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## United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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April 27, 2021

The Honorable Merrick Garland  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue N.W.  
Washington, D.C. 20530

Dear Attorney General Garland:

I write to request information regarding a plea agreement Credit Suisse Group AG (Credit Suisse) signed with the U.S. Department of Justice (DOJ) following its participation in a conspiracy to assist thousands of wealthy U.S. citizens in hiding assets in offshore accounts in order to evade U.S. taxes.<sup>1</sup> I also seek information related to statements regarding this matter made by Credit Suisse executives in sworn testimony before members of the United States Senate.<sup>2</sup>

In May of 2014 Credit Suisse entered into a plea agreement with the DOJ. As part of the plea agreement, Credit Suisse admitted that for decades prior to and through 2009 it “operated an illegal cross-border banking business that knowingly and willfully aided and assisted thousands of U.S. clients in opening and maintaining undeclared accounts and concealing their offshore assets and income” from the Internal Revenue Service (IRS).<sup>3</sup> As part of this plea agreement, Credit Suisse agreed to pay a fine of approximately \$1.3 billion, the lowest end of the Guideline Fine Range, in exchange for its full cooperation with the DOJ and a commitment to “promptly disclose all evidence and information described in Sections II.D.1. and II.D.2 of the *Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks* and in the format requested by the United States.”<sup>4</sup>

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<sup>1</sup> *Plea Agreement, United States v. Credit Suisse AG*, No. 1:14cr188 (E.D. Va. Sep. 29, 2014); *Statement of Facts*, 2, *United States v. Credit Suisse AG*, No. 1:14cr188 (E.D. Va. Sep. 29, 2014).

<sup>2</sup> S. Hrg. 113–397, *Offshore Tax Evasion: The Effort to Collect Unpaid Taxes on Billions in Hidden Offshore Accounts*, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, Feb. 26, 2014.

<sup>3</sup> *Statement of Facts*, 2–3, *United States v. Credit Suisse AG*, No. 1:14cr188 (E.D. Va. Sep. 29, 2014).

<sup>4</sup> *Plea Agreement*, 3, 5, *United States v. Credit Suisse AG*, No. 1:14cr188 (E.D. Va. Sep. 29, 2014); *Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks*, Department of Justice, Aug. 29, 2013, [<https://www.justice.gov/tax/file/631356/download>].

Credit Suisse further agreed that it would “close any and all accounts of recalcitrant account holders [. . . , would] implement procedures to prevent its employees from assisting recalcitrant account holders [from engaging] in acts of further concealment in connection with closing any account or transferring any funds; and [would] not open any U.S. Related Accounts [. . . ] except on conditions that ensure that the account [would] be declared to the United States and [would] be subject to disclosure by Credit Suisse AG.”<sup>5</sup> The plea agreement is expressly contingent on Credit Suisse’s performance of all of its material obligations as set forth in the plea agreement, and specifies that if Credit Suisse should fail to fully perform its obligations, the “agreement not to further prosecute shall be null and void.”<sup>6</sup>

Public reports and federal court documents raise important questions as to whether Credit Suisse has fully complied with its plea agreement, including the bank’s failure to disclose over \$200 million in undeclared assets it held in offshore accounts for U.S. client Dan Horsky. In 2016, Mr. Horsky pled guilty to conspiring to defraud the United States and to submitting false documents to the IRS, and, in 2017, he was sentenced to seven months in prison.<sup>7</sup> Mr. Horsky’s sentence was based, in part, on a filing by the DOJ that detailed how employees of Credit Suisse (identified in the filing as “International Bank”) helped Mr. Horsky go “deep[] into the shadows to conceal his ownership of his foreign financial accounts from U.S. authorities.”<sup>8</sup>

Public reports also suggest that a whistleblower informed the DOJ of Mr. Horsky’s undisclosed assets in July 2014 and also alleged that Credit Suisse had continued to conceal assets held by Mr. Horsky and other U.S. account holders after May 2014.<sup>9</sup> In addition, the case against Mr. Horsky reportedly led to a separate investigation of Credit Suisse by the DOJ to assess whether Credit Suisse’s failure to disclose Mr. Horsky’s accounts was willful or could be attributed to a lapse in controls. It appears Mr. Horsky cooperated with this investigation.<sup>10</sup>

In light of these reports, I seek to verify the accuracy of statements made by Credit Suisse executives in sworn testimony before the Permanent Subcommittee on Investigations of the U.S. Senate Committee on Homeland Security and Governmental Affairs. In February 2014, Credit Suisse CEO Brady Dougan testified that “we feel the combination of the steps we have taken, with the waiver, with the full implementation of the projects that we have laid out, with FATCA,

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<sup>5</sup> *Plea Agreement*, 6, *United States v. Credit Suisse AG*, No. 1:14cr188 (E.D. Va. Sep. 29, 2014).

<sup>6</sup> *Id.* at 9.

<sup>7</sup> *Former University Business Professor sentenced to Prison for Hiding over \$220 Million in Offshore Banks*, Department of Justice, Feb. 10 2017, [<https://www.justice.gov/opa/pr/former-university-business-professor-sentenced-prison-hiding-over-220-million-offshore-banks>].

<sup>8</sup> *Position of the United States With Respect to Sentencing*, 7, *United States v. Horsky*, No. 1:16cr224 (E.D. Va. Feb 10, 2017).

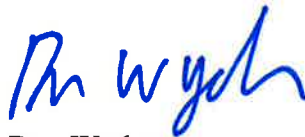
<sup>9</sup> *Whistle-Blower Says Credit Suisse Helped Clients Skip Taxes After Promising to Stop*, NEW YORK TIMES, Mar. 13, 2021, [<https://www.nytimes.com/2021/03/13/business/whistle-blower-credit-suisse-taxes.html>] (“In the interview, Mr. Neiman, the whistle-blower’s lawyer, said that in July 2014, after the plea deal was signed and as Credit Suisse awaited its final sentencing, he told officials at the tax division of the Justice Department and federal prosecutors who had worked on the case that his client had information that the bank had continued to cloak money held by some U.S. account holders. He gave them one name in particular — Dan Horsky, the retired business professor, who lived in Rochester, N.Y.”).

<sup>10</sup> *Credit Suisse Probe Opens Old Wounds*, WALL STREET JOURNAL, Feb. 23, 2017, [<https://www.wsj.com/articles/credit-suisse-under-investigation-for-aiding-tax-evasion-at-israeli-unit-1487807226>].

will allow us to be 100 percent compliant with those requirements around the U.S. taxpayer.”<sup>11</sup> Credit Suisse General Counsel Romeo Cerutti similarly asserted that “we have put all the FATCA requirements in place, so we are really looking at whether someone is a U.S. person from a tax perspective.”<sup>12</sup> Mr. Dougan reiterated, “we will be completely compliant going forward with FATCA.”<sup>13</sup> The Foreign Account Tax Compliance Act<sup>14</sup> (FATCA) generally requires foreign financial institutions to determine whether accounts they maintain belong to U.S. persons and annually report to the IRS detailed information about accounts held by such U.S. persons, subject to certain withholding requirements and penalties for noncompliance.<sup>15</sup>

In order to better understand Credit Suisse’s compliance with its plea agreement and the circumstances surrounding the disclosure of Mr. Horsky’s hidden offshore assets to the U.S. government, I request that the DOJ provide Committee staff with a briefing about these matters no later than May 11, 2021. 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 matter.

Sincerely,



Ron Wyden  
Chairman  
Committee on Finance

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<sup>11</sup> S. Hrg. 113–397, *Offshore Tax Evasion: The Effort to Collect Unpaid Taxes on Billions in Hidden Offshore Accounts*, 35, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, Feb. 26, 2014.

<sup>12</sup> *Id.* at 26.

<sup>13</sup> *Id.* at 45–46.

<sup>14</sup> Pub. L. No. 111-147, 124 Stat. 97-117.

<sup>15</sup> I.R.C. §1471.