



# PRESS RELEASE

Internal Revenue Service - Criminal Investigation  
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## **Justice Department Announces Deutsche Bank (Suisse) SA Reaches Resolution under Swiss Bank Program**

The Department of Justice announced today that Deutsche Bank (Suisse) SA (Deutsche Bank Suisse) reached a resolution under the department's [Swiss Bank Program](#). Deutsche Bank Suisse will pay a penalty of more than \$31 million.

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, Deutsche Bank Suisse 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 a penalty in return for the department's agreement not to prosecute this bank for tax-related criminal offenses.

Deutsche Bank Suisse is headquartered in Geneva, Switzerland, with additional offices in Zurich and Lugano, Switzerland and is part of the Deutsche Bank Group. From at least August 2008 through August 2013, Deutsche Bank Suisse enabled some U.S. taxpayers to evade their U.S. tax and filing obligations, resulting in the filing of false income tax returns with the Internal Revenue Service (IRS) and allowing U.S. taxpayers to hide offshore assets from the IRS.

Deutsche Bank Suisse offered a variety of services and permitted some practices that it knew could and did assist U.S. taxpayers in concealing assets and income from the IRS. Deutsche Bank Suisse offered hold mail services, and notes written by Deutsche Bank Suisse employees on some hold mail forms explained that the client's mail was not delivered or picked up because the client resided in the United States and his or her account was "not declared." Deutsche Bank Suisse also provided U.S. beneficial owners with debit cards linked to accounts held at Deutsche Bank Suisse or credit cards whose balances the U.S. beneficial owners instructed Deutsche Bank Suisse to pay from accounts held at the bank. Use of these cards by U.S. taxpayers facilitated their access to or use of undeclared funds on deposit at Deutsche Bank Suisse. Deutsche Bank Suisse processed standing orders for checks in amounts less than \$10,000 to be sent on a monthly basis into the United States, and in at least two instances those checks were issued to the U.S. beneficial owners from accounts held in the name of Liechtenstein foundations.

In 2001, Deutsche Bank Suisse entered into a Qualified Intermediary (QI) Agreement with the IRS. Under a QI Agreement, if an account holder wished to trade in U.S. securities without being subjected to mandatory U.S. tax withholding, the account holder's bank was required to obtain the consent of the account holder to disclose his or her identity to the IRS. However, after signing its QI Agreement, Deutsche Bank Suisse continued to service certain U.S. customers without disclosing their identity to the IRS and without regard for the impact of U.S. criminal law on that decision.

Prior to October 2008, Deutsche Bank Suisse'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 prohibited the account holder from trading in U.S. securities or the account was an account nominally structured in the name of a non-U.S. entity accompanied by an IRS Form W-8BEN or equivalent bank document. In the latter circumstances, U.S. clients, with the assistance of their external advisors, would create an entity, such as a Liechtenstein foundation, Panamanian corporation or British Virgin Islands corporation, 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 Deutsche Bank Suisse in the name of the entity or transfer funds from a pre-existing account from another bank. Deutsche Bank Suisse employees provided prospective U.S. clients with referrals to external advisors who could assist with the creation and management of such an entity. In some instances, Deutsche Bank Suisse made insufficient efforts to determine whether such an entity was valid for U.S. tax purposes.

Deutsche Bank Suisse maintained and serviced accounts beneficially owned by U.S. taxpayers that were held by entities created in countries such as Liechtenstein, Liberia, Panama and the British Virgin Islands, some of which were operated by the U.S. beneficial owners in violation of corporate governance provisions. In certain cases involving a non-U.S. entity, Deutsche Bank Suisse was aware that a U.S. client was the true beneficial owner of the account. Despite this, Deutsche Bank Suisse would sometimes obtain from the entity's directors a Form W-8BEN or equivalent bank document that falsely declared that the beneficial owner was not a U.S. taxpayer. In some of these cases, Deutsche Bank Suisse permitted the accounts to trade in U.S. securities without reporting account earnings or transmitting withholding taxes to the IRS, as required by the QI Agreement.

Deutsche Bank Suisse has cooperated fully with the department during its participation in the Swiss Bank Program. Deutsche Bank Suisse conducted an internal investigation that included interviews of relationship managers and members of management; review of account files; review of emails; and review of applicable policies, procedures and compliance training materials. Deutsche Bank Suisse provided a comprehensive and detailed in-person presentation to the department, with accompanying documentation, regarding the findings of its internal investigation and how it structured, operated and supervised its cross-border business. Deutsche Bank Suisse assisted and agreed to continue to assist U.S. authorities in preparing treaty requests to the Swiss competent authority for account records of U.S. clients, including by identifying accounts that may meet the standard for information exchange under an

applicable treaty. On a rolling basis and prior to the execution of its non-prosecution agreement, Deutsche Bank Suisse also provided aggregate and account-level information regarding U.S.-related accounts that were closed since Aug. 1, 2008.

Since Aug. 1, 2008, Deutsche Bank Suisse had 1,072 U.S.-related accounts with an aggregate maximum value of approximately \$7.65 billion. Deutsche Bank Suisse will pay a penalty of \$31.026 million.

In accordance with the terms of the Swiss Bank Program, Deutsche Bank Suisse 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 Deutsche Bank Suisse 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 Deutsche Bank Suisse 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. Acting Assistant Attorney General Ciraolo also thanked John E. Sullivan and Thomas G. Voracek, 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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