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Federal Council enables banks to set about resolving tax dispute with United States

Bern, 29.05.2013 - The Federal Council wants to create the legal basis for resolving the tax dispute with the United States. At its meeting today, the Federal Council approved a corresponding bill for the attention of parliament which enables banks to agree with the US Department of Justice to put the past to rest. The solution chosen will allow legal closure to be achieved without having to enact new legislation with retroactive effect or indeed applying emergency law.

The dispatch on a "Federal Act on Measures to Facilitate the Resolution of the Tax Dispute between Swiss Banks and the United States" is to be dealt with in both chambers during the upcoming summer session in a special procedure, and is to enter into force thereafter. The urgency is due to the fact that the United States is unprepared to wait any longer with the arrangement for the past for Swiss banks. The implementation of the legal provisions is to be restricted to one year.

With the proposed legal basis, the Federal Council is assuming its responsibility in relation to the financial centre, banks and their clients and employees, as well as third parties active in a similar way with regard to such business relationships. If banks were not authorised to cooperate with the US authorities, the initiation of further criminal investigations or charges concerning banking institutions could not be ruled out. The uncertainty for the financial centre would continue to exist.

Putting the past to rest

With the new legal basis, all banks that wish to resolve their relationship with the US authorities will be able to cooperate with the Department of Justice (DoJ) based on a framework specified by the DoJ, thereby enabling them to put the past to rest.

The bill adopted by the Federal Council authorises banks to cooperate with the US authorities and to make available the information necessary to safeguard their interests. This includes in particular information about business relationships concerning US persons and details on people who were involved in the US business of the respective banks. Client data, including account information, is not covered by the authorisation. The disclosure thereof will occur exclusively within the scope of administrative assistance procedures based on a valid double taxation agreement.

Maximum protection for bank employees

The banks that cooperate with the DoJ will be obliged by law to provide maximum protection for their employees. This protection includes the obligation to provide prior information, safeguarding of employees' rights to information, the obligation to provide for employees' welfare under labour law and protection against discrimination and dismissal. The banks and their interest groups will be required by law to conclude an agreement with the relevant employee associations which satisfies these minimum requirements.

Address for enquiries:

Roland Meier, Media Spokesperson FDF
+41 31 322 60 86, roland.meier@gs-efd.admin.ch

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