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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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September 15, 2021

Yves Mirabaud
Senior Managing Partner
Mirabaud Group
Boulevard Georges – Favon 29
1204 Geneva

Dear Mr. Mirabaud,

I write seeking information regarding Mirabaud Group's ("Mirabaud") compliance with the Foreign Account Tax Compliance Act of 2010 (FATCA). A critical component of federal law to combat tax evasion by U.S. persons holding accounts and other financial assets offshore, FATCA requires foreign financial institutions (FFIs) to report directly to the Internal Revenue Service (IRS) certain information about financial accounts held by U.S. persons.¹

On October 15, 2020, the U.S. Department of Justice (DOJ) indicted American business executive Robert Brockman on 39 counts, including tax evasion, failure to file foreign bank account reports, money laundering and other offenses.² The indictment alleges that Mr. Brockman engaged in a decades-long scheme using a web of offshore entities and secret bank accounts to conceal \$2 billion in income from the IRS and evade paying hundreds of millions of dollars in federal taxes.³ According to the indictment, over the course of two decades Brockman directed billions of dollars in untaxed capital gains income earned as a result of his investments in private equity firm Vista Equity Partners (Vista) to undeclared bank accounts in Bermuda and Switzerland.⁴ As it stands, the allegations against Brockman represent the largest tax evasion case brought against an individual in U.S. history.

According to federal court records, Brockman used several undeclared bank accounts at Mirabaud in furtherance of the alleged tax evasion scheme. The indictment identified several significant transactions linked to untaxed proceeds from Brockman's investments in Vista funds involving accounts at Mirabaud, including deposits of approximately \$799 million in 2010, \$80 million in 2013

¹ 26 U.S.C. § 1471

² *CEO of Multibillion-dollar Software Company Indicted for Decades-long Tax Evasion and Wire Fraud Schemes*, U.S. Department of Justice, Oct. 15, 2020, <https://www.justice.gov/opa/pr/ceo-multibillion-dollar-software-company-indicted-decades-long-tax-evasion-and-wire-fraud>

³ Id.

⁴ Id.

and approximately \$41 million to 2016.⁵ It appears that Brockman failed to disclose his financial interest in and control over accounts at Mirabaud to the U.S. Department of the Treasury and IRS as required by law for almost a decade.⁶ Public reports further indicate that Swiss prosecutors recently froze \$950 million held by Brockman in bank accounts at Mirabaud.⁷

These revelations raise important questions regarding Mirabaud's compliance with FATCA and whether Mirabaud reported the existence of Brockman's accounts to the IRS. Additionally, this calls into question Mirabaud's decision not to participate in the U.S. DOJ's Swiss Bank Program, which provided Mirabaud the opportunity to voluntarily provide U.S. authorities detailed information on an account-by-account basis for accounts in which U.S. taxpayers have a direct or indirect interest.⁸ I am deeply concerned by the duration and scale of this alleged tax evasion scheme, particularly the ability to hide billions of dollars offshore from the IRS for such an extended period of time, including at accounts at Mirabaud.

As you are aware, FATCA explicitly requires FFIs to report to the IRS information about financial accounts held by U.S. taxpayers, including the names of account holders, account numbers and account balances or values. The failure to do so can result in a 30 percent withholding tax on certain payments from U.S. sources to FFIs. According to public records kept by the IRS, ten Mirabaud entities have registered as an FFI with the IRS and agreed to adhere to the requirements set forth by FATCA. These reporting requirements explicitly include accounts of U.S. persons that were both preexisting and new clients accounts opened after FATCA legally went into effect.

Additionally, it appears the Swiss Federal Tax Administration (FTA) ordered Mirabaud to cooperate with requests from the IRS for FATCA information involving U.S. clients.⁹ Mirabaud is reportedly one of twelve Swiss financial institutions that were ordered to provide FATCA information to the IRS by the FTA after the Swiss government received a request for administrative assistance by the IRS.¹⁰

As Chairman of the United States Senate Finance Committee, which has oversight jurisdiction of matters pertaining to federal taxation and the IRS, I believe it is fundamentally important to understand the methods by which high net worth individuals evade federal taxes by failing to disclose income. In order to better understand Mirabaud's compliance with FATCA and the circumstances surrounding potentially the largest individual tax evasion scheme in U.S. history, please provide answers to the following questions no later than October 1, 2021:

⁵ *U.S. v. Brockman*, 3:20-cr-00371-WHA, Indictment at 11, 17 and 36 (Doc., #1) (U.S. District Court Northern District of California, Oct. 1, 2020), available online at <https://www.justice.gov/opa/press-release/file/1327921/download>

⁶ *U.S. v. Brockman*, 3:20-cr-00371-WHA, Indictment at 11, 17 and 36 (Doc., #1) (U.S. District Court Northern District of California, Oct. 1, 2020), (Counts Ten, Eleven, Twelve, Thirteen and Fourteen in indictment allege failure to file a foreign bank account registration (FBAR) by Brockman for accounts held at Mirabaud for tax years 2014 – 2018)

⁷ *Swiss Freeze More Than \$1 Billion Held by Tech Mogul Robert Brockman*, Bloomberg News Wire, Nov. 6, 2020, <https://www.bnnbloomberg.ca/swiss-freeze-more-than-1-billion-held-by-tech-mogul-robert-brockman-1.1518568>

⁸ *Swiss Bank Program*, U.S. Department of Justice, updated October 28, 2020, <https://www.justice.gov/tax/swiss-bank-program>

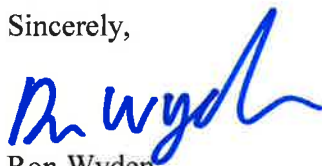
⁹ *Switzerland orders 12 banks to comply with FATCA*, International Adviser, Dec. 8, 2020, <https://international-adviser.com/switzerland-orders-12-banks-to-comply-with-fatca/>

¹⁰ *Id.*

1. At any point while Robert Brockman maintained accounts at Mirabaud, did Mirabaud report the existence of Brockman's accounts to the IRS? If so, did Mirabaud also report account numbers and account balances or values to the IRS?
2. Please describe what steps were taken while Brockman was a client at Mirabaud to ensure compliance with FATCA, including efforts to disclose Brockman's accounts to the IRS as part of any FATCA agreements Mirabaud or its subsidiaries entered into with the IRS.
 - a. Please also describe what steps were taken to verify Brockman's status as a U.S. citizen and taxpayer, including requesting forms W-9, W-8 or any other documentation as appropriate.
3. During Brockman's time as a Mirabaud client, did any Mirabaud representatives ever seek to verify with Brockman if he had filed foreign bank account registrations (FBAR) as he was required to by U.S. law? If so, please describe what documentation, if any, Mirabaud representatives requested from Brockman to confirm that he had in fact filed the requisite FBARs.
4. Please describe what steps Mirabaud takes to ensure that accounts where U.S. taxpayers hold a substantial ownership interest are FATCA compliant, including the type of information Mirabaud requests from clients that are U.S. persons.
5. Please describe any FATCA agreements Mirabaud and any of its subsidiaries have entered into with the IRS. Please also include steps Mirabaud takes to ensure that all accounts where U.S. taxpayers hold a substantial ownership interest are properly reported to the IRS.
6. Please provide a detailed explanation related to Mirabaud's decision to not participate in the DOJ's Swiss Bank Program.
7. Has Mirabaud declared all accounts involving U.S. persons to the IRS as required by FATCA? What actions has Mirabaud taken to ensure that all accounts required to be declared have been declared? Please also describe efforts being taken by Mirabaud to close recalcitrant accounts where account holders are refusing to fully come into compliance and disclose all required information to U.S. authorities.

Thank you for your attention to this important matter.

Sincerely,



Ron Wyden
Chairman
Committee on Finance