

Pressure builds on bank secrecy

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Alpine banking secrecy might be viewed by Washington, Berlin and London as incompatible with their crusade to crack down on tax dodging but, for the Swiss, it is a guiding principle of their nationhood.

James Nason, a spokesman for the Swiss Banking Association trade body, said: "A state that demands an automatic right of forced entry into bank accounts has a toxic relationship with its citizens and is basically telling them it doesn't trust them an inch but is corroded with suspicion about their financial activities."

The SBA and Swiss politicians are proud to cite why the original 1934 piece of legislation enshrining banking secrecy into law – Article 47(b) of the Banking Law – was enacted. It was designed, proponents argue, to stop attempts by the Nazis to investigate the assets of Jews and "enemies of the state" held in Switzerland.

This legislation, and Switzerland's tradition of neutrality during the wars that used to ravage Europe, has led to its reputation as a haven for family fortunes.

More than 70 years after secrecy was introduced the Swiss still hold the concept sacred, but the country's bankers are nervous about its future. So much so that some are telling clients from countries outside Switzerland to declare their monetary affairs to appropriate tax officials or take their money elsewhere.

Credit Suisse started the process last month, when it said it would hand over the names of clients holding French securities to the French markets authority, according to reports in the Swiss press.

Analysts believe Credit Suisse fears a more belligerent stance from the Nicolas Sarkozy government in Paris towards offshore accounts, and is acting now to avoid expected problems later.

HSBC's Swiss private banking unit has since asked clients and independent money managers to surrender their right to banking secrecy protection in order to keep securities invested in 28 countries, according to the Swiss press.

HSBC has also "strongly recommended" that independent money managers renounce banking secrecy for clients who want to invest in the US, Germany, the UK, Russia, Singapore and seven other markets. Regulators in those countries can request investor identities, the bank said.

Other banks in Switzerland are understood to be writing similar letters to their clients asking for disclosure. One leading lawyer said: "There is a sudden realisation that things are changing. Banks should realise the world is moving towards a declared tax one and away from an undeclared one."

HSBC, Credit Suisse and the others are afraid Swiss politicians might be pressured into too many compromises on banking secrecy because of rising pressure from the G20 members and the Paris-based Organisation for Economic Co-operation and Development. They point to concessions already made.

Since the OECD printed its "grey list" of tax havens last April, which included Switzerland, the country's politicians have signed several tax information exchange agreements, including deals with the US and French authorities.

To be removed from the list, Switzerland and other large offshore centres must sign at least 12 bilateral tax treaties in which they offer to exchange information in tax evasion matters. Swiss politicians say they want to be off the list by the end of the year.

The protracted dispute between the US Department of Justice and UBS worries them even more. The US Department of Justice is demanding information on 52,000 offshore UBS accounts held by US citizens, after agreeing to reach a \$780m (€558m) settlement over criminal charges with the bank in March.

Legal analysts believe that if UBS is forced to back down and hand over information on the accounts, banking secrecy would be severely undermined.

Jay Krause, a partner at law firm Withers, said: "This would mean the Internal Revenue Service in the US would be able to issue John Doe Summons, allowing it to obtain information about people whose identities are unknown to the IRS."

Krause and other legal analysts reckon the Swiss authorities will agree to bilateral tax agreements, which allow investigations of individual client accounts when there is a suspicion of fraud, but not allow so-called "fishing trips" by external tax authorities, or a "John Doe measure".

Last week, Swiss politicians said they would step in to stop UBS giving account information to the US authorities.

The Government said in a statement: "Switzerland will use its legal authority to ensure that the bank cannot be pressured to transmit the information illegally, including if necessary by issuing an order taking effective control of the data at UBS."

As the temperature rises on the banking secrecy debate, a few wealth managers are beginning to see opportunities among all the confusion surrounding the issue, as large banks pull back from sensitive areas. Liechtenstein-based wealth manager Kaiser Ritter Partners is offering accounts for US offshore assets that will be tax-compliant with the IRS.

The initiative has the backing of the IRS, and the wealth manager will use an agreement and a dedicated contact desk at the IRS to process voluntary disclosures of untaxed assets.

Fritz Kaiser, executive chairman of Kaiser Ritter Partner Group, said: "The financial services sector in Switzerland and Liechtenstein stands on the brink of a new era.

"We want to maintain a strong banking confidentiality regime to protect people's privacy, but we must be quick to offer internationally tax-compliant services."