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United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

JOSHUA SHEINKMAN, STAFF DIRECTOR
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May 18, 2023

Mr. Guy de Picciotto
CEO
Union Bancaire Privée, UBP SA
96-98, rue du Rhône
PO Box 1320
CH-1211 Geneva
Switzerland

Dear Mr. de Picciotto:

In March, the Senate Finance Committee (“the Committee”) published a report detailing the findings of a two-year investigation into Credit Suisse’s compliance with its 2014 plea agreement with the U.S. Department of Justice (DOJ) for enabling tax evasion by thousands of wealthy U.S. individuals.¹ That report uncovered major violations of Credit Suisse’s plea agreement, including a previously unknown, ongoing and potentially criminal conspiracy involving the failure to disclose nearly \$100 million in secret offshore accounts belonging to a single family of dual U.S. – Latin American nationals (“the family”). The Committee stated in its report that some of these funds were secretly transferred to Union Bancaire Privée, UBP SA (“UBP”) by Credit Suisse and members of the family. I write seeking information to better understand the circumstances surrounding the transfer of the family’s funds from Credit Suisse to UBP, and UBP’s compliance with its own non-prosecution agreement with DOJ.

As detailed in the report, during the course of the Committee’s investigation, confidential informants contacted Committee investigators with claims that Credit Suisse failed to properly disclose offshore accounts worth nearly \$100 million held at Credit Suisse by the family. The informants also claimed Credit Suisse employees conspired to help the family conceal the money from the U.S. Internal Revenue Service using several tactics, including intentionally concealing the family’s U.S. citizenship on Credit Suisse internal account paperwork. The Committee’s investigation corroborated these claims.

The Committee’s report also states that in 2012 and 2013, Credit Suisse employees assisted the family in transferring nearly \$100 million out of Credit Suisse to other banks. As

¹ *Credit Suisse’s Role in U.S. Tax Evasion Schemes*, U.S. Senate Finance Committee, Chairman Ron Wyden, Mar. 29, 2023, <https://www.finance.senate.gov/download/sfc-credit-suisse-report-final-32923>.

part of this scheme, the family transferred tens of millions of dollars to two Swiss banks, one of which was UBP. It appears that the members of the family did not disclose the existence of the accounts to U.S. authorities, as required by U.S. law.

As you are aware, the Foreign Account Tax Compliance Act² (FATCA) requires foreign financial institutions to use intensive due diligence procedures to determine whether accounts they maintain belong to U.S. persons and to annually report extensive information about accounts held by U.S. persons.³ In addition, UBP entered into a non-prosecution agreement as part of its participation in the DOJ's Swiss Bank Program.⁴ UBP acknowledged that it "aided and assisted U.S. clients in opening and maintaining undeclared accounts in Switzerland and concealing the assets and income they held in these accounts" and agreed to "stop misconduct involving undeclared U.S. accounts and pay a penalty in return for the department's agreement not to prosecute UBP for tax-related criminal offenses."⁵ UBP also agreed to fully comply with this agreement and cease any further facilitation of tax evasion by U.S. persons.

FATCA and the DOJ non-prosecution agreement required UBP to abide by the *Agreement between the United States of America and Switzerland for Cooperation to Facilitate the Implementation of FATCA* ("US – Switzerland IGA"), including *Enhanced Review Procedures for Preexisting Individual Accounts With a Balance or Value That Exceeds \$1,000,000*.⁶ The US – Switzerland IGA also explicitly counsels that a "Reporting Swiss Financial Institution may not rely on a self-certification or documentary evidence if the Reporting Swiss Financial Institution knows or has reason to know that the self-certification or documentary evidence is incorrect or unreliable."⁷

In 2020, UBP signed an addendum to its original non-prosecution agreement.⁸ In signing the addendum, UBP acknowledged "that there were additional U.S.-related accounts that it knew about, or should have known about, but that were not disclosed to the Department at the time of the signing of the non-prosecution agreement."⁹

² Pub. L. No. 111-147, 124 Stat. 97-117.

³ I.R.C. §1471(c)(1).

⁴ *Union Bancaire Privée, UBP SA, DOJ Swiss Bank Program – Category 2, Non-Prosecution Agreement*, Jan. 6, 2016, <https://www.justice.gov/opa/file/811061/download>.

⁵ *Justice Department Announces Resolution under Swiss Bank Program with Union Bancaire Privée, UBP SA*, U.S. Department of Justice, Jan. 6, 2016, <https://www.justice.gov/opa/pr/justice-department-announces-resolution-under-swiss-bank-program-union-bancaire-priv-e-ubp-sa>.

⁶ *Agreement between the United States of America and Switzerland for Cooperation to Facilitate the Implementation of FATCA, Annex I, Section II(D), Enhanced Review Procedures for Preexisting Individual Accounts With a Balance or Value That Exceeds \$1,000,000 as of December 31, 2013, or December 31 of Any Subsequent Year ("High-Value Accounts")*, <https://home.treasury.gov/system/files/131/FATCA-Agreement-Switzerland-2-14-2013.pdf>.

⁷ *Agreement between the United States of America and Switzerland for Cooperation to Facilitate the Implementation of FATCA, Annex I, Section VI(A), Reliance on Self-Certifications and Documentary Evidence*, <https://home.treasury.gov/system/files/131/FATCA-Agreement-Switzerland-2-14-2013.pdf>.

⁸ *Addendum to the Non-Prosecution Agreement*, Jan. 2, 2020, <https://www.justice.gov/opa/press-release/file/1231336/download>.

⁹ *Justice Department Announces Addendum to Swiss Bank Program Category 2 Non-Prosecution Agreement with Union Bancaire Privée, UBP SA*, U.S. Department of Justice, Jan. 2 2020, <https://www.justice.gov/opa/pr/justice-department-announces-addendum-swiss-bank-program-category-2-non-prosecution-agreeme-2>.

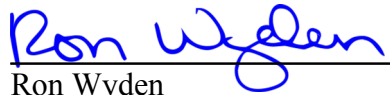
In order to better understand the circumstances surrounding the transfer of the family's funds and UBP's compliance with U.S. tax laws, please provide the following information:

1. Were any members of the family of dual U.S. – Latin American nationals described in the Committee's report ever clients of UBP? If so, for each family member that was a client, please describe:
 - a. the date the family member became a client;
 - b. the nationality recorded for the family member at onboarding;
 - c. whether or not the family member is currently a client; and,
 - d. the maximum total value of assets under management in the family member's combined accounts, during each year they were a client.
2. If any of the family members were a client at any time, did UBP, or any of its employees, have knowledge that the family members were American citizens prior to the publication of the Committee's report?
 - a. If so, provide a detailed description of the extent to which UBP employees were aware the family members were U.S. citizens and when UBP employees first became aware the account holders were U.S. citizens.
 - b. Did UBP ever report the existence of these accounts to the U.S. Internal Revenue Service, Department of Justice or other U.S. government entity?
 - c. If the accounts were reported, please describe the report including details of when, how, and to what U.S. government entity the report was made.
3. If any of the family members were a client at any time, after the publication of the Committee's report did UBP initiate a review of the due diligence procedures used, including those required by its non-prosecution agreement and FATCA, to onboard the family members?
 - a. If so, please describe this review and any findings it has produced.
4. Were any of the family members still a client at the time the Committee's report was published?
 - a. If so, did UBP report information about the relevant accounts to the U.S. Internal Revenue Service, Department of Justice or other U.S. government entity?
 - b. Please describe any disclosure made to U.S. government entities related to the family members after the publication of the Committee's report.
5. Please describe UBP's customer due diligence procedures, including in particular any methods and practices in place to identify U.S. or dual U.S. citizen clients, or clients with a significant U.S. nexus, and any special considerations made by the bank when transacting with such clients.
6. The Committee's report identifies an employee of Credit Suisse, Jeffrey Lautz, who traveled to Miami to meet with the family personally while he was an employee of Credit Suisse, and worked on behalf of the Family to help them transfer assets out of Credit Suisse. Lautz's public LinkedIn profile indicates he worked at UBP after leaving Credit Suisse.

- a. During what time period, if any, was Jeffrey Lautz an employee of UBP and what was his title?
- b. If any of the family members were a client at any time, did Jeffrey Lautz play any role, as an employee of UBP or otherwise, in the establishment of their relationship with UBP?
- c. If any of the family members were a client at any time and if Jeffrey Lautz was an employee of UBP at any time, please describe what role, if any, Mr. Lautz had in relation to the Family's accounts.

I ask that you provide the requested information as soon as possible but no later than June 1, 2023. If you have any questions, you may contact my Senate Finance Committee oversight staff at 202-224-4515. Thank you for your prompt attention to this important matter.

Sincerely,



Ron Wyden
United States Senator
Chairman, Committee on
Finance