

PRESS RELEASE

■ THE MADOFF CASE

On 25 February 2009 the Commission de Surveillance du Secteur Financier (the "CSSF") ordered UBS (Luxembourg) SA ("UBSL") to implement, within a period of three months, the necessary infrastructure, i.e. sufficient human and technical means and the necessary internal rules in order to fulfil all the tasks relating to its function of depositary bank of a Luxembourg UCI in accordance with the Law of 20 December 2002 on undertakings for collective investment, as amended, and Circular IML 91/75, and to provide evidence and guarantees thereof.

After several updates of a draft, UBSL submitted to the CSSF by post dated 25 May 2009 a final detailed report regarding improvements made to its infrastructure and substantial amendments to its internal procedures relating to the function of depositary bank. After analysing said report, the CSSF is of the opinion that UBSL has now delivered evidence and guarantees of having the necessary infrastructure and the necessary rules for its internal organization in place, in line with the injunction imposed on it and in compliance with professional standards applicable in the Grand Duchy of Luxembourg. The CSSF, in its capacity as prudential supervisory authority, will supervise the ongoing compliance with these measures in practice, in particular through on-site inspections.

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As the CSSF has already stressed, Luxembourg law applicable to Luxembourg depositary banks in their role as safe-keepers of UCI's assets reflects faithfully the provisions of the European Council Directive 85/611/EEC and the bank's responsibility is in particular not affected by the fact that it has entrusted to a third party all or some of a UCI's assets in the bank's safe-keeping. The CSSF recalls, in this context, the general principle of civil law according to which a depositary bank is bound vis-à-vis a depositor client, in this case a UCI, by the obligation to return the assets in its safe-keeping. As the CSSF has previously noted, UBSL shall have to indemnify a UCI depositor according to its obligations as a Luxembourg depositary bank, subject to valid and opposable contractual clauses to the contrary and, as the case may be, to a court decision in such matter.

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The CSSF also points out that, in the absence of an out-of-court settlement, in application of the fundamental principle of separation of powers, the ordinary courts (*juridictions de droit commun*) are exclusively competent for any grievances regarding rights of a private law nature (*droit civil*). Therefore, only the ordinary courts (*juridictions de droit commun*) can establish the liabilities incurred and the damages to be indemnified.

The CSSF will also see to it that UBSL and the different Luxembourg intermediaries shall, in the context of the court judgement ordering the judicial winding-up of LUXALPHA SICAV, closely cooperate with the liquidators in the interests of the UCI and its investors, in particular in order to allow the latter to easily prove their status.

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The CSSF continues to verify that all the other intermediaries related to the funds concerned by the Madoff case have acted with the diligent conduct imposed by Luxembourg law. The CSSF, in its capacity as public supervisory authority, has taken and will take all administrative measures necessary towards the supervised entities in question.

Luxembourg, 27 May 2009