Swiss Agree On Penalties For Banks That Aid Tax Evaders

The U.S. Justice Department signed an agreement with the Swiss government to allow some Swiss banks to avoid or defer prosecution stemming from a long-running probe of tax dodging by Americans using Swiss bank accounts. The Swiss banks that seek to avoid prosecution faced penalties of as much as 50 percent of the value of those assets,

Hundreds of Swiss banks could be covered by a US-Swiss accord. The US will continue criminal probes of 14 banks while allowing others to avoid prosecution by paying penalties and disclosing secret accounts.

The settlement program will apply to about 100 second-tier Swiss banks, bu will be open only to banks not already under U.S. criminal investigation.

The deal is a step forward in a three-year U.S. effort to pierce the shroud of Swiss bank secrecy. Details of the program raise questions about its potential for rooting out U.S. tax evaders, tax lawyers watchdog groups warned.

The pact lets Switzerland, the world's largest offshore financial center with about $2.2 trillion of assets, resolve talks spanning two years. Under continuing investigation are Credit Suisse Group AG, the second-largest Swiss bank; HSBC Holdings Plc, the largest European bank; and Julius Baer Group Ltd.

The Justice Department and Internal Revenue Service have pursued taxpayers and bankers that set up secret accounts after the UBS deferred-prosecution deal was announced in February 2009. The accord reflects increasing penalties after that time for banks that seek to avoid prosecution.

After the Swiss government announced the settlement, the Swiss Bankers Association said: "The program enables all banks in Switzerland to settle their U.S. past quickly and conclusively and creates the necessary legal certainty."

Since then, 38,000 U.S. taxpayers avoided prosecution by voluntarily disclosing offshore accounts to the IRS and detailing the bankers, lawyers and advisers who helped them. The new accord provides a pathway for the U.S. to acquire vast new troves of data about hidden accounts, their U.S. owners, and the offshore enablers who established and managed them.

"The program will give us yet more information to pursue U.S. taxpayers who are continuing to hide their assets in offshore accounts, and creates significant risks for those Swiss banks that fail to come forward," Kathryn Keneally, assistant attorney general in the Justice Department's tax division, said in the statement.

"The Swiss have finally decided to deal with the issue of creating an exception to Swiss bank secrecy by employing an administrative procedure to avoid legal challenges and a public referendum, which could otherwise defeat any settlement," said Milan Patel, a former IRS trial attorney who is now a partner at Zurich-based law firm Anaford AG. "It also avoids the long diplomatic procedures."

The U.S. Senate has yet to ratify a 2009 protocol revising the 1996 accord to make it easier for Swiss banks to hand over data on clients suspected of tax evasion to the IRS.