



# PRESS RELEASE

## Internal Revenue Service - Criminal Investigation *Chief Richard Weber*

Date: Nov. 19, 2015

Contact: \*CI-HQ-COMMUNICATIONSEDUCATION@ci.irs.gov  
IRS – Criminal Investigation

CI Release #: CI-2015-11-19-A

### **Justice Department Announces Three Banks Reach Resolutions Under Swiss Bank Program**

The Department of Justice announced today that BNP Paribas (Suisse) SA (BNPP), KBL (Switzerland) Ltd. (KBL Switzerland) and Bank CIC have reached resolutions under the department's [Swiss Bank Program](#). These banks will collectively pay penalties totaling more than \$81 million and continue to cooperate with the department.

"The amount of money associated with each agreement is not insignificant, but even more significant is the amount of data that we will receive as a result of the Swiss Bank Program," said Chief Richard Weber of IRS-Criminal Investigation (CI). "At this point, we've already learned so much about the formerly hidden world of offshore banking. This information enables us to vigorously pursue noncompliant individual U.S. taxpayers and guides us in the development of innovative partnerships and methodologies to combat a wide variety of international tax evasion techniques."

"As reflected in today's agreements, we continue to shine a bright light on the individuals and institutions that have used so-called 'secret Swiss bank accounts' to engage in and assist U.S. tax evasion," said Acting Assistant Attorney General Caroline D. Ciraolo of the Justice Department's Tax Division. "The department, working hand in hand with the IRS, is actively pursuing criminal and civil cases against those engaged in such conduct."

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.

BNPP has had a presence in Switzerland since 1872. BNPP is headquartered in Geneva, Switzerland, and has branches in Zurich, Basel and Lugano, Switzerland. In 2008, BNP Paribas Bank Group agreed to acquire the worldwide operations of Fortis Bank, which was at the time the largest bank in Belgium. This merger closed in May 2010, and its terms required BNPP to absorb Fortis Banque (Suisse) SA.

BNPP opened and maintained accounts for U.S. taxpayers in the name of non-U.S. corporations, foundations, trusts or other legal entities, in which U.S. taxpayers concealed their beneficial ownership of the accounts. BNPP readily accepted accounts in which external trust companies created and administered offshore structures incorporated or based in offshore locations such as the British Virgin Islands, Panama, Liechtenstein and Liberia, for certain of BNPP's U.S. clients. In certain instances, BNPP took instructions directly from U.S. beneficial owners with power of attorney over the account, including instructions for cash withdrawals, with the funds going directly to the true U.S. beneficial owner.

BNPP also has a Corporate and Institutional Banking (CIB) business line. CIB clients use the expertise of BNPP for specific commercial transactions, and CIB does not provide private banking services. CIB maintained a small number of U.S.-related accounts. In one case, a wealth management relationship manager omitted the existence of a CIB client's U.S. passport in opening a wealth management account for that client.

Starting in 2003, BNPP issued a policy requiring U.S. residents opening new accounts to provide an IRS Form W-9 and certification that the person was aware of, and fully complied with, tax requirements pertaining to foreign accounts maintained by U.S. persons. BNPP also held mandatory training sessions in 2005 and 2007 to ensure that wealth management employees were aware of and followed its policies for U.S. persons. Despite these policies, BNPP disregarded evidence that many of the accounts were not in fact properly declared, facilitating the tax avoidance schemes of accountholders.

Certain employees of BNPP understood that certain U.S. taxpayers who maintained accounts at BNPP were not complying with their U.S. reporting obligations, and BNPP offered a variety of traditional Swiss banking services that it knew could assist, and did in fact assist, certain U.S. clients in the concealment of assets and income from the Internal Revenue Service (IRS). For example, BNPP maintained 338 numbered accounts and agreed to hold bank statements and other mail.

BNPP also processed requests for cash withdrawals by U.S. taxpayers from accounts being closed. For example, in early 2012, after part of an account was transferred to a bank in Malaysia, a BNPP employee gave instructions for the withdrawal of the balance of the account in the amount of 238,000 Swiss francs. In November 2009, in light of BNPP's policy that non-compliant U.S. accounts be closed, an accountholder received permission to withdraw \$731,000 in cash, with several employees coordinating the withdrawal so that the accountholder need not "waste time at the cash desk." And in August and September of 2009, after a BNPP employee informed an accountholder that BNPP had adopted a new U.S.-related account policy, the employee and accountholder agreed that the client would come to BNPP before Sept. 5, 2009, to withdraw the remaining account balance and close the account. Instructions were given to allow the client to withdraw \$255,838, as well as 49,233 euros.

Throughout its participation in the Swiss Bank Program, BNPP provided full cooperation to the department. BNPP described in detail the structure of its U.S. cross-border business, including but not

limited to the policies BNPP put in place to comply with U.S. law, a summary of the top 20 U.S.-related accounts by assets under management value, a redacted summary of external asset managers and relationship managers with U.S.-related accounts by assets under management and substantial information about U.S.-related accounts associated with external asset managers and relationship managers. BNPP provided a list of the names and functions of all individuals who structured, operated or supervised the cross-border business at BNPP and also provided relevant information concerning its relationship managers.

Since Aug. 1, 2008, BNPP held and managed approximately 760 U.S.-related accounts with a peak value of approximately \$1.2 billion in assets under management. BNPP will pay a penalty of \$59.783 million.

KBL Switzerland is based in Geneva, with branches in Zurich and Lugano, Switzerland. An additional branch located in Lausanne closed in 2014. KBL Switzerland implemented a strategy from 2009 through May 2010 that substantially sought to increase KBL Switzerland's assets under management and the business that KBL Switzerland did with external asset managers. The implementation of this strategy led KBL Switzerland to open and maintain significant numbers of U.S.-related accounts, including some accounts for U.S. taxpayers who had been exited from UBS, Credit Suisse or other banks.

KBL Switzerland opened and maintained accounts for certain U.S. taxpayers in the names of corporations, foundations, trusts or other legal entities that were organized in non-U.S. jurisdictions, such as Panama, the British Virgin Islands or Liechtenstein. For many of these accounts, KBL Switzerland accepted IRS Forms W-8BEN or substitute forms that falsely represented that the legal entities that owned the structured accounts had no U.S. taxpayer beneficial owners. KBL Switzerland knew, or had reason to know, that the true beneficial owners of these accounts were U.S. taxpayers. KBL Switzerland also knew, or had reason to know, that certain of these U.S. taxpayers were utilizing the accounts for personal purposes without formal corporate authorization.

In one instance, a KBL Switzerland relationship manager assured a U.S. taxpayer client, who had not provided a Form W-9, that KBL Switzerland would not reveal his identity to the United States. In a separate instance, a different KBL Switzerland relationship manager assured a U.S. taxpayer client that, because of Swiss bank secrecy laws, Switzerland would not freely exchange information with the United States. And in at least one instance, a KBL Switzerland relationship manager advised a U.S. taxpayer client to avoid bringing account information into the United States.

On the instructions of the U.S. taxpayer clients, KBL Switzerland moved or restructured the assets of U.S.-related accounts in ways that concealed the U.S. nature of those accounts. In late 2009 and early 2010, KBL Switzerland followed the instructions of two external asset managers, concerning four separate U.S.-related accounts that were directly held by U.S. taxpayer clients of KBL Switzerland, to restructure the assets of the accounts into new insurance-policy accounts. These insurance wrapper accounts were titled in the name of a Liechtenstein insurance company for the benefit of the same underlying U.S. taxpayer clients with the same underlying assets. Restructuring the form in which their assets were held at KBL Switzerland allowed these U.S. taxpayers to further hide their identities and undeclared accounts from the IRS and U.S. law enforcement.

In 2012, KBL Switzerland briefly implemented a flawed account closing policy that had the unintended effect of closing a number of U.S.-related accounts through substantial and/or successive asset withdrawals. In one of these instances, KBL Switzerland permitted a U.S. taxpayer client to close an account through a single cash withdrawal of nearly \$2 million. In another one of these instances, KBL Switzerland allowed a U.S. taxpayer client to close a structured entity account by using assets in the account to purchase gold worth nearly \$200,000, which the U.S. taxpayer client subsequently withdrew in closing the account.

On request of its clients, including undeclared U.S. taxpayers, KBL Switzerland provided Swiss travel cash cards issued by third parties. KBL Switzerland would fund these travel-cash cards with assets maintained in accounts belonging to U.S. taxpayer clients, which enabled U.S. taxpayer clients to access the assets of undeclared accounts wherever they chose, including in the United States. KBL Switzerland also permitted U.S. taxpayer clients to access and utilize the value of assets held in undeclared accounts through loans that were secured by their undeclared assets on deposit with KBL Switzerland.

KBL Switzerland committed to providing full cooperation to the U.S. government and has made timely and comprehensive disclosures regarding its U.S. cross-border business. Among other things, KBL Switzerland has described in detail the structure of its cross-border business for U.S.-related accounts including, but not limited to:

- The policies and lack of oversight that contributed to the misconduct committed by KBL Switzerland relationship managers and their supervisors;
- Data on desks and employees with elevated concentrations of U.S.-related accounts;
- Information on key external asset managers that had significant involvement with U.S.-related accounts;
- The names and positions of compliance officers and senior managers; and
- Written narratives on its largest and most problematic U.S.-related accounts.

Since Aug. 1, 2008, KBL Switzerland maintained 277 U.S.-related accounts having a maximum aggregate dollar value in excess of \$255 million. KBL Switzerland will pay a penalty of \$18.792 million.

Bank CIC is a subsidiary of the French financial group Cr dit Mutuel-CIC, one of the largest banking groups in France. In addition to its main office in Basel, Bank CIC has eight branches, all in Switzerland: Lausanne, Zurich, Geneva, Lugano, Locarno, Neuchatel, Fribourg and Sion.

Although Bank CIC did not target U.S. taxpayer-clients, many of Bank CIC's front-office personnel had some exposure to at least one or more U.S.-related accounts as part of their general client service functions. Periodically, U.S. clients were accepted as walk-ins or referred to Bank CIC by other clients.

Bank CIC offered a variety of traditional Swiss banking services, including hold mail and numbered accounts, that it knew or should have known could assist, and did in fact assist, U.S. clients in the concealment of assets and income from the IRS. A Bank CIC manager or relationship manager communicated with a U.S. taxpayer client through methods such as facsimile and calling prepaid mobile phones at the U.S. taxpayer-client's request. Bank CIC also allowed accounts with U.S. beneficial owners to be held in the name of non-U.S. entities.

Since Aug. 1, 2008, Bank CIC had 261 U.S.-related accounts, comprising approximately \$228 million in assets under management. Bank CIC will pay a penalty of \$3.281 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 large and small financial institutions reflect the Swiss Bank Program's continued success," said acting Deputy Commissioner International David Horton of the IRS Large Business & International Division (LB&I). "Working with the Department of Justice, we will use the information

received from these resolutions to track down U.S. taxpayers who sought to evade taxes by hiding their assets in offshore accounts.”

Acting Assistant Attorney General Ciraolo thanked the IRS and in particular, IRS-CI and IRS LB&I for their substantial assistance. Ciraolo also thanked Carl D. Wasserman, Paul G. Galindo and Kaycee M. Sullivan, 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.

# # #