

The end of banking secrecy for foreign clients — overview and summary

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Between the summer of 2008 and the autumn of 2018, the Swiss financial centre abandoned a proposition that had shaped its business for most of the twentieth century. That proposition held that a foreign client who deposited money in Switzerland and failed to declare it at home committed a matter for his own tax authority, which Swiss banks, Swiss courts and the Swiss state were neither obliged nor permitted to assist. Within one decade, the Swiss authorities handed the account data of thousands of American clients of UBS to the United States, accepted the international standard on exchange of information upon request, watched the oldest private bank of the country disappear under an American indictment, authorised more than a hundred banks to cooperate with the United States Department of Justice, and finally began to send account data on millions of foreign residents automatically to their home states each year. The end of banking secrecy for foreign clients was therefore a sequence of decisions, each taken under pressure and each presented at the time as the last concession that would be necessary.

Zurich stood at the centre of this sequence. UBS and Credit Suisse, whose head offices face each other on the Paradeplatz, carried the largest American exposures and paid the largest sums. Julius Bär and the Zürcher Kantonalbank, two other pillars of the city's banking landscape, settled their own American cases in 2016 and 2018. The Federal Tax Administration in Berne processed the requests, although the documents, the client advisers and a good part of the legal work that made the transition possible were located in Zurich. The city's law firms, fiduciaries and tax advisers spent the years after 2009 regularising the past of clients from Germany, France, Italy, the United Kingdom and the United States. Much of the present shape of the Zurich private banking industry, with its emphasis on documented tax compliance, its selective approach to cross-border markets and its elaborate client onboarding, dates from these years.

This chapter traces the process in its legal and historical order. It first describes cross-border private banking as it stood before 2008, with the distinction between tax evasion and tax fraud that underpinned it and the withholding tax on interest agreed with the European Union. It then follows the American investigation of UBS, from the plea of a former UBS banker in Florida to the agreement of 2009 and its approval by Parliament in 2010. It examines the decision of the Federal Council of 13 March 2009 to adopt the standard of the Organisation for Economic Co-operation and Development (OECD) on the exchange of tax information, the prosecutions of other banks and the programme under which some eighty Swiss banks resolved their American exposure, the dispute with Germany over purchased data and a withholding tax agreement, the Foreign Account Tax Compliance Act and the automatic exchange of information. The chapter closes with the domestic side of the transformation, with its consequences for Zurich's client base and with the questions that legacy structures still raise for practitioners. The rescue of UBS in 2008, which unfolded in parallel with the American investigation, is the subject of the preceding chapter and is mentioned here only where the two stories touch.

1 Conclusion

The end of banking secrecy for foreign clients was the most profound change in the Swiss financial centre since the adoption of the Banking Act in 1934. It came in stages, each of them forced by external pressure and each accompanied by assurances that the core of the Swiss model would survive. The savings tax agreement of 2004 preserved anonymity at the price of a withholding tax. The UBS settlement of 2009 breached secrecy for a few hundred clients through an emergency order and later for some 4,450 through an agreement that Parliament approved only after a court had declared its original form insufficient. The decision of 13 March 2009 abandoned the distinction between evasion and fraud in relations with other states. The Swiss Bank Program, the prosecutions of Wegelin, Credit Suisse, Julius Bär and the Zürcher Kantonalbank, and the agreements under FATCA extended transparency towards the United States. The automatic exchange of information, applied since 2017 and exchanged since 2018, completed the process for the rest of the world.

Zurich felt these changes more directly than any other Swiss city. Its two big banks paid the largest penalties, and its private banks, its cantonal bank and its community of lawyers and fiduciaries lived through the investigations, the programme and the regularisation of the past. The city's financial centre has nevertheless remained among the leading locations for international wealth management. Its present model rests on declared

assets, on advice across jurisdictions and on the continuing attractions of political stability and legal certainty. The traditional distinction between evasion and fraud survives only in the domestic relationship between Swiss taxpayers and Swiss tax authorities, where Parliament has repeatedly declined to change it.

For practitioners, the legacy of the period lies in the persistence of old structures and old risks. Legacy accounts and entities still come to light, foreign authorities continue to use data received through automatic exchange and group requests, and the Credit Suisse plea of 2025 showed that the past can return long after the business that created it has ended. The Swiss blocking statutes, in particular Articles 271 and 273 of the Criminal Code, require that cooperation with foreign authorities follow official channels, which makes the adviser's task more demanding. The following chapter turns from the confidentiality of client relationships to the solvency of the banks themselves, examining the too big to fail regime that Switzerland adopted in 2011.

2 In five sentences

1. Before 2008, Swiss banking secrecy protected foreign clients because Switzerland granted assistance in tax matters only for tax fraud and treated the non-declaration of assets as an administrative matter outside the scope of international cooperation.
2. The UBS case, which began with the plea of Bradley Birkenfeld in 2008, led to a deferred prosecution agreement of USD 780 million, a FINMA order handing client data to the United States on 18 February 2009 and an agreement on some 4,450 accounts that Parliament approved on 17 June 2010.
3. On 13 March 2009 the Federal Council adopted the OECD standard on the exchange of information upon request, and Switzerland left the OECD grey list in September 2009 after signing twelve revised agreements.
4. Wegelin disappeared after its guilty plea of January 2013, eighty banks paid USD 1.36 billion under the Swiss Bank Program, and Credit Suisse, Julius Bär and the Zürcher Kantonalbank settled separately, with a further Credit Suisse plea following in 2025.

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5. Since 2018 Switzerland has exchanged financial account data automatically with a growing number of partner states, reaching 110 states and about 3.8 million accounts in 2025, while domestic banking secrecy towards Swiss tax authorities has been preserved.

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