



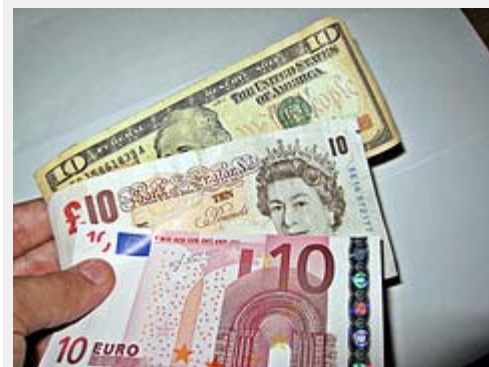
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Swiss Banks Reveal Americans, U.K. Deal Sputters, And Germany Embraces FATCA

Switzerland's highest court has ruled that Credit Suisse can reveal client data to U.S. authorities. Although the ruling appears to apply only to U.S. clients suspected of dodging U.S. taxes, it seems broad enough to be significant. It should end legal challenges to Switzerland's bank secrecy laws. See [Swiss court allows Credit Suisse to hand client data to U.S.](#)



Swiss tax authorities gave the go-ahead to temporarily circumvent Switzerland's vaunted bank secrecy laws in 2011. Then, American account holders challenged the legality of disclosures in the Swiss courts. One complaint was that U.S. government requests have not been specific enough.

In fact, in a fashion vaguely reminiscent of the John Doe Summons used in the U.S., the American government requested details for a company with a Swiss account whose beneficiaries all live in the United States. The Swiss Federal Supreme Court said this was not a fishing expedition, even though the requests did not name particular clients.

The court ruled that a client decision to open an account with a firm not subject to U.S. taxation can be considered an attempt to avoid or evade U.S. taxes. The timing couldn't be better for Switzerland. It is keenly aware of America's power and the possibility that other Swiss banks will be indicted.

That concern is all the more pressing after a Swiss bill that had promised a Swiss-U.S. reconciliation failed. In June of 2013, the bill that many assumed would allow Swiss bank disclosures to the IRS failed by a [vote of 126 to 67](#). [The Swiss Banking Association expressed regret about the vote](#), yet it is clear big steps are required to placate the U.S.

As one attempt at repair, the Swiss government has agreed that banks can seek permission to hand over data to bank staff. This is so even though they could not hand over client names directly to the IRS. This may help avoid criminal charges in the U.S., yet it still seems possible that some banks may face deferred-prosecution or non-prosecution agreements.

Such measures are certainly lesser punishments than indictment. Even so, the Swiss government hopes to avoid even those lesser actions. How banks have behaved since 2009 may be pivotal, a key element that hastened Wegelin's demise.

Banks still in the U.S. crosshairs include Credit Suisse, which disclosed in July 2011 that it was under grand jury investigation. Bank Julius Baer is reportedly still being pursued, as is the Swiss wing of [HSBC Holdings](#). Israeli banks under investigation include Bank Hapoalim, Mizrahi-Tefahot Bank and Bank Leumi. See [Why Every American Should Worry About Bank Record Subpoenas](#).

Meanwhile, although Switzerland has been trying to make peace with the U.S. government, the deal Swiss authorities made with the U.K. government is proving to be lop-sided. In 2012, the Swiss government claimed that its banks would pay Sfr500 million (£347 million) to the U.K. Treasury under an agreement to curtail tax evasion by British citizens. The funds were supposed to be collected from the Swiss bank accounts of British subjects.

However, the Swiss Bankers Association now claims there are fewer untaxed British assets in Switzerland than it thought. Who knew. That puts the upfront cash in jeopardy. At this point, the Swiss deal with the U.K. looks better for the Swiss. Switzerland agreed to impose a withholding tax on U.K. savers in exchange for a right to retain its traditional banking secrecy.

Finally, Germany embraces FATCA, adding to the growing list of nations that is going along. See [Germany strikes deal to help US catch tax evaders](#).

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.