# PRESS RELEASE

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## Justice Department Announces Four Banks Reach Resolutions Under Swiss Bank Program

The Department of Justice announced today that Luzerner Kantonalbank AG (Luzerner), Habib Bank AG Zurich (HBZ), Banque Heritage S.A. and Hyposwiss Private Bank Genève S.A. (Hyposwiss Geneva) have reached resolutions under the department's Swiss Bank Program. These banks will collectively pay penalties totaling more than $25 million and continue to cooperate with the department.

"The bank agreements announced today continue to change the paradigm of the offshore banking world and the message sent to that community should be clear," said Chief Richard Weber of IRS-Criminal Investigation (CI). "The days of secretly hiding funds offshore to avoid paying taxes are over. We are proud of our joint efforts and the resulting success of the program to date. Each additional agreement provides us with highly-detailed data on the accounts, schemes and linkages we need to combat international tax evasion."

"With each agreement executed under the Swiss Bank Program, the department continues to eradicate Swiss bank secrecy and hold accountable those financial institutions that profited from willfully assisting accountholders in the evasion of their U.S. tax obligations," said Acting Assistant Attorney General Caroline D. Ciraolo of the Justice Department's Tax Division. "Working with our partners at the Internal Revenue Service, we are following leads and pursuing criminal and civil investigations focused on targets around the globe."

The Swiss Bank Program, which was announced on Aug. 29, 2013, provides a path for Swiss banks to resolve potential criminal liabilities in the United States. Swiss banks eligible to enter the program were required to advise the department by Dec. 31, 2013, that they had reason to believe that they had committed tax-related criminal offenses in connection with undeclared U.S.-related accounts. Banks already under criminal investigation related to their Swiss-banking activities and all individuals were expressly excluded from the program.

Under the program, banks are required to:

- Make a complete disclosure of their 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 as to 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 appropriate penalties.

Swiss banks meeting all of the above requirements are eligible for a non-prosecution agreement.

According to the terms of the non-prosecution agreements signed today, each bank 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 these banks for tax-related criminal offenses.

Luzerner was established in 1850 by the Canton of Lucerne, a sovereign political subdivision of the Swiss Confederation. Luzerner was aware that U.S. taxpayers had a legal duty to report to the Internal Revenue Service (IRS) and pay taxes on the basis of all their income, including income earned in accounts that the U.S. taxpayers maintained at Luzerner. Luzerner knew or had reason to know that it was likely some taxpayers who maintained accounts at Luzerner were not complying with their U.S. tax and reporting obligations.

Luzerner offered a variety of traditional Swiss banking services that it knew could assist, and did assist, U.S. taxpayers in concealing their identity from the IRS by minimizing the paper trail associated with their undeclared assets and income. These services included hold mail and numbered accounts. Luzerner also opened and maintained accounts held in the name of non-U.S. corporations, foundations or other entities, while knowing, or having reason to know, that a U.S. taxpayer ultimately held an interest in these non-U.S. entities. In at least six cases, these structured accounts were established in the names of entities set up in Panama, Seychelles and the British Virgin Islands by two Swiss-based advisory companies.

Luzerner maintained 115 U.S.-related accounts for insurance carriers, commonly called insurance-wrapped accounts, as to which Luzerner was aware that the policy holder or premium payer was a U.S. person. These accounts titled in the name of an insurance carrier, but are funded with bankable assets transferred to the account by the beneficial owner of the policy. The insurance carriers, at Luzerner's request, provided Luzerner with the identities of the beneficial owners of these policies. The assets in the account, while titled in the name of the insurance carrier, were managed by the external asset manager for the beneficial owner through a power of attorney given by the insurance carrier.

Nearly all of these insurance-wrapped accounts were managed by a single external asset manager. In an e-mail sent to the head of the private banking department in December 2007, the head of the external asset manager desk at Luzerner described that external asset manager as "[specializing] in aspects of legal asset protection as well as tax optimization and has approx. CHF 750 million [Swiss francs] in assets under management, in particular in life insurances. Its main clients include wealthy U.S. nationals (doctors, lawyers, etc.)." Luzerner knew or had reason to know that U.S. citizens, residents and others obligated to pay U.S. taxes who contributed the assets to the insurance-wrapped accounts sought to conceal their ownership of those and also to evade their U.S. federal income tax obligations.

Since Aug. 1, 2008, Luzerner held a total of 595 U.S.-related accounts, which amounted to approximately $300 million. Luzerner will pay a penalty of $11.031 million.

HBZ primarily serves South Asian commercial businesses and entrepreneurs, and their families. In 1941, Habib Bank Ltd. (HBL), the predecessor to HBZ, was founded in Bombay (now Mumbai), India. In 1967, the founders of HBL founded HBZ as a stand-alone entity in Switzerland. In 1974, Pakistan nationalized HBL and all of its subsidiaries and overseas branches. Following the nationalization of HBL, the founders of HBZ rebuilt a global banking business independent of HBL. HBZ has branches and subsidiaries in Canada, Hong Kong, the Isle of Man, Kenya, Pakistan, South Africa, Switzerland, the United Arab Emirates and the United Kingdom.

The HBZ Swiss Office has local management, a local banking team and a client base with accounts held in Switzerland that is distinct from, and tracked and managed separately from, the HBZ operations in other jurisdictions. The HBZ Swiss Office assisted or otherwise facilitated U.S. clients in establishing and maintaining undeclared accounts in a manner that the HBZ Swiss Office knew or should have known was designed to conceal the U.S. clients' ownership or beneficial interest in the accounts.

Employees of Habib American Bank, Inc. (HAB), an unrelated bank with common ownership, introduced or referred U.S. persons to the HBZ Swiss Office. HBZ has identified one account opened at the HBZ Swiss Office for a U.S. person as a result of a referral from HAB. HBZ and HAB are owned through separate legal structures for the benefit of members of the same extended family.

In connection with one relationship, the HBZ Swiss Office assisted with creating four Liechtenstein "Anstalts" or entities with U.S. beneficial owners. A Liechtenstein law firm structured and managed these entities. This Liechtenstein law firm served as the nominee, director and signatory authority of these accounts. The HBZ Swiss Office knew or should have known that these entities were created with an intention of masking U.S. ownership. The HBZ Swiss Office further facilitated the transfer of the funds from these accounts to HBZ Finance Limited, Hong Kong.

In connection with closing U.S.-related accounts, the HBZ Swiss Office permitted certain U.S. clients to transfer funds to accounts held at other HBZ branches and subsidiaries, or to other accounts at the HBZ Swiss Office, either knowing or when it should have known that such transfers were motivated by a desire to avoid U.S. tax or information reporting requirements.

Since Aug. 1, 2008, HBZ had 125 U.S.-related accounts, comprising approximately $118.9 million in assets under management. HBZ will pay a penalty of $9.4 million.

Banque Heritage is a private bank headquartered in Geneva. It was founded in 1986 as an asset management firm and obtained its Swiss banking license in 2003. Banque Heritage has a branch in Zurich, a representative office in Lugano, Switzerland, and a fully licensed banking operation in Uruguay. It also had an investment advisory company in Guernsey, which was closed in 2014.

Banque Heritage offered hold mail and opened accounts in the names of offshore structures. Since Aug. 1, 2008, Banque Heritage had 47 U.S.-related accounts with U.S. beneficial owners that were held by entities created in Panama, the British Virgin Islands, Hong Kong, Belize or other foreign countries.

Banque Heritage established banking relationships with U.S. taxpayers who were transferring funds from other Swiss financial institutions that were closing such accounts. In at least seven such instances, comprising at least $10 million, Banque Heritage knew, or had reason to know, that the accounts were or may have been undeclared. Banque Heritage also:

- Transferred the beneficial ownership of some U.S. taxpayers' accounts to non-U.S. persons' accounts at Banque Heritage; and

- Facilitated the transfer, to Banque Heritage's affiliate in Uruguay, of approximately $700,000 held in at least two U.S.-related accounts being closed at Banque Heritage, when it knew or had reason to know that these accounts were undeclared.

In May 2001, Banque Heritage entered into a Qualified Intermediary (QI) Agreement with the IRS and required all clients to sign a declaration confirming whether the client was a U.S. national or U.S. resident. Banque Heritage also asked U.S. nationals and U.S. residents to provide an IRS Form W-9. Prior to May 2009, Banque Heritage's position was that it could service a U.S. client without reporting the U.S. taxpayer's interest in the account to the IRS so long as it either prohibited the accountholder from trading in U.S.-based securities or the account was nominally structured in the name of a non-U.S.-based entity accompanied by an IRS Form W-8BEN or a Bank Non-U.S. Status Declaration. In the latter circumstance, U.S. clients, with the assistance of their advisors, would create an entity, such as a Panama corporation or a British Virgin Islands company, and pay a fee to third parties to act as corporate directors. Those third parties, at the direction of the U.S. client, would then open a bank account at

Banque Heritage in the name of the entity or transfer a pre-existing Swiss bank account from another Swiss bank.

In cases involving a non-U.S. entity, Banque Heritage was aware that a U.S. client was the true beneficial owner of the account and would receive from the entity's directors an IRS Form W-8BEN or equivalent bank document that falsely declared that the beneficial owner was not a U.S. taxpayer. Knowing that it was probable that certain U.S. taxpayers were not complying with their U.S. income tax and reporting obligations, Banque Heritage effectively provided assistance to certain U.S. taxpayers in evading their U.S. tax obligations, and permitted three accounts to trade in U.S. securities without reporting account earnings or transmitting any withholding taxes to the IRS, as required by the QI Agreement.

Since Aug. 1, 2008, Banque Heritage had 131 U.S.-related accounts with an aggregate maximum balance of approximately $198 million. Banque Heritage will pay a penalty of $3.846 million.

Hyposwiss Geneva is a private bank based in Geneva that was founded in 1997 as Marcuard Cook & Cie S.A. Hyposwiss Geneva was acquired by Anglo Irish Bank Corporation Ltd. in 2001 and then by St. Galler Kantonalbank AG, a Category 2 bank in the Swiss Bank Program, in early 2008. St. Galler Kantonalbank AG announced in June 2013 that it was divesting Hyposwiss Geneva and that Mirelis InvesTrust S.A. would become the new shareholders of Hyposwiss Geneva at the beginning of 2014.

Hyposwiss Geneva opened, serviced and profited from accounts for U.S. clients who Hyposwiss Geneva knew or had reason to know were not complying with their U.S. income tax obligations. In addition to offering the traditional Swiss banking services of hold mail and accounts with code names or numbers, Hyposwiss Geneva accepted instructions in connection with at least 22 U.S.-related accounts not to invest in U.S. securities and not to disclose the names of U.S. clients to U.S. tax authorities, including the IRS. Hyposwiss Geneva assisted at least one U.S. taxpayer client in concealing his identity from the IRS by titling securities in the name of the U.S. taxpayer's Hyposwiss Geneva relationship manager as a nominee of the U.S. taxpayer by depositing the securities in the relationship manager's personal account with another Swiss bank. Hyposwiss Geneva also processed large cash and gold withdrawals totaling approximately $3.4 million for at least nine U.S. taxpayers at or around the time the clients' accounts were closed, even though Hyposwiss Geneva knew, or had reason to know, the accounts contained undeclared assets.

Since Aug. 1, 2008, Hyposwiss Geneva opened and maintained at least 21 undeclared accounts in the names of structures that were beneficially owned by U.S. taxpayers, while knowing, or having reason to know, that these structures were used by U.S. clients to help conceal their identities from the IRS. One structured account was a U.S. trust, two were Swiss-based operating companies and 21 U.S.-related accounts were held by a non-U.S. structure, such as an offshore corporation or trust, which aided and abetted the clients' ability to conceal their undeclared accounts from the IRS. The entities were incorporated as follows: 10 companies in the British Virgin Islands; five companies in Panama; one trust in the Cook Islands; and one each in Liberia, St. Vincent & the Grenadines, the Marshall Islands, and the Cayman Islands.

Since Aug. 1, 2008, Hyposwiss Geneva held a total of 91 U.S.-related accounts with approximately $74.9 million in assets under management. Hyposwiss Geneva will pay a penalty of $1.109 million.

In accordance with the terms of the Swiss Bank Program, each bank mitigated its penalty by encouraging U.S. accountholders to come into compliance with their U.S. tax and disclosure obligations. While U.S. accountholders at these banks who have not yet declared their accounts to the IRS may still be eligible to participate in the IRS Offshore Voluntary Disclosure Program, the price of such disclosure has increased.

Most U.S. taxpayers who enter the IRS Offshore Voluntary Disclosure Program to resolve undeclared offshore accounts will pay a penalty equal to 27.5 percent of the high value of the accounts. On Aug. 4, 2014, the IRS increased the penalty to 50 percent if, at the time the taxpayer initiated their disclosure, either a foreign financial institution at which the taxpayer had an account or a facilitator who helped the taxpayer establish or maintain an offshore arrangement had been publicly identified as being under investigation, the recipient of a John Doe summons or cooperating with a government investigation, including the execution of a deferred prosecution agreement or non-prosecution agreement. With today's

announcement of these non-prosecution agreements, noncompliant U.S. accountholders at these banks must now pay that 50 percent penalty to the IRS if they wish to enter the IRS Offshore Voluntary Disclosure Program.

“Today's settlements and the steady success of DOJ’s Swiss Bank Program continue to alter the thinking of those seeking to hide their money offshore,” said acting Deputy Commissioner International David Horton of the IRS Large Business & International Division (LB&I). “Through these agreements, we are shining a bright light on those who sought to evade paying what they owe. U.S. taxpayers with undeclared accounts need to report their foreign accounts and pay their income taxes”

Acting Assistant Attorney General Ciraolo thanked the IRS, and in particular, IRS-CI and the IRS LB&I Division for their substantial assistance. Ciraolo also thanked Michael N. Wilcove, Henry C. Darmstadter, John E. Sullivan, Thomas G. Voracek and Kimberle E. Dodd, who served as counsel on these matters, as well as Senior Counsel for International Tax Matters and Coordinator of the Swiss Bank Program Thomas J. Sawyer and Senior Litigation Counsel Nanette L. Davis of the Tax Division.

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