

Press release

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Investigations into Madoff and Lehman cases completed

FINMA completed two large-scale investigations in 2009. The first concerned the impact on Switzerland as a financial centre of the fraud committed in the USA by the US investor Bernard L. Madoff. The second looked at the distribution of structured products that were guaranteed by subsidiaries of Lehman Brothers Holdings Inc. Both cases led to losses for investors. FINMA identified the need for certain financial intermediaries to take corrective measures and has requested the necessary steps to be taken. The investigations did reveal, however, that current Swiss legislation does not adequately protect investors in investment advisory and wealth management services. FINMA sees a clear need for regulatory action in this regard and has therefore launched a regulatory project in relation to distribution rules.

In 2009, FINMA investigated the impact of the Madoff fraud case on Swiss financial intermediaries. On the basis of its investigation, FINMA has demanded that certain financial intermediaries remedy their internal processes.

Also at the end of 2009, FINMA completed a full-scale investigation into the distribution of capital-protected structured products to retail clients. This was triggered by the Lehman Brothers Holdings Inc. bankruptcy in autumn 2008. This investigation did not identify any serious breaches of the current Swiss supervisory law. Accordingly, FINMA halted its proceedings against Credit Suisse at the end of 2009.

Both investigations showed, however, that the prevailing regulation does not adequately protect investment advisory and wealth management clients. There is a particular need for regulatory action to improve client protection in the following areas:

- **Information on return potential and risk of loss**

In addition to the return potential, risk of loss associated with the purchase of financial products

must be explained in simple, comprehensible language in the sales documentation, which should itself be easy to follow.

- **Establishment of the client risk profile**

Financial intermediaries (point of sale) must be required to diligently establish the risk capacity and awareness (risk profile) of their clients not only in wealth management but also in the investment advisory business, and to ensure adequate diversification when providing investment advice. In addition, the existing rules on compliance with the principle of diversification need to be tightened up in wealth management.

An in-depth study currently being carried out by FINMA as part of a regulatory project will look at how these regulatory changes are to be made and by whom. FINMA will publish its findings and regulatory proposals in a discussion paper.

Note

A full report on the investigation can be found at

<http://www.finma.ch/d/finma/publikationen/Documents/bericht-lehman-madoff-20100302-d.pdf> (in German) or <http://www.finma.ch/f/finma/publikationen/Documents/bericht-lehman-madoff-20100302-f.pdf> (in French).

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