

CH-3003 Bern

To all banks and securities dealers

Reference: 2009-04-30/97

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### **FINMA Newsletter 3 (2009)**

#### **Bank client data – Information to clients on residual risks associated with payment and securities transactions**

Dear Sir/Madam,

In the course of carrying out payment and securities transactions, information and messages are exchanged by your institutions. This exchange of information occurs when conducting international and in some cases domestic payment and securities transactions and when making information inquiries through the SWIFT system. It is essential as a means of facilitating connections between all banks and ensuring the orderly processing of clients' transactions. Data protection is accorded by the strict data protection standards adhered to by SWIFT. However, SWIFT stores data abroad. Up until 2012, data will be stored in the Netherlands and in the US, and from 2012 onwards they will be stored in Switzerland and the Netherlands. For technical reasons it was not possible to devise an economically feasible, practical solution as an alternative to SWIFT that could have been used for all domestic payment and securities transactions.

Data stored abroad are no longer protected under Swiss law and may be passed on to foreign authorities in accordance with the regulations of the country where the client data is stored. In view of the residual risk these circumstances entail, the Swiss Bankers Association has issued, as agreed with the FINMA and the Federal Data Protection Commissioner, a general client information notice, which is available online at [www.swissbanking.org](http://www.swissbanking.org) and [www.finma.ch](http://www.finma.ch).

We ask your institution to take the following actions:

- By the end of 2009, inform existing clients of the risks involved with payment and securities transactions in a general manner, e.g. in conjunction with a statement mailing or end-of-year mailing, and draw their attention to the information of the Swiss Bankers Association published at [www.swissbanking.org](http://www.swissbanking.org) and [www.finma.ch](http://www.finma.ch).

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- As soon as possible, begin informing new clients in the same manner when commencing the business relationship (no later than from 2010).
- At the next opportunity, incorporate information to this effect in your standard agreements and documentation (e.g. General Terms and Conditions, account opening documents).

Sincerely

**Swiss Financial Market Supervisory Authority FINMA**

Dr. Urs Zulauf

Léonard Bôle

Archive