

To the bank customers and the creditors of Bank  
Hottinger & Cie AG in bankruptcy-liquidation

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## **Bank Hottinger & Cie AG in bankruptcy-liquidation; Circular Letter No. 1**

Dear Sir or Madam

With a ruling of 23 October 2015 the Swiss Financial Market Supervisory Authority FINMA withdrew the license of Bank Hottinger & Cie AG (hereinafter "Bank Hottinger") as a bank and securities dealer. At the same time the FINMA opened bankruptcy proceedings against Bank Hottinger with effect from 26 October 2015, 8:00 am.

The FINMA appointed Attorneys at Law Brigitte Umbach-Spahn and Karl Wüthrich both from Wenger Plattner Attorneys at Law, Seestrasse 39, 8700 Küsnacht, Switzerland as bankruptcy liquidators. In the following we would like to inform you about the stage of the proceedings and the next steps.

### **I. CURRENT SITUATION**

The business of Bank Hottinger was stopped with the opening of the bankruptcy proceedings. Bank Hottinger is no longer authorized to engage in any transactions involving banking or securities trading. The bank's capability of disposal and of entering into commitments regarding its assets has been transferred to the bankruptcy liquidators.

Immediately after the opening of the bankruptcy proceedings we have initiated the necessary measures in order to secure the assets of Bank Hottinger. All transactions not fully concluded were stopped. Since 26 October 2015 no more payments or other disposals of assets of Bank Hottinger can be executed without our approval.

## **II. OVERVIEW OF ASSETS IN ACCOUNTS AND CUSTODY ACCOUNTS**

Every bank customer receives an overview of his/her current assets held in accounts and custody accounts with Bank Hottinger enclosed herewith. All bank fees and interest accrued before 26 October 2015 were debited or credited to the respective account. The account statement also includes receipts of payments (dividend payments, repayment of fiduciary investments etc.) after the opening of the bankruptcy proceedings, which can be paid out immediately in connection with the segregation of custody account assets. The demarcation of the account as of the opening of the bankruptcy proceedings has not been made yet. This will take place within the next few weeks. Subsequently, the bank customers will receive a demarcated overview of their account and custody account assets as of the time of the opening of the bankruptcy proceedings, including the information about which claims are deemed filed as bankruptcy claims within the bankruptcy (see paragraph VI.4.1 hereinafter) and which claims can be paid out immediately by the bankruptcy estate.

## **III. TRANSFER OF CUSTOMER RELATIONS TO BANQUE HERITAGE SA, GENEVA**

### **1. INFORMATION**

After the opening of the bankruptcy proceedings several banks were interested in taking over the customer relations of Bank Hottinger. Banque Heritage SA, Geneva (hereinafter "Bank Heritage") has submitted the best offer. Bank Heritage is willing to offer the customers of Bank Hottinger that the payment of the secured deposits up to CHF 100'000 and the delivery of the custody account assets into a new account and custody account to be opened in the name of the respective customer can be executed with Bank Heritage. Within this transaction no deposits exceeding the amount of CHF 100'000 can be paid out. Those customers will remain creditors of Bank Hottinger for such deposits. Bank Heritage does not make an offer to bank customers from the US or Canada, bank



customers with blocked assets, and bank customers, who currently are in dispute with Bank Hottinger.

Bank Heritage is an international banking group headquartered in Geneva with a branch in Zurich and subsidiaries in Lugano, Guernsey and Montevideo. Bank Heritage specializes in Private Banking and Asset Management. Further information is available directly at Bank Heritage or on their website ([www.heritage.ch](http://www.heritage.ch)).

## **2. EXECUTION OF THE TRANSACTION**

Bank customers included by the takeover offer by Bank Heritage receive a separate letter enclosed herewith, informing them about the execution of the transaction in detail. The transaction facilitates the execution of the liquidation proceedings. The custody accounts taken over by Bank Heritage can be transferred en bloc. A complex transfer of individual custody accounts will not be necessary. Furthermore, the bankruptcy estate receives a consideration for the transfer of customer relations.

## **IV. PAYOUT OF SECURED DEPOSITS UP TO CHF 100'000 AND SEGREGATION OF CUSTODY ACCOUNT ASSETS**

### **1. PAYOUT OF SECURED DEPOSITS UP TO CHF 100'000**

The Swiss Banking Act provides that deposits in the customer's name up to a maximum of CHF 100'000 are privileged in the second class within the bankruptcy of the bank. Those claims should be paid out as soon as possible after the opening of the bankruptcy proceedings provided that this is permitted by the bank's financial situation. Our enquiries have shown that the prerequisites for an immediate payout of the deposits up to CHF 100'000 are met in the case of Bank Hottinger.

With regard to the secured deposits up to CHF 100'00 the following fundamental comments must be made:

- The maximal amount of CHF 100'000 applies per bank customer irrespective of the number of bank accounts possessed by the respective customer.
- Foreign currencies are converted into Swiss Francs as of the date of the bankruptcy. The payout is made in Swiss Francs.

- Numbered accounts are deemed to be in the customer's name if this name can be derived from bank's documents. According to our assessment, this is the case with Bank Hottinger.
- Amounts of money held in joint accounts in the name of several bank customers will be split up proportionally among the involved bank customers. Each of those bank customers will receive the amount of CHF 100'000 at a maximum.
- Amounts of money held in accounts of communities of heirs or simple partnerships will be paid out to the respective community of heirs or simple partnership up to a maximum amount of CHF 100'000. Bank customers who are part of a community of heirs or a simple partnership remain entitled to a payout of CHF 100'000 regarding secured deposits in their own names.

## **2. SEGREGATION OF CUSTODY ACCOUNT ASSETS**

Based on the documents available to us we have examined the custody account assets accounted by Bank Hottinger. We conclude that all assets are available and deposited properly. Therefore, the prerequisites for the segregation of all the custody account assets are met. The segregation of each individual custody account will take some time. We kindly ask the bank customers for their patience.

## **3. INFORMATION ABOUT THE NEW ACCOUNT AND CUSTODY ACCOUNT DETAILS**

Please fill in and sign the instruction form enclosed herewith and send it to the address specified in the form within 40 days after the date of this letter. This will enable us to execute the payout of the secured deposits and the segregation of the custody account assets.

Bank customers included by the takeover offer by Bank Heritage (see paragraph III above) receive a special form enclosed herewith. With this form the customers have the possibility to either explicitly authorize us to pay out or transfer their secured deposits up to CHF 100'000 as well as their custody account assets to a new account and a new custody account to be opened in their name with Bank Heritage or to give us their new account and custody account details with another bank.



Bank customers not included by the takeover offer by Bank Heritage receive a neutral form enclosed herewith. With this form the customers can give us their new account and custody account details.

## **V. EVALUATION OF THE FINANCIAL SITUATION OF BANK HOTTINGER**

Currently we are not yet able to provide any detailed information about the financial situation of Bank Hottinger. On the one hand the period for the registration of claims has not expired yet. On the other hand we were not able to verify the value of the assets of Bank Hottinger yet. After the expiration of the registration period we will inform you about the financial situation of Bank Hottinger and give you a first estimate of the expected bankruptcy dividend for claims in the third class in the next circular letter

## **VI. PLANNED FURTHER PROCEDURE**

### **1. BANKING SECRECY**

Within the bankruptcy proceedings regarding Bank Hottinger the protection of the banking secrecy can no longer be guaranteed without restrictions. Particularly, the provisions of the Bankruptcy Law regarding the availability of the schedule of claims do not allow a protection of the banking secrecy (see paragraph VI.4).

### **2. NO ENTRY INTO CURRENT CONTINUING OBLIGATIONS**

We would like to inform the counterparties of continuing obligations (rental agreements, leasing agreements etc.) that the bankruptcy estate will not enter into those continuing obligations. If the bankruptcy estate consumes services under a continuing obligation the consideration for the consumation of such services will be paid by the bankruptcy estate. Further claims from continuing obligations can be registered as bankruptcy claims.

### **3. ADDRESS FOR SERVICE**

In order to enable fast bankruptcy proceedings and to meet the requirements of the Bankruptcy Law provisions, we need to be able to communicate with the bank customers directly. Many bank customers of Bank Hottinger have given Bank Hottinger a holdmail instruction. We are not able to follow this instruction

any longer. Therefore we ask all bank customers to give us their address for service or to appoint a representative to whom we can send the correspondence. An according proxy form is available on the website [www.liquidation-bankhottinger.ch](http://www.liquidation-bankhottinger.ch).

#### **4. COLLOCATION PROCEDURE**

##### **4.1** *Registration of claims*

The time period for the registration of claims ends on 30 November 2015. Bank customers may assume that their claims as of the opening of the bankruptcy proceedings shown on the account overview enclosed herewith (see paragraph II above) are deemed registered. Therefore it is not necessary to register those claims.

##### **4.2** *Preparation and Availability of the Schedule of claims*

After the expiration of the registration period we will prepare the schedule of claims (register of liabilities) and set it up for inspection by the creditors. We assume that there are approximately 1'500 creditors. Therefore the evaluation of the individual claims will take a considerable amount of time. The schedule of claims will therefore be available for inspection by the creditors earliest in summer 2016.

#### **5. REALIZATION OF ASSETS**

Within the next few months we will assess the individual assets of Bank Hottinger and decide on the manner of realization. We will normally inform you about the planned realization of individual assets in advance.

#### **6. FIRST PAYMENT ON ACCOUNT**

Payments on account to the creditors cannot be executed before the schedule of claims has become legally binding after the expiry of the period for inspection by the creditors. Therefore, we assume that this prerequisite will not be met before autumn 2016 earliest. The first payment on account will therefore presumably be made at the end of 2016 earliest.

## 7. INFORMATION FOR CREDITORS

We will continue to inform the creditors about the proceedings of the bankruptcy liquidation by circular letters. Further information is available on our website [www.liquidation-bankhottinger.ch](http://www.liquidation-bankhottinger.ch). Additionally there is a hotline +41 43 222 38 30 (German), +41 43 222 38 50 (English) and +41 43 222 38 40 (French) available to you.

We hope that our statements provided you with an overview of the stage of the proceedings and the further steps.

Kind regards

Bank Hottinger AG in bankruptcy-liquidation

The liquidators:



Brigitte Umbach-Spahn



Karl Wüthrich