

CH-3003 Berne

To all banks, securities dealers, life insurance companies and other asset managers

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### **FINMA Newsletter 9 (2010)**

**On December 30, 2010, this newsletter is replaced by FINMA Newsletter 18 (2010).**

### **Handling of insurance wrappers in accordance with the Swiss Anti-Money Laundering Act**

Dear Sir/Madam,

In conjunction with the current discussion of issues associated with insurance wrappers, FINMA sees a need to clarify the handling of such products by financial intermediaries pursuant to Art. 2 para. 2 and 3 of the Anti-Money Laundering Act of 10 October 1997 (AMLA, SR 955.0). The obligations of the financial intermediaries in question are described below.

An insurance wrapper is an insurance product that may be characterised as follows: an insurance company maintains an investment account with a bank or securities dealer for the purpose of holding the investments of a given client of the insurance company under a life insurance agreement; the client can exercise influence over the management of the investments or the investments are managed according to an individualised investment strategy. The investments in question are usually securities investments the client already owns. Following conclusion of the life insurance contract they act like a single premium paid into the life insurance. Ownership of the securities is transferred to the insurance company.

Given the way in which the insurance wrapper product model is structured, it is hardly any different from a traditional asset management facility of a bank or independent asset manager from the point of view of money laundering risk. Hence, corresponding due diligence requirements should apply.

Furthermore, the exception whereby the beneficial owner need not be declared if the contracting party qualifies as a financial intermediary under Article 2 para. 2 of the Anti-Money Laundering Act and has its domicile or registered office in Switzerland or is subject to a comparable supervisory authority abroad (Mn 34 CDB 08 and Art. 21 AMLO-FINMA 3) does *not* apply for insurance wrappers. This privileged treatment is based on the international standard of the Basel Committee on Banking Supervision regarding the exercise of due diligence by banks when determining the identity of clients

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(October 2001). However, item 37 of this standard stipulates that a client must be identified if the bank knows or has reason to assume that a client account opened by a professional intermediary is for the sole use or benefit of the client in question.

Therefore, FINMA requires **banks, securities dealers and asset managers** (hereinafter collectively referred to as "financial intermediaries") to identify the beneficial owner of a custody account associated with an insurance wrapper in the following three cases:

- The financial intermediary has a pre-existing relationship with the client of the insurance company and thus has already identified the client.
- The client of the insurance company holds a power of attorney or information rights towards the financial intermediary.
- The financial intermediary is instructed by the insurance company to apply an individualised investment strategy in managing the custody account, except in instances where the investment strategy corresponds to a pre-defined standardised client profile.

These rules apply to both new and pre-existing insurance wrappers. In the case of a pre-existing contractual relationship between the financial intermediary and the client of the insurance company, the financial intermediary may copy the existing documentation and add it to the records for the new business relationship. This eliminates the need to complete Form A for the client relationship with the insurance company.

Under all circumstances the **insurance companies** shall remain responsible for fulfilling the identification obligations incumbent on them under supervisory regulations in connection with the insurance wrappers business model, even if the insurance contract is submitted through a financial intermediary. They are responsible for duly identifying the client, determining who the beneficial owner is as necessary and fulfilling all other obligations relevant to the business relationship as prescribed by the Anti Money Laundering Act.

FINMA will monitor compliance with the requirements formulated above for insurance wrappers on a case-to-case basis.

Yours faithfully

**Swiss Financial Market Supervisory Authority FINMA**  
Markets

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