PRESS RELEASE

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Chief Richard Weber

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Contact: *CI-HQ-COMMUNICATIONSEDUCATION@ci.irs.gov
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Justice Department Announces Two Banks Reach Resolutions Under Swiss Bank Program

The Department of Justice announced today that Banque Internationale à Luxembourg (Suisse) SA (BIL Switzerland) and Zuger Kantonalbank (ZGKB) have reached resolutions under the department's Swiss Bank Program. These banks will collectively pay penalties totaling more than $13 million and continue to cooperate with the department.

"The agreements reached today reflect the department's continued commitment to reaching resolutions with those Swiss banks that satisfy the requirements of the Program, including detailed disclosures of their illegal conduct in connection with U.S.-related accounts," said Acting Assistant Attorney General Caroline D. Ciraolo of the Justice Department's Tax Division. "Taxpayers are on notice that attempting to hide their foreign accounts in insurance wrappers and other such vehicles in order to evade their U.S. tax obligations is criminal conduct, and we are vigorously pursuing these cases."

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.

BIL Switzerland is a Swiss private bank with offices in Zurich and Geneva. BIL Switzerland is wholly owned by Banque Internationale à Luxembourg, a Luxembourg bank founded in 1856. In 1996, BIL Switzerland's ultimate parent underwent a merger to form the Dexia Group, headquartered in Belgium. In connection with this merger, BIL Switzerland was renamed Dexia Privatbank (Schweiz) AG. In 2011, the Dexia Group dissolved, and BIL Switzerland came under new ownership, at which time it reverted to the BIL Switzerland name. BIL Switzerland provided private banking and asset management services principally through private bankers based in Zurich, Geneva and Lugano, Switzerland.

BIL Switzerland opened, maintained, serviced and profited from accounts that were held or beneficially owned by U.S. taxpayer clients. BIL Switzerland opened several accounts for U.S. taxpayers who were leaving other Swiss banks that were being investigated by the department, including UBS and Credit Suisse.

BIL Switzerland offered a variety of traditional Swiss banking services – including hold mail and numbered accounts – that assisted and enabled certain of its U.S. taxpayer clients to conceal their assets and income, file false federal tax returns with the Internal Revenue Service (IRS) and evade their U.S. tax obligations. BIL Switzerland also provided Swiss travel cash cards to U.S. clients, enabling them to access and spend funds from undeclared accounts in the United States.

In the period since Aug. 1, 2008, BIL Switzerland maintained at least 145 accounts, comprising an aggregate value of more than $64 million, that were owned by insurance companies and which held assets relating to insurance products that were issued to U.S. taxpayer clients of the respective insurance companies. Such accounts, known commonly as insurance-wrappers, were titled in the names of insurance companies, but were funded with assets that were transferred to the accounts for the beneficial owners of the insurance products (the policy holders). The assets in these accounts, while titled in the names of insurance companies, were managed by external asset managers for the ultimate benefit of the policy holders, through powers of investment that were given by the insurance companies to the external asset managers.

The assets of some insurance-wrapper accounts originated from undeclared accounts at BIL Switzerland. These undeclared accounts were closed, and their assets were transferred to newly-opened accounts at BIL Switzerland in the name of an insurance company and managed by various external asset managers. At account opening, the new accounts held the same assets that the U.S. taxpayer clients had previously held directly at BIL Switzerland. One of the undeclared accounts did not hold U.S. securities, but the recipient insurance-wrapper account acquired U.S. securities at a later date.

In addition to the 145 insurance-wrapped accounts, BIL Switzerland also acted as a custodian to more than 30 U.S.-related accounts, comprising an aggregate value of approximately $83 million, that were maintained by external asset managers for U.S. taxpayers.

BIL Switzerland closed U.S.-related accounts in ways that concealed the U.S. beneficial owners of those accounts. Upon request of the accountholders, BIL Switzerland removed the names of its U.S. taxpayer clients from joint accounts, leaving only non-U.S. persons as accountholders, or moved their assets into new BIL Switzerland accounts that were held in the names of non-U.S. persons, including non-U.S. relatives. BIL Switzerland thereafter treated the recipient accounts as non-U.S.-related accounts, despite some relationship managers continuing to take and execute instructions given directly from the U.S. taxpayers formerly associated with the accounts, or the U.S. taxpayer clients retaining effective beneficial ownership over the transferred funds.

BIL Switzerland maintained three accounts, beneficially owned by two different U.S. taxpayers, that held U.S. securities in the names of three offshore entities. The U.S. taxpayer's interest in each of these

accounts was not reported to the IRS even though BIL Switzerland knew or had reason to know that such offshore entity accounts were operated without strict adherence to corporate formalities. Two of the offshore entities were organized in the British Virgin Islands, and the third was organized in the United Arab Emirates. In effect, these offshore entities were used by the U.S. taxpayer beneficial owners as sham, conduit or nominee entities. BIL Switzerland relationship managers associated with these accounts, while outside the United States:

- Met with or took instructions from the U.S. taxpayer beneficial owners of these offshore entity accounts, instead of the directors or other authorized parties of the account;

- Acted on instructions from an external asset manager, who received them directly from a U.S. taxpayer, without first knowing whether corporate formalities were observed;

- Followed instructions that allowed a U.S. taxpayer to withdraw cash directly from the account, despite such withdrawals being contrary to the corporate purposes of the entity that owned the account; and

- Executed transactions that allowed a U.S. taxpayer to make several significant wire transfers to unaffiliated Swiss banks for the U.S. taxpayer's personal use or benefit, without first knowing or inquiring whether corporate formalities were satisfied.

BIL Switzerland accepted certifications from the directors of these entities that falsely declared that the entity was the beneficial owner of the assets deposited in the accounts.

From 2001 through February 2010, BIL Switzerland had a wholly-owned subsidiary, Experta AG, a Swiss company. Experta AG provided a number of services, including accounting services, legal and tax advice, as well as the creation and management of entities such as offshore corporations, trusts and foundations. During the time that Expert AG was affiliated with BIL Switzerland, Experta AG provided services that assisted and enabled certain U.S. taxpayers in the concealment of their assets and income and in the evasion of their U.S. tax obligations.

BIL Switzerland has fully cooperated with the department in relation to the Swiss Bank Program. Among other things, BIL Switzerland required its relationship managers to submit declarations setting forth their knowledge concerning the U.S. taxpayer status of each account that they managed. BIL Switzerland also reviewed leaver lists from other banks to identify additional U.S.-related accounts.

Since Aug. 1, 2008, BIL Switzerland maintained 267 U.S.-related accounts having a maximum aggregate dollar value in excess of $182 million. BIL Switzerland will pay a penalty of $9.71 million.

ZGKB was founded in 1892 and is headquartered in Zug, Switzerland. Organized under the laws of the canton of Zug, all of ZGKB's 14 branches are located within the canton. The canton owns 51 percent of ZGKB and guarantees its deposits.

From at least 2001 to 2012, ZGKB opened and maintained accounts for certain of its U.S. clients while aware of the risk that such clients were not declaring income earned in these accounts or the existence of such accounts. In doing so, ZGKB ignored red flags of wrongful intent on the part of U.S. clients who sought to open such accounts. ZGKB offered a variety of traditional Swiss banking services – including hold mail and numbered accounts – 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. ZGKB also accepted funds from a small number of UBS accountholders who had likely been forced to close their UBS accounts because of a U.S. tax-fraud investigation of UBS.

ZGKB assisted its U.S. clients in sending money to themselves, relatives, business partners, or other businesses in the United States by issuing checks drawn on a ZGKB account at a bank in New York. In one case, the accountholder requested and received checks in excess of $90,000 on several occasions. ZGKB cashed out the balances of U.S. residents' accounts in substantial amounts. In one instance, at the request of the U.S. client, ZGKB permitted the client to withdraw the entire account balance of approximately $665,000 in cash. For several U.S. accountholders, ZGKB transferred funds

from their accounts in multiple withdrawals – for example, 12 in one month – of amounts just under $10,000. In at least one case, ZGKB was instructed to do so in order to evade a report to the IRS.

Since Aug. 1, 2008, ZGKB maintained and serviced 434 U.S.-related accounts having a maximum aggregate dollar value of $220 million. ZGKB will pay a penalty of $3.798 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 resolutions with Banque Internationale á Luxembourg (Suisse) SA and Zuger Kantonalbank under the Swiss Bank Program send a clear message," said acting Deputy Commissioner International David Horton of the IRS Large Business & International Division. "U.S. taxpayers cannot evade their taxes by setting up undisclosed offshore accounts. In partnership with the Department of Justice, we will continue our successful efforts to track these taxpayers and their hidden accounts down."

Acting Assistant Attorney General Ciraolo thanked the IRS and in particular, IRS-Criminal Investigation and the IRS Large Business & International Division for their substantial assistance. Ciraolo also thanked Paul G. Galindo and Brian D. Bailey, 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, Senior Litigation Counsel Nanette L. Davis and Attorney Kimberle E. Dodd of the Tax Division.

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