

**MEMORANDUM OF UNDERSTANDING REGARDING THE AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA AND SWITZERLAND TO IMPROVE
INTERNATIONAL TAX COMPLIANCE AND TO IMPLEMENT FATCA**

In connection with the signing today of the Agreement between the United States of America and Switzerland to Improve International Tax Compliance and to Implement FATCA (hereinafter the “Agreement”), the United States and Switzerland wish to confirm the following understandings with respect to the Agreement:

1. The guidance published by the IRS on the IRS’s website (available at the time of the signing of this Memorandum of Understanding at <https://www.irs.gov/businesses/corporations/frequently-asked-questions-faqs-fatca-compliance-legal>) is expected to apply to the treatment of an FFI Agreement (as defined in the Agreement) upon the entry into force of the Agreement as follows:

- a) An FFI Agreement, that is in effect for a Swiss Financial Institution that is registered with the IRS on the day immediately before entry into force of the Agreement is expected not to be renewed and is therefore expected to expire on the day immediately before entry into force of the Agreement in accordance with the terms of such FFI Agreement with respect to the Swiss Financial Institution. The FFI Agreement is expected to continue to apply to any branches of the Swiss Financial Institution that are covered by the FFI Agreement and are located in another jurisdiction.
- b) A Swiss Financial Institution, whose FFI Agreement expires on the day immediately before entry into force of the Agreement as described in this paragraph is not expected to be required to submit to the IRS any outstanding certifications of compliance or final certification of compliance as otherwise required by the FFI Agreement. However, if the Swiss Financial Institution does not submit to the IRS such certifications, the Swiss Financial Institution is expected to retain in its records for six years a certification of compliance covering the period from the end of its most recent certification period (or, if the first certification period has not ended, the effective date of the FFI Agreement) to the day immediately before entry into force of the Agreement, and provide the certification to the IRS upon a written request. The certification described in the preceding sentence may be completed and retained in a Swiss Financial Institution’s records by either (i) downloading or printing the relevant certification from www.irs.gov, completing it, signing and dating the relevant certification, and saving the completed certification in the Swiss Financial Institution’s records, or (ii) completing the certification in the IRS FATCA Registration Portal and saving a screenshot of each page of the completed certification in the Swiss Financial Institution’s records. If, however, the Swiss Financial Institution submits any outstanding certifications of compliance or final certification of compliance electronically to the IRS through the IRS FATCA Registration Portal, the Swiss Financial Institution is not expected to be required to retain such certification in its records.

- c) Consistent with section 12.03(C) of the FFI Agreement, as with terminations of the FFI Agreement, the expiration of the FFI Agreement with respect to a Swiss Financial Institution does not affect any of the Swiss Financial Institution's due diligence, withholding, information reporting, tax return filing, compliance obligations, or other obligations under the FFI Agreement arising in or with respect to a calendar year (or portion of a calendar year) for which the FFI Agreement was in effect.

2. A Swiss Financial Institution that has registered with the IRS prior to the date of entry into force of the Agreement and has not had its chapter 4 status revoked is expected to be allowed to continue to use the same Global Intermediary Identification Number (GIIN) that it obtained when it registered with the IRS, where the Swiss Financial Institution follows the following steps. Upon entry into force of the Agreement, and once the IRS modifies the chapter 4 status of a Swiss Financial Institution (other than a Swiss Financial Institution that is a branch of a Financial Institution not resident in Switzerland) on the IRS FATCA Registration Portal to "registration incomplete" and notifies the affected Swiss Financial Institutions accordingly, the Swiss Financial Institution, in order to continue to use its GIIN, is expected to log on to the IRS FATCA Registration Portal and resubmit its registration. To ensure that the Swiss Financial Institution appears on the IRS FFI List for the month following the date of entry into force of the Agreement, the Swiss Financial Institution should resubmit its registration within 20 days of the entry into force of the Agreement. An updated FFI List is posted on the first day of each month, and only includes financial institutions and branches that are in "approved" status on the first day of the month and have been approved at least 5 business days prior to the first day of the month.

3. A Swiss Financial Institution that is a sponsoring entity is expected to follow the steps described in paragraph 2 in order for its sponsored entities to continue to use the same GIINs that they obtained when they were registered by the sponsoring entity with the IRS.

4. The entry into force of the Agreement and the resubmission of the registration by a Swiss Financial Institution that is the Lead FI (as defined in IRS Publication 5118, FATCA Online Registration User Guide) under the steps described in paragraph 2 is not expected to affect the chapter 4 status of a member (other than a member that is a Swiss Financial Institution) of an expanded affiliated group as defined in section 1471(e)(2) and the U.S. Treasury Regulations thereunder for which a Swiss Financial Institution is the Lead FI, including that all members whose statuses have not been revoked (including a member that is a Swiss Financial Institution, provided that this Swiss Financial Institution follows the steps described in paragraph 2) may continue to use the same GIINs that they obtained when they registered with the IRS.

5. In the case of a Swiss Financial Institution that is a branch of a Financial Institution not resident in Switzerland, no action needs to be taken on the IRS FATCA Registration Portal as a result of the entry into force of the Agreement in order for that Swiss Financial Institution to continue using the same GIIN it obtained when it registered with the IRS.

6. Each Swiss Financial Institution that has a change in chapter 4 status under the U.S. Internal Revenue Code as a result of the entry into force of the Agreement is expected to, within 90 days of entry into force of the Agreement, either (i) provide to each withholding agent either a new withholding certificate or oral or written confirmation (including by email) of the change in the

Swiss Financial Institution's chapter 4 status, or (ii) otherwise inform withholding agents through publicly available means of the change in the Swiss Financial Institution's chapter 4 status.

7. A withholding agent that knows (as described in relevant U.S. Treasury Regulations) that a Swiss Financial Institution that is required to provide a GIIN to a withholding agent is no longer listed on the published IRS FFI list is not expected to be required to withhold on withholdable payments made to the Swiss Financial Institution under chapter 4 of the U.S. Internal Revenue Code until 90 days from the date it obtains such knowledge.

8. To avoid a disproportionate number of late-filed reports:

a) The Swiss Competent Authority is expected to use its best efforts to ensure that Reporting Swiss Financial Institutions transmit all reports relating to reporting periods prior to entry into force of the Agreement on or before December 31 of the year in which the Agreement enters into force, including by:

- (i) directing all Reporting Swiss Financial Institutions through periodic notifications to correct, amend, void, or file new reports relating to such prior periods by no later than December 31 of the year in which the Agreement enters into force; and
- (ii) putting in place effective enforcement provisions to address non-compliance with the directive to Reporting Swiss Financial Institutions described in subparagraph (i) of this paragraph 8.

b) The U.S. Competent Authority is expected to use its best efforts to:

- (i) notify Reporting Swiss Financial Institutions by May 31 of the year in which the Agreement enters into force of the requirement to submit corrected, amended, voided, or new reports relating to reporting periods prior to entry into force of the Agreement; and
- (ii) pursuant to the provisions of Article 26 of the Convention, provide the Swiss Competent Authority with information as necessary to administer subparagraph (a) of this paragraph 8.

9. To notify the IRS of a late-filed report, the Swiss Competent Authority is expected to include in the AdditionalData section (6.4.9.1) on [the FATCA XML Schema] for such late-filed reports the following information:

- (i) "Y" in the field labeled "ADDITIONAL_ITEM_IND";
- (ii) The document reference number (i.e., the DocRefID) of the Form 8966 sent under the 2013 Agreement in the field labeled "ITEM_NM"; and
- (iii) For the field labeled "ITEM_CONTENT" enter—
 - a. "M2_M1:"
 - b. The DOCUMENT_TYPE_CD (i.e., the DocTypeIndic) for the new record; and

- c. If necessary, a semicolon followed by any additional information regarding the late-filed report.

10. Terms used in this Memorandum of Understanding that are not defined herein but that are defined in the Agreement are intended to have the meaning provided in the Agreement, including those terms that are defined under paragraph 2 of Article 1 of the Agreement.

Signed at Bern, in duplicate, this 27th day of June, 2024, in the English and German languages, both texts being equally valid.

FOR THE UNITED STATES OF AMERICA:

FOR THE SWISS
CONFEDERATION: