



PRESS RELEASE

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Justice Department Announces Standard Chartered Bank (Switzerland) SA Reaches Resolution Under Swiss Bank Program

The Department of Justice announced today that Standard Chartered Bank (Switzerland) SA, en liquidation (SCB Switzerland), 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, SCB Switzerland 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.

SCB Switzerland is a private bank with a single office located in Geneva, Switzerland. It is a wholly owned subsidiary of Standard Chartered PLC, a British multinational banking and financial services

company headquartered in London. SCB Switzerland joined the Standard Chartered group of entities (the Standard Chartered Group) in May 2008 when Standard Chartered PLC acquired American Express Bank Ltd. As part of that acquisition, Standard Chartered Group acquired American Express Bank (Switzerland) SA, a private bank incorporated in Switzerland in 1987, which thereafter operated under the name SCB (Switzerland) SA.

In early 2014, the Standard Chartered Group decided to cease its Swiss private banking operations for commercial reasons. SCB Switzerland is now in voluntary formal liquidation. Subject to Swiss regulatory approval, SCB Switzerland expects to return its banking license at the end of 2015, and then the entity will continue to exist as a corporation in liquidation until at least the end of 2018, without banking status or supervision by Swiss Financial Market Supervisory Authority FINMA and with no operations other than completing the wind down.

Through its employees and others, SCB Switzerland knew or should have known that some of the U.S. persons who opened or maintained accounts at SCB Switzerland may not have complied with their U.S. income tax and reporting obligations. By establishing and maintaining such accounts, SCB Switzerland provided assistance to certain U.S. persons in evading their U.S. tax obligations. Among other things, SCB Switzerland:

- Agreed to hold account statements and other mail relating to some U.S.-related accounts;
- Provided account statements and other documentation to the accountholder which contained only the account number in order to further insure the secrecy of the identity of the accountholder; and
- Accepted and included in its account records Internal Revenue Service (IRS) Forms W-8BEN (or equivalent documents) provided by the directors of the offshore companies that falsely represented that such companies were the beneficial owners of the assets in those accounts for U.S. federal income tax purposes.

SCB Switzerland opened and maintained accounts for certain U.S. persons in the name of structures, including trusts created by American Express and inherited and maintained by affiliates of SCB Switzerland, which served as the nominal accountholders of bank accounts that held assets that, in reality, belonged to U.S. persons. SCB Switzerland adopted the Advisory Center/Booking Center Model from American Express Bank. This method allowed clients to book and hold accounts in any of Standard Chartered Group's booking centers, including Geneva, while working with relationship managers at other locations throughout the world. The Group also acquired a trust center from American Express Bank. Trust services were available to eligible clients who wished to set up trusts or private investment companies. The trust centers were located in Guernsey, Singapore and the Cayman Islands. A client could create a trust structure in any one of the trust centers while opening an account in another booking center and working with a relationship manager in another advisory center.

SCB Switzerland maintained one account held by a British Virgin Islands private investment company, of which the beneficial owner was a U.S. citizen. The beneficial owner had provided SCB Switzerland with a false W-8BEN, and SCB Switzerland was unaware of the U.S. citizenship of the beneficial owner until 2010. In 2010, a compliance officer discovered the beneficial owner's U.S. citizenship through a periodic review of the account that included an Internet search. Nevertheless, SCB Switzerland maintained the account for approximately two years after discovering that the beneficial owner was a U.S. citizen.

Since Aug. 1, 2008, SCB Switzerland held 22 U.S.-related accounts, comprising a peak of aggregated assets under management of \$33.1 million. SCB Switzerland will pay a penalty of \$6.337 million.

In accordance with the terms of the Swiss Bank Program, SCB Switzerland 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 SCB Switzerland 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 SCB Switzerland 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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