• Strategic dimension (above all, respective sharing of roles between organs, including sharing duties, skills and responsibilities);
• Integrative dimension (composition of the administration, including succession planning, autonomy);
• Control dimension (development of cooperative-specific incentive schemes).

Here there is a particular focus on the group structures within the businesses that have an emphasised significance in different dimensions. It is shown that cooperatives who are different to smaller companies with less market exposure and/or less businesses with less network connections, should meet increased Corporate Governance requirements.

The study comes to the conclusion that the development of separate Corporate Governance standards aligned with Swiss Law and the realities for cooperatives can protect cooperatives from being given predefined standards. In addition, it could strengthen the cooperative differentiation strategies.

The project started in 2014 and was completed at the end of 2015 with a research report from the Institute which will be published in 2016.

"Empirical research into a cooperative-specific Corporate Governance"

*Project completed under the co-leadership of Prof. (FH) Dr. A. Jungmeister and Prof. Dr. F. Taisch, co-authored by K. Müller*

There is hardly any empirical evidence on Corporate Governance in Switzerland. Where there is evidence, it is anecdotal and not statistically representative of the approx. 10,000 cooperatives in Switzerland. In order to find out how Swiss cooperatives adhere to a separate Corporate Governance Code and which topics are important to them, the IFU | BLI of Lucerne University carried out a representative survey. This project reflects the results of this questionnaire against the backdrop of a still little developed awareness of Corporate Governance amongst Swiss cooperatives.

**Presentation of the problem**

The Swiss Code of Best Practice for Corporate Governance from economiesuisse is primarily aimed at Swiss public organisations with the legal structure of a joint stock corporation. However, it can also be applied to “not listed, economically significant companies or organisations [including those with different legal structure from a stock market company] […] appropriate central ideas”. Cooperatives have many specific characteristics. They have no capital shareholders but rather cooperative members with one vote per person, a business model oriented both on the cooperative members and various stakeholders, no minimum capital, special provisions for accumulation of reserves and appropriation of earnings, a strong, local grounding, etc.; the analogous application of the Swiss Code of Best Practice proves difficult due to these fundamental differences to stock market companies. Therefore, it is possibly expedient to develop separate principles which consider the specific features of a cooperative. In order to identify the requirements of Swiss Cooperative Practice relating to this, the IFU | BLI of Lucerne University carried out a nationwide (Switzerland) representative survey amongst domestic cooperatives.

**Process/Method**

In the context of a random sample (representative sample of a total of 9688 [2012] cooperatives nationwide) 1600 cooperatives were asked about the necessity of a separate Corporate Governance Code for Swiss cooperatives. Two follow-ups were done. The return amounted to 102 questionnaires in total which corresponds to a return quota of 6.38%. Thereby, representative statements with a confidence level of 95% could be obtained.
Research questions
The following research questions were investigated in the project:

- How do Swiss cooperatives view a separate Corporate Governance Code for Cooperatives? Is such a thing needed?
- Does such a Code serve a purpose? If yes, what?
- Does it make sense that a new Corporate Governance Code is the same for all cooperatives or must it be different in view of the business’s size?
- Should such a Code be mandatory or voluntary? Should it be possible to deviate from the provisions of such a code based on the “comply or explain” principle?

Results
The study shows that awareness of and the importance of Corporate Governance for cooperatives in Switzerland is still capable of developing. The swift implementation of a separate Corporate Governance Code for Swiss Cooperatives would on the one hand take a longer time, on the other hand the increased engagement of society with the topics of good business governance will not diminish, but rather will increase with every scandal and the question of the governance of cooperative-structured businesses, with or without cooperative scandal, will be posed with increasing fervour. A spirited approach to the topic of Corporate Governance in view of these divergent trajectories can further counteract legal regulation and the reflex to “copy and paste Stock Corporation Law”. This is clearly shown in the survey but also that there must be differentiation between small and big cooperatives. The overwhelming majority of cooperatives have less than ten employees, i.e., they are predominantly small businesses. Undesirable developments within the field of Corporate Governance in small cooperatives have less effect on the national economy than in big cooperatives. This is demonstrated in the development potential of big cooperatives whose place in the market is comparable to the big stock companies. The aspects of organisation and the skills members’ meetings, rights and obligations of cooperative members, organisation and skills of delegates’ meetings, duties, skills and responsibilities of the administration and management, as well as the composition of the administration and the management, amongst other things, are especially important.

Practical relevance
Although awareness of the relevance of a good Corporate Governance of Cooperatives is not yet widespread, good governance can be very useful for businesses [strengthening trust amongst potential members, business partners and wider interests; strengthening the “We feeling” as contributors to the cooperative; and preventing the abuse of power in businesses]; motivation and education in terms of good cooperative Corporate Governance for the executives (executives, management and administration) of cooperatives are imposed in industry practice. It is important to point out the possible risks and consequences of a lack of Corporate Governance. However, the strategic uses of opportunities and the communication of the Corporate Governance principles in a cooperative context should be expounded.

The project was completed in November with a research article for the ZfgG (Zeitschrift für das gesamte Genossenschaftswesen – Magazine for the Cooperative Movement), the journal article will appear there in 2016. The results of the survey appear in the large study, “Corporate Governance of Cooperatives” [ref. there].

“Fit & Proper Requirements for Members of the Board of Co-operative Banks”

Completed project under the co-leadership of Prof. Dr. Taisch and Prof. (FH) Dr. A. Jungmeister and co-authorship of A. Gmünder, MLaw, see also Competence Centre Network and Cooperative Enterprises and Competence Centre Enterprise and Governance Design)
A scientific study on “Fit & Proper” requirements for Executive Board members was carried out in cooperation with the EACB (European Association of Cooperative Banks) in Brussels. Member banks from 11 countries were surveyed by means of questionnaires in relation to Best Practice with regard to compliance with the standards of regulatory authorities and the training standards of their top management and the results were used for in-depth analysis. The study contained a sample (sketch method) that was representative for the EACB, which included 80% of the balance sheet total of the banks represented in the EACB. The EACB banks with 4200 local banks and 68,000 branches serve 205 million customers and 78 million members, employ 860,000 employees and make up approximately 20% of the market share in the European bank market.

Dissertations in detail

“Mezzanine Finanzierung von Genossenschaftsunternehmen” (Mezzanine financing of cooperative companies)

(Ongoing project, Dott.ssa giur. I. D’Inca-Keller, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Network and Cooperative Enterprises and Competence Centre Financial Markets)

The implementation of growth strategies and restructuring and redevelopment require a high degree of self-financing. Within an extended set of financing instruments cooperative financing reaches its limits in many cases. The paper aims to explain this problem and identify new paths for procuring capital and analysing them in a situational manner. In the process, in particular the permissibility and boundaries of mezzanine financing options for cooperatives are examined.

“Die Genossenschaftsbank in der Corporate Governance” (The cooperative bank in corporate governance)

(Ongoing project, T. Schwyter, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Enterprise and Governance Design and Competence Centre Financial Markets)

This paper addresses the question of whether the organizational form of the cooperatively organized banks is particularly suited to meeting the requirements of a solid, competition-oriented and sustainable system. In particular, the question of whether the model of the cooperative bank is suitable as a usable vehicle for good corporate governance is addressed.

Executive Education

The development of interdisciplinary training (business management and law) for supervisory boards and members of the management teams of cooperatives was finalised and advertised for bids in the form of a certified course “CAS – Company management and Law for Supervisory Boards”, the course is due to run in 2016.

Services

- Academic support in re-establishing and converting cooperatives
- Academic support in the Corporate Governance of cooperatives
- Academic support in financing cooperatives
- Academic support in the strategic realignment of cooperatives
- Academic support in the application/evaluation of cooperative principles (IRU/DNA, ICA)
• Preparation of structural data on cooperatives in Switzerland for selected companies
• Academic evaluation of members, participating management and share certificate management for cooperatives
• Academic support with regulation changes for cooperatives

Publications, scientific conferences and conference papers

• Genossenschaftliche Werte in der öffentlichen Wahrnehmung – Empirische Ergebnisse aus Österreich und der Schweiz (The public perception of the value of cooperatives – empirical results from Austria and Switzerland), in: Zeitschrift für das gesamte Genossenschaftswesen (ZfgG) [Magazine for the Cooperative Movement], ZfgG 65,4, pp. 279-299, Stuttgart 2016 (Rüssl/Jungmeister/Taisch)
• Genossenschaften im Wettbewerb – bemerkenswertes Potential in der heutigen globalen Wirtschaft, (Cooperatives in competition – noticeable potential in today’s global economy), in: Zeitschrift für das gesamte Genossenschaftswesen (ZfgG), ZfgG 65,2, pp.73-74, Stuttgart 2015 (Taisch)
• Clicks or Bricks? – Herausforderung genossenschaftliches Beziehungsbanking, Gedanken zum Strukturwandel von Genossenschaftsbanken anhand empirischer Daten aus der Schweiz [Challenge of cooperative relationship banking, thoughts on the structural change of cooperative banks using empirical data from Switzerland], in: Zeitschrift für das gesamte Genossenschaftswesen (ZfgG), ZfgG 65,1, p. 23-40, Stuttgart 2015 [Jungmeister/Taisch/Schmig] [see also Competence Centre Financial Markets]
• Clicks or Bricks – die Facebook Herausforderung (the Facebook challenge), in: Lokale Verwurzelung und grenzenlose Informationstechnologie – ein unternehmerisches Dilemma für Genossenschaften? (Local roots and limitless information technology – an entrepreneurial dilemma for cooperatives?) p. 13-26, Brixen/South Tyrol 2015 [Jungmeister] [see also Competence Centre Financial Markets].
• Die Genossenschaft als Nachfolgemodell bei Klein- und Mittelunternehmungen in der Schweiz (The cooperative as a successor model for small and medium-sized businesses in Switzerland). Lecture in the context of the expert discussion "Unternehmensnachfolge und Produktivgenossenschaften" (Company succession and productive cooperatives) at Erlangen-Nuremberg University, Faculty of Economics, Nuremberg, 20.03.2015 [Jungmeister]
• Quo vadis genossenschaftliche Governance in der Schweiz (Quo vadis cooperative governance in Switzerland). Lecture in the context of the AGI’s 20th Junior Researchers’ Conference, Rastede, 09.04.2015 [Schott]
• Netzwerkartige Verbindungen (Network connections). Lecture in the context of the AGI’s 20th Junior Researchers’ Conference, Rastede, 10.04.2015 [Ruppel]
• How the Cooperative Movement Contributes to a Balanced Economy? Round table in the context of The International Economic Forum of the Americas “Shaping a New Era of Prosperity”. Montreal, 08.06.2015 [Taisch] [see also Competence Centre for Financial Markets]
• Der genossenschaftliche Förderauftrag im Wandel der Zeit (The cooperative mission in a changing time). Lecture in the context of the IGA’s 19th Conference, Innsbruck, 06.11.2015 [Fabrizio]
• Vorschau auf die Internationale Genossenschaftswissenschaftliche Tagung 2016 in Luzern (Preview of the International Cooperatives’ Convention in Lucerne 2016). Lecture in the context of Cooperative Governance – a sketched outline by the University of Vienna, Vienna, 16.11.2015 [Taisch/Jungmeister]
Public relations, media, politics and society

- Genossenschaften in der digitalen Gesellschaft (Cooperatives in the digital society), in: cooperativ (cooperative), 1/2015, pp. 40-41 (Jungmeister)
- Haben Unternehmen gelernt? (Have businesses learnt?) Lecture at the Bad Scuol-Tarasp-Vulpera Rotary Club, Scuol, 04.02.2015 (Taisch)
- Stellungnahme zur Vernehmlassung zur Änderung des Obligationenrechts (Aktienrecht) (Statement on the legislative process by consultation on changing the Swiss Code of Obligations (Stock Company Law)), 03/2015 (Taisch/Fabrizio)
- Viel ungenütztes Potenzial (A lot of unused potential), in: Raiffeisenzeitung AT (Raiffeisen newspaper), No. 32-33, 06.08.2015, p. 5 (Jungmeister)
- ICOOP KOREA, Seoul, South Korea: Einführung Genossenschaften in der Schweiz (Introduction to cooperatives in Switzerland). Lucerne University, Lucerne, 26.10.2015 (Taisch/Fabrizio)
- Board Member of Arbeitsgemeinschaft Genossenschaftswissenschaftlicher Institute (AGI), Berlin (Taisch)
- Board Member of Internationales Institut für Genossenschaftsforschung im Alpenraum (IGA), Innsbruck (Taisch)
- Chairman of the Governance Task Force Fit & Proper Requirements for Members of the Board of Cooperative Banks of the European Association of Cooperative Banks (EACB), Brussels (Taisch)

Outlook 2016

Preparing for and conducting the International Cooperatives’ Conference IGT 2016 with the theme of “The Identity and Growth of Cooperatives” will be central to 2016. The steering committee and OK had already begun the work at the end of 2015. The focus will likewise continue to be intensive research work. Further steps towards Executive Education (courses for supervisory boards of cooperatives) are planned.
Chief consultants of Kantonsspitals St. Gallen in the Karthaus at Ittingen during IFU | BLI training

Prof. Dr. A. Loretan and Prof. (FH) Dr. A. Jungmeister at Seconda Università degli Studi di Napoli (the Second University of Naples) at a doctoral workshop in Law and Culture, Naples 29th/30th May 2015.
The healthcare sector in Switzerland is one of the major growth areas and also continues to have a need for research and Executive training in 2015 too. The University of Lucerne with various chairs and/or training programs in healthcare law and health policy and medical ethics already has a good basis for corresponding research and training offers, meaning that the IFU | BLI with its orientation to Enterprise and Governance Design forms a strong and highly specialist competence centre for healthcare companies in collaboration with the other chairs of the University of Lucerne. In 2015, the range of services offered by the IFU | BLI was expanded in particular in the area of executive education and collaboration with the cantonal hospitals of Lucerne and St. Gallen consolidated.

Specifically, healthcare companies are hospitals, Spitex, homes, healthcare service providers, doctor’s practices, pharmaceutical companies and health insurance companies. This sector is one of the largest and fastest-growing industry sectors in Switzerland. The healthcare sector is a regulated industry; it is in the area of conflict between regulation and market economy principles; in particular between politics, medicine, pharmacy, business administration and law. Centralization, specialization, new business models, company mergers and supra-regional co-operation accelerate the structural change at healthcare companies and thus throw up legal, medical ethics, business administration and political science questions.

Research

In 2015, the focus was on ethics and law, big data, hospital financing issues as well as personalized medicine. In the process, clear topics for further research work emerged. Over the coming years, the competence centre will mainly deal with the following research focus areas:

- Company management in the area of tension medicine, politics, ethics and law
- Areas of activity with regard to legal and regulatory framework conditions for healthcare companies
- Risk management of healthcare companies
- Digitalisation, collection and analysis of health and fitness data
- Corporate governance and management structures in healthcare companies
- Financing and financial planning of healthcare companies
- Structural changes at healthcare companies

Dissertations in detail

“Moderne Unternehmensfinanzierung, mit Fokus auf moderner Spitalfinanzierung” [Modern corporate financing, focusing on modern hospital financing]

(Ongoing project, D. Steiger, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Public Enterprises and Competence Centre Financial Markets)

In this dissertation, based on the growing demand in the health sector and the limited opportunities of current hospital financing, new possibilities of hospital financing are to be analysed and checked for their legal permissibility and feasibility. For this purpose, generally first the possibilities of a diversified financial planning and a modern company financing are addressed. The development history and the configuration of current hospital financing in Switzerland (and particularly in the canton of Lucerne) are presented and their limits and problem fields highlighted. Finally, the paper focuses on explaining alternative possibilities of hospital
financing by providing an opportunities and risk analysis as well as checking the legal permissibility and feasibility.

Training and Further Education
Master's programme

(The Lecturer holds the following lecture at the University of Lucerne as part of his work at the University.)

Health law (Prof. Dr. B. Rütsche), University of Lucerne

Health law deals with legal issues in the environment of health protection, healthcare as well as disease treatment and care. Students who wish to be active in the healthcare sector (hospitals, public administration, legal representation, professional associations, health insurance companies, pharmaceutical companies), are introduced to the legal handling of issues concerning the healthcare sector. Excursions into other fields of knowledge (e.g. health economics, health policy, bioethics) deepen understanding and facilitate interdisciplinary dialogue.

Executive Education

CAS law, corporate management and Leadership in the healthcare sector (RULG)

Since 2014, a multi-day interdisciplinary training course (medicine, ethics, business administration, law) has been held for chief physicians and executives of St. Gallen cantonal hospital. This course was also held in 2015 and it is in preparation for 2016. The CAS RULG was developed in collaboration with Lucerne Cantonal Hospital (LUKS) and is managed by an interdisciplinary team under the leadership of Prof. Dr. Taisch (IFU | BLI University of Lucerne) and Dr. Guido Schüpfner (LUKS). The operational responsibility for conducting the training lies with Dr. André Baumgart (LUKS) and Prof. (FH) Dr. Alexander Jungmeister (IFU | BLI University of Lucerne). The CAS provides answers to new challenges in the healthcare sector with an interdisciplinary approach. Today, the market and framework conditions in the healthcare sectors are changing at increasing speed. Patient requirements, technologies, progress in medicine and legal boundary conditions and requirements of other stakeholders change quickly; business administration basics in the management of companies in the healthcare sector are also becoming increasingly more important.

To specifically meet these challenges, the CAS was launched in the thematic field “Law, company management and leadership in the healthcare sector” in order to communicate legal and macroeconomic boundary conditions with fundamental management know-how in the healthcare sector. The knowledge acquired in this way for the management of hospitals and other institutions of the healthcare sector make it possible to staff higher executive positions in the healthcare sector.

The course has the following goals:

• Responsibility: The guiding figure is a strategically thinking, entrepreneurially and socially responsible manager who is able to solve complex, integrated problems in an interdisciplinary and integrative manner.

• Knowledge: Conveying in-depth interdisciplinary knowledge of the Swiss health system and its determinants.

• Holistic empowerment of the executive staff – in particular physician and medical executives – to carry out challenging management tasks and for the proactive management of a department, clinic or other company division.

• Sustainable anchoring: Through integration in the career planning and direct integration into everyday management tasks and with instruments of the participant’s own organisation.
The course is aimed at senior physicians and managers in the healthcare sector who are confronted with management issues at the interface of management, law and medicine in the healthcare sector in their job. A completed degree (Bachelor’s or Master’s level) from a university is normally required.

In addition, a CAS with St. Gallen Cantonal Hospital is in planning for 2016.

Management module at the Cantonal Hospital of St. Gallen – Focus Senior Physicians (KSSG)
The KSSG was realised in cooperation with the Cantonal Hospital of St. Gallen. The training should support the strategic objectives of the KSSG. Particularly with regard to the following:

- Orientation towards service provision in the core process
- Performance differentiation through interdisciplinary and interprofessional quality leadership
- Control of company-relevant resources
- Attract and retain personnel
- Build platform for networking
- Integration of senior physicians into management
- Contribute to an optimal management culture

With regard to the delivery of the management module 2016, the offer should be extended to other senior staff e.g. nursing in order to sharpen the interdisciplinary focus.

Services

- Scientific support with start-ups of health companies
- Scientific support with the topic of big data and digitalisation, collection, storage, communication and utilization of health and fitness data

Publications, scientific conferences and conference papers

- Diskriminierungsgefahren in der Gesundheitsversorgung. Einleitende Bemerkungen (Dangers of discrimination in the healthcare sector. Introductory remarks), in: Tschentscher/Lehner/Mahlmann/Kühler (ed.), Soziale Gerechtigkeit heute (Social justice today), ARSP supplement no. 141, Franz Steiner Verlag, Stuttgart 2015, p. 113-115 (Rütsche)
- Leadership and introductory speech at the meeting "Hospital competition and coordination of hospital planning", Further education Law, University of Lucerne, 25.06.2015 (Rütsche)
- Results of the empirical study ‘End of life decisions’ – institutional part. Speech at the meeting “self and external determination at the end of life – Who makes decisions about dying?”, University of Lucerne, Hotel Schweizerhof Lucerne, 24.09.2015 (Rütsche)
- What does limitation mean from a legal perspective. Speech at the symposium on highly effective HCV medication – Limitation – sense or nonsense: Ethics versus costs, Zurich University Hospital, 03.09.2015 (Rütsche)
- Ethics commissions in the context of new legislation in Switzerland. Introductory presentation at the colloquium “Ethics commissions in medical research”, Theological faculty of the University of Lucerne, Institute for Social Ethics, 30./31.10.2015 (Rütsche)
Public relations, media, politics and society

• Member of the National Ethics Commission (NEK), Berne (Rütsche)
• Member of expertsanté (Rütsche)

Outlook 2016

In 2016, the focus will also be on the conducting and further development of the very successful CAS company management, law and leadership in the healthcare sector in collaboration with Lucerne Cantonal Hospital (LUKS) and various other training modules on company management and law in the healthcare sector for various hospitals.

In addition, the conceptual planning of the competence centre healthcare companies and its services are being driven forward and in particular research accentuated.
Impressions from the CAS programs with the cantonal hospitals in Lucerne and St. Gallen

Group work in the CAS RULG, Zurich Airport, 05 December 2015

Participants in the process management module (CAS RULG) at Zurich Airport, 04 December 2015
The term “Public Enterprises” is not clearly defined. Among other things, it is the task of the Competence Centre in the coming years to clarify this term and fill it with content in the form of teaching, further education events and research. “Public enterprises” should be understood as the business definition of a section of public administration, for example, so-called “reporting companies” or public sector organisations and not as a new legal form. Organisations which can most likely be described by the term “Public Enterprises” can be found in the area of provision and operation of public infrastructure, public transport, supply, disposal, but also the healthcare sector, regulative administration and protection and rescue organisations.

One characteristic of public enterprises is that they raise interdisciplinary issues. In particular, these include the topics of law, business administration, political science, but also technology and other expert disciplines. Public management issues can also become part of the discussion. Public enterprises should be established at the interfaces between (partly) entrepreneurial activity, administration and politics, without having to be part of the administration.

In previous years, the Competence Centre Public Enterprises strongly focused on the healthcare sector. In the coming years, the plan is to extend the field of research and activity of the Competence Centre to other areas in the context of the provision and operation of public infrastructure and, for example, supply and disposal.

New management

Dr. Nadja Germann studied at the University of St. Gallen and completed her studies in economic sciences and political sciences. As a postdoctoral political scientist, she worked in the administration for around ten years [canton of Ticino, city of St. Gallen]. While there, she led various internal further education organisations and she worked in the area of administrative company development. Among other things, she led a larger administrative reform project and supervised numerous strategy development and process management projects for administration and public sector organisations. In the context of her work in the administration, Nadja Germann specialised on topics of Supply, disposal and recycling. After her move to the University, she initially worked as the head of the Competence Centre Energy Management at the University of St. Gallen. She is still a lecturer there and she is introducing students to the strategic management of energy supply companies as part of the energy revolution.

Since mid-December 2015, she has been the Head of the Competence Centre Public Enterprises at the University of Lucerne and she also holds the function of Managing Director at the Centre for Law and Sustainability. Her particular interests include energy research topics in re-
lation to alpine regions. She deals with these topics in the context of various projects in cooperation with mountain cantons and municipalities. The IFU | BLI is pleased about the thematic extension and professional addition of Dr. Germann.

Research

In 2015, the focus was on research in the field of hospital financing and central research topics were confirmed. Over the coming years, the competence centre will deal with the following research focus areas:

• Company management in the area of tension public enterprise, politics and law
• Areas of activity with regard to legal and regulatory framework conditions for public companies
• Corporate governance and management structures in public companies
• Risk management of public companies
• Financing and financial planning of public companies
• Structural changes at public companies

Dissertations in detail

“Moderne Unternehmensfinanzierung, mit Fokus auf moderner Spitalfinanzierung” (Modern corporate financing, focusing on modern hospital financing)

(Ongoing project, D. Steiger, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Healthcare Enterprises and Competence Centre Financial Markets)

In this dissertation, based on the growing demand in the health sector and the limited opportunities of current hospital financing, new possibilities of hospital financing are to be analysed and checked for their legal permissibility and feasibility. For this purpose, generally first the possibilities of a diversified financial planning and a modern company financing are addressed. The development history and the configuration of current hospital financing in Switzerland (and particularly in the canton of Lucerne) are presented and their limits and problem fields highlighted. Finally, the paper focuses on explaining alternative possibilities of hospital financing by providing an opportunities and risk analysis as well as checking the legal permissibility and feasibility.

Training and Further Education

Master’s programmes

(The lecturer holds the following lecture at the University of Lucerne as part of his work at the University.)

Administration law II [Prof. Dr. B. Rütsche], University of Lucerne

The course deals with the following topics:

• Administration funds: public dues/public matters/public procurements
• Regulation under administration law: Regulation instruments such as monopolies, concessions, approvals, subsidies, etc.
• Enforcement of administration law: Supervision instruments, administration measures, administrative sanctions
• Legal protection against administrative actions: Primary legal protection (appeal proceedings), state liability, liability for lawful actions (dis appropriations)
Executive Education

In the reporting year, the specific need for training – due to the scarce financial public resources available following the financial crisis – has not yet recovered but we are confident that the situation will normalize again over the next few years.

In 2015, a multi-day interdisciplinary training course (medicine, ethics, business administration, law) was held for chief physicians and executives of St. Gallen cantonal hospital, which will also continue in 2016. In addition, a CAS in law, corporate management and leadership will be offered for the cantonal hospital of Lucerne for 2016. (See also Competence Centre Healthcare Enterprises).

Publications, scientific conferences and conference papers

- Public procedural law, 2nd edition, Zurich/St. Gallen 2015 (Kiener/Rütsche/Kuhn)
- Insolvenzordnung für öffentlich-rechtliche Körperschaften (Insolvency code for public corporations), in: Föderalismus und Subsidiarität, Walter Eucken Institute, in publication 2015 (Schaltegger/Winistörfer)
- Fiscal Adjustments and the Probability of Sovereign Default, in: Kyklos vol. 68(1), p. 81-110, Basel 2015 (Schaltegger/Weder) (see also Competence Centre Financial Markets)

Public relations, media, politics and society

- Ein Ausweg aus der Schuldenkrise (A way out of the debt crisis), in: Frankfurter Allgemeine Zeitung FAZ of 13.07.2015 (Schaltegger/Winistörfer) (see also Competence Centre Financial Markets)
- Unternehmenssteuerreform III nicht mit Kantonsanteil finanzieren (Do not finance Corporate tax reform III with cantonal share), in: Neue Zürcher Zeitung NZZ of 18.06.2015, Long version in Ökonomenstimme, 19.06.2015 (Schaltegger) (see also Competence Centre Financial Markets)

Outlook 2016

An intensification of the research work in the area of administrative companies is planned for 2016. On the basis of a requirements analysis with two cities, a trans- and interdisciplinary course of training (political science, law, business administration, politics) for executives of administrative companies is envisaged. Furthermore, various training formats are planned for the areas of law and energy and law and disposal.

By appointing Dr. N. Germann it was possible to gain an expert for the Competence Centre Public Enterprises.
Competence Centre Enterprise and Governance Design

The Competence Centre Enterprise and Governance Design applies a trans- and interdisciplinary approach to the development and management of companies. In this respect, the main focus is on the interplay between business and legal-regulatory elements. The Competence Centre is not limited to any forms of business activity; however it focuses on companies with a personal orientation.

Family companies of all sizes and SMEs are regularly characterised by a personal orientation and both are extremely important in Switzerland. The major challenges are the areas of internationalisation, exchange rate differences, innovation, growth, digitalisation, specific design of the corporate management, adequate family governance, optimal corporate and tax structures and succession plan.

In 2015, the IFU | BLI was a research partner of KMUNext, a national foundation that champions the interests of SMEs and family-run companies. Prof. Dr. Franco Taisch is a member of the Board of Trustees, Prof. (FH) Dr. Alexander Jungmeister is a member of the Think Tank KMUNext.

A host of regulations have made company management a highly complex topic over the last few years. One of the strengths of the IFU | BLI is that the institute knows how to treat and present the interrelationships in a trans- and interdisciplinary manner. In the process, topics such as corporate governance, leadership and values, strategy, corporate social responsibility, financing and normative, strategic and operational management are integrated into current research and teaching.

Research

In 2015, the competence centre dealt with the following research topics:

• Areas of activity with regard to legal and regulatory framework conditions
• Company management in the area of tension business, politics and law
• Structural changes of companies in particular with and through adequate succession planning
• Financing of companies
• Corporate governance, management structures and leadership
• Risk management of companies
• Liability prevention and liability of corporate management bodies

Research projects in detail

“Unternehmensführung und Recht” [Corporate management and law]

(Ongoing project under the supervision of Prof. Dr. F. Taisch)

Companies are active in an environment that is in a constant state of change and there are different interrelationships between the company and the subjects in their environment [stakeholder groups]. For this, it is necessary that ever greater attention is paid to the legal aspects in a company, from the strategy-finding process to day-to-day business. The research project is dedicated to the interaction of companies with their statutory and regulatory environment and their stakeholder groups. The ideal management of the statutory and regulatory aspects
of entrepreneurial activity and decision-making is examined. In the process, the question is examined what influence law has on the configuration of company value creation chains. Approaches are researched as to how law on the one hand can be used in order to create new potential for success and secondly what measures are envisaged by law to protect the created values in the company (risk management, internal control system, compliance, controlling).

In the reporting period, several central and fundamental research topics were concluded and additional chapters of the planned book “Corporate Management and Law” were completed.

In 2015, the research team comprised Prof. (FH) Dr. Alexander Jungmeister, Selin Schmid, MLaw, and Dr. iur. N. Fabrizio. A publication of the results is planned for 2016.

“Fit & Proper Requirements for Members of the Board of Co-operative Banks”

[Completed project under the co-leadership of Prof. Dr. Taisch and Prof. (FH) Dr. A. Jungmeister and co-authorship of A. Gmünder, MLaw, see also Competence Centre Network and Cooperative Enterprises and Competence Centre Enterprise and Governance Design]

A scientific study on “Fit & Proper” requirements for Executive Board members was carried out in cooperation with the EACB [European Association of Cooperative Banks] in Brussels. Member banks from 11 countries were surveyed by means of questionnaires in relation to Best Practice with regard to compliance with the standards of regulatory authorities and the training standards of their top management and the results were used for in-depth analysis. The study contained a sample [sketch method] that was representative for the EACB, which included 80% of the balance sheet total of the banks represented in the EACB. The EACB banks with 4200 local banks and 68,000 branches serve 205 million customers and 78 million members, employ 860,000 employees and make up approximately 20% of the market share in the European bank market.

Dissertations in Detail

“Die Wahrung der Anteilsrechte von Beteiligten einer AG und einer GmbH bei Kapitalerhöhungen.” [The preservation of the share rights of investors in a stock corporation (AG) and a limited liability company (GmbH) in the event of capital increases]

[Ongoing project, A. Anderhub, MLaw, supervision Prof. Dr. K. Müller]

In the life cycle of a joint stock corporation (AG) or a limited liability company (GmbH), there may be capital increases due to commercial or legal circumstances. This dissertation shows to what extent the share rights of the shareholders are affected and examines the instruments and protection mechanisms that Swiss company law provides shareholders to exercise their rights, including the ongoing amendment of share law.

“Mezzanine Finanzierung von Genossenschaftsunternehmen” [Mezzanine financing of cooperative companies]

[Ongoing project, Dott.ssa giur. I. D’Incà-Keller, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Network and Cooperative Enterprises and Competence Centre Financial Markets]

The implementation of growth strategies and restructuring and redevelopment require a high degree of self-financing. Within an extended set of financing instruments cooperative financing reaches its limits in many cases. The paper aims to explain this problem and identify new
Representatives of Raiffeisen Austria with Deputy Advocate General Ing. Wilfried Thoma (Chairman of the Supervisory Board of Raiffeisen-Landesbank Steiermark AG), Prof. (FH) Dr. A. Jungmeister (IFU | BLI), Advocate General Dr. Walter Rothensteiner (Director General of Raiffeisen Zentralbank Österreich AG) and Deputy Advocate General Jakob Auer (Chairman of the Supervisory Board of Raiffeisenlandesbank Oberösterreich AG).

Prof. (FH) Dr. A. Jungmeister in discussion with S. Stieger for an interview for Raiffeisenzeitung AT.
paths for procuring capital and analysing them in a situational manner. In the process, in particular the permissibility and boundaries of mezzanine financing options for cooperatives are examined.

"Risikomanagement als Pflicht des Verwaltungsrates" (Risk management as a duty of the Board of Directors)

(Ongoing project, Ch. Grätzer, Attorney, MLaw, supervision Prof. Dr. F. Taisch)

Over the last twenty years, the topic of risk management has become widely known in entrepreneurial practice. In legal literature, this topic has not yet been comprehensively to date. The subject of the dissertation is to present the obligations of the Board of Directors in connection with risk management as a product of the obligation of senior management pursuant to Art. 716a par. 1 clause 1 of the Swiss Code of Obligations [OR]. In the process, risk management is understood in the sense of Enterprise Risk Management [ERM] and thus in a wider sense than the information required in Art. 663b clause 1 of the Swiss Code of Obligations [OR] regarding the implementation of a risk assessment in the Notes to the annual report. Finally, approaches are also shown how legal risks are to be handled and how the law can be used to handle risks.

"Corporate Governance der Vorsorgeeinrichtung im Vergleich zu den übrigen Plattformen für Vermögensverwaltung" (Corporate governance of the care facility compared to the other platforms for asset management)

(Ongoing project, M. Halter-Garcia, MLaw, supervision Prof. Dr. F. Taisch)

A care facility and a bank differ from one another in diverse ways: The obligation defined in the Swiss Federal Law on Occupational Retirement, Survivors’ and Disability Pension Plans [BVG] dominates the care facility and its members who have to invest their pension contributions as a mandatory requirement. In contrast, a bank is a place of voluntary monetary investment despite the regulations imposed by the law [Banking Act [BankG] / Finma Act [FinmaG]]. Nevertheless, both institutes are similar in many aspects, such as profit-oriented asset investment, market dependency and higher-level supervision by the state. Due to the additional risks of a pension fund (professional mandatory insurance of age, death and invalidity) it is to be assumed that the governance of a pension fund must correspond at least to the organization, monitoring and internal control of a bank, if not even exceed it. This dissertation deals with the common features and differences between the corporate governance of a care facility and other platforms for asset management and tries to highlight potential for improvement and sources of conflict for the pension funds.

"Management von Rechts- und Reputationsrisiken als Sorgfaltspflicht von in der Schweiz, in Österreich und in Liechtenstein tätigen Bankengruppen" (Management of legal and reputation risks as a duty of care of banking groups active in Switzerland, Austria and Liechtenstein)

(Ongoing project, Th. Höhener, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Financial Markets)

The ongoing study aims to address a topic that up to now has only been examined on the periphery in legal theory and in banking operations practice within the framework of a stand-alone, scientific study. In light of the current and future regulation tendencies [Basel II, Basel III], not only the starting situation is analysed along the practice in the regional context of Switzerland, Austria and Liechtenstein but also problem fields identified and solution approaches compared.
“Die Genossenschaftsbank in der Corporate Governance” [The cooperative bank in corporate governance]

(ONGOING project, T. Schwyter, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Network and Cooperative Enterprises and Competence Centre Financial Markets)

This paper addresses the question of whether the organizational form of the cooperatively organized banks is particularly suited to meeting the requirements of a solid, competition-oriented and sustainable system. In particular, the question is addressed of whether the model of the cooperative bank is suitable as a usable vehicle for good corporate governance.

“Tracking Stocks”

(ONGOING project, S. Schmid, MLaw, supervision Prof. Dr. K. Müller, see also Competence Centre Financial Markets)

Trading stocks, which were developed in the US, are shares that give their holders asset rights that relate only to a part of the company (and not the entire company). The dissertation aims to examine the still unclear situation in Switzerland with regard to the legal permissibility of “tracking stocks”.

“Die Bewältigung einer Unternehmenskrise aus rechtlicher Sicht” [Coping with a company crisis from a legal perspective]

(ONGOING project, M. Perret, MLaw, supervision Prof. Dr. F. Taisch)

Like its commercial environment, the life of a company is defined by highs and lows. If a company is in commercial difficulties, the management is confronted with highly complex issues. Coping with a company crisis works according to business principles that have their limit in the legal and regulatory environment. This legal limitation of the entrepreneurial freedom of action is often perceived in practice as a disruption and hindrance. This paper deals precisely with this “paradigm”. It is to be examined whether law really is just a “hindrance” or whether this assertion is untenable. The insights are then to be used to assess the legal and regulatory boundary parameters valid in Switzerland with regard to the redevelopment of companies.

“Die Pflicht des Verwaltungsrates zum integralen Risikomanagement in KMU” [The duty of the Board of Directors to integral risk management in SMEs]

(ONGOING project, M. Durrer, MLaw, supervision Prof. Dr. F. Taisch)

The Board of Directors of a smaller or medium-sized company is obligated to develop and manage a risk management system in its company. This dissertation deals with the legal basics for the risk management in Swiss SMEs and shows an implementation-oriented solution approach how the Board of Directors can satisfy the statutory requirements.

“Gewerbsmässige Stimmrechtsvertretung und gewerbsmässige Stimmrechtsberatung im Rahmen der schweizerischen Aktiengesellschaft” [Commercial representation of the voting right and commercial consulting with regard to the voting right within the framework of the Swiss joint stock corporation]

(COMPLETED project, Kevin M. Hubacher, MLaw, supervision Prof. Dr. K. Müller)

The role of the shareholder has increasingly become a focus of attention among the general public over the last few years. Nowadays, it is expected in particular from institutional investors (for instance the care facilities) that they actively exercise their voting rights at the
Prof. F. Taisch in the library of the Vienna University of Economics and Business, 16. November 2015
shareholders’ meeting. In this context and due to regulatory developments, various shareholder services have developed. This dissertation examines two such shareholder services, commercial representation of voting rights and commercial consulting with regard to the voting right. Regulatory aspects as well as those under stock exchange law are dealt with in addition to questions related to share and contract law. With regard to representation and consulting with regard to voting rights, it can be stated that currently the initiation of regulation measures is demanded prematurely in most cases. This dissertation therefore attaches special importance to the regulatory questions and carries out an in-depth analysis of the reconcilability of representation and consulting with regard to voting rights with the principles of share law.

Master’s theses in detail

“Die Unternehmenskooperation mit Schwerpunkt Arbeitsgemeinschaft (ARGE)”
(Enterprise cooperation with a focus on the work consortium (ARGE))

(Ongoing project, C. Emmenegger, BLaw, supervision Prof. Dr. F. Taisch)

This master’s thesis examines enterprise cooperation as such. In this respect, it explains what should be understood by this term and what possible types of cooperation exist. One form of cooperation, the consortium, is considered in more detail. One of the most numerous consortiums in the working world, the construction consortium (also referred to as the work consortium (ARGE)), is central to the discussions. Consequently, the latter is also consider in more detail and the emerging problems are discussed. The legal basis of construction consortiums is the simple partnership, whereby this company structure forms the central object of the investigations. The problem areas to be dealt with are the legal personality of consortiums, the simple partnership in connection with a commercially run business, the collective partnership as an alternative to the legal basis of consortiums, and the applicability of antitrust law to this enterprise cooperation.

(Civil liability according to Art. 754 of the code of obligations: Catalysts and barriers for an economy at the turning point? Evaluation of the Federal court jurisdiction over civil liability actions against bodies of stock corporations and review of Art. 754 of the code of obligations for practicality)

(Ongoing project, A. Kuhn, BLaw, supervision Prof. Dr. F. Taisch)

The objective of liability under stock corporation law is to control the behaviour of corporate bodies by means of positive and negative impulses. This master’s thesis examines whether Art. 754 of the code of obligations achieves this objective and where there is potential for optimisation. For this purpose, the evolution of jurisdiction is analysed in terms of trends and dark fields. The evaluation starts at the Federal court level.

Is the presumption that a considerable number of cases are not incorporated in the “official” jurisdiction confirmed? Are the majority of cases deal with by comparison or keeping quiet? Which categories fare particularly well? Finally, the thesis assesses whether Art. 754 of the code of obligations ensures the necessary protection against the abuse of power and the damaging behaviour of bodies and whether it leaves (fair) margin and scope for naturally high-risk business activities and decisions.
“Corporate-Governance-Ansätze bei der Nachfolgeregelung von Kleinunternehmen” (Corporate Governance Approaches with the Successor Regulation of Micro-Companies)

(Completed project, L. Misteli, BLaw, supervision Prof. Dr. F. Taisch)

During his business activity, every entrepreneur will have to deal with the question of what happens to his company when he stops working. In particular in SMEs in which the company succession is not simply done in a financial transaction, this process can be very complex. Early planning, strategy development and consistent implementation, among others, are considered success factors for any company succession. This paper aims to answer the question whether corporate governance regulations that are deemed to be a recommendation for an ideal organization, management and control of companies can also be used for a best possible solution to a company succession.

“The tax calculation of licence earnings according to the Nexus approach”

(Completed project, M. Vogler, BLaw, supervision Prof. Dr. F. Taisch)

The aim of this master’s thesis was to show the influence of the Nexus approach on the Swiss licence box. In order to achieve this, the circumstances of the CTR III were initially deduced and a description was provided of the licence box and how it is integrated in the CTR III. As a second step, it was deduced how the OECD developed their BEPS project and how the Nexus approach emerged. In this respect, the mechanisms of the Nexus approach were explained and it was described how this approach has been modified. This was followed by an analysis of the influence the Nexus approach will have on the Swiss licence box. The risks and criticisms of the Nexus approach were initially discussed in order to then explain measures which could mitigate the risks of this approach. Furthermore, it showed the remaining future prospects of a licence box in Switzerland under the Nexus approach. Finally, an overall analysis of the results of the paper was carried out, which again critically discussed the Swiss licence box under the Nexus approach.

“Analysis of the legal situation for online account opening”

(Completed project, L. Zerr, BLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Enterprise and Governance Design)

Technological development is progressing rapidly both in society and in the economy. Technological progress in bank is also not. For this reason, this master thesis, which was prepared on the basis of a case study at the Luzerner Kantonalbank, deals with the legal framework conditions of online account opening. In this respect, the existing legal bases with regard to “normal” account opening should be listed in order to derive conclusions for the question of how the current legal bases must be adapted in order to enable online account opening in addition to “classic” account opening.

“Retrozessionen im Bereich des Bankengeschäfts” (“Retrocessions in the area of banking”)

(Completed project, M. Chelós, BLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Financial Markets)

Since the fundamental ruling on the problem of retrocessions in 2006 [BGE 132 III 460], such remunerations have been constantly in the headlines. The topic is currently highly explosive in connection with the new European financial market directive (MiFID II) and the future Swiss Financial Services act (FIDLEG). With the ruling BGE 138 III 755, the Federal Supreme Court has now also given an explicit statement on the obligations of the banks within the framework of
their asset management activity. The analysis therefore first explains the economic and legal differences of the relevant banking business. It then addresses retrocession payments in the areas of bank-internal asset management and investment consulting, with special consideration of sales with collective capital investments and structured products. In addition, the retrospective financial risk potential of the banking institutes, based on any surrender obligation for retrocessions, is determined.

“Die Auswirkungen der EC-Directives on Money Laundering auf die Compliance von international tätigen Finanzintermediären in der Schweiz” (The Effects of the EC Directives on Money Laundering on the Compliance of Internationally Active Financial Intermediaries in Switzerland)

[Completed project, M. Wiederkehr, BLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Financial Markets]

This Master’s thesis deals with the three regulations that have a primary influence on Swiss money laundering regulation. National self-regulation (VSB) and International Regulation through the EU (EU Money Laundering Directives), as well as the FATF/OECD (40 recommendations). For this purpose, the developments of these three sources of influence and their influence on the section of the national anti-money laundering operative part relevant for financial intermediaries is traced and analysed in three sections in chronological order. The foreign influences on the Swiss money-laundering legislation are then critically appraised from the viewpoint of Swiss financial intermediaries.

“Offenlegung von qualifizierten Beteiligungen über Derivate” (Disclosure of qualified participations via derivatives)

[Completed project, J. Zanella, BLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Financial Markets]

The right of disclosure under stock exchange law has been subject to amendment for some years. With regard to the development of the financial market and thus the appearance of new financial instruments, an extension of the standardisation is necessary to maintain an effective regulation. The standardisation of the disclosure of financial instruments constitutes a major challenge, particularly as the diverse forms of derivatives make recording abstract points of reference more difficult. Overlapping and incongruities have resulted in the articles of association, meaning that a quantitative and qualitative concentration of the regulation material became discernible. This tendency conflicts inappropriately with the regulation goals “Functionality of the financial market” and “Investor protection”. The content of this Master’s thesis incorporates the development of the mentioned findings regarding the presentation of the enduring right of disclosure, with a focus on the increasingly relevant reporting obligation of derivatives.

“Einfluss der Unternehmen auf Politik und Entscheidungsträger – Rechtliche Risiken der Unternehmer in Zusammenhang mit Lobbying und Parteispenden” (Influence of the companies on politics and decision makers – Legal risks of entrepreneurs in connection with lobbying and party donations)

[Completed project, P. Krützmann, BLaw, supervision Prof. Dr. F. Taisch]

As a result of new regulations and legal provisions, the economic liberties of companies are restricted and successful business activity is made difficult. Thus, the company interests must be positioned directly for the decision makers in order to prevent restrictive regulations. Such an obligation to protect interests can be derived from the code of obligations. The master’s paper shows which opportunities exist for the representation of interests and which legal barriers
must be taken into account. It was determined that the reputation risks are high in the area of lobbying and political donations. Furthermore, the Swiss legislators are pressured to introduce stricter rules at the international level. Thus, increased legal risks can be expected in the future. Reputation and legal risks should be minimised by means of internal rules and various disclosures.

"Die Vergütung des Verwaltungsratsmitglieds und deren Einfluss auf die unabhängige Verwaltungsratstätigkeit" (The remuneration of administrative board members and its influence on independent administrative board activities)

*(Completed project, F. Landert, BLaw, supervision Prof. Dr. F. Taisch)*

Many administrative boards require that some of the members can be described as "independent". This paper shows when this independence is affected by the arrangement of remuneration. For this purpose, the author analyses the existing requirements for independence and various common remuneration systems and subsequently reveals the interdependencies between the criteria of independence and the various remuneration elements. As a result of this analysis, proposals are made with regard to the arrangement of remuneration. Thus, the independence of administrative board activities is ensured and incentivising remuneration can be paid.

"Die Business Judgment Rule als Verteidigungsmöglichkeit des Verwaltungsrats gegen Verantwortlichkeitsklagen – Mit rechtsvergleichenden Ausführungen zu den USA" (The business judgment rule as a defense option of the Board of Directors against legal action due to responsibility – With statements comparing with the law in the US)

*(Completed project, A. Iselin, BLaw, supervision Prof. Dr. F. Taisch)*

Legal action filed against members of Boards of Directors based on responsibility has measurably increased in the more recent past. In light of this, the question of judicial cognition with regard to company decisions arises. In this context, the Federal Supreme Court applies the Business Judgment Rule (BJR), which originates from the US, with striking adaptations to the Swiss legal system. This paper examines the teaching and the latest legislation on the BJR as to how this legal institute can be made usable for the accused Board member in the sense of a means of defence against legal action based on responsibility. In the process, the clear differences to the US BJR are shown based on specific references to the legislation there. The reader is provided with several test programs relating to the BJR, in particular that of the Federal Supreme Court. The Board member can thus structure the decision making process in such a way that he cannot be accused by the court of any breach in obligation with regard to the business decision.

Training and Further Education

Bachelor programmes

*(The lecturer holds the following lecture at the University of Lucerne as part of his work at the University.)*

**Business law** (Prof. Dr. F. Taisch), University of Lucerne

The course should provide the students with an insight into the most important sections of Swiss (private and public) business law. In this respect, the following main sections of business law are examined:

- Swiss economic constitution
- Competition law
Discussion of Corporate Governance Research Report at the CEO event in the Water Tower in Lucerne, 06 December 2015

Water Tower tour at the CEO event in Lucerne, 06 December 2015
The individual sections are not isolated in the lecture, but rather dealt with in a coherent manner. Using an interdisciplinary approach, business-economic issues are discussed in addition to legal issues. In this respect, aspects of corporate governance and management play a central role.

In order to communicate the practical background of business law to the students, various guest speakers, who are considered proven experts in the individual sections, will speak on the individual lecture topics.

**Company law (Prof. Dr. K. Müller), University of Lucerne**
The course conveys the general principles of company law and the rules of partnerships and corporations to the students. Students should acquire the ability to solve practical cases in Swiss company law. Various representative exercises and/or rulings serve to depict the teaching material and as a basis for discussion per thematic block. Of the company forms, the simple partnership, the collective company, the stock corporation (AG) and the limited liability company (GmbH) are particularly addressed.

**Master's programmes**
*The lecturer holds the following lecture at the University of Lucerne as part of his work at the University.*

**Company management and law – Leadership, Governance, Strategy, Financing and Management I and II (Prof. Dr. F. Taisch), University of Lucerne**
The two-semester course Company Management and Law provides students with knowledge about companies as such and their interaction with their statutory and regulatory environment. In the first semester, it is conveyed in a two-part block event what optimum management of the statutory and regulatory aspects of entrepreneurial activity and decision-making include and how the corporate function law is to be implemented as an integrated part of the management process. In the second semester, students are given the opportunity to tackle current questions in small teams on site at companies, with practical application of the methodology conveyed (case studies). Over the last few years, renowned companies such as Siemens, V-Zug, Luzerner Kantonalbank, Novartis and Partners Group participated in this program.

**Company Law I and II: Establishment and Development, Redevelopment and Liquidation (Prof. Dr. K. Müller, Ass. Prof. Dr. A. Opel et al.) as well as succession and restructuring, company, matrimonial property, inheritance and tax law (Prof. Dr. K. Müller, Prof. Dr. P. Eitel et al.), University of Lucerne**
The course Company Law I [Establishment and Development, Redevelopment and Liquidation] follows the life cycle of a company. The focus is on small and medium-sized companies. Based on uniform initial circumstances, the central questions that arise for a company with regard to the thematic groups „Establishment and choice of legal form“, „Development and expansion“ and „Redevelopment and liquidation“ are explained from the perspective of company, social insurance and tax law. The interaction of the different legal issues is to be depicted in an integrated manner in an area of high practical relevance. The event is based on consulting practice and aims to teach students in particular how to handle and solve interdisciplinary questions.
The course Company Law II (Succession and Restructuring) follows the life cycle of a company. The focus is on small and medium-sized companies. Based on uniform initial circumstances, the central questions that arise for a company on the thematic groups “Succession and restructuring” are explained from the perspective of matrimonial property and inheritance law, company and tax law. The interaction of the different legal issues is to be depicted in an area of high practical relevance. The event is based on consulting practice and aims to teach students in particular how to handle and solve interdisciplinary questions.

Public company law (Prof. Dr. B. Rütsche et al.), University of Lucerne
Public company law regulates the interface between state and business. The state regulates the markets (e.g. obligation of approval for products, professional licenses) and at the same time creates competition-promoting boundary conditions in internal and external trade (Internal Market law, bilateral trading agreements). However, the state also meets public tasks with the involvement of the private sector (e.g. performance orders to hospitals), purchases goods and services on the market (public procurement), forms state monopolies (e.g. building insurance), sets quotas (e.g. freeze on doctors), regulates prices (e.g. taxis) and decides on the usage of scarce resources by private individuals (e.g. special usage licenses). Knowledge of public business law is mandatory rather than optional for all students who want to work in a competent manner in business law in general later on.

Administration law II (Prof. Dr. B. Rütsche), University of Lucerne
The course deals with the following topics:

- Administration funds: public dues/public matters/public procurements
- Regulation under administration law: Regulation instruments such as monopolies, concessions, approvals, subsidies, etc.
- Enforcement of administration law: Supervision instruments, administration measures, administrative sanctions
- Legal protection against administrative actions: Primary legal protection (appeal proceedings), state liability, liability for lawful actions (disappropriations)

Corporate taxation law (Ass. Prof. Dr. A. Opel), University of Lucerne
The course deals in depth with the taxation of companies (partnerships and corporations) and with the taxation of the investors in a company. The tax consequences during the company’s entire life cycle, from its establishment and development until it is dissolved, are examined. However, the fiscal handling of company restructurings remains fundamentally factored out.

Corporate tax reform III (Prof. Dr. rer. pol. Christoph A. Schaltegger, Ass.-Prof. Dr. A. Opel among others), University of Lucerne
Switzerland faces major challenges in international tax competition; the climate has intensified. Various tax privileges are being removed due to external pressure. At the same time, the search for alternatives is proving to be difficult, as the internationally tolerated margins are gradually being reduced. With corporate tax reform III, Switzerland is attempting a difficult balancing act between the assertions of locational advantages on one side and ensuring international acceptance on the other side.
The course deals with the following topics:
1. (Legal) framework conditions for Switzerland in international tax competition
2. Cornerstones of corporate tax reform III:
   - New special regulations for mobile revenues with higher international acceptance (introduction of so-called licence boxes, interest-adjusted profits tax);
- Reduction of profits tax rate in the cantons;
- Other tax measures to increase the locational attractiveness [e.g. adjustment of participation exemption, abolition of emissions levy];
- "Mitigating measures" [e.g. introduction of capital gains tax, adjustment of New Financial Equalization NFA].

Executive Education

Further education series Express further education for lawyers, University of Lucerne and current developments in company law [Prof. Dr. K. Müller].

Services

- Scientific support with governance design of companies
- Scientific support with international service hub structures
- Scientific support with start-up developments in the healthcare and technology sector

Case studies within the course Company Management and Law II

Luzerner Kantonalbank

*Scope of right to information of legal representatives, guarantors, third-party pledgers and others in relation to banks*

This paper should provide an overview of all rights to information of a bank in relation to customer data [also prospects and former customers].

In principle, banks must maintain confidentiality with regard to their client information. The so-called bank client confidentiality is regulated in Article 47 of the Banking Act. It may only be deviated from under certain circumstances: On the one hand, the client may consent or rights to information may arise by law, for example, from civil legal relations such as inheritance, protection of children and adults or even in criminal and administrative proceedings and in cases of international administrative and judicial assistance.

Partners Group

*Evaluation IT in support of Corporate Legal & Compliance Risk Management*

The objective was the "evaluation and analysis of potential computer programmes/systems in support of the Corporate Legal & Compliance Risk Management of the Partners Group".

After the initial kick-off meeting and another meeting with the IT managers on-site, a needs analysis was carried out to determine the tasks that need to be fulfilled by such a programme in order to perfectly ascertain legal and regulatory risks and to be tailored to the Partners Group. In the context of a market analysis, an overview of potential software was created by evaluating the offer lists of a specialised service and internet research. As a next step, appropriate software was selected using the previously determined criteria, which was thoroughly determined through testing and the precise analysis of the scope of performance.

Finally, the recommendation was made to the Partners Group with regard to the conditions that the programme would require tools which best meet their needs could ultimately be presented.
Siemens AG

Compliance risks in a consortium

The case study to be prepared in cooperation with Siemens AG deals with the compliance risks in a consortium. For this purpose, as a first step, the consortium is described as a business combination. The construction consortium, now largely referred to as the work consortium (ARGE), is the primary subject of the case study. The latter is subject to the legal form of simple partnership, thus the description of the simple partnership should be the focus. On the basis of findings and information from the first part, the compliance risks for construction consortia is analysed in a second step. For this purpose, a risk management system is developed in relation to compliance risks. Finally, the findings are summarised and potential policy proposals are presented for Siemens AG.

Centralschweizerische Kraftwerke AG

Information security

Information security is a central concern for many enterprises and the related tasks are multifaceted and demanding. While some companies meet these challenges internally, there are numerous service providers who have specialised in this area.

In light of the above, this case study deals with the question of whether and to what extent the outsourcing of this area could be considered by CKW. With the help of a SWOT matrix, the current situation is analysed and a make or buy decision is made using the findings. Finally, the operative implementation of this decision is evaluated, proposals for the optimisation of the organisational structure are made and a corresponding action plan is drafted.

Publications, scientific conferences and conference documents

- Amtshilfe ohne Information der Betroffenen – eine rechtsstaatlich bedenkliche Neuerung (Administrative assistance without informing the parties concerned – a constitutionally questionable innovation, in: Archiv für Schweizerisches Abgaberecht, p. 185 et seq., Berne 2014/15 (Opel)
- Die Genossenschaft als Nachfolgemodell bei Klein- und Mittelunternehmungen in der Schweiz (the cooperative as a successor model for small and medium-sized enterprises in Switzerland). Speech as part of the expert talk “Unternehmensnachfolge und Produktivgenossenschaften” [Corporate succession and production cooperatives] at the University of Erlangen-Nuremberg, Faculty of Economic Sciences, Nuremberg, 20.03.2015. (Jungmeister) (see also Competence Centre Network and Cooperative Enterprises)
- Kollektiver Rechtsschutz im Wirtschaftsrecht (Collective redress in business law), inaugural lecture of 20.04.2015, Zurich University (Müller)
- Reflexivity and Reflection in Research: An Introduction. Speech as part of the event series “Doctoral Programme on Global Approaches to Law and Culture”, Seconda Università degli Studi di Napoli, Naples, 29.05.2015 (Jungmeister/Loretan)
- Reflection on and within the Research Process. Speech at the Network of Transnational Doctoral Research, Naples, 30.05.2015 (Jungmeister/Loretan)
- How the Cooperative Movement Contributes to a Balanced Economy? Round table as part of the International Economic Forum of the Americas “Shaping a New Era of Prosperity”, Montreal, 08.06.2015 (Taisch) (see also Competence Centre Network and Cooperative Enterprises)
- How to select a research question – a reflexive approach. Workshop as part of the Doctoral Programme on Global Approaches to Law and Culture, Swiss Institute of Comparative Law & Centre for Comparative Constitutional Law and Religion (University of Lucerne), University of Lausanne, Lausanne 06.11.2015 (Jungmeister)
• Current developments in company law, express further education for lawyers, Lecture of 25.11.2015, University of Lucerne (MÜLLER)

• Kollektiver Rechtsschutz im Wirtschaftsrecht [Collective redress in business law], in: ZBJV 11/2015, p. 801 et seq. (MÜLLER)

• ARGE als einfache Gesellschaft, Beschränkung der Solidarhaftung, Rückgriff unter Baubeteiligten [ARGE as a simple partnership, Limitation of joint and several liability, recourse under construction parties], in: BR 3/2015, 157 ff. (MÜLLER/GIESBRECHT)

Public relations, media, politics and society

• Is the taxation of injustice legal? Postdoctoral lecture on so-called neutrality of value in tax law, University of Basel, 09.04.2015 (OPEL)

• Taxation of NPOs as part of the ceps further education programme "CAS Kommunikation & Wirkungsmessung in NPO" (CAS Communication & impact measurement in NPOs), Sigriswil, 14.04.2015 (OPEL)

• Sika-Streit: Rechtsstreit im Fall Sika kann bis zu zwei Jahre dauern [Sika dispute: Litigation in Sika may take up to two years], in: Neue Zürcher Zeitung NZZ of 15.04.2015 (TAISCH)

• Sika kann Juristen noch Jahre beschäftigen [Sika can occupy lawyers for years] in: Handelszeitung of 15.04.2015 (TAISCH)

• Sika droht zweijähriger Rechtsstreit [Sika threatens two years of litigation], in: 20 Minuten of 15.04.2015 (TAISCH)

• Steuerfreier Kapitalgewinn und Firmenverkäufe (Tax-free capital gains and company sales), in: Neue Zürcher Zeitung NZZ of 25.06.2015, p. 19 (OPEL/STILLHART-ZIMMERMANN)

• Prominent adversaries in the Sika dispute. Short interview in news magazine "10vor10" by SRF of 24.07.2015 concerning the legal dispute of the Sika Group in connection with the takeover by Saint-Gobain (TAISCH)

• Beste Pizza, bester Burger oder Kaffee: Ist das Irreführung? [Best pizza, best burger or coffee: Is this misleading?] in: zentral+ of 02.08.2015 (PERRET)

• Wenn der Konkurshammer zuschlägt [When the bankruptcy hammer strikes], in: Willisauer Bote of 03.11.2015, p. 36 (JUNGMEISTER)

• Foundation council KMU Next, Berne (TAISCH)

• Member of KMU Think Tank Next, Berne (JUNGMEISTER)

• Chairman of the Governance Task Force Fit & Proper Requirements for Members of the Board of Co-operative Banks of the European Association of Cooperative Banks (EACB), Brussels (TAISCH)

Outlook 2016

The publication of research findings in the area of enterprise and governance design in two specialist articles is planned for 2016. Several research projects will also be completed in the context of master’s theses. The research project Corporate Management and Law will be driven forwards and the publication of partial results is planned. Furthermore, a CAS "Corporate Management and Law for Board Directors" will be publically offered again.
Prof. F. Taish (middle) with Prof. D. Rössl (right) and an assistant in front of the Vienna University of Economics and Business, 16 November 2015.

Prof. F. Taish during the lecture at the Vienna University of Economics and Business, 16 November 2015.
Competence Centre
Financial Markets

The competence centre financial markets deals, from an interdisciplinary perspective, primarily with the Swiss financial centre, and secondly with the global financial markets. In the process, the principles and rules of the financial market and in particular the legal and regulatory framework conditions for banks and asset managers, for collective investments and insurances as well as stock exchanges and securities traders are examined. The focus of the research interest is also on company financing on the capital market and the battle against the misuse of the financial sector.

Research

In 2015, the competence centre dealt with the following research topics:

- Areas of activity concerning new legal and regulatory frameworks
- Financial company management in the area of tension business, politics and law
- Financial companies and new legal and regulatory frameworks
- Forms and types of financing for companies
- Corporate governance of financial companies
- Risk management and system relevance of financial companies
- Investor protection and ethics in capital markets

Research projects in detail

“Fit & Proper Requirements for Members of the Board of Co-operative Banks”

(Completed project under the co-leadership of Prof. Dr. Taisch and Prof. (FH) Dr. A. Jungmeister and co-authorship of A. Gmünder, MLaw, see also Competence Centre Network and Cooperative Enterprises and Competence Centre Enterprise and Governance Design)

A scientific study on “Fit & Proper” requirements for Executive Board members was carried out in cooperation with the EACB [European Association of Cooperative Banks] in Brussels. Member banks from 11 countries were surveyed by means of questionnaires in relation to Best Practice with regard to compliance with the standards of regulatory authorities and the training standards of their top management and the results were used for in-depth analysis. The study contained a sample (sketch method) that was representative for the EACB, which included 80% of the balance sheet total of the banks represented in the EACB. The EACB banks with 4200 local banks and 68,000 branches serve 205 million customers and 78 million members, employ 860,000 employees and make up approximately 20% of the market share in the European bank market.

Dissertations in detail

“Die Gewähr für eine einwandfreie Geschäftstätigkeit nach den Finanzmärktesgesetzen” (The guarantee for impeccable business activity pursuant to the financial market laws)

(Ongoing project, Ch. Raimandi, MLaw, supervision Prof. Dr. F. Taisch)

More than 40 years ago, the requirement of a good reputation and the guarantee for impeccable business activity was included in the banking law to give the supervisory authority at the
time the competence to demand the removal of unsuitable individuals in a management position. Since then, the guarantee requirement has established itself and was incorporated in all new financial market law decrees over the last ten years. That is why it is to be examined as a focus topic whether the so-called guarantee term has the same content everywhere or whether, due to its inclusion in different decrees, differentiations are emerging instead.

“Tracking Stocks”

(Ongoing project, S. Schmid, MLaw, supervision Prof. Dr. K. Müller, see also Competence Centre Enterprise and Governance Design)

Trading stocks, which were developed in the US, are shares that give their holders asset rights that relate only to a part of the company (and not the entire company). The dissertation aims to examine the still unclear situation in Switzerland with regard to the legal permissibility of "tracking stocks".

“Management von Rechts- und Reputationsrisiken als Sorgfaltspflicht von in der Schweiz, in Österreich und in Liechtenstein tätigen Bankengruppen” (Management of legal and reputation risks as a duty of care of banking groups active in Switzerland, Austria and Liechtenstein)

(Ongoing project, Th. Höhener, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Enterprise and Governance Design)

The ongoing study aims to address a topic that up to now has only been examined on the periphery in legal theory and in banking operations practice within the framework of a standalone, scientific study. In light of the current and future regulation tendencies (Basel II, Basel III), not only the starting situation is analysed along the practice in the regional context of Switzerland, Austria and Liechtenstein but also problem fields identified and solution approaches compared.

“Mezzanine Finanzierung von Genossenschaftsunternehmen” (Mezzanine financing of cooperative companies)

(Ongoing project, Dott.ssa giur. I. D’Incà-Keller, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Network and Cooperative Enterprises and Competence Centre Enterprise and Governance Design)

The implementation of growth strategies and restructuring and redevelopment require a high degree of self-financing. Within an extended set of financing instruments cooperative financing reaches its limits in many cases. The paper aims to explain this problem and identify new paths for procuring capital and analysing them in a situational manner. In the process, in particular the permissibility and boundaries of mezzanine financing options for cooperatives are examined.

“Inflation – Deflation und Recht, Wechselwirkungen, Probleme und Lösungen am Beispiel der Schweiz” (Inflation – Deflation and Law, Interaction, Problems and Solutions using the Example of Switzerland)

(Ongoing project, L.F. Mainardi, MLaw, supervision Prof. Dr. F. Taisch)

The change in the value of money is an economic parameter that, however, also has to be defined by the legal system and conversely has an effect on the latter. Due to historically low rates of change in the value of money, there has been an insufficient sensitization of legislation and jurisdiction in Switzerland to date in this regard. Although the state cannot control the change in the value of money entirely, it has sovereign instruments at its disposal that are
able to have an effective influence on the change in the value of money. There are constitutional obligations of the state to anticipate, within the framework of its possibilities, the threat of changes in the value of money and to take changes that have occurred into appropriate account.

"Die Genossenschaftsbank in der Corporate Governance" (The cooperative bank in corporate governance)

(On-going project, T. Schwyter, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Network and Cooperative Enterprises and Competence Centre Enterprise and Governance Design)

This paper addresses the question of whether the organizational form of the cooperatively organized banks is particularly suited to meeting the requirements of a solid, competition-oriented and sustainable system. In particular, the question is addressed of whether the model of the cooperative bank is suitable as a usable vehicle for good corporate governance.

"Der Einlegerschutz nach schweizerischem Bankengesetz" (Investor protection pursuant to Swiss banking law)

(On-going project, St. Zimmermann, MLaw, supervision Prof. Dr. F. Taisch)

The dissertation deals with the topic of „outsourcing at banks“. Outsourcing means the outplacement of operational functions. As a result of the structural and real economic changes, outsourcing has been part of economic planning for some years. The advantages and disadvantages of outsourcing are examined from a legal and a commercial perspective. The focus is then also placed on various legal problem fields such as data protection. Unclear issues with regard to Finma circulars are also examined, practical examples and the specific contractual formulation analysed.

"Moderne Unternehmensfinanzierung, mit Fokus auf moderner Spitalfinanzierung" (Modern corporate financing, focusing on modern hospital financing)

(On-going project, D. Steiger, MLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Healthcare Enterprises and Competence Centre Financial Markets)

In this dissertation, based on the growing demand in the health sector and the limited opportunities of current hospital financing, new possibilities of hospital financing are to be analysed and checked for their legal permissibility and feasibility. For this purpose, generally first the possibilities of a diversified financial planning and a modern company financing are addressed. The development history and the configuration of current hospital financing in Switzerland (and particularly in the canton of Lucerne) are presented and their limits and problem fields highlighted. Finally, the paper focuses on explaining alternative possibilities of hospital financing by providing an opportunities and risk analysis as well as checking the legal permissibility and feasibility.

Master’s theses in detail

"Die Kleeblattreform (Cloverleaf Reform) – A specific view of the impacts of the FIDLEG"

(On-going project, A. Aslihan, BLaw, supervision Prof. Dr. F. Taisch)

Financial market law is progressing through changing times. After events such as the financial crisis of 2007/2008 and the Lehmann Brothers and Madoff cases, the need for action for the protection of investors and the stability of the Swiss financial centre was recognised. In order
to meet this need for action, the legislative project “Cloverleaf Reform” was introduced. In the context of the master thesis, the impacts of the FIDLEG on the applicable law and practice shall be examined after the introduction of the cloverleaf reform. Since the access to international markets is also a criterion for the regulation, a comparison is made to the European MIFID II in the paper. The aim of the thesis is to answer the question regarding necessity and to assess the trade-off between the regulatory burden and efficiency.

“GTC of banks under the unfairness test according to Art. 8 of the Unfair Competition Act”

(Ongoing project, D. Moesch, BLaw, supervision Prof. Dr. F. Taisch)

The opening of a bank account without signing the relevant General Terms and Conditions (GTC) is unimaginable. The arrangement of the GTC is not normally the subject of negotiations, they are unilaterally pre-formulated and most bank customers accept them without reading them. This creates the risk of unilateral risk distribution in favour of the user of the GTC and thus a disadvantaged position of the transferee. The protection of the bank customers as the weaker party through an open GTC content review has been practically impossible for a long time under the ineffective Art. 8 of the Unfair Competition Act. This master thesis shows which requirements must be met in order to justify unfairness according to the fundamentally revised Art. 8 of the Unfair Competition Act. It also shows how the banks have reacted to the revised version of Art. 8 of the Unfair Competition Act and whether the GTC of the Swiss banks still contain clauses which did not stand up to open content review.

“Analysis of the legal situation for online account opening”

(Completed project, L. Zerr, BLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Enterprise and Governance Design)

Technological development is progressing rapidly both in society and in the economy. Technological progress in bank is also not. For this reason, this master thesis, which was prepared on the basis of a case study at the Luzerner Kantonalbank, deals with the legal framework conditions of online account opening. In this respect, the existing legal bases with regard to “normal” account opening should be listed in order to derive conclusions for the question of how the current legal bases must be adapted in order to enable online account opening in addition to “classis” account opening.

“Retrozessionen im Bereich des Bankengeschäfts” [Retrocessions in the area of banking]

(Completed project, M. Chelós, BLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Enterprise and Governance Design)

Since the fundamental ruling on the problem of retrocessions in 2006 (BGE 132 III 460), such remunerations have been constantly in the headlines. The topic is currently highly explosive in connection with the new European financial market directive (MiFID II) and the future Swiss Financial Services act (FIDLEG). With the ruling BGE 138 III 755, the Federal Supreme Court has now also given an explicit statement on the obligations of the banks within the framework of their asset management activity. The analysis therefore first explains the economic and legal differences of the relevant banking business. It then addresses retrocession payments in the areas of bank-internal asset management and investment consulting, with special consideration of sales with collective capital investments and structured products. In addition, the retrospective financial risk potential of the banking institutes, based on any surrender obligation for retrocessions, is determined.
“Pönalisierungsentwicklungen im Finanzmarktrecht anhand des Insiderartikels” (Penalisation developments in financial market law using the insider article)

[Completed project, N. Griesser, BLaw, supervision Prof. Dr. F. Taisch]

The statutory insider offence was already issued in 1988. The article has lost nothing of its explosiveness since then, which is highlighted by the current discussion regarding its amendment. Insider trading is intensely defined by European legislation and has therefore been adapted and supplemented several times over the last few years. These developments are dealt with in more depth in this paper and analysed. The reception of foreign law in Swiss law is not a new phenomenon; it runs through the entire history of Art. 161 of the Penal Code (StGB).

The great pressure from the US on Switzerland was the main reason why Switzerland was the first European country to issue a penal standard against insider trading. This topic is also dealt with comprehensively in the paper.

“Die Auswirkungen der EC-Directives on Money Laundering auf die Compliance von international tätigen Finanzintermediären in der Schweiz” (The Effects of the EC Directives on Money Laundering on the Compliance of Internationally Active Financial Intermediaries in Switzerland)

[Completed project, M. Wiederkehr, BLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Enterprise and Governance Design]

This Master’s thesis deals with the three regulations that have a primary influence on Swiss money laundering regulation. National self-regulation (VSB) and International Regulation through the EU (EU Money Laundering Directives), as well as the FATF/OECD (40 recommendations). For this purpose, the developments of these three sources of influence and their influence on the section of the national anti-money laundering operative part relevant for financial intermediaries is traced and analysed in three sections in chronological order. The foreign influences on the Swiss money-laundering legislation are then critically appraised from the viewpoint of Swiss financial intermediaries.

“Strukturierte Produkte” (Structured products)

[Completed project, J. Metzger, BLaw, supervision Prof. Dr. F. Taisch]

With the introduction of the Capital Investment Act (KAG), structured products have found their way into the statutory legislation. Differentiation from other financial instruments is difficult due to the scattered regulation of financial market, stock exchanges and financial market intermediaries. This Master’s thesis reflects on the difficulties in differentiating structured products from collective capital investments, derivatives, bond obligations and other structured financial products that are not structured products in the sense of Art. 5 of the Capital Investment Act (KAG). The influence of new regulations in the financial market sector is shown within the framework of the paper. In the process, the influence of European legislation on the structured products within the framework of a comparison of law with the EU regulation is taken into account and a comparison shown through an analysis of the German implementation of these regulations. A small part of the paper is then devoted to the fiscal handling of structured products, and the discrepancy between the goals of the state regulation and the conduct of the investors.
"Offenlegung von qualifizierten Beteiligungen über Derivate" [Disclosure of qualified participations via derivatives]

(Completed project, J. Zanella, BLaw, supervision Prof. Dr. F. Taisch, see also Competence Centre Enterprise and Governance Design)

The right of disclosure under stock exchange law has been subject to amendment for some years. With regard to the development of the financial market and thus the appearance of new financial instruments, an extension of the standardisation is necessary to maintain an effective regulation. The standardisation of the disclosure of financial instruments constitutes a major challenge, particularly as the diverse forms of derivatives make recording abstract points of reference more difficult. Overlapping and incongruities have resulted in the articles of association, meaning that a quantitative and qualitative concentration of the regulation material became discernible. This tendency conflicts inappropriately with the regulation goals "Functionality of the financial market" and "Investor protection". The content of this Master’s thesis incorporates the development of the mentioned findings regarding the presentation of the enduring right of disclosure, with a focus on the increasingly relevant reporting obligation of derivatives.

Training and Further Education

Master’s programmes

(The lecturer holds the following lecture at the University of Lucerne as part of his work at the University.)

Financial market Law I and II (Prof. Dr. Franco Taisch), University of Lucerne

The two-semester course "Financial market law" provides an introduction and an overview of the most important principles and rules of financial market law in a total of six modules. It deals in particular with the legal and regulatory framework conditions for banks and asset managers, for collective investments and insurances as well as stock exchanges and securities traders. The focus is also on the topics of competition and regulation, company financing on the capital market and the battle against the misuse of the financial sector. The goal of the course is to teach students the commercial law relevance of the financial market and its protagonists and the most important principles and rules of banking, stock exchange and collective investment and insurance law so that they are given the skills to broadly implement this knowledge in practice. The interdisciplinary nature between public law and private law, between state standardisation and self-regulation as well as between law and economics is both a challenge and a fascination.

Executive Education

DAS Bank Management IFZ

The IFU | BLI is responsible for the area of banking and cooperative law (Prof. Dr. F. Taisch). The module examines corporate management and law, especially the entrepreneurial platform of cooperative enterprises and the financial market with a focus on competition and supervision. The DAS is intended for persons who are active in the management of banks.

Publications, scientific conferences and conference documents

- Clicks or Bricks? – Herausforderung genossenschaftliches Beziehungsbanking, Gedanken zum Strukturwandel von Genossenschaftsbanken anhand empirischer Daten aus der Schweiz [Challenge of cooperative relationship banking, thoughts on the structural

• Clicks or Bricks – die Facebook Herausforderung (the Facebook challenge), in: Lokale Verwurzelung und grenzenlose Informationstechnologie – ein unternehmerisches Dilemma für Genossenschaften? [Local roots and limitless information technology – an entrepreneurial dilemma for cooperatives?] p. 13-26, Brixen/South Tyrol 2015 [Jungmeister] (see also Competence Centre Network and Cooperative Enterprises)


• Mutter Staat zwischen Fürsorge und Verantwortung (Mother state between welfare and responsibility), in: Schweizer Monat Sonderthema July 2015, p. 6-11 [Schaltegger/Leisibach]

• Schattenwirtschaft in der Schweiz geht zurück (Shadow economy in Switzerland shrinking), in: Volkswirtschaft of 07.04.2015 [Schneider/Schaltegger/Schmutz]

• Schweizer Rezepte gegen überhöhte Staatsausgaben funktionieren (Swiss recipes against excessive public spending work), in: Volkswirtschaft 88, p. 6-10, Berne 2015 [Schaltegger/Frey]


Public relations, media, politics and society

• Effizienter Staat dank Föderalismus und fiskalischer Äquivalenz [Efficient State thanks to federalism and fiscal equivalence], in: Neue Zürcher Zeitung NZZ of 21.01.2015 [Schaltegger]

• Schuldenbremse für die AHV ist sinnvoll [A debt brake for the AHV is sensible], in: Neue Zürcher Zeitung NZZ of 12.02.2015 [Schaltegger/Feld]

• Unternehmenssteuerreform III nicht mit Kantonsanteil finanzieren [Do not finance Corporate tax reform III with cantonal share], in: Neue Zürcher Zeitung NZZ of 18.06.2015, Long version in Ökonomenstimme, 19.06.2015 [Schaltegger] (see also Competence Centre Public Enterprises)

• Ein Ausweg aus der Schuldenkrise [A way out of the debt crisis], in: Frankfurter Allgemeine Zeitung FAZ of 13.07.2015 [Schaltegger/Winistörfer] (see also Competence Centre Public Enterprises)

• Analyse der Kostentreiber in den Ergänzungsleistungen [Analysis of cost drivers in the supplementary benefits]. Report commissioned by the Swiss Employers’ Association 2015 [Schaltegger/Leisibach]

Outlook 2016

Research and training and further education will continue in 2016 in the same way as 2015. Several research projects [master theses and dissertations, but also the revision of the textbook Financial Market Law in the Litera B series] could be completed in 2016.
Employees

Executive Committee (EC)

- Attorney Prof. Dr. Paul Eitel, member
- Attorney Prof. Dr. Walter Fellmann, member
- Attorney Prof. Dr. em. Peter Forstmoser, President
- Attorney lic. iur. Hubert Rüedi, member
- Attorney Prof. Dr. Franco Taisch, Chairman of the Board of Directors

Board of Directors

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- Attorney Prof. Dr. Karin Müller, member
- Attorney Ass.-Prof. Dr. Andrea Opel, member
- Attorney Prof. Dr. Bernhard Rüetsche, member
- Prof. Dr. Christoph Schaltegger, member
- Attorney Prof. Dr. Franco Taisch, Chairman of the Board of Directors
- Attorney Prof. Dr. Ulrich Zwygart, member

Executive Board

- Prof. (FH) Dr. Alexander Jungmeister, CEO / Managing Director
- Dr. Nadja Germann, Executive Board Member IFU | BLI Business Law Institute [as of 01.01.2016] and Head of Competence Centre for Public Enterprises [as of 15.12.2015]

Scientific employees

- Andreas Bütler, BLaw, research assistant [until 30.06.2015]
- Attorney Dr. Nadja Fabrizio, senior assistant
- Attorney Andreas Gmünder, MLaw, assistant, doctoral candidate [as of 01.07.2015]
- Irena Jovanovic, MLaw, assistant [as of 01.10.2015]
- Attorney Melanie Köpfl, MLaw, LL.M., assistant [as of 01.09.2015]
- Kevin Müller, research assistant [BLaw]
- Marco Perret, MLaw, assistant, doctoral candidate
- Theresa Rupfel, BLaw, research assistant
- Pascal Schott, MLaw, LL.M., assistant, doctoral candidate
- Aimi Thi, MLaw, research assistant [until 31.07.2015]

Administrative employees

- Cornelia Amstutz, MA, administrative assistant / scientific employee [as of 01.07.2015]
- Monica Ciglia, administrative assistant [until 31.07.2015]
- Simone Stieger, administrative assistant / programme manager
Team IFU | BLI 2015

(Stood from left to right) Attorney Andreas Gmünder, MLaw, Pascal Schott, MLaw, Prof (FH) Dr. Alexander Jungmeister, Kevin Müller, Marco Perret, MLaw, Cornelia Amstutz, MA, Attorney Dr. Nadja Fabrizio, Attorney Melanie Köpfli, MLaw, Theresa Ruppel, BLaw. Prof Dr. Franco Taisch, Dr. Nadja Germann. (Front from left to right) Simone Stieger and Irena Jovanovic, MLaw.
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Strategic partners

• ABZ Allgemeine Baugenossenschaft Zürich
• Mobiliar Group
• Fenaco Gruppe
• Mobility
• Raiffeisen Group
• IG Cooperatives

University partners

• Boston University, USA, Faculty of Law
• Philipps University of Marburg, Institute for Cooperatives
• Tsinghua University, China, Faculty of Law and School of Economics and Management
• Vienna University of Economics and Business, Research Institute for Cooperations and Cooperatives

Associated partners

The institute is supported by selected partners from practice and science that broaden and supplement the know-how of the institute in various areas.

• Dr. M. Brassier, Training of Members of the Board of Directors, Philosophy and Management, Ethical Issues, Administration and Politics
• Dr. H. Gernet, Raiffeisen Switzerland
• Dr. P. Kraus, Knowledge Management, IP and Innovation
• lic.oec. HSG W. Rathert, Finance and Accounting
• Dr. E. Riedi, Sustainability Management, CSR
• Attorney Dr. H. Rüedi, Business Law
• Dr. S. Zajitschek, Basics of Business Administration, HR Issues

Memberships

• Arbeitsgemeinschaft Genossenschaftswissenschaftlicher Institute (Working Group of Cooperative Science Institutes)
• Association of International Educators NAFSA
• European Association for International Education EAIE
• European University Association EUA
• International Consortium for Educational and Economic Development ICEED
• Internationales Institut für Genossenschaftsforschung im Alpenraum (International Institute for Cooperative Research in the Alpine Region)
• Law and Economics Club LEC
• Swiss Excellence Forum
In the interest of good governance and transparency, the fundamental additional functions and mandates of the Board of Directors and the Executive Board with regard to corporate law will be disclosed as of 31 December 2015.

**Prof. Dr. Martina Caroni**
- Full professor for public law, international law and comparative law in public law at the University of Lucerne
- Member of the Federal Commission for Migration
- Member of the Swiss Attorneys' Society

**Prof. Dr. Mark Farrell**
- Academic Board and Head, Graduate School of Business and Law, RMIT University, Melbourne, Australia
- Member, RMIT Business Executive Management Committee and Business Board
- Member, RMIT, MBA Program and Juris Doctor (JD) Advisory Committee

**Dr. Nadja Germann**
- Member of the Executive Board of the IFU | BLI Business Law Institute at the University of Lucerne
- Head of the Competence Centre for Public Enterprises of the IFU | BLI Ins Business Law Institute at the University of Lucerne
- Managing Director of the Centre for Law and Sustainability (CLS) at the University of Lucerne
- Lecturer University of St. Gallen

**Prof. Dr. Jean-Pierre Jeannet**
- Professor Emeritus Babson College, Babson Park, MA, USA
- Professor Emeritus IMD Institute, Lausanne
- Zhejiang University Quishi Chair Professor, School of Management, Hangzhou, China
- Former Vice-Chairman of the Board, member of the Compensation Committee and the Audit Committee, PubliGroupe SA, Lausanne (acquired by Swisscom in 2015)
- Golden Rice Project, Switzerland, Member Humanitarian Board
- Vinci Capital, Lausanne, Switzerland, Member of the Advisory Board
- Member Advisory Board, Sunrise Project, Bayer Material Science, Leverkusen aimed at initiative for the Bottom of the Pyramid

**Prof. (FH) Dr. Alexander Jungmeister**
- Managing Director of the IFU | BLI Business Law Institute at the University of Lucerne
- Shareholder aht intermediation gmbh, Pfäffikon
- Shareholder and Director kreisquadrat gmbh, the decision network, Lucerne
- Adjunct Professor Faculty of Commerce, Charles Sturt University, Australia
- Lecturer Executive School of Management, Technology and Law (ES-HSG), University of St. Gallen
- Lecturer Berne University of Applied Sciences, TI Management Education
- Member of the KMU Next Think Tank, Berne
Prof. Dr. Karin Müller
- Full professor for private law, commercial and business law as well as civil proceedings law at the University of Lucerne
- Private lecturer for private law, commercial and business law as well as civil proceedings law at the University of Lucerne
- Member of the Attorneys’ Society of the Canton of Lucerne
- Member of the Institute for Civil Court Proceedings, Zurich

Prof. Dr. Bernhard Rütsche
- Dean of the Faculty of Law at the University of Lucerne
- Full professor for public law and law philosophy at the University of Lucerne
- Member of the National Ethics Commission (NEK), Berne
- Member and Chairman of the Executive Board of the Centre for Law and Health (ZRG), University of Lucerne
- Member of expertsanté, platform for experts in the healthcare sector
- Member of the Competence Centre Medicine – Ethics – Law Helvetiae (MERH) of the University of Zurich
- Member of the Association of German State Law Teachers (VDStRL)
- Member of the Swiss Society for Legislation (SGG)
- Member of the St. Gallen Attorneys’ Society

Prof. Dr. Christoph A. Schaltegger
- Founding Dead of the Faculty of Economics at the University of Lucerne
- Full professor for Political Economics at the University of Lucerne
- Member of the Editorial Board of “Perspektiven der Wirtschaftspolitik” (PWP)
- Member of the board of the Swiss Society of Economics and Statistics (SSES)
- Member of the board of the European Public Choice Society
- Research-Fellow Centre for Research in Economics, Management and the Arts (CREMA)
- Research-Fellow Swiss Institute for International Economics and Applied Economic Research (SIAW) at the University of St. Gallen
- Member of International Institute of Public Finance (IIPF)
- Member of the National Tax Association (NTA)
- Member of the Friedrich A. von Hayek Society
- Member of American–Swiss Foundation
- Member of Verein für Socialpolitik (German Economic Association)
- Member of the board (Board of Trustees) of the Walter Eucken Institute
- Member of the editorial board of European Journal of Political Economy (EJPE)

Prof. Dr. Franco Taisch
- Full professor for commercial law at the University of Lucerne
- Member of the Board of Directors and Member of the Risk and Audit Committee Raiffeisen Group, St. Gallen
- President of the Board of Directors Swiss Rock Asset Management AG, Zurich
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• Member of the Board of AGI Arbeitsgemeinschaft Genossenschaftswissenschaftlicher Institute, Berlin
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• Co-publisher “Zeitschrift für das gesamte Genossenschaftswesen” [ZfgG], Nuremberg
• Chairman of the Corporate Governance Task Force Fit & Proper Requirements for Members of the Board of Co-operative Banks of the European Association of Cooperative Banks [EACB], Brussels
• Member of the Board of Governors HEC, Institut International des Coopératives Alphonse-et-Dorimène-Desjardins, Montreal
• Member of the Advisory Board of the e-commerce European Centre for E-Commerce and Internet law, Vienna/Berlin/Brussels/London/Hong Kong/New York

Ass.-Prof. Dr. Andrea Opel
• Assistant professor for fiscal law at the University of Lucerne
• Legal adviser at Meyer Lustenberger Lachenal Attorneys, Zurich
• Board member of Swiss Association of Tax Law Professors (SATLP)

Prof. Dr. Ulrich Zwygart
• Honorary professor of corporate management at the University of St. Gallen
• Managing director Zwygart Leadership GmbH