

## Press release

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### Cross-border business with US clients

## FINMA announces conclusion of proceedings against Bank Julius Baer

**Between 2010 and 2011, the Swiss Financial Market Supervisory Authority FINMA conducted enforcement proceedings against Bank Julius Baer & Co. Ltd. in relation to the bank's cross-border financial services business with US private clients. FINMA found that the bank was in breach of its obligations to record, limit and monitor the risks associated with US clients. As a result, FINMA prescribed a number of measures to restore compliance with the law, which the bank has since put into place. FINMA is today releasing information about the conclusion of these proceedings at the same time as the US authorities. This is normal practice in the case of proceedings which relate to the US tax dispute.**

Bank Julius Baer announced today that it had reached an agreement with the U.S. Department of Justice (DoJ). The agreement provides for the payment of a total of USD 547.25 million in connection with the bank's cross-border financial services business with US private clients. At the outset, the bank proactively contacted FINMA. Based on terms of reference defined by FINMA, the bank conducted an internal investigation into the risks associated with its US client business between September 2009 and August 2010. The investigation found evidence that supervisory law had been breached, prompting FINMA to initiate enforcement proceedings against Julius Baer in September 2010. The proceedings considered the bank's strategy and risk appetite in its US business, as well as its control systems, compliance culture, responsibilities, and collaboration with external asset managers.

### **Inadequate risk management**

FINMA's assessment of the management and control of the bank's cross-border business with US private clients was based on the requirements set out in Swiss supervisory law, under which a bank must ensure proper business conduct and have an appropriate organisation, including an adequate risk management function.

The bank's internal investigation and the enforcement proceedings conducted by FINMA established that the bank had, for example, underestimated the legal and reputational risks of its US client business and had accepted that breaches of US law were possible. In particular, following UBS AG's exit from its US business in 2008, the bank had again substantially increased its risk exposure. It decided to accept ex-UBS clients and regarded this as an opportunity without, however, adequately clarifying the risks that this decision would pose for the globally active group. Deficiencies in governance, as manifested in a lack of controls and a problematic incentives system, additionally heightened the risks to which Bank Julius Baer was exposed. Consequently, the bank's risk identification and assessment processes in the period from 2007 to 2008 were found to be inadequate.

### **FINMA proceedings concluded in 2011**

FINMA concluded its enforcement proceedings against Julius Baer in November 2011. It found that the bank was in breach of its obligations to record, limit and monitor the risks associated with the US business and had exposed itself to unduly high legal and reputational risks. In doing so, Bank Julius Baer had therefore also failed to meet the Swiss regulatory requirement to ensure proper business conduct.

### **Corrective action taken and verified**

In the context of these proceedings, FINMA instructed Julius Baer to continue with steps which it had already taken to withdraw from parts of its US business and to bring this process to a conclusion. Independent third parties reviewed both the required market exit and the organisation of cross-border financial services business with private clients with regard to the appropriate recording, limiting and monitoring of existing risks. Based on the information currently available, it is expected that no further action will be taken against the bank.

### **Contact**

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