



# Ordinance of the Swiss Financial Market Supervisory Authority on Data Processing

(Data Processing Ordinance-FINMA, DPO-FINMA)

**SR 956.124**  
dated 8 September 2011 (status 1 October 2011)

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## 1. Table of Contents

1. [Data Processing Ordinance](#) pg. 2

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## 2. Other Languages

DE: Verordnung der Eidgenössischen Finanzmarktaufsicht über die Datenbearbeitung vom 1.10.2011

FR: Ordonnance de l'Autorité fédérale de surveillance des marchés financiers sur le traitement des données du 1.10.2011

IT: Ordinanza dell'Autorità federale di vigilanza sui mercati finanziari relativa al trattamento dei dati delle 1.10.2011

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*The Board of Directors of the Swiss Financial Market Supervisory Authority (FINMA), based on Articles 23(1) and 55 of the Financial Market Supervision Act of 22 June 2007<sup>1</sup> (FINMASA), decrees:*

## **ARTICLE 1 Subject**

- 1 The FINMA shall manage a database of persons whose guarantee for proper business conduct in accordance with the financial market laws and FINMASA is deemed dubious or inexistent.
- 2 This database shall serve to ensure that only persons who offer a guarantee for proper business conduct:
  - a. are entrusted with the management or leadership of a supervised institution; or
  - b. are holders of qualified participations in a supervised institution.

## **ARTICLE 2 Responsibilities**

- 1 The FINMA's Management shall define in a processing policy:
  - a. the governance and technical measures to ensure data security;
  - b. the control of the data processing; and
  - c. the access and inspection rights of the different categories of FINMA staff.
- 2 The FINMA's Compliance Department shall process the data. It shall ensure that data processing, from obtaining data to archiving or destroying it, is understandable for third parties. It shall maintain a list of staff with access and inspection rights.
- 3 The FINMA's IT department shall ensure technical operations.

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<sup>1</sup> SR 956.1

### ARTICLE 3 Content of the Database

The database shall contain the following data:

- a. Name, first name;
- b. Date of birth;
- c. Gender;
- d. Place of origin;
- e. Nationality if these persons are not Swiss citizens;
- f. Address;
- g. Mother tongue;
- h. Training;
- i. Profession;
- j. Place of work;
- k. Qualifications;
- l. Asset ownership;
- m. Insurance;
- n. Extracts of the commercial register, the debt enforcement register and bankruptcy register;
- o. Sentences handed down by penal, civil and administrative courts;
- p. Labor-law and administrative measures;
- q. Reports of audit firms or FINMA-mandated auditors.

## ARTICLE 4 Data Security

- 1 Data collected on paper shall be kept under lock.
- 2 For all other aspects, data security shall be governed by the Ordinance on the Data Protection Act of 14 June 1993<sup>2</sup>.
- 3 The FINMA's Compliance and IT departments shall undertake governance and technical measures to secure the data in their respective areas.

## ARTICLE 5 Obtaining Data

- 1 The FINMA shall obtain data during its supervisory activities as described in the financial market laws and the FINMASA.
- 2 The FINMA shall obtain its data from:
  - a. supervised institutions;
  - b. employers;
  - c. the person concerned;
  - d. petitioners;
  - e. Swiss and foreign government agencies;
  - f. Parties involved in the process;
  - g. Audit firms or FINMA-mandated auditors;
  - h. Third parties, which voluntarily provide the FINMA with data.

## ARTICLE 6 Rights of disclosure

Persons concerned shall be entitled to demand from FINMA information on the data assembled on them.

## ARTICLE 7 Corrections to Data

The FINMA shall correct or destroy data deemed incorrect or incomplete or which does not serve the purpose at hand.

## ARTICLE 8 Divulging the Data

The FINMA may disclose data if law requires this or if the person concerned agrees in writing.

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<sup>2</sup> SR 235.11

## **ARTICLE 9** Record Retention

- 1 A person's data shall be retained:
  - a. for ten years after the last entry;
  - b. for 20 years after the last entry if this occurred based on a penal sentence or a legally binding FINMA finding on an activity performed without the proper FINMA license.
- 2 After the record retention period has elapsed, the FINMA shall delete the data and offer these to the Swiss Federal Archive for storage purposes. Data the Swiss Federal Archive does not find worthy of archiving shall be destroyed.
- 3 Should the person in question wish to assure his or her proper business conduct and if the FINMA deems this to be positive, the entry on this person shall be deleted before the lapse of the deadlines stated in (1).

## **ARTICLE 10** Entry into force

This Ordinance shall enter into force on 1 October 2011.

## Contacts

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