



**U.S. Department of Justice**

*Criminal Division  
Office of International Affairs*

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182-34811 (please repeat when responding)

Washington, D.C. 20530

Date: 11 May 2012

To: The Principality of Liechtenstein Tax Authority

Subject: Request for Assistance in the Investigation of Various U.S. Taxpayers and Others in connection with Undeclared Accounts at Liechtensteinische Landesbank AG

The United States Department of Justice ("DOJ") requests the assistance of the Tax Authority in the Principality of Liechtenstein pursuant to Articles 6(1) and 30a of the Law on Administrative Assistance in Tax Matters with the United States of America, as amended on March 21, 2012 (amendments effective May 1, 2012) (hereinafter, "the Law on Administrative Assistance"). The U.S. Attorney's Office for the Southern District of New York ("U.S. prosecutors") and the Department of the Treasury, Internal Revenue Service ("IRS"), are conducting a criminal investigation into tax evasion, tax fraud, failure to file reports of foreign bank accounts, filing of false reports of foreign bank accounts, interference with the administration of the internal revenue laws, conspiracy, and related offenses, as described in more detail below, by, among others: (1) citizens and lawful permanent residents of the United States ("U.S. taxpayers") who beneficially owned undeclared accounts at Liechtensteinische Landesbank AG in Liechtenstein ("LLB-LIE") that were open on or after January 1, 2004; and (2) third parties who were not employees of LLB-LIE, such as attorneys, accountants, independent financial advisors, asset managers, or "asset protection" professionals working in the

United States, Liechtenstein, and other countries ("Third Party Advisors") who conspired with, or aided and abetted, any U.S. taxpayer in committing any of the various offenses described below.

### **INTRODUCTION**

Based on their investigation, the U.S. prosecutors have a strong suspicion that evidence relevant to this investigation is located in Liechtenstein, namely, records from LLB-LIE for accounts beneficially owned U.S. taxpayers, as well as bank files, correspondence, and other documents from LLB-LIE. Investigation has revealed that numerous U.S. taxpayers beneficially owned undeclared accounts at LLB-LIE. Therefore, in furtherance of this investigation, and pursuant to Articles 7(3) and 13 of the Law on Administrative Assistance, the U.S. prosecutors seek documents from LLB-LIE to investigate whether: (1) individual U.S. taxpayers violated U.S. criminal law by, among other things, failing to report their undeclared accounts to the IRS and failing to pay taxes on the income earned in such accounts; and (2) Third Party Advisors aided and abetted, or conspired with, the U.S. taxpayers in committing criminal offenses.

This Request seeks records of accounts held at LLB-LIE in Liechtenstein that fall into either one of following two groups:

- (1) "Group I accounts" are any accounts held at LLB-LIE in Liechtenstein that were: (a) open at any point on or after January 1, 2004 (even if such account was initially established before January 1, 2004); (b) held in the name of one or more individuals and was beneficially owned, at least in part, by a U.S. taxpayer; and (c) had a year-end account balance of at least \$500,000 at any point after January 1, 2004; and
- (2) "Group II accounts" are any accounts held at LLB-LIE in Liechtenstein that were: (a) open at any point on or after January 1, 2004 (even if such account was initially established before January 1, 2004); (b) held in the name of a non-U.S. corporation, foundation, trust, or other legal entity, but

was beneficially owned, at least in part, by a U.S. taxpayer; and (c) had a year-end account balance of at least \$500,000 at any point after January 1, 2004.

This Request excludes accounts that were closed on or before December 31, 2003; and it excludes accounts held in Switzerland at LLB-LIE's wholly-owned subsidiary, Liechtensteinische Landesbank (Schweiz) Ltd. ("LLB-Switzerland").

### **REQUEST FOR CONFIDENTIALITY**

The information contained in this Request includes highly confidential law enforcement sensitive information concerning the U.S. prosecutors' investigation. Thus, in order to protect this information, we ask that Liechtenstein authorities use their best efforts to keep this Request and its entire contents confidential other than to disclose it to LLB-LIE and any other persons who have access to procedural records pursuant to Article 24 of the Law on Administrative Assistance, or who must be contacted pursuant to Article 10(1)(c) and Article 3(1)(e) of the Law on Administrative Assistance, and only to the extent provided in that law. Please do not share this information or the subject matter of this Request with any other private persons or any governmental official whose knowledge is not absolutely necessary for purposes of executing this Request. In addition, please advise LLB-LIE that the contents and subject matter are to be kept confidential and should not be shared with any other persons. If this Request cannot be executed in this manner, please notify U.S. authorities through the U.S. Department of Justice, Office of International Affairs.

## **THE FACTS**

### **A. The Obligations of U.S. Taxpayers**

U.S. taxpayers who have income (including interest, dividends, or capital gains) in any one calendar year in excess of a threshold amount are obligated to file a U.S. Individual Income Tax Return, IRS Form 1040 ("Form 1040"), for that calendar year with the IRS. On such return, U.S. taxpayers are obligated to report their income from any source, regardless of whether the source of their income is inside or outside the United States. In addition, on Schedule B of Form 1040, the U.S. taxpayer must indicate whether "at any time during [the relevant calendar year]" the filer had "an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account." If the U.S. taxpayer answers that question in the affirmative, then he or she must indicate the name of the particular country in which the account is located.

Separate and apart from the obligation to file Forms 1040, U.S. taxpayers who beneficially owned a financial account held outside the United States with an aggregate value of more than \$10,000 at any time during a particular calendar year are required to file with the IRS a Report of Foreign Bank and Financial Accounts, IRS Form TD F 90-22.1 ("FBAR"). The FBAR for any calendar year is required to be filed on or before June 30 of the following calendar year. The FBAR requires that the filer identify the financial institution with which the account is held, the type of account (either bank, securities, or other), the account number, and the maximum value of the account during the calendar year for which the FBAR is being filed.

**B. Sources of Information Regarding Group I and Group II Accounts**

During their investigation, the U.S. prosecutors have obtained information that leads to a strong suspicion of non-compliance with U.S. law by U.S. taxpayers who were beneficial owners of Group I accounts and Group II accounts. The principal sources of information are:

- (1) Statistical information provided by LLB-LIE and LLB-Switzerland regarding accounts maintained at LLB-LIE and LLB-Switzerland;
- (2) Internal LLB-LIE and LLB-Switzerland documents concerning the management of its cross-border business that were obtained from LLB-LIE and LLB-Switzerland, respectively: These documents included excerpts of meeting minutes and policies and procedures regarding the cross-border business. These documents were redacted to eliminate client names and the names of bank employees, and any identifying details regarding clients and bank employees;
- (3) A sample of 45 client files maintained at LLB-LIE and provided by LLB-LIE in March 2012: These files were redacted to eliminate client names and the names of bank employees, and any identifying details regarding clients and bank employees;
- (4) The full unredacted file for one specific LLB-LIE client: Prior to providing this specific file, the U.S. prosecutors obtained from the client a waiver that permitted LLB-LIE to provide the entire file in unredacted form;
- (5) Information obtained from participants in the two voluntary disclosure programs administered by the IRS, which are described more fully below: One or more of the participants in these IRS initiatives also executed waivers to permit LLB-LIE to provide their entire client files to the IRS;
- (6) Information obtained from U.S. financial institutions regarding one or more correspondent bank accounts used by LLB-LIE and LLB-Switzerland; and
- (7) Information developed in the investigation of Beda Singenberger, a Swiss financial advisor who assisted U.S. taxpayers in opening undeclared accounts at UBS AG and other Swiss banks, including LLB-Switzerland, which Singenberger thereafter managed.

As noted above, some of the information developed during the investigation came from participants in two voluntary programs administered by the IRS. Specifically, in 2009 and 2011, the IRS conducted an Offshore Voluntary Disclosure Initiative and an Offshore Voluntary Disclosure Program (collectively, the "OVDI"). The OVDI gave U.S. taxpayers an opportunity to voluntarily disclose to the IRS undeclared accounts maintained outside the United States, pay taxes owed on the income earned in such accounts, and pay a reduced penalty for the previous failure to disclose, in return for the likely avoidance of criminal prosecution. More than 15,000 U.S. taxpayers participated in the OVDI in 2009 alone. The OVDI participants were required to disclose all relevant facts and circumstances to the IRS regarding their undeclared accounts, including the name and location of the bank that held their undeclared account and detailed information concerning their communication with the bank, its employees, and Third Party Advisors. Many OVDI participants provided this information through written submissions to the IRS; many have been interviewed by the IRS and the U.S. prosecutors. In addition, the terms of OVDI required participants to provide documents to the IRS relating to their undeclared accounts; in many cases, OVDI participants provided bank records that they had obtained directly from the banks holding their undeclared accounts. The OVDI participants included U.S. taxpayers with undeclared accounts held at LLB-LIE that were open on or after January 1, 2004.

Based primarily on statistical data provided by LLB-LIE and redacted client files provided to the U.S. prosecutors, it is clear that many U.S. taxpayers with undeclared accounts held at LLB-LIE on or after January 1, 2004, did not disclose their accounts to the IRS through the OVDI. Statistical data provided by LLB-LIE show that more than approximately 146 U.S. taxpayers held accounts containing at least \$500,000 at LLB-LIE on or after January 1, 2004, and

had not provided LLB-LIE with IRS Form W-9, which permitted LLB-LIE to identify them to the IRS.<sup>1</sup> Hundreds more U.S. taxpayers held accounts at LLB-LIE during this time period that were smaller than \$500,000 and for which no IRS Form W-9 had been provided to LLB-LIE.<sup>2</sup> Based on their investigation, the U.S. prosecutors have a strong suspicion that many U.S. taxpayers who beneficially owned Group I and Group II accounts filed false Forms 1040 that failed to disclose the existence of, or the income earned in, their LLB-LIE accounts, and failed to file timely FBAR forms reporting the accounts and the balances to the IRS. This statistical data further show that assets under management ("AUM") of all the allegedly undeclared accounts held at LLB-LIE in Liechtenstein on or about December 31, 2006, was approximately \$768 million.<sup>3</sup>

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<sup>1</sup> For example, as of the end of 2006, LLB-LIE had account relationships with 1060 U.S. persons. Of those relationships, 21 relationships (1.98%) included an IRS Form W-9. The lack of an IRS Form W-9 is, in and of itself, indicative that an account was not declared to the IRS and that the income in it was not reported to the IRS.

<sup>2</sup> Accounts containing less than \$500,000 at all times after January 1, 2004, are outside Group I and Group II and are not sought by this Request.

<sup>3</sup> The figure of \$768 million was determined in the following manner and was based on statistical information provided by LLB-LIE:

AUM for U.S. Persons:	\$795 million
Less	
AUM for U.S. Persons Where W-9 Provided:	\$27 million

**C. Accounts Requested**

This Request seeks records of accounts that fall into Group I and Group II.

**1. Group I Accounts - Individual Accounts**

As noted above, Group I accounts consist of any accounts held at LLB-LIE in Liechtenstein that were: (a) open at any point on or after January 1, 2004 (even if such account was initially established before January 1, 2004); (b) held in the name of one or more individuals and was beneficially owned, at least in part, by a U.S. taxpayer; and (c) had a year-end account balance of at least \$500,000 at any point after January 1, 2004.

Redacted bank files and statistical information produced by LLB-LIE establish that numerous U.S. taxpayers held individual accounts at LLB-LIE that the U.S. prosecutors, based on their investigation, strongly suspect were undeclared. Several features of these accounts readily identified them to LLB-LIE as accounts that were not reported by the U.S. taxpayers to the IRS and that generated income that was not reported by the U.S. taxpayers to the IRS. For example, LLB-LIE entered into "Code Word Agreements" with many U.S. taxpayers so that the names of the taxpayers would appear on as few documents as possible, thus lessening the risk that U.S. tax authorities would learn of the identities of the beneficial owners. Second, LLB-LIE agreed to hold the mail for many of these accounts at LLB-LIE. LLB-LIE did not require U.S. taxpayers to hold the mail in this manner; U.S. taxpayers affirmatively opted into this arrangement to ensure that the evidence of their account remained outside the United States and outside the reach of U.S. tax authorities. Third, LLB-LIE required every U.S. taxpayer-client to either: (1) provide an IRS Form W-9 to LLB-LIE, in which case "the identity of the beneficial owner will be disclosed to the U.S. tax authorities"; or (2) expressly instruct LLB-LIE not to

disclose his or her name to the IRS. Many U.S. taxpayers expressly instructed LLB-LIE not to disclose their names to the IRS and had Code Word Agreements and hold mail arrangements. In such cases, LLB-LIE employees had before them facts indicating that such U.S. taxpayer-clients - all of whom traveled from the United States to Liechtenstein to conduct business -- did not intend to report the existence of their LLB-LIE accounts to the IRS or to pay income tax on the income earned in those accounts.

One of the redacted individual accounts that was provided by LLB-LIE contained additional instructions to LLB-LIE that further demonstrates that this U.S. taxpayer likely did not declare his or her account, or the income in the account, to the IRS. For example, an account held in the name of an individual described by LLB-LIE as "N06" included the following written instructions dated March 20, 2006:

Kindly ensure that my name or account details are not divulged and if possible that your bank name is also not divulged. I do not know if the latter is possible. Do whatever is necessary to ensure confidentiality.

As shown in the table below, this U.S. taxpayer also had a code word agreement, a mail hold arrangement, and this U.S. taxpayer instructed LLB-LIE not to disclose his identity to the IRS.

U.S. taxpayers whose individual accounts contained one or more of these key features include the following:

Taxpayer	Date Account Opened	Copy of US Passport in File	Code Word Agreement	Mail Held	Taxpayer Instructs Bank Not To Disclose Identity to U.S. Tax Authorities	Approximate Value of Account (Approximate Date)
C.01	25.2.86	✓	✓	✓	✓	US\$778,332 (17.1.2000)
C.07	14.7.05	✓	✓		✓	CHF 2,875,691 (31.12.2011)

Taxpayer	Date Account Opened	Copy of US Passport in File	Code Word Agreement	Mail Held	Taxpayer Instructs Bank Not To Disclose Identity to U.S. Tax Authorities	Approximate Value of Account (Approximate Date)
C.13	11.9.80	✓	✓	✓	✓	Value indeterminate
C.14	5.1.83	✓	✓		✓	US\$2,000,000 (30.9.2010)
N.06	13.3.05	✓	✓	✓	✓	CHF 630,000 (2006)

## 2. Group II Accounts - Accounts Held Through Structures

As noted above, Group II accounts consist of any account held at LLB-LIE in Liechtenstein that were: (a) open at any point on or after January 1, 2004 (even if such account was initially established before January 1, 2004); (b) held in the name of a non-U.S. corporation, foundation, trust, or other legal entity, but was beneficially owned, at least in part, by a U.S. taxpayer; and (c) had a year-end account balance of at least \$500,000 at any point after January 1, 2004.

Statistical data provided by LLB-LIE show that approximately \$670 million of the \$778 million that was beneficially owned by U.S. taxpayers at LLB-LIE as of December 31, 2006, was held through a non-U.S. corporation, foundation, trust, or other legal entity (collectively, "structures").<sup>4</sup> To hold their accounts through structures, many U.S. taxpayers took affirmative

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<sup>4</sup> The figure of \$670 million was determined in the following manner and was based on statistical information provided by LLB-LIE:

AUM for U.S. Persons and Held in Structured Accounts:	\$692 million
Less	
AUM for U.S. Persons and Held in Structured Accounts Where W-9 Provided:	\$22 million

steps to establish and maintain the structures for the purpose of concealing the existence of their accounts from the IRS.

For example, on October 28, 1991, U.S. taxpayers living in Boca Raton, Florida (the "Boca Raton Taxpayers")<sup>5</sup> opened an account at LLB-LIE in the name of Polidan Foundation, a foundation formed under the laws of Liechtenstein. On August 23, 2001, LLB-LIE certified the fact that the Boca Raton Taxpayers were the beneficial owners of the account, and that they were U.S. citizens living in Boca Raton, Florida. From 2003 to 2008, the account held at least \$2.5 million. The Boca Raton Taxpayers typically met with their LLB-LIE client adviser in Vaduz, but, on at least one occasion, they met in Florida with their Third Party Advisor. The Boca Raton Taxpayers did not include income earned in their LLB-LIE account on their tax returns and did not report the existence of their LLB-LIE account on an FBAR.

The redacted client files provided by LLB-LIE included 15 accounts that were held in the name of structures. One such account, designated "L.07" and opened on May 23, 2003, contained explicit evidence of the U.S. taxpayer's intent to defraud the IRS. On October 27, 2009, when this account was closed, the beneficial owner requested by letter as follows:

Because this account has been inactive for so many years and due to the fact that the balance on the account is CHF 12,686. --, you confirmed to me that such account (or its beneficial owner) shall not be disclosed to the US authorities (IRS) provided it is closed now.

**D. Use of LLB-LIE's Correspondent Bank Accounts**

The U.S. prosecutors further strongly suspect, based on their investigation, that LLB-LIE and/or LLB Switzerland permitted some U.S. taxpayers with undeclared accounts to transfer

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<sup>5</sup> These U.S. taxpayers entered the ODVI and provided a waiver to LLB-LIE, pursuant to which LLB-LIE provided the taxpayers' unredacted client file to the IRS.

funds to themselves or third parties in the United States through checks or wire transfers drawn on one or more correspondent bank accounts held at one or more U.S. banks. The U.S. prosecutors further strongly suspect that LLB-LIE and/or LLB-Switzerland facilitated these transfers, particularly those made to third parties and not to the U.S. taxpayers directly, knowing that the purpose of them was to repatriate assets that had been hidden from the IRS at LLB-LIE and/or LLB-Switzerland. This strong suspicion is based primarily on records obtained from the U.S. banks that maintained the correspondent bank accounts.

LLB-LIE and LLB-Switzerland shared at least one correspondent bank account at Citibank in Manhattan (the "Shared LLB Correspondent Bank Account"). Accordingly, the U.S. prosecutors are unable at this time to indicate whether checks drawn on the Shared LLB Correspondent Bank Account were issued on behalf of U.S. taxpayers who had accounts at LLB-LIE or on behalf of U.S. taxpayers who had accounts at LLB-Switzerland.

In addition, the U.S. prosecutors are aware, in general, that some banks issued checks drawn on their correspondent bank accounts on behalf of clients at other banks that did not have correspondent bank accounts in the United States. Such "nesting" of correspondent bank account presents unique anti-money laundering concerns. "Nested" correspondent bank accounts permit banks to access the U.S. banking system without the knowledge of the correspondent banks in the United States. Based on the records obtained from Citibank, it presently appears that Citibank was not informed that LLB-LIE and/or LLB-Switzerland were issuing checks on behalf of other financial institutions.

Examples of checks issued drawn on of the Shared LLB Correspondent Bank Account, including the following:

On January 19, 2010, two checks were issued on the Shared LLB Correspondent Bank Account for exactly \$10,000 each to an art gallery in Boston. The checks were only one check number apart from each other. In another case, one individual received five checks, all for exactly \$10,000 within an approximately one year period. Checks that were made in amounts that were exactly \$10,000 or slightly below \$10,000 are indicative of efforts to avoid certain reporting obligations of U.S. financial institutions that are triggered by transactions in excess of \$10,000 and to keep the source of these funds concealed from the IRS.

As another example, on August 20, 2007, approximately 85 checks drawn on the Shared LLB Correspondent Bank Account were issued. The checks are largely consecutively numbered. All 75 checks were made payable to "Bearer," meaning that any person possessing the checks could negotiate them. Approximately 65 of these checks were for \$150 and 11 of these checks were for \$500. The great majority of the checks were negotiated at two U.S. banks. And about two weeks later, on September 6, 2007, 4 checks drawn on the Shared LLB Correspondent Bank Account were issued. The checks are consecutively numbered. All 4 checks were made payable to "Bearer." All of these checks were for \$150.

**E. Beda Singenberger and Accounts Maintained at LLB-Switzerland**

Starting in approximately mid-2010, the U.S. prosecutors began investigating Beda Singenberger, a Swiss financial advisor who owned and operated an investment management firm called Sinco Treuhand AG ("Sinco"). Eventually, on or about July 2011, Singenberger was indicted by a grand jury and charged with conspiring with over 60 U.S. taxpayers to hide more than \$184 million in Swiss bank accounts. As charged in the indictment, Singenberger opened dozens of hidden accounts on behalf of his U.S. clients and typically used sham entities to

conceal the accounts from the IRS. As further charged in the Singenberger indictment, on or about May 6, 2008, UBS AG ("UBS") publicly disclosed that United States law enforcement authorities were investigating its U.S. cross-border banking business. After that public disclosure, Singenberger assisted his U.S. taxpayer clients in moving their offshore accounts from UBS to other Swiss banks to evade the IRS's investigation. Among the banks to which Singenberger arranged to move accounts from UBS was LLB-Switzerland. In addition, even prior to the disclosure of the U.S. investigation of UBS, Singenberger had arranged for accounts to be opened on behalf of his U.S. taxpayer clients at LLB-Switzerland.

Based on statistical information provided by LLB-Switzerland, LLB-Switzerland experienced a substantial increase in assets under management for U.S. clients from 2007 to 2008 and 2009. Specifically, as of the end of 2007, LLB-Switzerland had approximately \$86 million in assets under management that were beneficially owned by U.S. taxpayers. After the May 2008 disclosure of the existence of the U.S. investigation of UBS and by the end of 2008, LLB-Switzerland had approximately \$179 million of assets under management that were beneficially owned by U.S. taxpayers. And by the end of 2009, LLB-Switzerland had approximately \$197 million of assets under management that were beneficially owned by U.S. taxpayers. The majority of the accounts, and the majority of the assets under management, that were beneficially owned by U.S. taxpayers were clients of Singenberger. Furthermore, the majority of the accounts, and the majority of the assets under management, that were beneficially owned by U.S. taxpayers were held in the name of structures. Importantly, some new accounts at LLB-Switzerland that were beneficially owned by U.S. taxpayers were opened in 2009. Two of those new accounts contained a total of approximately \$22 million in assets under management.

Based on internal LLB-LIE documents concerning the management of its cross-border business, it appears that the management of LLB-LIE was aware of the legal risks posed by the conduct in which LLB-Switzerland, its wholly-owned Swiss subsidiary, was engaged. It further appears that LLB-LIE did not cease LLB-Switzerland's conduct for a significant period of time. For example, in June 2008, an LLB-LIE task force on its cross-border business noted in its minutes that "[a] US domicile, structures that in the view of the IRS could serve concealment purposes (e.g., [British Virgin Islands] or Panama companies), and pass-through transactions to service companies represent particular risks under supervisory/tax law." The LLB-LIE board of management formally decided in June 2008 to permit no more accounts on behalf of non-flow-through entities with a U.S. beneficial owner. The LLB-LIE board of management intended that the decision be applicable for LLB-Switzerland, but noted that its decision was not formally binding on the management of LLB-Switzerland. Similar decisions by LLB-LIE's board of management in August 2008 were to similarly limited in their application to LLB-Switzerland. Indeed, in September 2008, a risk committee of LLB-Switzerland noted that LLB-Switzerland "would not support the decision by [LLB-LIE] not to accept any more US persons at all." Eventually, in December 2008, the group board of management for LLB decided that "US persons would now only be accepted if they make a disclosure via a Form W-9," a decision that was communicated to LLB-Switzerland in December 2008. Nonetheless, as noted above, some new accounts at LLB-Switzerland that were beneficially owned by U.S. taxpayers were opened in 2009. As the head of the LLB's group internal audit noted in May 2009, "[a]t LLB (Switzerland) Ltd., the audit to check compliance with the instructions 'US Persons Policy' revealed that QI reporting is essentially OK. Up to 20 % of the spot checks revealed shortcomings in

documentation, however. A sharp increase in the number of US persons (of over 50 %) was also identified. According to [REDACTED], this contravenes business policy." Given that group-wide decisions were not enforced for LLB-Switzerland, the U.S. prosecutors have a strong suspicion that similar conduct was tolerated by LLB-Liechtenstein.

### **THE OFFENSES**

#### **Title 26, United States Code, Section 7201. Tax evasion**

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

#### **Title 26, United States Code, Section 7206. Fraud and false statements**

Any person who --

- (1) Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or
- (2) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; . . . .

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

**Title 26, United States Code, Section 7212. Attempts to interfere with administration of internal revenue laws**

- (a) Whoever corruptly . . . endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly . . . obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than \$3,000, or imprisoned not more than 1 year, or both.

**Title 31, Code of Federal Regulations, Section 1010.350. Reports of foreign financial accounts**

- (a) Each United States person having a financial interest in, or signature or other authority over, a bank, securities or other financial account in a foreign country shall report such relationship to the Commissioner of the Internal Revenue for each year in which such relationship exists and shall provide such information as shall be specified in a [Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1] to be filed by such persons.

**Title 31, Code of Federal Regulations, Section 1010.840. Criminal penalty**

- (b) Any person who willfully violates [the requirement to file an FBAR pursuant to Title 31, Code of Federal Regulations, Section 1010.350 (set forth above)] may, upon conviction thereof, be fined not more than \$250,000 or be imprisoned not more than 5 years, or both.
- (c) Any person who willfully violates [the requirement to file an FBAR pursuant to Title 31, Code of Federal Regulations, Section 1010.350 (set forth above)], or of this part authorized thereby, where the violation is either
  - (1) Committed while violating another law of the United States, or
  - (2) Committed as part of a pattern of any illegal activity involving more than \$100,000 in any 12-month period, may, upon conviction thereof, be fined not more than \$500,000 or be imprisoned not more than 10 years, or both.
- (d) Any person who knowingly makes any false, fictitious or fraudulent statement or representation in any report required by this part may, upon conviction thereof, be fined not more than \$10,000 or be imprisoned not more than 5 years, or both.

**Title 18, United States Code, Section 371. Conspiracy**

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be [guilty of a crime].

**Title 18, United States Code, Section 2. Aiding and abetting and willfully causing**

- (a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.
- (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

**THE NEED FOR ASSISTANCE**

Based on their investigation, the U.S. prosecutors have a strong suspicion that a great many U.S. taxpayers associated with Group I and Group II accounts have not been compliant with U.S. law and that the LLB-LIE documents sought by this Request are foreseeably relevant to tax administration and enforcement of the United States, specifically, in determining compliance by such U.S. taxpayers and Third Party Advisors, as provided by Article 7(2-3) of the Law on Administrative Assistance. Specifically, numerous U.S. taxpayers have admitted their non-compliance to the IRS through the OVDI. In addition, LLB-LIE has provided information to the U.S. prosecutors establishing that at least approximately 146 accounts fall into Group I and Group II. Undeclared accounts held at LLB-LIE were established by U.S. taxpayers for the purpose of non-compliance with U.S. law; that is, U.S. taxpayers with such accounts opened and maintained them as part of a scheme to evade taxes, defraud the IRS, and commit related offenses.

The documents sought by this Request are the core evidence needed to establish non-compliance with U.S. law by individual U.S. taxpayers and the manner in which Third Party Advisors aided and abetted, or conspired with, U.S. taxpayers.

With respect to U.S. taxpayers with undeclared accounts, documents concerning Group I and Group II accounts will establish, among other things: (1) the fact that the U.S. taxpayer beneficially owned the account and the time period of that ownership; (2) the name in which the non-compliant U.S. taxpayer held the account and other identifying information; (3) the amount of funds held in the account; (4) a record of transactions occurring in the account; (5) a record of income earned in the account; and (5) other details concerning the account. When these details are placed side-by-side with the personal federal income tax returns filed by such U.S. taxpayers, the taxpayers' fraud on the IRS will be clearly evident. In most, if not all, cases, the U.S. prosecutors expect that U.S. taxpayers with Group I and Group II accounts filed false federal income tax returns that failed to report the existence of, and income earned in, their LLB-LIE accounts, and failed to file timely FBARs.

To the extent that documents concerning Group I and Group II accounts relating to a given U.S. taxpayers' account reflects the roles of Third Party Advisors with respect to the account, those documents may establish that such individuals conspired with, or aided and abetted, U.S. taxpayers in their non-compliance with U.S. law.

Accordingly, documents concerning Group I and Group II accounts are foreseeably relevant in determining compliance with U.S. law by U.S. taxpayers with undeclared accounts and whether Third Party Advisors aided and abetted, or conspired with, U.S. taxpayers in violating U.S. law.

### **ASSISTANCE REQUESTED**

Please ask the Liechtenstein Tax Authority do the following in execution of this

Request:

#### **Documents Needed**

(1) Provide complete, true, and correct copies of all documents in the possession, custody, and control of LLB-LIE relating to Group I and Group II accounts (the "Requested Documents"). A "document" includes information stored or recorded in any form (including, without limitation, in electronic form). "Electronic form" in relation to the storage or recording of documents includes storage or recording by means of any form of information storage technology.

(2) The Requested Documents should include, but are not limited to:

- (a) All account-opening documents from the date the account was opened to the present, including but not limited to, contracts, waivers, code word agreements, agreements concerning mail retained by the bank, other agreements, acknowledgments, signature authorizations, documents relating to whether the account will hold U.S. securities, and documents reflecting, or tending to reflect, the identity of beneficial owners and account-holders, as further specified in paragraphs (b) and (c), below;
- (b) All documents created from the date the account was opened to the present that establish, or tend to establish, the identity of any beneficial owner of any account and any efforts on the part of LLB-LIE to identify the beneficial owner of any account, including but not limited to, IRS Forms W-9, W-8BEN or equivalent forms, forms titled U.S. Withholding Tax Instruction [for] U.S. Persons, all documents that are part of any due diligence file, copies of passports or other identification documents, and any other documents generated in the course of LLB-LIE's compliance with due diligence, anti-money laundering, and "know your customer" policies;
- (c) All documents created from the date of the account-opening to the present reflecting, or tending to reflect, the identity of any corporation,

foundation, trust, other entity or individual serving as the account-holder for any account from the date the account was opened to the present, including identification documents, incorporation records, charters, by-laws, trust agreements and instruments, wills, minutes, powers of attorney, letters of wishes, assignments, contracts, or other agreements or devices allowing any person or entity to direct or control the affairs of any such corporate, foundation, trust or entity account-holder;

- (d) All documents created from January 1, 2001 to the present reflecting any transactions in any account, including but not limited to monthly, quarterly, and yearly statements of assets, income, or capital gains/losses; other records reflecting dates and amounts of deposits, withdrawals, or transfers by any means; interest, debit and credit memos; checks (front and back), including checks or wire transfers drawn on any correspondent bank account maintained by LLB-LIE in the United States, or through any nested correspondent bank account relationship; and documents reflecting loans, advances, or fees;
- (e) All documents created from January 1, 2001 to the present concerning the transfer of funds from LLB-LIE to any other person or entity on behalf of a U.S. taxpayer, including, but not limited to, documents reflecting wire transfers or checks issued on behalf of U.S. taxpayers and drawn on any correspondent bank account maintained by LLB-LIE in the United States, or through any nested correspondent bank account relationship;
- (f) All documents created from January 1, 2001 to the present relating to any purchase, sale, transfer, loan of any security, derivative, or other financial instrument;
- (g) All documents created from January 1, 2001 to the present relating to any credit card or debit card linked to any account, including but not limited to agreements, memoranda, statements, and payment records;
- (h) All documents created from January 1, 2001 to the present reflecting correspondence or communications, in whatever form, including correspondence or communications between or among: (1) any representative of LLB-LIE; (2) the beneficial owner(s) of any such accounts; (3) any agent or nominee of the beneficial owner of any such account; (4) any trustee, director, agent or other representative of a corporation, foundation, trust, or other entity serving as the account-holder of such account; (5) any individual serving as the nominal account-holder of such account; or (6) any third-party advisor; and

- (i) All internal correspondence, e-mails, notes or memoranda prepared by any employee or agent of LLB-LIE from January 1, 2001 to the present, including notes made by any representative of LLB-LIE reflecting communications (by telephone, in electronic form, or in person) between or among a representative of LLB-LIE and any beneficial owner, nominal account-holder, authorized signatory, or other third party acting on behalf of a beneficial owner or nominal account-holder, or any third party advisor.

For purposes of clarity, please note that categories (a) through (c), above, seek records without regard to the date of their creation. Categories (d) through (i) seek records created on or after January 1, 2001, to the present.

#### **Procedures To Be Followed**

Please ask the Liechtenstein Tax Authority to follow the procedures set forth below:

- (1) Require production in electronic form of complete, true, and correct copies of the Requested Documents by LLB-LIE, pursuant to Article 7(3) and Article 30a of the Law on Administrative Assistance in Tax Matters with the United States;
- (2) Include with the media containing the Requested Documents (e.g., compact disk, hard drive) a separate Certificate of Authenticity of Business Records (attached) completed and signed by each of the persons producing the documents;
- (3) Affix upon the certificate(s) the seal (or stamp) of each of the persons producing the Requested Documents, if satisfied that, under the procedure followed, a false statement on the certificate(s) would subject the person who completed and signed it to a criminal penalty under Liechtenstein law; and
- (4) Transmit two copies of the media containing the Requested Documents, together with the appropriate certificate(s), to the Office of International Affairs, Criminal Division, U.S.

Department of Justice, or as otherwise arranged by the Principality of Liechtenstein Tax Authority with the Office of International Affairs.

### **NEED FOR PROCEDURES REQUESTED**

The U.S. prosecutors need execution of the Certificate of Authenticity of Business Records to admit the requested business records into evidence in accordance with the requirements of U.S. law. Ordinarily, business records may be admitted into evidence only if a competent representative of the business appears at trial as a witness and testifies as to the authenticity of the records and the manner in which they are prepared and maintained at the business. However, with respect to foreign business records, the appearance and testimony at trial of a representative of a foreign business may not be required if the records (or true copies thereof) are accompanied by a written declaration such as the attached certificate. The statute permitting this procedure (Title 18, United States Code, Section 3505) requires an executed certificate.

### **LIMITATIONS ON USE**

To the extent the information or evidence has not become publicly available, the U.S. prosecutors and the IRS will not use any information or evidence obtained through this request in any investigation, prosecution, or proceeding without the prior consent of the appropriate authorities of Liechtenstein other than: (1) criminal prosecutions, civil tax and related proceedings, or administrative tax and related proceedings against any U.S. taxpayers who beneficially owned, at least in part, a Group I or Group II account; and (2) criminal prosecutions, civil tax and related proceedings, or administrative tax and related proceedings of any Third Party Advisors who aided and abetted, or conspired with, such U.S. taxpayers. The

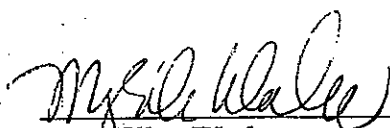
U.S. prosecutors and the IRS will not share such information or evidence with any third countries, without the prior consent of the appropriate authorities of Liechtenstein. Nothing shall preclude the use or disclosure of information or evidence to the extent that there is an obligation to do so under the Constitution of the United States in a criminal prosecution.

#### **ADDITIONAL MATTERS**

The United States would be able to obtain and provide the information sought by this Request if a similar request were made by the Principality of Liechtenstein. The United States has pursued all reasonable means available in its own territory to obtain the information sought by this Request.

The statute of limitations pertaining to the object of this Request has not expired under to the laws of the United States.

Please accept the assurance of our highest esteem.



Mary Ellen Warlow  
Director  
Office of International Affairs

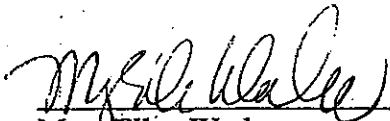
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