



Schweizerische Eidgenossenschaft
Confédération suisse
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Embassy of Switzerland in the United States of
America

Fax

Date: November 10, 2008

Fax number:

Recipient: United States Department of Justice
Office of the Attorney General
Robert F. Kennedy Building
950 Pennsylvania Avenue, NW
Washington, DC 20530-2000

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Number of pages: 3

Dear Sir or Madam:

Enclosed I am pleased to forward you a letter from Federal Councilor Eveline Widmer-Schlumpf, Head of the Federal Department of Justice and Police, and Federal Councilor Hans-Rudolf Merz, Head of the Federal Department of Finance, to the Honorable Michael B. Mukasey.

The hardcopy will follow by courier in a couple of days.

Sincerely,

The Ambassador of Switzerland


Urs Ziswiler

1493280
ET



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Swiss Confederation

The Head of the Federal Department of Finance FDP
The Head of the Federal Department of Justice and Police FDJP

CH-3003 Bern, GS-FDF, DC / GS FDJP, DC

The Honorable Mr. Michael B. Mukasey
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable Mr. Henry M. Paulson
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Berne, 10 November 2008

Dear Mr. Attorney General
Dear Mr. Secretary

We are writing to you to raise a matter of serious concern to our Government regarding the ongoing investigations by the Department of Justice, the IRS, and the Securities and Exchange Commission into UBS' U.S. cross-border business.

Last spring the relevant U.S. authorities have requested cooperation from their Swiss counterpart in this matter. The Swiss Government takes these issues and related investigations very seriously and has, from the beginning, extended its cooperation to U.S. authorities within the framework of Swiss legislation, the relevant U.S.-Swiss treaties and the rule of law. Indeed, administrative cooperation is ongoing through two channels: The double taxation treaty on U.S. tax payers and the framework of the Swiss Federal Banking Commission (SFBC) regarding UBS' conduct of its cross border business. In addition, SFBC is conducting its own supervisory investigation in this matter which has entered its final stage.

UBS has been supportive and cooperative with these efforts and has publicly acknowledged compliance failures in the affected U.S. cross-border business. Consequently, the bank is seeking an appropriate and timely resolution concerning all aspects of this matter with relevant U.S. authorities.

In a related step, UBS has announced that it will cease to provide services to U.S. residents other than through its SEC-registered affiliates. UBS has started to implement the exit of these clients consistent with Swiss law. At the same time, the bank is seeking to work with the U.S. authorities to maximize voluntary disclosure to the IRS by clients who have not previously disclosed themselves. UBS is seeking the support of the DOJ, IRS and SEC in order to achieve the success of this process.



Unfortunately, in spite of some constructive developments on this matter, certain difficulties have emerged that affect important Swiss sovereign interests and could complicate efforts to reach an appropriate and timely resolution that would minimize negative collateral effects. While the procedure of administrative assistance based on the double taxation treaty is ongoing, some agencies of your government have been seeking to request UBS to turn over names of U.S. clients and to impose certain conditions on the exiting of U.S. clients both of which would cause UBS to violate Swiss criminal law and other legal norms.

While investigations and the cooperation between U.S. and Swiss authorities regarding UBS' conduct and involvement are well underway and have made significant progress, the Federal Tax Administration (FTA) is also pushing with full speed the administrative assistance procedure with a view to providing information on U.S. tax payers who appear to have committed tax fraud. The FTA has engaged supplementary resources to speed up the procedure in accordance with Swiss law.

Switzerland has no interest in protecting tax fraud which is a serious offense also in our country, or in protecting UBS' past conduct. Consequently, the Swiss Government remains committed to pursuing this administrative assistance procedure beyond a possible agreement between UBS and the relevant U.S. authorities regarding certain aspects of this case.

The decision by UBS to exit its cross border business with all U.S. residents is not only an acknowledgement of past conduct, but demonstrates also the willingness of this bank to ensure future compliance with U.S. legislation. Therefore, we request consent by the Department of Justice to allow UBS to implement this measure as soon as possible. In doing so, information about the clients which are exited will not be lost. According to Swiss law, such information has to be preserved by the bank for a period of ten years.

Finally, we urge you to continue our cooperative effort based on the relevant U.S-Swiss treaties and to refrain from unilateral measures against UBS to request client information located in Switzerland. Such unilateral action would not be in the mutual interest of our two countries and could jeopardize our close cooperation in this case. Moreover, Switzerland recently has taken unprecedented measures, focusing in particular on UBS, in order to stabilize financial markets. Unilateral actions against UBS could put at risk the effectiveness of these measures.

We strongly believe that the cooperative approach we engaged in is in the interest of both our countries and we would like to reiterate our full commitment to pursuing the ongoing process with a view to a timely and mutually acceptable solution of this matter. We stand ready to discuss this matter further, either directly or through our staffs.

Yours sincerely,

Hans-Rudolf Merz
Head of the Federal Department
of Finance

Eveline Widmer-Schlumpf
Head of the Federal Department
of Justice and Police