

Consequences for private banking

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The end of banking secrecy for foreign clients transformed Swiss private banking. Clients with undeclared assets had to regularise them through voluntary disclosure programmes in their home countries, which many countries offered, or to close their accounts. Many clients regularised their assets and kept them in Switzerland. Others moved them to jurisdictions that had not yet implemented the automatic exchange of information, or spent them. The Swiss banks lost part of their foreign assets under management, especially from neighbouring European countries, while they continued to attract assets from clients in emerging markets, in Asia, the Middle East and Latin America, who sought political and economic security.

The banks had to change their business models. Once secrecy had lost its value, their proposition had to rest on the quality of their advice, the performance of their investments, the stability of Switzerland and its currency, the security of their custody and the expertise of their staff in wealth planning for international families. Several smaller private banks, unable to adapt or burdened by the costs of compliance and the penalties of the American programme, were sold or closed. The Basel private banks that survived adapted to the new world by concentrating on tax-compliant clients and on services that justified their fees.

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For the author, who has advised clients on voluntary disclosures and defended them in tax criminal proceedings in Germany, the end of banking secrecy marked a professional turning point. The questions that clients brought to him changed from the protection of their privacy to the regularisation of their past, the management of their exposure to criminal proceedings and the structuring of their wealth in compliance with the tax laws of several countries. The cross-border practice of tax criminal law, which the end of banking secrecy created, connects the lawyers of Germany, Switzerland and other countries in a new field of expertise.

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