

Possible end to secret Swiss bank accounts

by David Voreacos and Carlyn Kolker via gan - Bloomberg *Friday, Feb 20 2009, 7:51am*
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U.S. Sues UBS Seeking Swiss Account Customer Names

Feb. 19 (Bloomberg) -- The U.S. government sued UBS AG, Switzerland's largest bank, to try to force disclosure of the identities of as many as 52,000 American customers who allegedly hid their secret Swiss accounts from U.S. tax authorities.

U.S. customers had 32,940 secret accounts containing cash and 20,877 accounts holding securities, according to the Justice Department lawsuit filed today in federal court in Miami. U.S. customers failed to report and pay U.S. taxes on income earned in those accounts, which held about \$14.8 billion in assets during the middle of this decade, according to the court filing.

"At a time when millions of Americans are losing their jobs, their homes and their health care, it is appalling that more than 50,000 of the wealthiest among us have actively sought to evade their civic and legal duty to pay taxes," John A. DiCicco, acting assistant attorney general in the Justice Department's tax division, said in a statement.

UBS's U.S. listed shares fell 14 cents, or 1.3 percent, to \$10.43 on the news. The lawsuit came a day after UBS agreed to pay \$780 million and disclose the names of about 250 account holders to avoid U.S. prosecution on a charge that it helped thousands of wealthy Americans evade taxes.

The U.S. and Zurich-based UBS disagreed over how many account holders the bank must disclose to the Internal Revenue Service, agreeing to resolve it in court.

Summons Enforcement

With today's lawsuit, the U.S. asked a federal judge to enforce its so-called John Doe summonses. On July 1, a federal judge in Miami approved an IRS summons seeking information on thousands of UBS accounts owned or controlled by U.S. citizens. Negotiations between the U.S., Switzerland and UBS have been at a standstill since then, according to a Justice Department filing.

UBS said in a statement that it expected today's filing.

"UBS believes it has substantial defenses" to the U.S. attempt to enforce the summonses and will "vigorously contest" the case, the bank said in the statement. The bank's objections are based on U.S. laws, Swiss financial privacy laws, and a 2001 agreement between UBS and the IRS, according to the statement.

Roy Smith, a finance professor at New York University's Stern School of Business and a former Goldman Sachs Group Inc. partner, said a UBS loss in the case would be "very bad news" for Swiss banks.

Swiss Secrecy

"If you get to the point where you're able to get information on 52,000 accounts just because they

exist, not because of evidence of a crime, you've gotten rid of Swiss banking secrecy forever," Smith said. "If the European Union follows suit, it'll virtually be the end of secret accounts in Switzerland."

Swiss banks would still get business from Asia, Russia, eastern Europe and Africa, he noted.

The Justice Department accused UBS of conspiring to defraud the U.S. by helping 17,000 Americans hide accounts from the Internal Revenue Service. The U.S. will drop the charge in 18 months if the bank reforms its practices, helps prosecutors and makes payments.

In entering a deferred-prosecution agreement, UBS agreed to a statement of facts that said from 2000 to 2007, it actively helped "U.S. individual taxpayers in establishing accounts at UBS in a manner designed to conceal the U.S. taxpayers' ownership or beneficial interest in said accounts."

Evading Requirements

UBS bankers "facilitated the creation of such accounts in the names of offshore companies, allowing such U.S. taxpayers to evade reporting requirements," according to the statement of facts.

Prosecutors filed a complaint, unsealed yesterday, accusing UBS of conspiring to defraud the U.S. by helping Americans hide accounts from the IRS.

"UBS and its U.S. clients knew that it violated U.S. law for U.S. taxpayers to maintain undeclared accounts with UBS in Switzerland -- whether the accounts held cash or securities," IRS agent Daniel Reeves said in a declaration filed with today's lawsuit.

"UBS had its declared account holders complete a boilerplate declaration swearing that they were unaware that their relationship with UBS could have legal ramifications," Reeves wrote.

UBS gave the IRS "a list of 323 U.S. accounts used to send or receive wire transfers to or from UBS Swiss accounts held in the same name, as well as related account statements for 57 of the 323 U.S. accounts," according to Reeves.

Bank Disclosure

The bank provided the names and account numbers after the U.S. asked the bank to search for wire transfers between accounts within the U.S. and accounts in Switzerland, Reeves wrote. UBS "produced only U.S.-based records, and did not produce any Swiss-based records for these accounts," Reeves said.

Private bankers went to great lengths to hide their clients' identities and assure them of Swiss customs of secrecy, prosecutors said in the criminal complaint filed against UBS. In January 2003, after UBS signed an agreement to share tax information with the IRS, bank managers sent U.S. clients letters saying they had kept client identities secret since 1939.

Some bankers went so far as to develop written codes to hide their communications about U.S. clients' assets, according to court documents filed in today's lawsuit.

In June, U.S. prosecutors secured the guilty plea of a former UBS private banker, Bradley Birkenfeld, who is cooperating with investigators. Another Switzerland-based UBS banker, Raoul Weil, was indicted on a charge that he helped rich Americans evade taxes.

Tax Havens

UBS reaped \$200 million a year in revenue by helping high-income clients through such practices as setting up sham entities in tax havens including Switzerland, Panama, British Virgin Islands, Hong Kong and Liechtenstein, Birkenfeld said in pleading guilty in federal court in Fort Lauderdale.

UBS rose 59 centimes, or 4.8 percent, to 12.8 francs today in trading in Zurich. After falling on news of today's lawsuit, the U.S. listed shares rose 25 cents, or 2.4 percent, to \$10.58 in New York Stock Exchange composite trading at 4:15 p.m.

The case is U.S. v. UBS AG, 09-20423, U.S. District Court, Southern District of Florida (Miami).

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