PRESS RELEASE

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Justice Department Announces EFG Bank European Financial Group SA, Geneva, and EFG Bank AG Reach Joint Resolution Under Swiss Bank Program

The Department of Justice announced today that EFG Bank European Financial Group SA, Geneva (EFG Group), and EFG Bank AG (EFG Bank) reached a joint resolution under the department's Swiss Bank Program. EFG Group and EFG Bank (collectively EFG) will pay a penalty of more than $29 million.

"The data we've collected to date through the agreements as part of the Swiss Bank Program has already uncovered more banks, more facilitators and more account holders," said Chief Richard Weber of IRS-Criminal Investigation (CI). "Noncompliant account holders who believe their funds are still hidden will find that simply is not true. With each agreement signed, the probability that these criminals will be found grows even more certain. CI and our partners will vigorously pursue those who hide offshore accounts and those who aided this illegal activity."

"The Tax Division continues to receive detailed information regarding U.S. accountholders, the methods they used to conceal their foreign accounts and the individuals and entities that assisted in this criminal conduct," said Acting Assistant Attorney General Caroline D. Ciraolo of the Justice Department's Tax Division. "Today's agreement makes clear that our focus extends well beyond Switzerland, and to those who fled Swiss accounts to hide in other foreign financial institutions – we are right on your trail."

The Swiss Bank Program, which was announced on Aug. 29, 2013, provides a path for Swiss banks to resolve potential criminal liabilities in the United States. Swiss banks eligible to enter the program were required to advise the department by Dec. 31, 2013, that they had reason to believe that they had committed tax-related criminal offenses in connection with undeclared U.S.-related accounts. Banks already under criminal investigation related to their Swiss-banking activities and all individuals were expressly excluded from the program.

Under the program, banks are required to:

- Make a complete disclosure of their cross-border activities;
- Provide detailed information on an account-by-account basis for accounts in which U.S. taxpayers have a direct or indirect interest;
- Cooperate in treaty requests for account information;
- Provide detailed information as to other banks that transferred funds into secret accounts or that accepted funds when secret accounts were closed;

- Agree to close accounts of accountholders who fail to come into compliance with U.S. reporting obligations; and

- Pay appropriate penalties.

Swiss banks meeting all of the above requirements are eligible for a non-prosecution agreement.

According to the terms of the non-prosecution agreement signed today, EFG agrees to cooperate in any related criminal or civil proceedings, demonstrate its implementation of controls to stop misconduct involving undeclared U.S. accounts and pay a penalty in return for the department's agreement not to prosecute this bank for tax-related criminal offenses.

EFG Group is a holding company and Swiss bank based in Geneva, Switzerland, which is owned by European Financial Group EFG (Luxembourg) SA. EFG Group is the direct and controlling shareholder of EFG International AG, which is a holding company. EFG Bank, which is headquartered in Zurich, Switzerland, and has another Swiss office in Geneva, is the main Swiss private banking subsidiary of EFG International AG. EFG Bank also has representative offices and branches in Asia and the Americas. In 2003, EFG Bank acquired the Geneva-based bank Banque Édouard Constant (BEC). While EFG Group and EFG Bank are participating jointly in the Swiss Bank Program, these two EFG banks are separate legal entities with distinct management and board control.

Until 2013, EFG conducted a U.S. cross-border banking business that aided and assisted certain of its U.S. clients in opening and maintaining undeclared accounts in Switzerland and concealing the assets and income they held in these accounts from the U.S. government. EFG offered a variety of traditional Swiss banking services that it knew could assist, and did in fact assist, U.S. clients in the concealment of assets and income from the IRS.

Certain EFG Bank private bankers based in Switzerland traveled to the United States approximately two to three times per year until July 2008. At least 72 business trips to the United States took place in connection with seven EFG Bank private bankers between 2005 and 2013. Private bankers from EFG Bank conducted meetings with clients in the United States in Arizona, California, Connecticut, Florida, Georgia, Illinois, Massachusetts, Nevada, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Washington, Wisconsin and Washington, D.C.

One EFG Bank private banker had an established third-party client referral model for U.S. clients that involved two lawyers in the United States, one U.S. accountant and one Swiss fiduciary company. At least one member of EFG's senior management approved and supported this private banker's relationship with one of the two U.S. lawyers. This same U.S. lawyer asked the EFG private banker not to travel into the United States with a computer and requested that they communicate about U.S. taxpayer clients through faxes rather than email. The EFG private banker responded, "[R]ight – next travel I travel will take no computer with me – I will then buy me one at BestBuy and leave it there for use when I am travelling. So I never will cary [sic] a computer over the border."

In 2001, EFG entered into a Qualified Intermediary Agreement (QI Agreement) with the Internal Revenue Service (IRS). The Qualified Intermediary regime provided a comprehensive framework for U.S. information reporting and tax withholding by a non-U.S. financial institution with respect to U.S. securities. The QI Agreement required EFG to obtain IRS Forms W-9 and to undertake IRS Form 1099 reporting for new and existing U.S. clients engaged in U.S. securities transactions. Notwithstanding this requirement, EFG chose to continue to service U.S. clients without disclosing their identity to the IRS. In September 2009, a member of EFG Bank's management discussing its decision to require Forms W-9 from its U.S. clients said that "[t]he intention of the Bank is to cover its back with the IRS, but when clients remitted their W9, I was told that [EFG private bankers] comforted clients by telling them that the Bank will not declare anything systematically to the IRS." Until June 2013, EFG requested but did not require all of its U.S. clients to provide a signed IRS Form W-9 and to confirm whether their accounts were disclosed to the IRS.

In EFG's view, the QI Agreement did not apply to accountholders who were not trading in U.S.-based securities or to accounts that were nominally structured in the name of a non-U.S.-based entity. For

example, when asked in July 2007 whether an account should be considered a U.S. account if the new corporate account is in the name of a Panama company that was in reality beneficially owned by a U.S. resident, a manager advised that the "account is non-us [sic] for withholding tax QI purposes." The same manager was asked in March 2008 by an EFG Bank private banker what could be offered to a U.S. couple residing in Mississippi who wanted to open two accounts for $1 million each, and the manager responded, "[i]f they're declared, they can open in their name and sign W9. If not, suggest they use a pic [private investment company]."

While EFG did not provide direct structuring services to U.S. clients, EFG private bankers and members of EFG's management suggested the use of structures for EFG's U.S. clients and provided referrals to third-party service providers. External trust companies created and administered offshore structures incorporated or based in offshore locations such as the British Virgin Islands, Panama and Liechtenstein for certain of EFG's U.S. clients.

EFG also serviced certain U.S. clients with undeclared accounts held in the names of insurance companies and not the actual beneficial owner of the funds, known colloquially as an insurance wrapper. Insurance wrappers were marketed by third-party providers in the wake of the UBS investigation as a means of disguising the beneficial ownership of U.S. clients. These particular accounts were all held in the name of insurance providers. By the operation of Swiss bank secrecy laws, the U.S. client's ownership would not be disclosed to U.S. authorities, including the IRS.

In connection with some of the accounts that U.S. clients created and opened in the name of sham offshore entities and insurance wrappers, certain EFG employees suggested, accepted and included in EFG's account records IRS Forms W-8BEN (or EFG's substitute forms) provided by the directors of the offshore companies that falsely represented under penalty of perjury that such companies were the beneficial owners, for U.S. federal income tax purposes, of the assets in the accounts. These false Forms W-8BEN were maintained in EFG's files at the same time as the Swiss Forms A that accurately and truthfully represented the true beneficial owners of the assets in the accounts.

Certain accounts were closed at EFG, since Aug. 1, 2008, in such a way that EFG assisted its U.S. clients in continuing to conceal the assets and income they held at EFG in Switzerland from the IRS. EFG, including senior management in certain instances, assisted U.S. clients with retaining undeclared assets at EFG and allowed undeclared U.S. clients whose accounts were being closed to transfer their assets to non-U.S. accounts at EFG, including accounts held by relatives.

With respect to assets transferred to accounts in countries other than the United States and Switzerland upon account closure, significant amounts were transferred to numerous other jurisdictions. For example, the following amounts were transferred in connection with the closure of U.S.-related accounts:

- At least $12,680,000 was transferred to Bermuda;
- At least $12,460,000 was transferred to Guernsey;
- At least $25,200,000 was transferred to Liechtenstein;
- At least $12,260,000 was transferred to Monaco;
- At least $25,000,000 was transferred to Luxembourg; and
- At least $33,550,000 was transferred to Hong Kong.

In connection with the closure of U.S.-related accounts, significant amounts also were transferred to the Bahamas, the British Virgin Islands, the Cayman Islands, Cyprus, Israel, Panama, Singapore and the United Arab Emirates.

EFG has cooperated with the department and provided timely and comprehensive information to the U.S. government about its cross-border business with U.S.-related accounts. Among other things, EFG provided detailed information concerning the operation of its U.S. cross-border business that included

misconduct committed by EFG; names of those private bankers who serviced U.S. clients; and names of those members of management who supervised private bankers servicing U.S. clients, including those private bankers who committed misconduct. EFG also provided responsive, specific and actionable information to the department concerning associated persons, entities and areas of concern for use in other ongoing and potential department investigations.

Since Aug. 1, 2008, EFG held a total of 919 U.S.-related accounts, which included both declared and undeclared accounts, with an aggregate peak of approximately $1.58 billion in assets under management. Of EFG's 919 U.S.-related accounts, approximately 12 percent were timely disclosed to the IRS through Form 1099 reporting. EFG will pay a penalty of $29.988 million.

In accordance with the terms of the Swiss Bank Program, EFG mitigated its penalty by encouraging U.S. accountholders to come into compliance with their U.S. tax and disclosure obligations. While U.S. accountholders at EFG who have not yet declared their accounts to the IRS may still be eligible to participate in the IRS Offshore Voluntary Disclosure Program, the price of such disclosure has increased.

Most U.S. taxpayers who enter the IRS Offshore Voluntary Disclosure Program to resolve undeclared offshore accounts will pay a penalty equal to 27.5 percent of the high value of the accounts. On Aug. 4, 2014, the IRS increased the penalty to 50 percent if, at the time the taxpayer initiated their disclosure, either a foreign financial institution at which the taxpayer had an account or a facilitator who helped the taxpayer establish or maintain an offshore arrangement had been publicly identified as being under investigation, the recipient of a John Doe summons or cooperating with a government investigation, including the execution of a deferred prosecution agreement or non-prosecution agreement. With today's announcement of this non-prosecution agreement, noncompliant U.S. accountholders at EFG must now pay that 50 percent penalty to the IRS if they wish to enter the IRS Offshore Voluntary Disclosure Program.

"Today's resolution with EFG Bank European Financial Group SA, Geneva and EFG Bank AG reflects the continued progress of the Department of Justice's Swiss Bank Program," said acting Deputy Commissioner International David Horton of the IRS Large Business & International (LB&I) Division. "In resolving these matters, large and small financial institutions are putting their non-compliance behind them and providing information that will lead us to those U.S. taxpayers who have failed to report their foreign accounts and pay their income taxes."

Acting Assistant Attorney General Ciraolo of the Justice Department's Tax Division thanked the IRS and in particular, IRS-CI and the IRS LB&I Division for their substantial assistance. Acting Assistant Attorney General Ciraolo also thanked Kimberle E. Dodd, who served as counsel on this matter, as well as Senior Counsel for International Tax Matters and Coordinator of the Swiss Bank Program Thomas J. Sawyer and Senior Litigation Counsel Nanette L. Davis.

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