

Press release

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Contact:
Patrizia Bickel
Phone +41 (0)31 327 93 19
Patrizia.bickel@finma.ch

Mirabaud & Cie SA seriously violated financial market law

The Swiss Financial Market Supervisory Authority FINMA has found that Mirabaud & Cie SA breached its anti-money laundering obligations and seriously violated financial market law. FINMA determined this in enforcement proceedings. The bank failed to review and document sufficiently the economic background of client relationships and transactions. The bank may not accept any new clients with increased money-laundering risks until compliance with the law has been restored. Furthermore, FINMA has confiscated CHF 12.7 million of unlawfully generated profits and opened three proceedings against individuals.

In June 2023, FINMA concluded enforcement proceedings against Mirabaud & Cie SA that were opened in June 2021. It found the bank to have seriously violated provisions of financial market law. FINMA had opened its investigation following indications of misconduct concerning a complex client structure alleged to have been connected with a businessman accused of tax evasion who has since died. As is customary in such cases, FINMA appointed an investigating agent to examine the matter. The bank had contested FINMA's disclosure of public information about the proceedings in court. The appeal has now been dismissed by the Federal Supreme Court.

Inadequate risk management for qualified tax avoidance

Swiss financial intermediaries have been required since 2016 to clarify the background and purpose of a transaction or business relationship if there are indications that assets could originate from a crime or qualified tax avoidance. Banks therefore have to organise themselves in a way that enables them to recognise assets from such tax avoidance.

Mirabaud maintained multiple business relationships after 2010 with companies and complex structures that could have been directly or indirectly connected with the aforementioned businessman.

The bank managed assets of up to USD 1.7 billion within the scope of these business relationships. These assets at times accounted for almost ten per cent of the bank's entire assets under management.

The investigations by FINMA have revealed that the bank inadequately reviewed and documented the beneficial ownership and economic background of numerous transactions despite indications of increased money-laundering risks in particular in connection with qualified tax avoidance and concrete warnings since 2018 concerning the relevant client relationships. Mirabaud altogether did not have adequate organisation and sufficient risk management for monitoring these business relationships. The bank therefore seriously violated provisions of financial market law concerning adequate organisation (governance), risk management and money laundering prevention over a prolonged period.

Bank takes measures

The bank cooperated with FINMA during the proceedings. It also took operational, organisational and HR measures to rectify the shortcomings during the FINMA proceedings. As well as a broad-based reorganisation, Mirabaud has strengthened the measures in place for anti-money laundering, risk management, the entire internal control system and governance. FINMA generally considers these measures to be suitable for restoring compliance with the law.

FINMA orders additional measures

FINMA has simultaneously ordered a number of further measures. In particular, the bank must further adjust the measures in place for anti-money laundering, expand its internal control system and renew and strengthen its corporate governance organisationally and in terms of HR. In addition, the bank must review all its client relationships from a risk perspective. The executive board must then decide on this basis whether to continue them. Mirabaud must also thoroughly review and if necessary re-document all relevant transactions with increased risks from 2018 to 2022. Furthermore, it must create new incentives in its remuneration policy for an appropriate handling of risks. Finally, FINMA is confiscating CHF 12.7 million of unlawfully generated profits in favour of the Swiss Federal Treasury.

FINMA restricts new business and investigates responsibilities

Pending full implementation of the measures ordered and restoration of compliance with the law, FINMA has prohibited the bank from accepting any new clients with increased money-laundering risks. It has also banned all activities that increase operational risks. FINMA is closely monitoring implementation of and compliance with the measures and has also appointed an audit mandatory for this purpose. In addition, it has opened three enforcement proceedings against individuals in this connection. FINMA is not disclosing any further details concerning these proceedings or the identity of the individuals concerned. FINMA's ruling has been legally binding since August 2023 and has not been contested.