



# PRESS RELEASE

## Internal Revenue Service - Criminal Investigation *Chief Richard Weber*

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### **Swiss Asset Management Firm Finacor SA Reaches Resolution with Justice Department**

The Department of Justice announced today that Finacor SA, a Swiss asset management firm, has reached a resolution with the department through a non-prosecution agreement.

Finacor submitted a Letter of Intent to participate as a Category 2 bank in the department's Swiss Bank Program. Although it was ultimately determined that Finacor was not eligible for the Swiss Bank Program due to its structure largely as an asset management firm, the firm is required under today's agreement to fully comply with the obligations imposed under the [terms of that program](#). Under the terms of the agreement, Finacor is required to:

- Make a complete disclosure of its cross-border activities;
- Provide detailed information on an account-by-account basis for accounts in which U.S. taxpayers have a direct or indirect interest;
- Cooperate in treaty requests for account information;
- Provide detailed information regarding other banks that transferred funds into secret accounts or that accepted funds when secret accounts were closed;
- Agree to close accounts of accountholders who fail to come into compliance with U.S. reporting obligations; and
- Pay a penalty of \$295,000.

Finacor agrees to cooperate in any related criminal or civil proceedings, demonstrate its implementation of controls to stop misconduct involving undeclared U.S. accounts and pay penalties in return for the department's agreement not to prosecute Finacor for tax-related criminal offenses.

"Agreements like that with Finacor SA redefine international tax compliance initiatives and have far-reaching, global implications," said Chief Richard Weber of IRS-Criminal Investigation (CI). "The American public can expect that we will use all of the information we are gathering to vigorously pursue individual U.S. taxpayers who illegally conceal assets offshore and to develop innovative strategies to combat international tax evasion worldwide."

"Today's agreement reflects the department's willingness to reach fair and appropriate resolutions with entities that come forward in a timely manner, disclose all relevant information regarding their illegal

activities and cooperate fully and completely, including naming the individuals engaged in criminal conduct,” said Acting Assistant Attorney General Caroline D. Ciruolo of the Justice Department’s Tax Division. “Through the Swiss Bank Program, we have received information not just about culpable banks, but also asset management and investment advisory firms that played a role in the concealment of U.S.-related accounts and the evasion of U.S. taxes. Now is the time for these firms to come forward, accept responsibility for their actions and reach a resolution with the department.”

Finacor was established in Basel, Switzerland, in 1945, and is a corporation organized under the laws of Switzerland. It operates a small, privately-held asset management business in one office in Basel with five employees. Finacor is licensed as a broker-dealer by the Swiss Financial Market Supervisory Authority (FINMA). Although it is not a custodian bank, Finacor manages client assets held at other custodian banks.

For decades prior to and through in or about 2013, Finacor conducted a U.S. cross-border asset management business that aided and assisted U.S. clients in opening and maintaining undeclared accounts in Switzerland and concealing the assets and income they held in these accounts. Finacor offered two types of accounts: asset management accounts and fiduciary accounts. For both types of accounts, Finacor managed client assets but held them at custodial banks in Switzerland. Initially, the majority of client funds were held by Finacor at UBS. However, after UBS notified Finacor in July 2008 that it would no longer service the accounts of U.S. citizens without an IRS Form W-9, Finacor transferred its undeclared U.S. client accounts to a Swiss Bank Program Category 2 bank.

For asset management accounts, client assets were held in the names of the clients at the custodian bank. For these accounts, the Know Your Customer rules applied to the custodian bank and not to Finacor. For fiduciary accounts, client assets were held in Finacor’s name at the custodian bank. This provided Finacor clients with an additional degree of anonymity. For these accounts, the custodian banks did not know the identity of the clients. Consequently, the Know Your Customer rules and Qualified Intermediary (QI) requirements applied to Finacor and not the custodian banks. Finacor knew that its fiduciary accounts services allowed U.S. clients to conceal their ownership of money held at its custodian banks in Switzerland from those custodian Swiss banks and, in turn, the Internal Revenue Service (IRS).

Finacor used a variety of means to assist U.S. clients in concealing their undeclared accounts, including by:

- Providing fiduciary account services that concealed the identity of its clients, including U.S. clients, from its custodian banks in Switzerland;
- Holding account-related mail at Finacor for clients, including U.S. clients, to keep mail regarding their undeclared accounts from being sent to the U.S.;
- Sending checks to the United States in amounts below \$10,000 to assist clients in avoiding U.S. currency transaction reporting requirements;
- Using code words for money transfers to conceal the repatriation of undeclared assets and income back into the United States; and
- For the purpose of subverting its QI Agreement with the IRS, divesting U.S. securities from its undeclared U.S. accounts and avoiding having to disclose the identities of U.S. clients to the IRS under its QI Agreement.

Since Aug. 1, 2008, Finacor managed 11 U.S. accounts with peak aggregate assets under management of \$14.6 million. The 11 U.S. accounts consisted of two asset management and nine fiduciary accounts. All of Finacor’s undeclared U.S. accounts have entered the [IRS Offshore Voluntary Disclosure Program](#) (OVDP). Moreover, Finacor obtained waivers of Swiss bank secrecy for all of its U.S. accounts and provided client names and other identifying information for those accounts to the U.S. government. Finacor has closed all of its U.S.-related fiduciary accounts or converted them to asset management accounts and intends to relinquish its broker-dealer license by the end of 2015. Without a broker-dealer license, Finacor cannot operate fiduciary accounts.

Finacor has committed to providing full cooperation to the U.S. government and has made timely and comprehensive disclosures regarding its U.S. cross-border business consistent with the Swiss Bank Program's requirements and deadlines. Among other things, Finacor provided customer names and other identifying information for the majority of U.S. accounts as evidence that the account is participating in the OVDP or declared to the IRS, as well as for use in other potential department investigations. Finacor also provided the name and information of the relationship manager primarily responsible for servicing U.S. clients and the external asset manager who managed several of Finacor's U.S. client accounts, in satisfaction of the Swiss Bank Program requirements.

Acting Assistant Attorney General Ciralo thanked the IRS, and in particular, IRS-CI and the IRS Large Business & International Division for their substantial assistance. Ciralo also thanked Kevin F. Sweeney, who served as counsel on this matter, as well as Senior Counsel for International Tax Matters Thomas J. Sawyer, Senior Litigation Counsel Nanette L. Davis and Attorney Kimberle E. Dodd of the Tax Division.

Additional information about the Tax Division and its enforcement efforts may be found on the division's website.

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