BANK TO PLEAD GUILTY — AND KEEP OPERATING

A Swiss bank investigated for various U.S. regulatory violations — including allegations that it helped U.S. citizens evade taxes — is scheduled to plead guilty to a conspiracy count this week in U.S. federal court in Alexandria, Va. By doing so, it will be the first bank in more than 10 years to admit to criminal conduct. However, in a bid by regulators to avoid spreading alarm throughout the banking sector — and among foreign banks, in particular — a deal has been reached that will allow the bank to continue operations in the United States.

Plea by Parent Company

It is actually the bank's parent company that will enter an Admission to Statement of Facts proffered by U.S. prosecutors that establishes the bank cultivated an environment in which U.S. citizens were assisted in their tax-evasion undertakings. However, unlike a 2008 case against another Swiss bank, the names of U.S. taxpayers who evaded their taxes will not be disclosed.

In the prior case, the defendant bank turned over to U.S. authorities data on more than 4,000 accounts in exchange for the leniency of a nonprosecution agreement. Such agreements have lately been criticized as being too lenient on big-bank transgressors, and it is believed that this week's resolution — with its guilty plea — is intended in part to quash such disapproval.

Customer Reaction

As part of their internal governance, various clients of the bank have guidelines that restrict them from engaging in business with a bank that has entered a guilty plea in a criminal prosecution case. That problem could lead to customer erosion depending upon the applicability of those guidelines to the facts surrounding this case. Thus far, two major U.S. banks have announced that they will be maintaining their banking relationship with the bank.

Fines — Plus Likely Resignations

In addition to the guilty plea, the bank is being assessed a $2.5 billion fine, to be apportioned $1.8 billion to the U.S. Department of Justice, $600 million to the New York State Department of Financial Services and $100 million to the Federal Reserve. It is reported that the CEO — who has had a 24-year tenure with the bank — and the chairman are expected to resign over the scandal. The departure of the CEO could constitute a significant loss, given that he adroitly shepherded the institution throughout the financial crisis and beyond — until now.

No Repeat of 2008

Regulators have stressed that they wish to avoid a repeat of the September 2008 collapse of America's biggest investment bank — an event that spread to the entire global financial industry — and are, therefore, reassuring financial-sector leaders and analysts that they have no intention of destabilizing the defendant bank.

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