

Press release

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US client cross-border business: FINMA concludes proceedings against BSI SA

As part of the program launched by the U.S. Department of Justice to settle the tax dispute between Swiss banks and the US, BSI SA is the first bank to announce today its conclusion of a non-prosecution agreement (NPA). In connection with the U.S. client cross-border business conducted by BSI SA, the Swiss Financial Market Supervisory Authority FINMA had initiated enforcement proceedings against the bank. FINMA concluded that the bank breached its obligations to identify, limit and monitor the risks involved in the US client business.

In connection with the US client cross-border business conducted by BSI SA, FINMA had initiated enforcement proceedings against the bank in March 2013, namely before the U.S. Department of Justice (DoJ) publicized its program to settle the tax dispute between Swiss banks and the US in August 2013.

BSI SA breached organisational and business conduct requirements

Enforcement proceedings conducted by FINMA led it to conclude that BSI SA breached its obligations to identify, limit and monitor the risks involved in the US client business. In particular, the bank served a high volume of US clients with undeclared assets. Even after 2009, BSI SA still accepted US clients with untaxed assets from other Swiss banks, thus exposing itself and its employees to unduly high legal and reputational risks and breaching the regulatory requirements for proper business conduct with which financial institutions must comply. FINMA reprimanded the bank and ordered it to implement corrective measures.

First Non-Prosecution Agreement reached with a Swiss bank in the U.S. program

BSI SA is the first bank to reach an agreement with the DoJ as part of the program launched to settle the tax dispute between Swiss banks and the US. FINMA hopes that now case by case each bank participating in category 2 of the US program will reach an agreement with the DoJ to settle their legacies related to US clients subject to US taxation.

FINMA and banks in category 2 of the US program

As announced in November 2013, FINMA recognizes the participation of banks in category 2 of the U.S. program as an appropriate measure in their management of US legal risks. FINMA will therefore normally not initiate any further proceedings against banks in category 2 of the U.S. program that reach an agreement with the DoJ. It will make no further comments on agreements reached between U.S. authorities and individual banks in category 2.

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