# PRESS RELEASE

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## Justice Department Announces Banque Bonhôte & Cie SA Reaches Resolution Under Swiss Bank Program

The Department of Justice announced today that Banque Bonhôte & Cie SA (Banque Bonhôte) has reached a resolution under the department's Swiss Bank Program.

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 agreement signed today, Banque Bonhôte 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 this bank for tax-related criminal offenses.

Banque Bonhôte is a private bank established in 1815 in the City of Neuchâtel, Switzerland. It is a privately held stock company, and the majority of its share capital is owned by its management board and

employees. Until 2002, Banque Bonhôte had a single office in Neuchâtel; since then, it has opened branches in Bienne, Geneva and Berne, Switzerland.

Banque Bonhôte's cross-border banking business aided and assisted some U.S. clients in opening and maintaining undeclared accounts in Switzerland and concealing the assets and income the clients held in their accounts from the Internal Revenue Service (IRS). Banque Bonhôte knew, or should have known, that it was likely that certain U.S. taxpayers who maintained accounts at Banque Bonhôte were not complying with their U.S. tax reporting obligations.

Banque Bonhôte used a variety of means to assist U.S. clients in concealing the assets and income the clients held in their Bonhôte undeclared accounts, including opening and maintaining numbered accounts, as well as holding bank statements and other mail at Banque Bonhôte's offices in Switzerland. Banque Bonhôte also opened accounts for U.S. taxpayers who had left UBS or Credit Suisse when these banks were being investigated by the department.

Private bankers, referred to as client relationship managers, served as Banque Bonhôte's primary contact for accountholders at the bank. Client relationship managers aided or assisted U.S. clients to open and manage accounts that were undeclared and that were established and maintained in a manner designed to conceal the U.S. taxpayers' ownership or beneficial interest in the accounts. Banque Bonhôte compensated client relationship managers, in part, based on the amount of business they generated for Banque Bonhôte.

Banque Bonhôte referred bank clients to Bonhôte Trust SA, a Swiss fiduciary and trust advisory firm located in Neuchâtel and acquired by Banque Bonhote in 2001. Bonhôte Trust provided assistance in setting up entities such as offshore companies and foundations, including sham entities, for clients including U.S. taxpayers and provided administrative services to those entities.

Through Bonhôte Trust, Banque Bonhôte created offshore foundations, corporations, trusts and similar entities organized in jurisdictions such as the British Virgin Islands and Nevis. In some instances, Banque Bonhôte structured a U.S.-related account that appeared as if it was held by a non-U.S. legal entity, such as an offshore corporation or trust, which aided and abetted the clients' ability to conceal their undeclared accounts from the IRS. Banque Bonhôte also had accounts opened through external asset managers and maintained in the name of offshore structures, despite knowing that in at least some instances the beneficial owners of such accounts were U.S. persons. Banque Bonhôte knew or should have known that, at least in some instances, external asset managers opened and managed accounts at Banque Bonhôte in the name of a sham offshore structure that in reality held assets owned by a U.S. client.

Approximately 35 percent of Banque Bonhôte's U.S.-related accounts were held in the name of offshore structures, and Banque Bonhôte accepted the use of IRS or substitute forms that falsely stated under penalties of perjury that sham entities beneficially owned the assets in the undeclared accounts.

Throughout its participation in the Swiss Bank Program, Banque Bonhôte committed to providing full cooperation to the U.S. government. Among other things, Banque Bonhôte described in detail the structure and operation of its U.S. business, including its cross-border business policies. Banque Bonhôte was able to disclose the identities of more than half of the beneficial owners of its U.S.-related accounts to the department and provided narrative summaries of other U.S.-related accounts for use in other ongoing and potential department investigations.

Since Aug. 1, 2008, Banque Bonhôte held and managed 63 U.S.-related accounts, including both declared and undeclared accounts, which had a peak of aggregated assets under management of $88.7 million. Banque Bonhôte will pay a penalty of $624,000.

While U.S. accountholders at Banque Bonhôte 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 this non-prosecution agreement, noncompliant U.S. accountholders at Banque Bonhôte must now pay that 50 percent penalty to the IRS if they wish to enter the IRS Offshore Voluntary Disclosure Program.

Acting Assistant Attorney General Caroline D. Ciraolo of the Justice Department's Tax Division thanked the IRS, and in particular, IRS-Criminal Investigation and the IRS Large Business & International Division for their substantial assistance. Ciraolo also thanked Lisa L. Bellamy, who served as counsel on this matter, as well as Senior Counsel for International Tax Matters and Coordinator of the Swiss Bank Program Thomas J. Sawyer, Senior Litigation Counsel Nanette L. Davis and Attorney Kimberle E. Dodd of the Tax Division.

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