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Robert U. Vogler

# **Swiss Banking Secrecy: Origins, Significance, Myth**



**Robert U. Vogler**

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## Foreword

The rise of Switzerland as a financial center began about 100 years ago. Though it is not quite in the same league as the real giants of the financial world, over the last 50 years Switzerland has progressed from a modest international standing to occupy a position of real significance. The major difficulties experienced by Swiss banks – mainly in the 1930s – certainly slowed the pace of progress, but only temporarily. The crisis of the 1930s resulted in new banking legislation, which also laid the legal foundations for banking secrecy.

People often cite banking secrecy as an indispensable key to the success of Switzerland's financial industry. But until 1935, Switzerland had no national banking law and thus no official banking secrecy. What the country did offer was a pronounced relationship of trust that had been built up between banks and clients over the course of the century, and that had become established as an unwritten code of confidentiality similar to the one offered by lawyers, doctors or priests. *De facto* banking secrecy had therefore existed for a long time; but it was not enshrined in legislation until relatively late on. Prior to the 1930s an avowedly liberal economic and political environment, and an equally pronounced understanding of the importance of privacy and discretion had made such legislation superfluous.

Ever since the national law on banks and savings banks came into force, banking secrecy has been the subject of debate and the almost permanent target of attacks from within Switzerland as well as from other countries. This study attempts to provide an overview of the relevant processes and events, and the motivations of the different players involved, but also looks at the myths that have grown up around banking secrecy. The study is designed to appeal to a broader audience of interested readers. Its primary aim is to draw out the main strands relating to banking secrecy and to communicate these in a comprehensible way to the general reader. It covers a period of about a century – from 1890 to 1990 – but does not claim to be exhaustive. It deliberately leaves out the latest developments, because the author believes that these are still too recent to judge properly; in some cases they are still running their course. This accords with the classic view of historical study, which

dictates that no fair history can be written until at least a generation after the events concerned. The speed at which modern life is lived means that this period can be reduced a little, however.

Baden, October 2005

*Robert U. Vogler*

## Introduction

When people try to explain the significance and successes of Switzerland as a financial centre, they all too often reach for the reductive argument, fraught with negative connotations, that it is all because of banking secrecy.<sup>1</sup> Swiss banking secrecy has repeatedly been subject to criticism and challenge from within and from outside Switzerland. This criticism – sometimes from the wider public, sometimes from international competitors – has been particularly fierce in the decades after the Second World War and right up to the present day.

In 1984, the Hamburg-based ‘Zeit’ newspaper<sup>2</sup> explained the introduction of banking secrecy as follows: Swiss banking secrecy was established with honorable intentions from a sense of ‘humane compassion’ as part of the ‘Federal Law on Banks and Savings Banks’ of 1934: ‘The central element is the famous Article 47 on the introduction of anonymous numbered accounts.’<sup>3</sup> According to this reading, banking secrecy was introduced to prevent Nazi spies getting their hands on Jewish assets in Switzerland.

This is a good example of a legend that has often been repeated but whose accuracy has long been questioned.<sup>4</sup> It is a line of argument that – according to another more recent legend – was used by the banks either as a marketing tool or as a political debating point, for example when fighting off the banking initiative of 1984. Newspaper articles claim that bankers have used this argument in a self-serving attempt to take the moral high ground.<sup>5</sup> And some prominent Swiss bankers have indeed fallen prey to this incorrect interpretation. An article published by Credit Suisse in 1966<sup>6</sup> is often cited, along with some other publications<sup>7</sup>, as proof of this. The bankers in question came from a generation of managers who were too young to have experienced the debate about the introduction of banking secrecy, but who were all the more influenced by the events of the Second World War and the Cold War that followed immediately after. Certain politicians, including some from the left, also took up these arguments and used them for their own particular ends.<sup>8</sup> However, it would be very wrong to conclude from this that the Swiss banking industry was extolled abroad as a paragon of morals and ethics. Apart from anything else, Swiss banks, with a very

few exceptions, did not go in for much marketing abroad. Between 1980 and 1993 there was even an agreement presided over by the Swiss Bankers Association that banned customer acquisition and advertising in other countries.

This new myth-making is clearly aimed at cementing a new received wisdom by repeating a one-dimensional interpretation of the situation: i. e. that the rise of Switzerland as a financial centre should be attributed solely to the introduction and existence of banking secrecy; the bankers mentioned above are thus made into perpetrators and witnesses. In addition, certain people claim that the tax evasion made possible by banking secrecy was in fact the only true motive for its introduction in the first place. The introduction of banking secrecy in 1935 is even described as an 'aggressive battle for the interests of tax payers'.<sup>9</sup>

## Issues

There are, it is clear, a whole series of questions to answer with regard to the origins and significance of banking secrecy in Switzerland.

The history of its establishment is undoubtedly and primarily linked to the evolution of Switzerland's tools for regulating the domestic financial industry. In the first part of this study, we will look at the genesis of banking secrecy in this context. What were the political processes involved in the early stages, and what arguments did the individual interest groups use at what times? Did banking secrecy play a pivotal role at all in this context, or were other events more decisive? What were the motives for codifying a Swiss-wide banking secrecy, and how significant were these motives? Was it all just a matter of protecting privacy? Was it designed from the start as an instrument to actively attract the world's tax evaders and thus, in an act of pure self-interest, to give Swiss people the highest possible standard of living, or were other motivations at work?

In the second part we look at the period after the Second World War, during which banking secrecy was already in force. This era – dominated by the Cold War between West and East – was characterized by a lengthy process of moving away from state-regulated financial markets, unpredictable currencies, foreign exchange and trading restrictions, and many other regulatory burdens, some of which dated from the early 1930s. These limitations hindered the recovery of the world economy in the years immediately after the war, and were at heart anachronistic, since the world economy had already been through much more liberal phases. Switzerland – alongside the USA one of the few countries with an open currency policy amid a sea of fixed exchange rates – was an island of enlightened monetary policy until the start of the 1970s. Enormous growth in all sectors of the Swiss economy delivered a boom that lasted from the start of the 1950s until the first global oil crisis in the mid-1970s. The most interesting thing for us during this period is the interplay of banking secrecy with a range of factors such as political and economic stability, and the hard and freely convertible Swiss franc. Did banking secrecy play the decisive role as the Swiss financial center prepared to ascend to the highest league? Has the Swiss financial centre



always really enjoyed the international significance and status that its opponents would have us believe? Can we assume that banking secrecy was as well known among bank customers after 1935 or after the end of the War as it is today? What motives did foreign investors have to entrust Swiss financial institutions, rather than banks in their own country, with their asset management and accumulation? It will also be interesting to look on the one hand at the true stories and on the other at the unsubstantiated rumors, scandals and suspicions relating to people and banks that have allegedly used banking secrecy legally or illegally, misused it, or that have themselves been the victims of sinister machinations. And finally, how is banking secrecy treated in literature and film, and what influence does this have on perceptions?

Many of these questions cannot be answered definitively, and many are often not quantifiable. Nevertheless, some clear and meaningful trends emerge overall. Some of these have not previously been investigated or put into context before in this form. Economic factors play an important role, but they are not the only influences involved. Anyone who looks closely at banking secrecy is reminded relatively early on of the – unsurprising – fact that unquantifiable factors also have a role, and that when money is at issue, sensibilities and emotions come into play that cannot necessarily be expressed in cold figures.

## **From the birth of banking secrecy to the Second World War**

### **Economic reasons for enacting a banking law**

In nearly every country that has modern banking laws similar to Switzerland's, the legislation concerned was initially prompted by banks falling into enormous difficulties. So it was in Switzerland, where between 1910 and 1913 and during the First World War in particular, numerous banks collapsed. Between 1910 and 1913, 45 local and regional banks suffered losses amounting to CHF 112 million – equivalent to the Federal government's whole budget for 1912 – while 28 banks merged with either a cantonal or a major bank. In the period between 1906 and 1915, 85 banking institutions were removed from the Commercial Register.<sup>10</sup> This pattern was repeated during the global economic crisis that began in the USA, with the stock market crash of 1929, and then the banking crisis of 1931 in Germany and – a little later – in Switzerland. People at that time were deeply unsettled by the hyperinflation that hit Germany in the early 1920s, as well as by the spectacular and far-reaching collapse of business empires such as that of the Swedish match tycoon Ivar Kreuger in 1932.

The Swiss banks actually enjoyed a boom between 1926 and 1930, but they still remained modest in size compared with their international counterparts. The Swiss financial centre was still dwarfed by New York and London, and in certain areas of business also by Paris, Amsterdam, Frankfurt and Vienna. In 1930, Barclays Bank, one of the British 'Big Five' of the time, had total assets amounting to more than half that held on the balance sheets of all the Swiss banks put together. German and French banks operated on a similar scale.<sup>11</sup>

During the first half of the 1930s, the Swiss major banks were also seriously shaken by the German banking crisis of 1931. Substantially more than CHF 1 billion held at Swiss banks was frozen<sup>12</sup> in Germany as a result of the 'bank moratorium' and could not be transferred because of the difficult foreign exchange situation. Between 1930 and 1935, the total assets of the eight Swiss major banks of the time<sup>13</sup> shrank by more than half to CHF 4.2 billion. Banks that were exposed to Germany were

able to survive mainly thanks to Swiss domestic business. Nevertheless, five of the majors had to be subjected to restructuring measures. Swiss Volksbank received direct financial help from the federal government, as did Banque d'Escompte Suisse in Geneva on two separate occasions, despite which it ultimately had to close its counters at the end of April 1934. Union Bank of Switzerland (UBS) managed to save itself at the cost of its shareholders. Bank Leu was also restructured and survived the crisis. Basler Handelsbank (BHB) and Eidgenössische Bank (Eiba), both heavily involved in German business since the early 1920s, had more exposure than most and also had to be restructured. When the Nazis then introduced their financial and currency policies, these banks fell into even greater difficulty and were unable to recover. They disappeared in 1945. BHB was taken over by Swiss Bank Corporation (SBC), and Eiba by UBS. Overall, no fewer than 60 banks were taken over or wound up between 1930 and 1939.<sup>14</sup>

### **Banking secrecy, war tax, federal tax**

It was not long before these changes in the Swiss banking landscape, their often huge consequences, and a temporary loss of confidence in the banks had an effect at the political level too. Calls for state control and regulation – primarily to protect savers and investors – had already been made in the wake of bank failures before the First World War.<sup>15</sup> Various parliamentary interventions were submitted with the aim of creating rules on creditor protection, on the relationship between equity and debt capital, and on liquidity, accounting regulations, liability, and disclosure. Finally these led to the draft law written by Professor Julius Landmann in 1916. This was designed primarily for the regulation of savings banks<sup>16</sup>, but it contained no element of banking secrecy.

In broad terms, however, the proposed draft contained everything that a modern banking law required at that time. For example, it required that anyone wanting to run a bank must first obtain a license, with clear rules about the governing bodies and funds required. Rules about accounting and disclosure, and the introduction of external auditors, etc., were also included. The most contentious point concerned

the nature of actual banking supervision. The draft proposed a 'Federal Banking Office' which would report to a ministerial department. No distinction was drawn in the politically important area of depositor protection, where savings book holders and bond holders were treated equally.

The main criticism leveled at Landmann's draft was that it would lead to excessive state intervention. Opposition came from the Swiss National Bank (SNB) which complained that the banks would become a tool of the federal government: 'If the project were realized, we would find straight away that the authorities, or the auditors, would be able to inspect any account, which would compromise professional confidentiality. This would put off foreign depositors to the detriment of our banking industry.'<sup>17</sup> This fear that the authorities would have sweeping powers to open up the commercial banks' books was as great as the fear that approval of Landmann's draft would cause additional serious damage to the banks and the country as a whole. On the one hand, the belligerent nations – France, Austria-Hungary, the German Reich – were starting to raise capital in Switzerland, and there was no desire to endanger this business, which was quite important to the Swiss capital market though still small compared with the continental European capital markets. On the other hand there were concerns that a state-controlled banking industry would prompt foreign customers to withdraw their investments from Switzerland. Against this background, the Landmann draft stood no chance and was not pursued any further. After the First World War, there were attempts to regulate banks by changing the Swiss Code of Obligations (*Obligationenrecht*). In 1920 Professor Eugen Huber drafted a proposal to this effect; another, by former Federal Councilor Arthur Hoffmann, followed in 1923, one by Federal Councilor Edmund Schulthess in 1925, and finally an expert opinion was prepared in 1926 by Dr. Haab of the Federal Ministry of Justice and Police. None of these attempts came to anything. The time was clearly not right for state regulation of an industry still very firmly rooted in the liberal thinking of the 19th century.

There were individual regulations that moved in the direction of banking secrecy – within the 1872 Penal Code of Canton Basel-Stadt<sup>18</sup>,

for example; and UBS's staff regulations of 1915 already talked of the 'confidentiality rule' for bank employees. But the fact that banking secrecy was actually regarded as self-evident and, as already mentioned, the fact that it was rooted in the liberal economic principles of the 19th century – which held sway well into the first third of the 20th century – was demonstrated by the parliamentary discussion of the war tax introduced during the First World War. In the National Council debate on the introduction of this first war tax, the Social Democrat Ryser requested on December 14, 1915, that the banks be obliged to give the tax authorities 'all information that would help make a just assessment of the taxpayer'.<sup>19</sup> Ryser was supported only by the professor of criminal law, and head of the Democrats in Canton Zurich, Emil Zürcher. He did mention 'the bogeyman of capital emigrating to other countries', but believed that this would not happen owing to the War.<sup>20</sup> The Conservative Catholic spokesperson Alfons von Streng (Canton Thurgau) vehemently opposed the Social Democratic initiative: he saw 'not unjustified dangers for the justified interests of the banks', and spoke of a possible 'inquisition'. Von Streng was the only participant in this debate to use the term '*banking secrecy*', which he wanted to see 'conscientiously' guarded.<sup>21</sup> The Liberal spokesperson G.-Aloys de Meuron (Canton Vaud), an influential member of the Procuration Commission (*Vollmachtenkommission*), expressed his amazement that Prof. Zürcher wanted to encourage a '*violation of professional secrecy*'. De Meuron added: '...professional secrecy which, even if it is not expressly enshrined in the provisions of our civil and criminal codes, *has always been viewed as a necessity to ensure the security of business and of financial and commercial transactions.*'<sup>22</sup> The Social Democrats' proposal stood no chance and was turned down by 97 votes to 19.

Four years later, the situation had changed. Social tensions had become increasingly evident with every passing year of war. In 1917 the Social Democratic Party (*Sozialdemokratische Partei*, SP) launched a popular initiative for a direct federal tax. The non-socialist ('*bürgerliche*') parties were thus forced to give their support to a second war tax.<sup>23</sup> On January 29, 1919, the SP demanded that the Federal Council 'make sure that the implementary provisions for the levying of a new



war tax include the *obligation of the banks to provide information* about the capital they hold in order to facilitate correct collection of the war tax' (Wirz postulate).<sup>24</sup> The postulate was rejected by 62 to 22 votes in the National Council, but non-socialist circles and the banks were very alarmed by the tense mood following the General Strike of 1918. The Swiss Bankers Association feared that the ability of the state to inspect bank records 'would shatter the confidence of domestic and foreign investors in the *traditional discretion* of Swiss commerce', and that 'many deposits would be withdrawn and hidden away'.<sup>25</sup> The Bankers Association was certainly aware that the new Social Democratic government in Germany had lifted banking secrecy with retrospective effect from October 1, 1918, following the proclamation of the Republic, but it regarded this measure as 'temporary' and thus not something that Switzerland should consider copying.<sup>26</sup>

The SP's view was quite different, and in the great National Council debate of February 1920 it cited the measures that Germany had taken against tax and capital flight, as well as the obligation of banks to provide information.<sup>27</sup> This heated debate, which lasted several days, centered on the supplementary order for the constitutional article on the second exceptional war tax.

The balance of political power had shifted significantly since the introduction of proportional representation in the National Council elections of 1919. The left almost doubled its representation to 48 of the 189 seats, and the new Farmers', Commercial and Citizens' Party (*Bauern-, Gewerbe- und Bürgerpartei*, BGB – predecessor of the current Swiss People's Party, SVP) installed 29 members in the National Council. Meanwhile the Radical Democrat (Liberal) group saw its share fall from 105 to 60 seats. What made the situation particularly dangerous for the non-socialist parties, however, was a new 'unnatural' alliance between the SP and the farmers on the issue of lifting banking secrecy. The farmers groups, whose influence went beyond the BGB, was not sympathetic to 'big capital'. The controversies revolved mainly around the subjects of interest rates and capital exports, which the farmers wished to control. The SP now put forward a minority proposition: 'All banks are obliged to give the tax assessment authorities all information

required and to comply with all controlling measures.’<sup>28</sup> In the introductory debate, SP National Councilor Schmid made the bald statement that ‘banking secrecy will be lifted’.<sup>29</sup> In the subsequent detailed consultation, Schmid noted that within the parliamentary commission, 8 of the 19 or 20 members had spoken in favor of lifting banking secrecy, including three farmers’ representatives.<sup>30</sup> In his detailed reasoning Schmid said: ‘But all the great volume of assets held by the banks simply cannot be recorded unless banking secrecy is abandoned.’<sup>31</sup> The Emmental farmers’ leader Fritz Siegenthaler, one of the founders of the Berne BGB, shared this view, though added a wry qualification: ‘I am pleased that the gentlemen of the left want to strengthen the state as a whole and its efficiency on such justified grounds. I am happy to stand by them on this matter, though to be on the safe side naturally refrain from any further fraternization (laughter).’<sup>32</sup> National Councilor Tobler attempted to delay the issue as a compromise, referring to the Swiss franc’s weakness on the New York and Amsterdam markets.<sup>33</sup> The Social Democrats lost the vote by 59 to 104 votes, although prominent Bernese farmers’ leaders, like Gnägi, König and Siegenthaler, did vote with the SP.

### **Shifting alliances between farmers and Social Democrats**

In the years after the First World War, one of the driving forces behind the introduction of a banking law was the pressure exerted by Swiss farmers, who repeatedly warned that increasing capital export, especially by the Swiss major banks, would drive up interest rates, which could threaten the existence of many agricultural businesses. The issue of keeping interest rates as low as possible – so important to farmers’ livelihoods – thus occupied an important place in the continuing discussion about a banking law. Clearly the debate was not just about the basic question of whether banks should be supervised by the state. The farmers’ leaders were quite clear: ‘While representatives of the *Mittelstand* [i.e. Switzerland’s middle classes], with their old but solid savings mentality, resolutely deposit money, penny by penny, with the banks, high finance unscrupulously invests these savings abroad and thus burdens the *Mittelstand* irresponsibly with excessive interest rates. [...]

The creation of credit organizations for the *Mittelstand* must be considered if farmers and small businessmen are not to be reduced to the slaves of high finance.<sup>34</sup>

The absence of a banking law and stricter state supervision was a thorn in the side of the SP. Nationalization of the banks was a flagship policy in its 1920 manifesto.<sup>35</sup> Its criticism of the lack of control on banks at this time brought it close to the position taken by the farming and business lobby. In 1922 the SP's so-called 'wealth tax initiative' aimed to pay off debts accrued during the war by means of a one-off wealth tax. All individuals and legal entities would have to disclose information to the tax authorities. In particular, the banks would be obliged to 'subject themselves to any control measures imposed by the assessment authorities'. The non-socialist parties, but also the farmers – now once again in alliance with 'high finance' – were up in arms against the initiative. The farmers were particularly incensed because they once again feared that the expected flow of capital to other countries would lead to higher interest rates and unemployment. The SP accused its opponents of being afraid of opening up banking secrecy.<sup>36</sup> In fact there was some capital flight out of Switzerland in autumn 1922, which hampered attempts to reduce borrowing rates. In the referendum of December 3, 1922, the wealth tax initiative was overwhelmingly rejected by 736,952 votes to 109,702. Conditions on the money and capital markets quickly calmed down. However, the left's defeat appears to have had far-reaching consequences, in that the lifting of banking secrecy disappeared from the political agenda for a long time.

### **Questions of internal security**

The political climate in Europe directly after the First World War and in the two decades between then and the outbreak of the Second World War was heavily influenced by an extraordinarily dense series of unsettling political and economic events: the redrawing of the European map following the disintegration of the Austro-Hungarian Empire, the collapse of the Ottoman Empire, the Russian Revolution, the proclamation of a republic in Germany and the subsequent unrest and civil-war-like conditions of the 1920s, German hyperinflation in the early 1920s,



the global economic crisis of 1929, fascism in Italy and National Socialism in Germany, and serious political disputes and populist left-wing governments in France.

The main factor in Switzerland was the widespread fear among non-socialist circles of a Bolshevik revolution. These fears were fed in particular by the General Strike of 1918. In 1922 – in the wake of the General Strike – the so-called ‘revolution law’ (*‘Umsturzgesetz’*) had already been rejected. The motion to introduce such a law had been prompted by fear that the Communists could seize power. The same fate befell the law on ‘law and order’ (*‘Ordnungsgesetz’*) of 1934, which was proposed in the shadow of the tragic events of November 1932, when inexperienced army recruits opened fire on leftist demonstrators in Geneva, killing several. At around the same time, in June 1932, the Federal Council expressed concern about the subversive political work being done by Nazi groupings in Lugano, Zurich and Davos, as well as about the existence of a German Nazi Party information service in Switzerland. It banned the wearing of brown shirts and deported some individuals.<sup>37</sup> Such events attracted extensive attention, and were, for example, followed closely by the foreign and interior ministries in Paris.<sup>38</sup>

In the wake of all these tensions, on June 21, 1935, the Federal Council issued its urgent resolution on the Protection of the Confederation’s Security, which came to be known as the *‘Spitzelgesetz’* (‘informers’ law’). Some time later the debate about ‘Economic Espionage for Foreign States’ led to the adoption of Article 273 into the Swiss Penal Code of 1942. There was great fear of unrest, revolution and the breakdown of law and order within Switzerland, as well as of espionage and threats to sovereignty in the context of increasing international instability. The most serious example of a political threat to sovereignty came in March 1935 with the abduction of a German journalist, named Jacob, over the border from Basel to Germany by the Gestapo. This led to a severe deterioration of relations with Germany.<sup>39</sup> All of these developments have to be seen in the context of a broad and long-lasting political debate on security, of which – as a result of cases of bank espionage – the introduction of banking secrecy in 1934, was a part.

## Bank espionage

Cases of bank espionage, which started long before the debate about the Banking Law of 1934, can be seen as a kind of analogy to many of the political processes of the time. They were probably prompted initially by the often very high war taxes introduced in many European countries in order to pay for reconstruction and redeem war debts. Officials and their agents started spying on their countrymen to find out whether they were attempting to avoid these taxes by moving assets abroad.

Swiss bank staff are alleged to have been bribed to reveal internal bank information. France, for example, wanted to ensure proper payment of reparations by Germany and was therefore interested in the assets of Germans living outside Germany – not only in Switzerland, but also in countries such as the Netherlands, as a consular report reveals.<sup>40</sup> Owing to the priority given to money invested in Switzerland, every French attack on banking secrecy had a comparatively large impact.<sup>41</sup>

The case of the German Arthur Pfau in 1931 was important.<sup>42</sup> Pfau tried to persuade employees of Union Bank of Switzerland to procure information about assets and portfolios belonging to German clients. He was reported and expelled. In 1931 and 1932, shortly before the Nazis took power, there were countless similar occurrences, many involving German government officials.<sup>43</sup> These can probably be attributed to the strict foreign exchange regime introduced by the Brüning government on August 1, 1931, following Germany's severe banking crisis. In June 1933 the Nazi government issued a law demanding that Germans declare all their assets held abroad on pain of at least three years imprisonment. This was followed in July of the same year by the 'law on the seizure of unpatriotic and anti-state assets' (*Gesetz über die Einziehung volks- und staatsfeindlicher Vermögen*), which served as the basis for confiscating the assets of political opponents and Jewish citizens.

Many of these cases involved the Swiss National Bank and Swiss Public Prosecutor's Office.<sup>44</sup> Bank espionage constituted a clear infringement of sovereignty and was treated as a much more serious threat than one might imagine from today's perspective. The reactions of the people concerned reflect the political and social climate in Switzerland and Europe at that time.

Foreign attempts at espionage continued decades later, after the Second World War, with famous incidents such as the ‘Mirelis S.A. affair’ in 1972, when a British diplomat and a senior official of the British Treasury were implicated in the bribery of Swiss bank employees. Then there was the ‘Customs Officer affair’ at UBS in Geneva in 1980, when bank employees helped French customs officials to obtain lists of French bank clients.<sup>45</sup>

### **Basler Handelsbank and the significance of the ‘Paris affair’**

1932 was the year of the ‘Paris affair’ at the Swiss major bank *Basler Handelsbank* (BHB). Two of the bank’s staff<sup>46</sup> were arrested in October 1932 in Paris when they met with French citizens who they were trying to help avoid France’s coupon tax. A list of more than one thousand client names, including some prominent French personalities, fell into the hands of the authorities. France was politically very unstable at this time, and this ‘*fraude fiscale*’ led to an internal political scandal that prompted ferocious debate in the National Assembly. The ire of the mainly left-wing parliamentarians was directed less at Switzerland and its banks than at the French customers, most of whose political affiliations lay close to the right-wing government of the day. ‘The Deputy [Albertin] made it plain [...], that the case at hand was predominantly an internal French affair.’<sup>47</sup> In the aftermath, many French bank clients temporarily withdrew money they had invested in Switzerland. From 1936, France’s populist left-wing governments ensured that the flow of funds was reversed again.<sup>48</sup> French citizens were, with only a few short exceptions, always allowed to export capital, as long as they declared everything properly to the French tax authorities. It can be assumed that only some of this French money held at Swiss banks was invested in Swiss securities. Most of it would have been held in French or international instruments.<sup>49</sup>

The French had long been traditional investors in Switzerland, mainly for political and economic reasons. Some French banks set up branches in Switzerland shortly after their foundation in the 19th century. They, together with the private banks of Geneva, helped to ensure that asset management in Switzerland – aided by foreign customers –

began to enjoy some success. Above all, the Swiss capital market appeared attractive to the French from an early stage, as an article from 'Economiste français' on June 14, 1913, makes clear: *'La Suisse est un pays dont la neutralité a bien plus de chance d'être effectivement respectée que la Belgique, en cas de grande guerre européenne. Les Fonds Suisses apparaissent donc comme plus attractifs pour les étrangers que les Fonds Belges [...] Les personnes qui aiment la tranquillité, sans dédaigner toutefois le bon rapport, peuvent distribuer une partie de leur avoir entre ces Fonds Suisses: elles y trouveront un rendement moyen de 4¼%, parfois même d'environ 4½%.'* (It is likely that in the event of a great European war, neutrality will be respected in Switzerland more than in Belgium, for example. Swiss investments would appear to be more attractive to foreigners than Belgian investments. [...] People who love peace but who still wouldn't mind a good return could do worse than put some of their money into Swiss investments: they will get an average return of 4¼%, or even of around 4½%.)<sup>50</sup> Later on, French firms and the French state, including the state railway SNCF, regularly built up sometimes large holdings in Switzerland of Swiss franc bonds. These bonds were particularly popular with French clients. Especially in 1925 and 1926, French people, frightened by the continuing devaluation of the French franc, moved money into Switzerland and other countries.<sup>51</sup>

The 'Paris affair', contrary to some interpretations<sup>52</sup>, is unlikely to have had much influence on the inclusion of banking secrecy in the Banking Law, because Basler Handelsbank was already falling into difficulties in 1931. These difficulties were primarily caused by the great expansion in lending to Germany and German customers. The bank had engaged in German credit business since its foundation, and by the second half of the 1920s this business had grown large enough to create a serious regional concentration of risk.<sup>53</sup> Ultimately it was this exposure that brought the bank down in 1945, despite the fact that German risks were reduced, particularly after 1931: 'Owing to the further deterioration of the world economic situation over the summer, the directors have felt compelled since the end of April this year to reduce exposure significantly – in general, but especially our exposure to Germany, Austria and Hungary.' Specifically, Basler Handelsbank halved its short-

term claims in Germany by 50% between March and June 1931, from around CHF 141 million to CHF 71 million.<sup>54</sup> Nevertheless, in 1935 it still had to apply to the Federal Council for a payment extension.

Basler Handelsbank's losses from the 'Paris affair' were put at CHF 200 million by the Independent Commission of Experts Switzerland – Second World War (ICE). In a 1937 letter from the bank<sup>55</sup> to the Federal Political Department (FPD: essentially the Foreign Ministry), in which it complained about the French authorities' neglect of the case, the bank's directors clearly stated that as well as economic and financial difficulties, the bank was also suffering from the psychological effects: 'One should not casually let this deliberate damage to Swiss interests pass. These interests, in the form of bonds, equity capital and other liabilities of the Basler Handelsbank amount to over CHF 200,000,000.' This, then, was not an actual but a potential loss on a huge scale. The bank went on to talk about the damaging consequences of the affair: 'We believe that one of the main psychological factors that led to the payment extension in 1935 was the procedure adopted by the French authorities with regard to the bank, and the constant disquiet that was fed by their attacks. [...] The bank was made to suffer continuous damage that *cannot* be measured in figures.' In other words, a classic case of reputational damage.

Such damage is indeed hard to express in figures, and it can hurt a bank much more and for much longer than it would a traditional industrial company, for example. But this does not mean that there was a direct link between the trouble suffered by Basler Handelsbank and the debate about the introduction of banking secrecy.

In the French parliament, during a stormy debate on the case of '*fraude fiscale*' by French citizens, the Socialist deputy mentioned above, Fabien Albertin, claimed that assets held by French people at Basler Handelsbank amounted to a total of 2 billion French francs (CHF 400 million).<sup>56</sup> Where he found the information to substantiate these claims remains a mystery. Throughout its whole history up to 1945 the bank had never revealed the size of the portfolios it managed on its balance sheet, and until 1935 there was no need specifically to report other investments by foreigners in Switzerland either. The sums



bandied about in the media at that time are contradictory and not properly substantiated. The ICE puts the assets deposited at Basler Handelsbank by French customers at CHF 119 million for 1926, CHF 106 million for 1935 and CHF 117 million for 1944.<sup>57</sup> The talk of *repayments* of ‘hundreds of millions of francs’<sup>58</sup> by Basler Handelsbank following the ‘Paris affair’ must actually refer to *withdrawals* of these off-balance-sheet assets<sup>59</sup> from French customer accounts. The affair certainly hurt commission business, but withdrawals of balance sheet assets remained within bounds. In an internal audit carried out by Basler Handelsbank, total daily withdrawals of French deposits in November 1932, i.e. straight after the event and the ensuing public debate, were put at only around CHF 4 million.<sup>60</sup>

To cite the affair as *the* decisive factor behind the establishment of banking secrecy would be to vastly overestimate the significance of the event in this regard. Despite the events of 1932, Switzerland’s banks continued vehemently to oppose the introduction of a banking law and statutory banking secrecy until 1933, as is shown below. The political scandal in France did lead to a further loss of confidence in Basler Handelsbank, which was already in an uncomfortable position owing to the German banking moratorium of 1931 and its loans to Germany. This position became much worse, leading in mid-1935 to the two-year repayment extension granted by the Federal Council.<sup>61</sup> According to original sources, the difficulties surrounding the ‘Paris affair’ did not preoccupy the executive board and board of directors of Basler Handelsbank too much, whereas its German lending business was a constant source of concern to them. The significance of the ‘Paris affair’ was, then, merely as an additional burden on the bank.

### **Further causes and speculation**

Another significant example reveals something of how common law and common practice can become codified law. The case in point relates to the duty placed on banks under debt collection and bankruptcy law to disclose information in attachment proceedings. Such a case was forwarded to Switzerland’s Federal Supreme Court for the first time in 1925. A bank had refused to give information to the authorities

concerned. The Swiss Bankers Association (SBA) interpreted the judgment subsequently passed down by the Federal Supreme Court to mean that banks only had to disclose information if the objects of attachment – i.e. the assets that the authorities wanted to seize – were listed ‘individually and specifically’. By emphasizing this distinction the banks wanted to rule out ‘fishing trips’ by third parties: they feared that in some cases attachment could be misused for the purposes of asset espionage.<sup>62</sup> In 1930 the same subject became topical again when the Federal Supreme Court appeared to have changed its position. However, the SBA was not prepared to compromise on its interpretation of banking secrecy.<sup>63</sup> Quite the opposite, in fact: it believed that banking secrecy in its form at that time was under threat and wanted to take the issue up again.<sup>64</sup> Subsequently, between 1930 and 1934, banking secrecy in the context of attachment proceedings was a constant topic of interest for the Swiss Bankers Association. The example also shows how at the start of the 1930s the banks and their customers were becoming increasingly aware of the gaps in the law and of the risks that these gaps created.

There is no concrete evidence, however, that election victories by the political left in individual cantons, including Geneva in 1924 and Zurich in 1928, motivated non-socialist circles to lobby for the inclusion of a banking secrecy clause in the new banking law, as some have suggested: ‘Non-socialist forces would have felt the need to protect themselves against any excessively bold curiosity on the part of leftist financial authorities.’<sup>65</sup> This line of argument is not based on evidence but on speculation and assumption; it remains no more than a theory.

### **The Volksbank crisis as catalyst**

This tense atmosphere was further exacerbated by the second crisis suffered by Swiss Volksbank (SVB). The bank had already fallen into difficulties in 1931 owing, as with Basler Handelsbank, to the banking crisis in Germany. Three-quarters of its foreign loans were blocked by payment moratoria. When this news was made public, its counters were stormed by anxious customers. With the help of the federal government and the Swiss National Bank, and thanks to its healthy domestic assets, the bank survived this critical situation.<sup>66</sup> But, despite a wholesale change

in its management, there was no stopping the creeping loss of confidence in the bank. Customers continued to withdraw money, and between 1931 and 1933, holdings of medium-term notes alone fell by 19%; savings deposits were reduced by a dramatic 30%. The situation became so acute that in December 1933 the government, following an urgent Federal Council resolution, had to take on CHF 100 million francs of SVB's cooperative capital – an enormous sum at the time – as well as taking seats on the Volksbank's Board of Directors.<sup>67</sup>

The Volksbank debacle was *the* catalyst that accelerated the political progress of the Banking Law. The change of mood within the world of Swiss banking is clearly reflected in the behavior of the major banks. In March 1933, the banks' representative in the debate on banking legislation, Adolf Jöhr, was very much opposed to the introduction of a banking law:<sup>68</sup> 'Against the background of the current global crisis, Swiss banking has shown a great resilience, thus proving that it is healthy to the core. [...] It would therefore be better not to establish a banking law.' But almost exactly one year later, having witnessed the Volksbank crisis, he was working constructively on the text defining future banking supervision.<sup>69</sup>

The rescue of SVB by the Swiss federal government could only be justified to the public if the banking system was simultaneously subjected to clear and visible control. This was the highest priority. The causality is clear: if you receive help from the state, it is very hard to escape intervention by the state. After the serious incidents at Volksbank – and its rescue through state support – as well as at other banks, neither the non-socialist parties nor the banks, which clearly had an interest

Anyone wanting to get a true sense of the colossal significance of the Volksbank debacle would do well to compare it with the events of autumn 2001 after the collapse of the Swiss national carrier Swissair.

In 1933, total spending by the federal government came to CHF 450 million. A massive CHF 100 million – a little under a quarter – was needed to rescue Volksbank. Total federal government spending in 2001 came to about CHF 50 billion. If the Confederation's spending after October 2, 2001, on building up a new airline (Swiss) had been on the same scale as in 1933, Swiss taxpayers would have found themselves faced with a bill of around CHF 12 billion rather than the actual sum of CHF 1.6 billion.<sup>70</sup>



in shoring up the rather uncomfortable position that many banks found themselves in, could speak out against banking regulation. Perhaps unsurprisingly, Article 47 of the Banking Law of 1933/34 did not prompt much debate by the political left in either the expert commission or in parliament; in the end, the socialists presented no visible resistance to the codifying of banking secrecy. Following the defeat of the wealth tax initiative of 1922, their view was probably that removing banking secrecy from the draft legislation might endanger the whole project to create a law on banks and savings banks, which they certainly didn't want. And after all, the left's great interest was in providing security for the savings of the 'man on the street', i.e. its potential voters. In its introductory comments to parliament, the Federal Council referred to banking secrecy in two sentences.<sup>71</sup> Basically, both political camps were agreed on the need for banking controls.<sup>72</sup> In this sense, the Volksbank crisis was *the* decisive catalyst on the road to banking legislation. Furthermore, under pressure from outside threats, some farsighted non-socialist politicians were already moving towards the position of similarly minded forces in the SP, which at the party's 1937 conference were able to push through the long-awaited agreement that Swiss Social Democrats would support the defense of the country. This meant that there was a clear and broad commonality of interests that went beyond the area of private security. On November 8, 1934, the Banking Law was approved by the National Council by 119 votes to 1<sup>73</sup> and unanimously by the Council of States.<sup>74</sup> It came into force on March 1, 1935.

### **Broad political consensus**

As confirmed by Jean-François Bergier, the relatively short period during which banking secrecy came into being was in fact embedded 'in a longer period of time that started with the First World War if not before' (*longue durée*), and which had a formative influence on the generation of the Second World War and the immediate post-war years.<sup>75</sup> An examination of the lengthy debate about the introduction of Switzerland's banking legislation makes it clear that – as described above – banking secrecy played a very small role if any, and that it was in no way the driving force behind the Banking Law of 1934/35. There is no

evidence of an ‘aggressive battle for the interests of tax evaders’.<sup>76</sup> The central role was in fact played by the crises at various banks during the first decades of the 20th century, culminating in the 1930s with the Swiss Volksbank disaster. The majority of politicians came to believe in the aftermath of this disaster that the introduction of state regulation of banks had, for various reasons, become a matter of urgent necessity. Once again, the inclusion of an article on banking secrecy was not an automatic consequence of this new legislation; it came instead from the widespread concerns about security and discretion that we have already touched on. Article 47 prompted no particular political debate at this point and was thus more of a *byproduct*. If the Social Democrats really had understood the inclusion of the article to be a kind of *quid pro quo* for the swift approval of the law to protect savers, this would have been evident from the discussions that took place.

But the implication or accusation that farming and agricultural leaders let themselves be bought off by the banks purely out of self-interest, agreeing to the inclusion of banking secrecy only to secure the state subsidies that they enjoy to this day, would be completely wrong: ‘*Nous vous donnons des subventions élevées, mais en échange, vous soutenez le secret bancaire.*’ (‘We will give you higher subsidies, but in exchange you must support banking secrecy.’) There is no evidence to support this claim, or to support the attempt to link the agricultural subsidies of the 21st century to banking secrecy: ‘*Les quelque 4 milliards de francs de subventions que la Confédération verse actuellement aux agriculteurs peuvent donc être considérés, dans un certain sens, comme un coût entraîné par le secret bancaire.*’ (‘In a certain sense, the CHF4 billion of subsidy that the Confederation now pays to farmers can be considered one of the costs of banking secrecy.’)<sup>77</sup>

There is much to suggest, however, that a broad political consensus was constructed primarily as a result of the traumas suffered by Switzerland when there was no banking legislation, and of the increasing activities of foreign bank spies. Matters were also accelerated by the international risk and security situation, and especially by the increasingly aggressive stance of the Nazis.

The codification of banking secrecy, decided in 1934 and in force by 1935, was therefore only a formal confirmation of a legal custom

that banks had long relied on, embedded in the context of a law passed primarily to satisfy other requirements. As representatives of a liberal economic order, the banks had long spoken out against the need for unnecessary regulation. However, owing to the activities of foreign informers against foreign customers of Swiss banks in a politically and economically difficult environment, and given the increasingly threatening international situation, it became necessary to give the authorities *and* the banks an additional legal basis at the national level to protect clients and their privacy.

Having talked to refugees from Germany's political left, dissident Communist leader and later Social Democrat Walther Bringolf, Mayor of Schaffhausen, was quick to recognize the danger posed by the Nazis. One of the things he says in his memoirs is particularly interesting in connection with banking secrecy; he is referring to events in 1933: 'The trade unions were broken up by the National Socialists on Hitler's orders; fortunately it was possible to save some of their assets and bring them to Switzerland.'<sup>78</sup> According to the insider Bringolf, the German left was therefore one of the very first direct beneficiaries of the Swiss 'safe haven' and of banking secrecy. They were soon joined by refugees from other countries who were pursued for political and religious reasons.

The primary aim of the debate about the introduction of banking legislation was to protect Swiss bank clients and the banks themselves from further damage. Once again, the codification of banking secrecy – which is actually *bank client confidentiality* since it protects the interests of bank clients, not the bank itself – remained a peripheral matter in the discussion about all the problems we have mentioned. If it was discussed at all it was almost without exception as part of a wider fundamental debate about the right to privacy.<sup>79</sup> The political argument about banking secrecy, which had already started *before* the Nazis came to power in Germany, was on a small scale and could not have been the trigger for the introduction of banking secrecy. The idea mentioned at the start, that banking secrecy was created for humanitarian reasons, is not backed up by any evidence and clearly belongs in the realm of myth.<sup>80</sup>

## After the Second World War

After the end of the greatest catastrophe of the 20th century, the Swiss and international financial world embarked on an unprecedented journey. Despite many obstacles and setbacks, the restrictions that had been set up in the 1930s were gradually but systematically torn down in the industrialized nations. However, in terms of economic history it was not until the start of the 21st century that the world economy approached the degree of globalization and the liberalized operating conditions that had existed before the First World War and for a few short years thereafter. The only differences from today lay in the scale and the means.

In 1945, at the end of the War, banking secrecy had been in force for ten years. More than half of this period had been taken up by the War, during which there was little chance for the new law to have much of an effect.

But what can explain the appeal of the Swiss financial center, built up over many long years to the present day, if it not banking secrecy? What criteria does a potential investor or bank client apply when deciding to have some or all of his assets managed not in his country of residence but by a foreign bank in a foreign financial center – and why Switzerland exactly? These and other questions will be examined in the following chapters.

It is interesting in this context to revisit the view of the Independent Commission of Experts Switzerland – Second World War (ICE). In 2001 it stated the following: ‘Out of fear of currency devaluation, political insecurities, foreign exchange controls, dispossession or war, many Europeans transferred some of their liquid assets to Switzerland during the 1920s and early 1930s. Switzerland’s traditional neutrality, the Swiss financial center’s international reputation, its easy accessibility in the center of Europe, the lack of foreign exchange controls and the strong Swiss franc made Switzerland a popular haven.’<sup>81</sup> Nothing is said, however, about the extent to which these ‘liquid assets’ remained in Switzerland and to what extent the Swiss financial center served merely as a transit and stop-off point before the funds were

transferred on to much safer financial centers such as London or New York. According to the ICE, transfers made for tax reasons were insignificant.

This study will examine whether the qualities identified by the ICE remained relevant to the period after the Second World War as well, or whether other elements, such as banking secrecy, were more important.

### **Reasons for the appeal of the Swiss financial center**

The Swiss financial center is undoubtedly very attractive not only for Swiss people but also and especially for foreign clients. But what lies behind this appeal? Is it really all based on banking secrecy? Is that the sole reason for the strong position enjoyed by Swiss banks? After all, other countries have banking secrecy too. In the sensitive business of banking, it goes without saying that a country will only reap the rewards of a strong, attractive and successful financial center after a long period of building up trust. There are various factors that can theoretically influence the development of a financial center.

The *primary* keys to success are probably:

- Political stability and legal security
- Stable economy and currency
- Stable banking system
- Freely convertible currency

*Secondary* factors are:

- Degree of globalization with regard to the economy as a whole and the banking sector in particular
- Banking secrecy
- Clients' experiences and memories; professionalism of services

It is worth asking whether these individual factors, primary and secondary, can be decisive in isolation, or whether they are interdependent and can only help create a successful financial center in combination with each other. These are the questions we shall now examine.



### Political stability 1890–1990 – a selective comparison

If foreign bank customers decide to have their personal assets managed not in their home country but by a bank in Switzerland, one of the main reasons for doing so must be Switzerland's 150 or so years of political stability and legal security. We will now try to analyze quantitatively and qualitatively the extent to which political instability in certain countries – many of which are important sources of clients for Swiss banks – might over the years prompt residents of those countries to move their assets to Switzerland for long-term security and to protect against falls in value. In their work, Gratzl and Kaufmann also emphasize the importance of political stability as a decisive factor. However, rather than providing concrete, comparable measures, they rely on country risk ratings, which are not available for the more distant past.<sup>82</sup> At the same time, political stability is not afforded the same importance as various economic factors. One possible approach is to disregard the specific systems and values involved, and assess political stability by measuring the length of continuity of a political system and of the power groupings within this system, also factoring in the number of events and developments that threaten this continuity.

Obviously, this measure is only sensible if we are assessing comparable systems based on democratic principles. Many dictatorial regimes and regimes based on terror are characterized by a 'pseudo-stability'. In a long-term analysis, these distorting effects (e.g. Germany 1933–1945 and Italy 1922–1943/45) need to be excluded.

The criteria for such a selection:

- *Change in dominant group*: i.e. new majorities at government level, change of dominant party in coalition governments.
- *Change of ruling cabinet*: i.e. change in the prime minister or equivalent function. Cabinet reshuffles are not included. The concept is not applicable to Switzerland; so the number of finance ministers (FM) is taken as a substitute measure.
- *Stability of system*: refers to the maintenance of a political system without fundamental changes such as transitions from monarchy to republic. Periods of dictatorship are excluded.

## Overview of political stability 1890–1990

	Change in dominant group	Changes of ruling cabinet	■ Stability of systems <sup>83</sup> ■ Comments
Switzerland	1 (or 0)	(16 FM)	Very high degree of stability. The FDP ( <i>Freisinnig-Demokratische Partei</i> – the Liberal Party) held the majority within the Federal Council until 1943. There has been a non-socialist majority in the Federal Council for the whole century, though there have been a few ad hoc ‘center-left’ majorities since 1959.
USA	10	18 (25)	High degree of stability. 18 presidents with 25 ‘administrations’; switches between the two dominant parties – Republican and Democrat – do not represent fundamental changes in direction.
Netherlands	approx. 10	28	High degree of stability. The Nazi occupation of the Netherlands is not considered here; the legal government went into exile.
United Kingdom	16	27	High degree of stability. The relatively high number of changes in the dominant group is explained by the electoral system and the very long parliamentary tradition of changing majorities. It is not, therefore, a negative factor.
Germany	6	30	Greatest variety of systems (monarchy until 1918; Weimar Republic; Nazi regime; FRG). Few changes in dominant grouping. Interesting to note that the FRG only had 7 different chancellors between 1949 and 1999 while the UK had 12 Prime Ministers.
France	–	97	Three changes in system in rapid succession. Changes in dominant group cannot be measured precisely because of differing majority relations in the Third and Fourth Republics; the number is certainly high, however. Extremely frequent changes in ruling cabinet.
Italy	approx. 8	57	Relatively stable system profile due to long Fascist dictatorship (1922–1943). Dominant group does not change that often, but groupings are much more fractured than in Germany. This has a destabilizing effect that even affected the Mussolini era. Very frequent changes in ruling cabinet.

This overview of the stability of political systems shows that Switzerland is clearly at the top of the list, followed by the USA, the Netherlands and the UK. Germany and France in particular fare much better since 1949 and 1958 respectively than in the preceding decades, which rather damage the overall picture for these two countries.

It is worth noting that over the hundred years observed, there is an amazingly narrow distribution of numbers under 'Change in dominant groups' for the countries examined. The only exception is Switzerland, which in practical terms has never witnessed such a change.

The special factor of Swiss-style neutrality is not considered in this analysis. Between the First and Second World Wars, and then seamlessly through the Cold War right up to the 1980s, Switzerland's neutrality may, though, have been an additional reason why customers decided to open an account with a Swiss bank. A prominent example of the decisive influence of such considerations is the fact that in 1930 the Bank for International Settlements (BIS) was established in Basel, which clearly resulted from the fact that following the First World War, the countries involved could not agree on a location in one of the former belligerent nations.<sup>84</sup>

Switzerland did offer the security that no warlike acts would ever be launched from its territory against a neighboring country, but a sober assessment of Switzerland's credentials as a safe haven actually reveals no particular advantages in terms of the risks faced. Quite the opposite, in fact: the country has found itself geographically in the middle of every major continental European political or military conflict, and so has regularly been under extreme threat, from the Franco-Prussian War of 1870/71 right up to the end of the Cold War. However, an emotional and economically unquantifiable component may also enter into many risk considerations – neutrality as a moral value and a guarantee of inviolability.

A country's political stability is closely tied to the stability of its legal system. Security of possession and freedom to dispose over assets are the most relevant factors here. The frequency with which dominant groupings or ruling cabinets change, as well as developments such as political unrest, civil unrest or even dictatorship have a correlative influence on the stability of a country's legal regime. Systemic stability in a democratically legitimated state thus automatically also entails greater legal certainty, while politically unstable conditions increase regulatory risk and bring the danger of arbitrariness on the part of the state. Legal security is just as important for sustainable client relations as it is for political stability in general and for citizens' trust in their politicians and institu-



tions. Since the liberal revolutions of 1848, Switzerland and its financial center have over long decades provided an example in Europe of the kind of highly developed, stable legal security that only a few other countries, such as the United Kingdom and the Scandinavian nations, can boast.

Switzerland's stability-related advantages were clearly regarded as being so important from an early stage that many clients felt compelled to disregard a whole series of economic parameters.

### **Stable economy and currency – the search for a safe haven**

Like political stability and legal security, the stability of a country's economy and currency are an important pairing. Until it industrialized and started building railways, Switzerland was one of the most inhospitable, unproductive and inaccessible parts of Western Europe. The country had no natural advantages<sup>85</sup>, no raw materials or access to water-borne trade or travel, no domestic market and no real political or military power. However, all the conditions for an industrial upturn in the 19th century were in place: a growing population, a durable agricultural sector, a high and continually improving level of education, and sufficient capital.<sup>86</sup>

The years between 1890 and 1990 cover a period that for Switzerland was characterized by steady, sustainable growth. This period can be divided into four sections:

- A long period of initially leisurely and then increasingly lively growth, stretching from the mid-19th century to the First World War, interrupted only by a long depression between 1873 and 1895.
- There followed three decades of stagnation, interrupted in the 1920s by an intense but short growth spurt.
- Then came the legendary post-war boom, which lasted until the oil crisis of 1973–1975.
- Finally there was a quarter century of weak growth, that actually shrank to stagnation in the 1990s.<sup>87</sup>

Taken as a whole, this amounts to more than 100 years of economic success – success which once again builds on and simultaneously feeds the sustained long-term strength of Switzerland's currency. This achieve-

ment is all the more impressive when one considers that Switzerland arrived at this position from what in terms of economic history seemed to be a hopeless position.

The Western industrial nations – including the USA – all experienced a fundamentally similar pattern of economic development. One big difference, however, is that they were directly affected by the devastation of the two World Wars, whereas Switzerland only suffered an indirect impact.

At this point it is worth taking a look at the advantages of long-term investment in the Swiss franc. From the individual and emotional perspective of foreign investors, there are two main considerations:

- The inflation rate in their own country compared with Switzerland's.
- The weakness of their own currency as expressed by its exchange rate with the Swiss franc.<sup>88</sup>

On the other hand, one negative point about any investment in Swiss francs is the varying but usually disadvantageous (for the Swiss franc) interest rate differential between the Swiss franc and other currencies. For many decades since the Second World War and right up to the present day, interest rates in Switzerland have remained significantly lower than in the other countries we are looking at here. The fact that foreign investors keep their money in Switzerland, and indeed continue investing more, even during periods when the state has decreed negative interest rates<sup>89</sup>, bears testament to the decisive influence of other parameters such as inflation and exchange rates.

If protection against inflation is the driving force behind transfers of money into Switzerland, the conditions have certainly been in place to test this theory. Currencies including the French franc, the German Reichsmark from the hyperinflation of 1922 to currency reform in 1948, and the British pound – particularly since the Second World War and the loss of most of Britain's Colonies – not to mention the Italian lira, have all lost an enormous amount of value against the Swiss franc. Apart from the 30% devaluation of 1936, the Swiss franc, by contrast, has remained relatively constant in value, and over the long term could claim to be the hardest of all the major currencies.

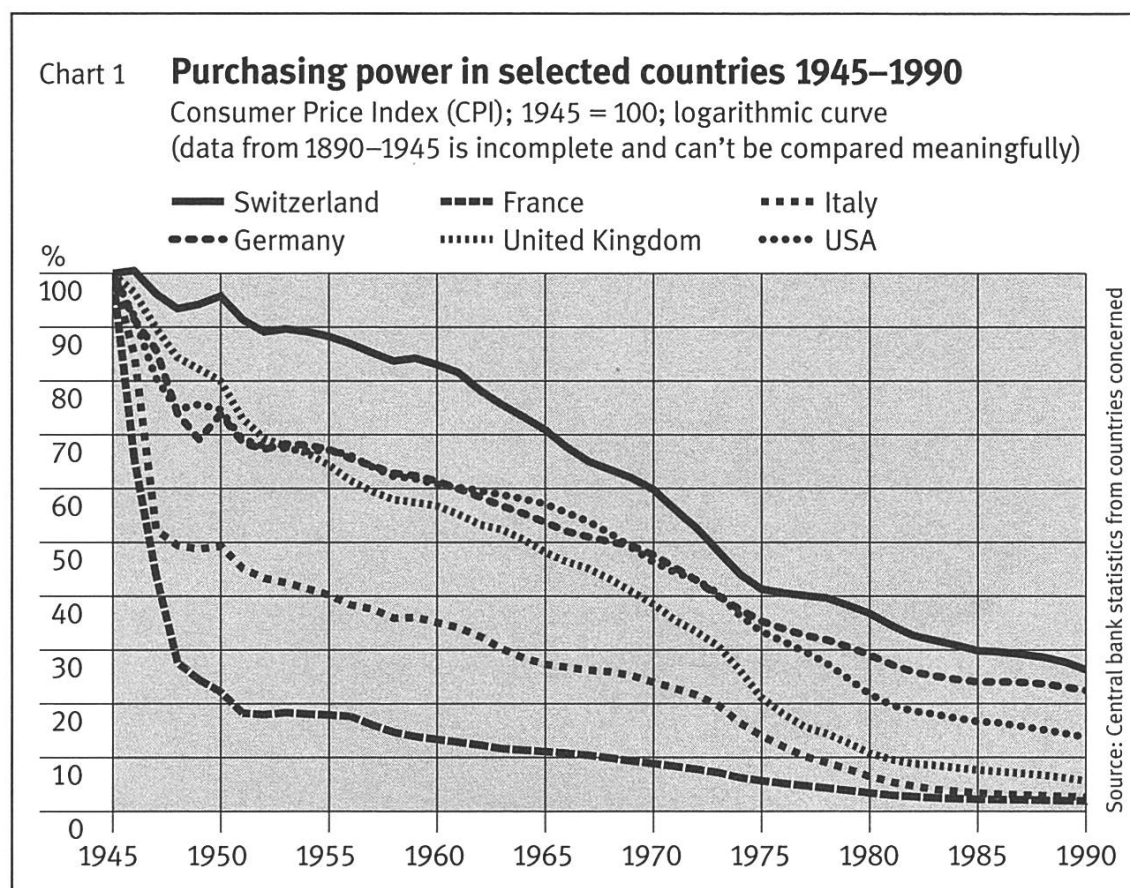


Chart 1 illustrates the creeping or even galloping loss of value against the Swiss franc of some of the relevant currencies during the key years of 1945 to 1990 by measuring purchasing power. The charts does not express the fact that actual losses in purchasing power could have been even higher were it not for the fact that they were kept in check by price controls or administrative prices during times of war and crisis.

A long-term investment in Swiss francs thus offered much greater protection from a collapse in value than an investment in any of the other currencies shown. We have not yet examined the currency risk involved, i.e. the transfer and return transfer of assets invested in Swiss francs into the original national currency at a particular point in time. Here too the comparative result for Swiss francs is excellent over the long term. An overview of annual inflation rates in the selected countries shows that Switzerland has regularly enjoyed a clear advantage for almost 50 years, beginning with the years between the end of the Second World War and the mid-1960s (chart 2, page 38).

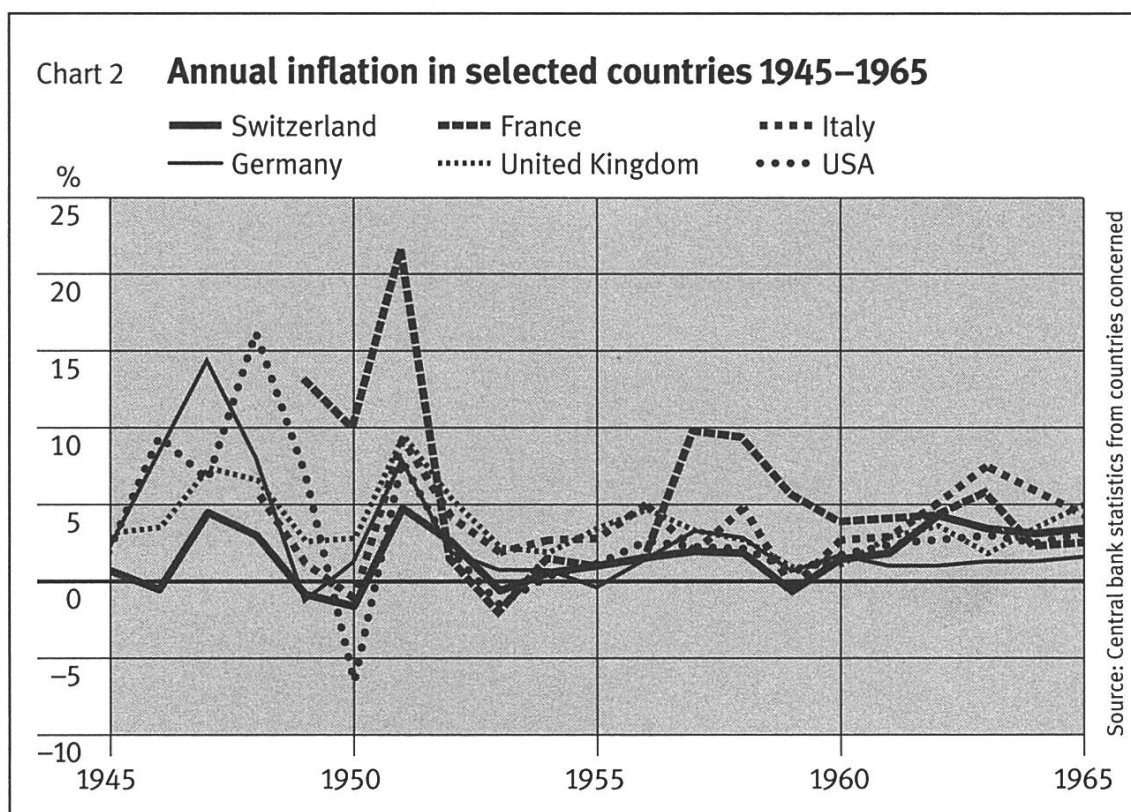
The years from around 1970, during which the Swiss banks – mainly the majors and their asset management businesses – grew most quickly, were also years in which Switzerland could once again play the trump card of significantly lower inflation (chart 3, page 39).

Economically driven falls in value as a result of inflation are, however, only *one* element of currency instability. Just as important are the deliberate devaluations that governments resort to because of political mistakes or external circumstances and the resulting economic difficulties, such as lack of competitiveness. Such devaluations often offer the last chance for an economy to save itself from sliding into even greater trouble. The table on page 40 shows how often devaluations have been ordained in selected countries.

The degree of devaluation or revaluation is not covered by the chart, and neither is the relaunch of individual currencies. For our purposes these factors are only of secondary importance. What is important is on the one hand the uncertainty that investors feel about their own home currency as a result of such devaluations, and on the other the possible positive prospects offered by a Swiss franc investment, even taking into account possible exchange rate risk.

In other words, confidence in a currency is important. This is demonstrated, for example, by what happened in 1960 when the ‘Nouveau Franc’ – worth one hundred times more than the old French franc – was introduced. The permanently ailing French currency immediately gained a certain amount of stability. When a significant amount of money even started to flow back to France from Switzerland, Antoine Pinay, the French finance minister, apparently said: *‘Dieu soit loué pour les banquiers suisses qui ont sauvé la fortune française privée, socialiste ou pas.’* (‘Thank God for the Swiss bankers, who have saved French private assets, Socialist or otherwise.’)

The global economic crisis of the 1930s led to, among other things, trade restrictions, currency controls, the introduction of clearing agreements between countries, and even to some restrictions of people’s freedom of movement, i.e. a clear step backwards after the much more liberal regime of the 19th century. A flood of regulation, trade barriers and restrictions was unleashed, the consequences of which were still

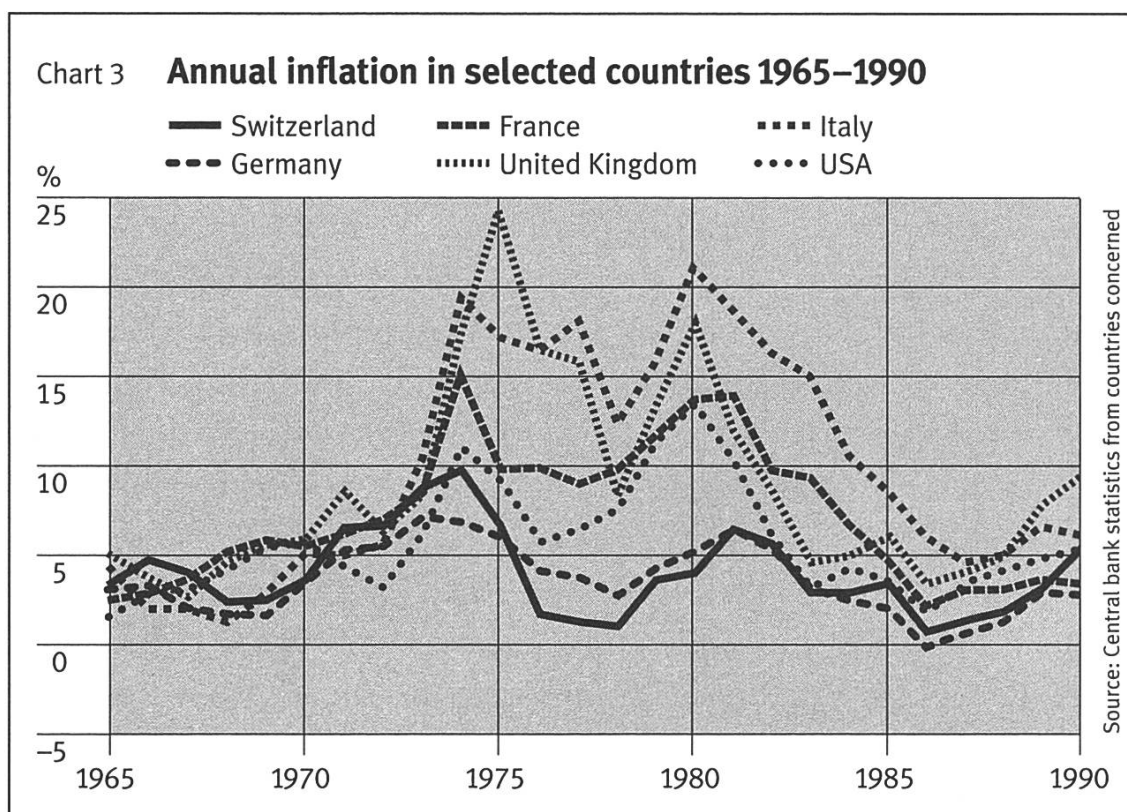


being felt decades after the end of the Second World War and which were only slowly dismantled.

Except for trade with the United States, all of Switzerland's foreign trade up to 1949 was conducted through the Swiss Compensation Office set up in 1934. Using a series of clearing agreements with various countries – of which the most important were the ones with Germany from 1934 and in the years up to the end of the Second World War – Switzerland attempted to tide its economy over in order to avoid further crises and high unemployment.<sup>90</sup> Overall, however, Switzerland tried to take the most liberal path possible. As a small country heavily reliant on exports – as it still is today – free trade was very much in its interests. This was the fundamental difference between it and most other industrialized nations in Western Europe and South America.

This is one of the main reasons why the Swiss franc was so popular as a safe haven currency after the war whenever crises threatened to overwhelm a country or region. The Korean crisis of 1950, the Suez crisis of 1956 and the various disputes in the Middle East, the almost regular Berlin crises and the building of the Wall in 1961, the Cuban missile cri-





sis of 1962, the suppression of the numerous uprisings in the Communist satellite states of Poland, East Germany, Hungary and Czechoslovakia, the slump in the value of the dollar as a result of the Vietnam War, and the excess of petrodollars in the wake of the oil crisis of the mid 1970s: all these events led to significant amounts of money being transferred to Swiss banks. The Swiss franc was particularly desirable at this time, and huge amounts of foreign money flowed into it in a very short time. However, most of it also flowed out again just as quickly after the political tensions died down, though a certain amount was left with the Swiss banks<sup>91</sup> – and not just because people were genuinely concerned about the safety of their funds. There was also a strongly speculative element at work, which in the short term, at least, drove the Swiss franc upwards, and which could spell real trouble especially for Switzerland's vital export sector. More recently – as other economies have become stronger, as most countries have removed currency restrictions and, most importantly, as political conditions have become more stable – Switzerland does not attract such money quite so easily. *'Le rôle du franc a diminué, mais cela tient d'abord – et c'est antérieur à l'euro – au*



*fait que les grandes périodes de turbulences monétaires appartiennent au passé. Les changes sont plus stables et le franc n'est plus l'instrument vers lequel on se précipite par peur d'aller ailleurs. Le franc a perdu une partie de son profil financier. Finalement tant mieux pour l'économie suisse. L'arrivée de l'euro a encore consolidé cette situation parce qu'il existe une alternative au dollar, ce qui soustrait le franc des projecteurs et évite un excès de volatilité. C'est "good news" pour nous qui avons tant souffert des dérapages spéculatifs.'* ('The role of the Swiss franc has diminished but that is due primarily to the fact – and this predates the advent of the euro – that periods of major monetary turbulence are now a thing of the past. Market movements are more stable and the franc is no longer a place of refuge to which investors rush for fear of treading elsewhere. The franc has given up some of its financial prominence. Ultimately, this is all the better for the Swiss economy. The arrival of the euro has added further to this situation of stability for the franc because the euro provides an alternative to the dollar, taking the franc out of the limelight and preventing excessive volatility. This is good news for us in view of the speculative ups and downs we have suffered in the past.')<sup>92</sup>

#### **Frequency of devaluations and revaluations of selected currencies 1918–1970<sup>93</sup>**

	Devaluations	Revaluations	Comments
France	14	–	'Partial devaluations' not included
Belgium	8	–	
Germany	■ Too many to count up to 1948 ■ 1949	1961 1969	Hyperinflation 1922; new currencies in 1923 and 1948
United Kingdom	6		
Italy	6		
Austria	5		Relaunched in 1925; German Reichsmark 1938–1945
Netherlands	3	1	
Sweden	3	1	
USA	1934		
Switzerland	1936	(1971)	

Instability is always bad for an economy. Switzerland's advantages in terms of the stability of its economy and currency have been very evident for many decades. These advantages have created its status as a safe haven in which people can confidently place their trust. It hardly needs re-emphasizing here how important trust is to banking, and how quickly this trust can be squandered.

### **The stability of the Swiss banking system**

There is no doubt that the relative stability of Switzerland's banking system and financial industry have contributed to the country's success and its positive reputation as a financial center. A large number of banks did fall into difficulties in the early years of the 20th century, leading to a series of liquidations and takeovers<sup>94</sup>, but the system as a whole was never seriously damaged. The individual events were too fragmented and usually had no more than local or regional repercussions. In the wake of the international economic crisis of the 1930s, several major banks had to be restructured. But, with the exception of Swiss Volksbank, they managed to do this without outside help. Only Banque d'Escompte Suisse in Geneva had to close its doors permanently in 1934. The main cause of problems for the major banks – business with Germany – mainly affected Swiss clients. The takeover of the two major banks Eidgenössische Bank and Basler Handelsbank by UBS and SBC in 1945 were very much influenced by the events of the Second World War and its aftermath.

All of these developments caused relatively large reverberations by Swiss standards. But in international terms and given the comparative insignificance of Swiss banks in those days, they went largely unremarked. It was not until the great crisis suffered by Credit Suisse in connection with the 'Chiasso affair' of 1977 that the Swiss financial center as a whole suffered a major dent to its reputation<sup>95</sup>, because by this point Swiss banks had achieved a much stronger position on the international stage, and were subject to much greater scrutiny. Until the late 1970s, then, foreign clients saw relatively little to worry about in the Swiss financial center. By contrast, other European countries had undergone sometimes dramatic upheavals that had led to the failure

of some significant banks. These included the collapse of Creditanstalt, Austria's largest bank, in 1931, and that of Germany's third largest bank, the Darmstädter und Nationalbank (Danat-Bank), in the same year. Both events had far-reaching implications for European banking. In Germany in particular, the major banks, with their sizeable investments in German industrial firms, suffered massive losses and huge reputational damage during the global economic crisis. The Swiss banks did not share these negative experiences because they traditionally only took very small stakes in non-banking companies, and only under certain circumstances. This is a tradition that has continued to the present day. For the years and decades immediately after the Second World War, the German banks were hurt by the division of the country. Meanwhile leading French institutions were nationalized in 1945, with a further wave of nationalization in 1981 and 1982.

Against this background, any potential foreign investor or customer would be impressed by the relative and long-lasting stability of the Swiss banking system. When considering stability in financial matters, the focus is primarily on past experiences, and only secondarily on more uncertain forecasts for the future, often undefined timescales and uncertain investment periods.

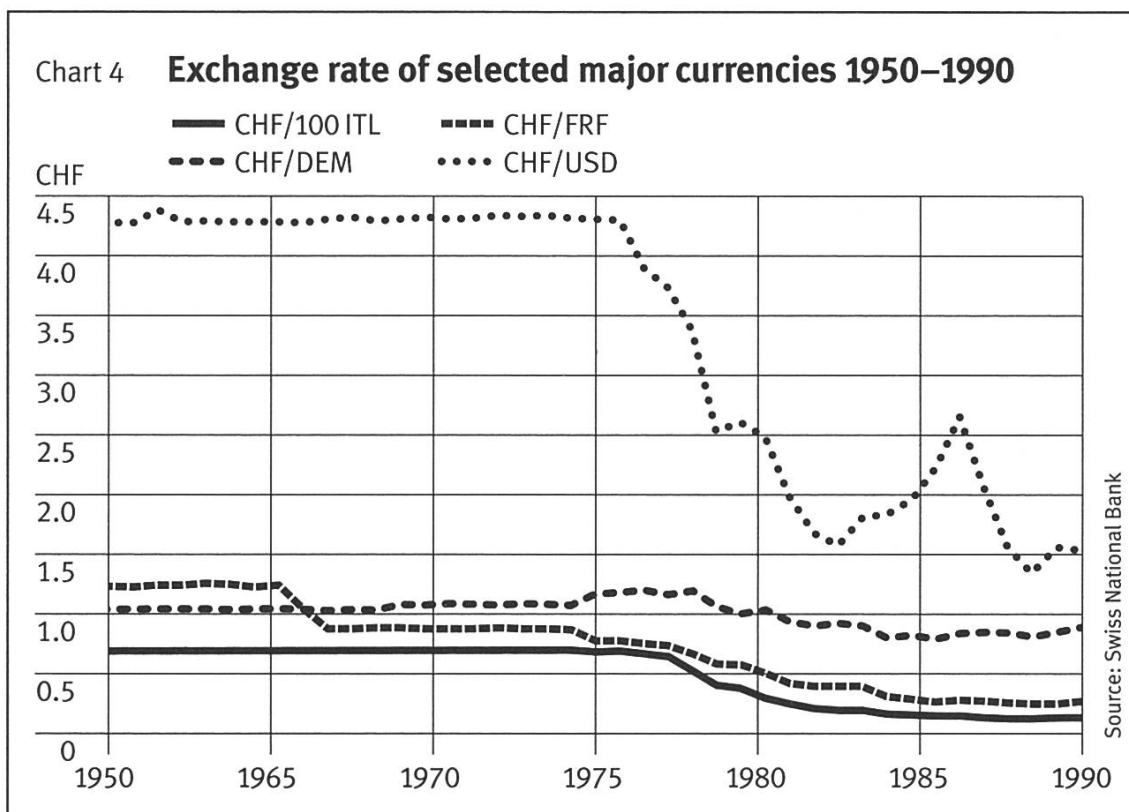
### **The free convertibility of the Swiss franc**

Another large factor in the development of Switzerland as a financial center was the fact that free convertibility of the Swiss franc had been guaranteed for decades. Alongside the US dollar and the less important Portuguese escudo, the Swiss currency was one of the few currencies to remain freely convertible throughout the whole of the Second World War.<sup>96</sup> The enduring free convertibility of the Swiss currency both before and during the War is all the more remarkable given the vicissitudes suffered by many other major currencies after 1945, which were anything but testament to the independence of central banks and the free flow of currencies and trade.<sup>97</sup> An anecdote told by Hans J. Bär about the world famous violinist Isaac Stern provides a good example of the practical consequences of such currency restrictions. Following a concert in Nice in 1955, the police wanted to confiscate the artist's

fee when he left France, because it was forbidden to take money out of the country. So Stern gave the money to Bär, who used it for a French holiday.<sup>98</sup> Most Western European countries only made their currencies freely convertible again at the end of 1958.<sup>99</sup> Before this, Switzerland's payment transactions with other countries consisted primarily of two largely isolated sectors: free transactions mainly with the dollar zone, and multilateral transactions through the European Payments Union (EPU).<sup>100</sup> However, at the beginning of the 1980s, around 80% of all the world's countries still imposed some type of currency restriction. The United Kingdom only lifted its restrictions in 1973, and even at the start of the 1980s, France under its Socialist president François Mitterrand and finance minister Jacques Delors still subjected its citizens to strict currency restrictions.<sup>101</sup> These made it nearly impossible for normal French people to transfer money abroad or use credit cards in other countries.

During certain phases, the appeal of Swiss franc investments was so great that measures were taken to put people off. When Switzerland's financial relations with other countries intensified after convertibility was reestablished for the major currencies at the end of 1958 and the 'Euromarkets' were established, threats to price stability increased. Between 1955 and 1958, but also between 1960 and 1966<sup>102</sup> concrete measures were taken to defend Switzerland's financial economy from an excessive inflow of capital. No interest was paid on foreign money and a commission of 1% was charged on newly arriving funds. Even stricter measures were needed between 1971 and 1980, when commissions reached 2% a quarter at times, once even rising to 10%.<sup>103</sup> On April 21, 1976, the Federal Council introduced an emergency measure for a limited period that restricted the import of foreign banknotes. People were only allowed to bring in a maximum of CHF 20,000 worth of notes in any three-month period. The aim of this was to stem the dramatic capital flight into Switzerland from weak-currency countries, especially those bordering Switzerland, and thus to cap upward pressure on the Swiss franc, which was hurting Swiss exporters.

If we once again put ourselves in the shoes of a foreign investor and take a look at exchange rates at this time, it very quickly becomes clear



why the Swiss franc was so much more attractive than other major currencies. Between 1950 and 1990, many currencies plummeted in value against the Swiss franc. The US dollar and French franc were hit worst of all, but the lira and pound sterling also suffered.

On January 23, 1973, the Swiss National Bank became the first central bank to respond to the persistent weakness of the dollar by setting free its exchange rate against the American currency.<sup>104</sup> Central banks and monetary authorities in most other industrial nations soon followed suit. This step marked the end of the previous system of fixed exchange rates. It is probably no coincidence that the Swiss banks – and Swiss insurance companies – entered their most intense phase of development and recorded a spectacular expansion in foreign business after fixed exchange rates had been consigned to history. But banking secrecy had nothing to do with this fundamental development. Instead it was the Swiss franc's consistent strength for decades against most other currencies that attracted the interest of foreign investors.

Chart 4 above<sup>105</sup> shows in particular how the US dollar plummeted from 4.25 francs to around 1.25 francs in relatively short order at the

start of the 1970s – i.e. during the most difficult phase of the Vietnam War and the first oil crisis. The fall in the value of the French franc against the Swiss franc to about a fifth of its level in 1950 is also shown clearly. The performance of the pound sterling is not shown for technical reasons, but in ten years it fell from about 12 to 4 Swiss francs.

### **Early globalization of the Swiss economy and banks**

For well over a hundred years, the Swiss economy has been known for its high degree of internationalization – or globalization as we now call it. What effects has this early globalization of the Swiss economy and its banks had on business with foreign clients? The fact that people living in other countries open bank accounts in Switzerland is often attributed solely to the existence of banking secrecy. But why, then, were Swiss banks doing business with foreign private clients – admittedly on a modest scale – before banking secrecy was introduced.

Many people seem to believe that globalization is a phenomenon that only began in the late 20th century. This is wrong. One only need think of the Silk Road on which east-west trade was conducted between China and Europe centuries before the birth of Christ, or of the trade that brought incense from Oman to the Mediterranean in ancient times. And then there was the medieval trade in salt, the intensive trading by European sea-faring nations following the great geographical discoveries, and the worldwide activities of the colonial powers, which traded in spices, cloth and other commodities<sup>106</sup>. It is also completely wrong in terms of Swiss history. Swiss trading firms had already built up a global network extending into the Far East by the 19th century; textiles from Eastern Switzerland found their way as far as the Wild West of the USA. The interconnection of the major trading and financial centers by intercontinental telegraph cables began in the mid-19th century, marking a further development in the age of modern globalization. A decisive event, and one that marked the transition to the period of post-modern globalization in which we now find ourselves, was the depression of the second half of the 19th century. The end of this was marked by the global economic crisis of 1929 and by the serious consequences this had for international trade and the banks: ‘...The 1931 crisis was a clear



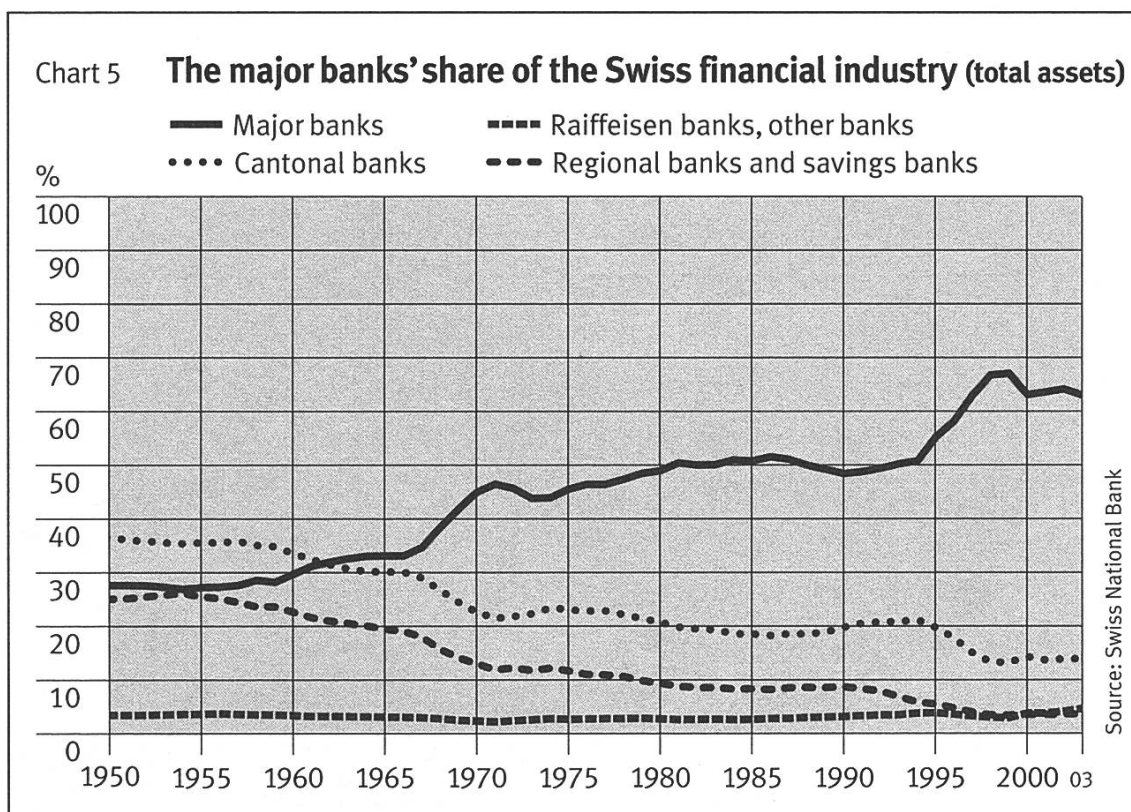
demarcator, so generating a divide between the modern and contemporary eras of globalisation. That disruption ran through the 1930s, the 1940s and part of the 1950s until the Euro-markets began to develop as a major force within contemporary globalisation.<sup>107</sup> The open markets with which we are so familiar today thus only became a reality again in the last quarter of the 20th century. Today's globalization may differ from earlier manifestations in terms of the tools used, the scale and the tempo, but the basic principles are the same.

Already in the 18th century, but especially in the 19th, mainly Genevan and Basel banks were doing business with wealthy private customers from other countries. So were the banks of Zurich, Berne and St. Gallen, but to a lesser degree. The international orientation of most Swiss major banks also began almost as soon as they were founded, though the focus was not on asset management but on international lending. This was after all the age of industrialization and railway building in Switzerland.<sup>108</sup> International business was driven by the services that the banks provided for the large Swiss industrial firms that were already firmly part of the global network by the end of the 19th century. Working with these continually expanding, internationally active Swiss firms helped the bankers to acquire a high level of expertise in international lending business. They financed these young multinationals in their domestic market, but also helped them to build up international operations. They supported foreign projects in which Swiss firms participated as investors or suppliers, or both. The industries involved included the textiles, textile machine and machine tool industries, the chemicals and foodstuffs sectors, power station construction, as well as the large trading firms and many different niche products. The companies included Nestlé, BBC (Brown Boveri & Cie.), the engineers Sulzer, Rieter and Rüti, textile firms such as Schwarzenbach, and trading houses like Volkart, André, Diethelm Keller and Siber Hegner, some of which were active in Japan and the Far East as early as the mid-19th century, establishing themselves as leading international traders in cotton, coffee, cocoa and grain. No other country of comparable size – and certainly no other landlocked country – produced as many multinational companies more than a century ago as Switzerland. Most of the associated banking business

was generated in Switzerland itself, and was managed from Switzerland, but it gave the banks an invaluable fund of knowledge about local conditions in other countries. They did not maintain direct representations in the key trading and financial centers, but they got the information they needed by traveling a great deal. In 1898, only Swiss Bank Corporation had a branch in London. The expansion of the other five Swiss major banks into foreign markets did not really begin until after the Second World War, because in 1945, just as in 1918, they had to restart their international lending business more or less from scratch. Until the 1970s, the Swiss majors concentrated principally on traditional lending business. Gradually, however, business with a wealthy international clientele and the related asset management activities then began to acquire the importance that they enjoy today.

Tourism, which began to take off in the middle of the 19th century, also contributed to the growing international character of Swiss banks. There is no doubt that tourism is and continues to be extremely important to the Swiss economy. The origins and the early development of tourism in Switzerland were not, however, home-grown. Very wealthy British people in particular<sup>109</sup>, but also French and Germans, were the real pioneers of Swiss tourism. They brought the necessary impetus and innovations that helped make tourism what it is today. From the middle of the 20th century Switzerland also started to become a place where the financial elite of Europe, and subsequently the rest of the world, as well as VIPs from the worlds of art, literature and film, would meet.<sup>110</sup> In the 1950s and 1960s it was these people, and others, who started to set up first or second homes around Lake Geneva, in the Engadine or the Ticino, partly because of the physical attractions and partly as havens that legally allowed them to avoid the high tax burden imposed in their home countries.<sup>111</sup> As travel gradually began to be accessible to nearly all sections of society, Switzerland became an attractive holiday destination for the middle classes too. The banks were able to profit both directly and indirectly from tourism.<sup>112</sup>

All the activities and business areas mentioned helped to make Swiss banks known in other countries and to attract an increasing number of wealthy and very wealthy private clients. As well as gener-



ating a client base, this was also a catalyst for the banks to gain additional expertise in private banking – i.e. business with rich clients. Appreciating the good service they received, these international clients became the nucleus of what was at first a small, but increasingly important customer segment. This marked the start of a trend that benefited the large internationally active commercial banks most of all. As a result, these began to encroach upon the territory of the traditional private banks – a process that really only took off in the late 1960s, some thirty years after the creation of codified banking secrecy, and which helped the Swiss major banks to reach their full potential in the 1970s. This was the start of their second, even stronger phase of development in the wake of generally accelerating global economic activity.

The chart above (chart 5) clearly shows the steady growth of the major banks'<sup>113</sup> share of the Swiss financial center over time. It also makes very clear that this growth only became fast enough to give the majors much weight on the international stage at a relatively late date. Up until the early 1960s, the rate of expansion was anything but tempes-

tuous. But thereafter, the effort to spread Swiss retail business to every corner of the country, the expansion of international lending, and Union Bank of Switzerland's merger with Interhandel led to a huge leap in the major banks' total assets from 1966 onwards. The oil crisis of 1973 and the subsequent sharp collapse in economic activity caused this trend to tail off. A new growth spurt came around 1990 with the decartelization of Swiss banking and the acquisition of numerous local and regional banks that had fallen on hard times, often as a result of the Switzerland-wide real estate crisis.<sup>114</sup> The major banks stepped into the breach and prevented the worst from happening. As a consequence, their share of the total Swiss banking market reached roughly the level that they still enjoy today.

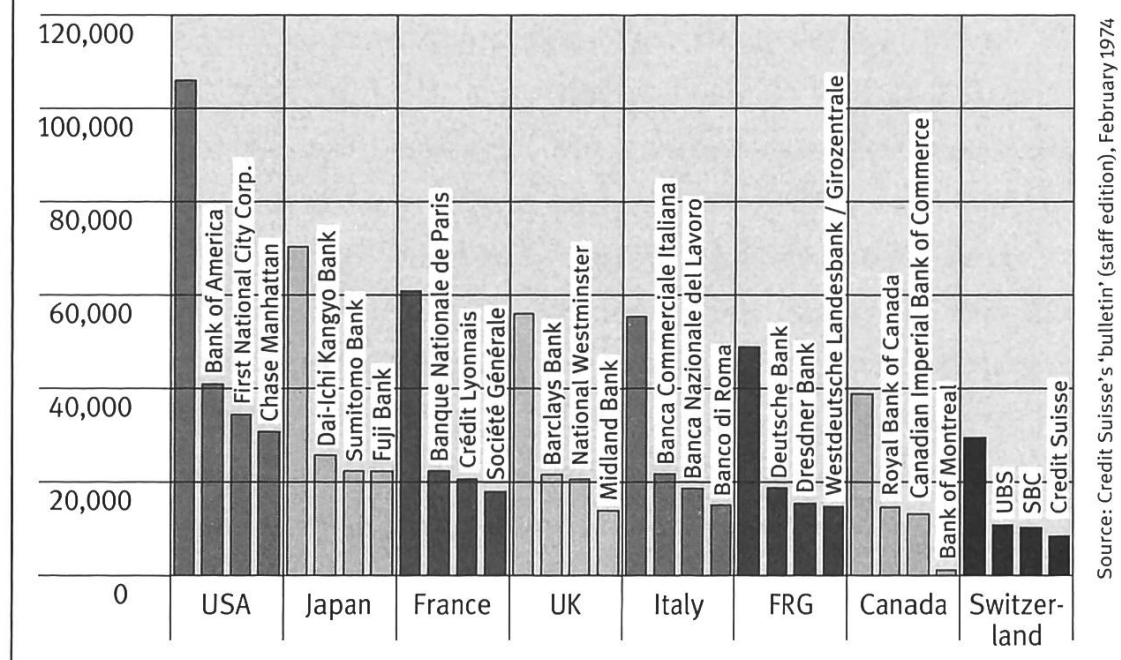
Nevertheless, despite their increasing success since the late 1960s the Swiss banks remained small players on the international stage. There are not many ways of making a meaningful comparison to show the international significance of the Swiss financial center in the right context. But as a snapshot, it is worth comparing the three largest Swiss banks with the three largest in other major industrial nations.

Until the 1990s, total assets were seen internationally as the ultimate measure when comparing the size of different banks. As Chart 6 shows (page 50), at the start of the 1970s, after the rapid expansion of Swiss banking had begun, the three leading Swiss major banks, UBS, SBC and Credit Suisse, still occupied a relatively modest position by international comparison. With total assets of about 10 billion Swiss francs each, they were in about 40th place.<sup>115</sup> The Swiss-centric view that repeatedly claims a leading or even dominant role for the Swiss financial center is simply not correct. The relative sizes paint a different picture. The Swiss stock market only ever managed to reach 6th or 7th place in the world, even in the 1990s.<sup>116</sup> The same was true in the period before the Second World War – though then the situation was even more clear cut. Joseph Jung described the main Swiss banks of the time as 'actually only large regional banks' compared with their foreign counterparts.<sup>117</sup> The myth that the Swiss banks profited unduly from the situation created by the Second World War was finally put to bed by the ICE report of 2002. In its report on the Swiss financial center the Bergier

Chart 6 **The three largest banks in each of the major industrial nations (1972)**

Total assets (in USD m); first column in each section:

total assets of the three largest financial institutions in that country



Commission clearly stated that the total assets of the Swiss banks in 1945 were smaller than they had been in 1930<sup>118</sup> and that in 1945 their earnings were much lower than they had been in the years before the War.<sup>119</sup>

If one wants to sum up the development of Swiss banks, and especially of the major banks, since the introduction of banking secrecy in 1935, one would have to conclude that banking secrecy cannot have been the cause of the various growth spurts. They were fuelled by quite different factors. There was no sharp increase in business before the last World War – in fact many banks had to fight for survival as their business declined – and neither was there any major expansion immediately after the Second World War, even though banking secrecy was well established by then. It took until about twenty years after 1945 for Swiss banking to really take off. This phase clearly coincided with a lot of changes that had nothing to do with banking secrecy, such as a sharp rise in business activity, the re-establishment of free convertibility for the major currencies, which was then followed by freely floating exchange rates, and other factors besides.



### **Banking secrecy as *one* success factor**

The express protection of privacy provided by banking secrecy is undoubtedly one of the elements in the story of Swiss banking's success. The question is, however, whether the existence of banking secrecy was an absolutely necessary precondition of Switzerland's development into an internationally significant financial center, and especially of its success in asset management. The following broad overview (starting on page 52) looks at countries whose banking industries competed with Switzerland's in individual markets during the period up to the Second World War. It assesses the extent to which these countries had banking legislation or even banking secrecy comparable to Switzerland's; and whether this laid the foundations for a flourishing financial center or successful asset management business.

A closer look at this overview leads to the following conclusions:

- There is no universal model for the mechanism by which banking law, company law, etc., or banking secrecy can function as the foundation for a country's development into a significant financial center with a strong asset management sector. No single element can be seen as a *conditio sine qua non*.
- There is no evidence that banking secrecy is a fundamental or indispensable tool in the creation of a successful asset management business.

In summary, traditional asset management for private individuals is a business that cannot be built on banking secrecy alone. Other elements have to provide the motivating force, and we have already identified some of these.



## Banking secrecy: an adequate basis for a financial center and asset management business?<sup>120</sup>

	Banking supervision and banking law ■ When? ■ Why?	■ Triggers ■ Comments	Banking secrecy ■ Exists? ■ Form	Importance for ■ Financial center ■ Asset management
Belgium	Law on banking supervision and the issue of securities 9.7.1935	Banking crises lead to: ■ Change in the organization of Belgian banking ■ Regulation of banks' business activities ■ Creation of a system of supervisory bodies, influence on money and capital market	No specifically codified banking secrecy, but exists as a customary practice  Easy access for the authorities	After 1870 Brussels developed into a financial center  Specialization in short-term lending and industrial investments
Germany	■ 1838 regulation only of savings banks in Prussia. ■ No overall regulation in the Reich till end of monarchy ■ 1910 first regulations on stock exchange trading ■ 1928 publication of balance sheets ■ 1931 general banking supervision, emergency ordinance ■ Accounting regulations, etc.	■ Liberal approach to business in Bismarck's Germany, few interventions by the state ■ First World War brings harsh taxation (reconstruction) ■ Inflation follows ■ Banking crisis of 1931 ■ From 1933 Nazi legislation imposes heavy restrictions	■ 1875/91–1919 no right to information for tax authorities with express exception of state-run savings banks; banking secrecy similar to Switzerland's ■ From 1918/19 measures to counter tax flight and concealment of capital; duty of banks to provide information ■ From 1931 laws on capital, tax flight, currency, etc. ■ Banking secrecy curtailed since Second World War, massively since 2005	Major financial center  Asset management mainly at private banks, not particularly significant

	Banking supervision and banking law ■ When? ■ Why?	■ Triggers ■ Comments	Banking secrecy ■ Exists? ■ Form	Importance for ■ Financial center ■ Asset management
France	Only savings banks regulated from 1835  Until the mid-1930s the state had no tools to control financial institutions; despite the collapse of banks, structure remained largely unchanged before the Second World War, no re-organization of the system	Savings banks mainly in the hands of the communes – so indirect state control	Banks have duty to provide information to tax authorities	Paris financial center with major commercial banks  Banks involved in particular in the placement of large government bond issues  Some asset management, but not hugely important
UK	1817, 1863 only for savings banks; Bank of England given specific responsibilities in 1998	Weak banking supervision; compulsory investment of client deposits at Bank of England; special laws on business activities	Tax system (tax at source) means banking secrecy is not so important	London financial center with major commercial banks  Asset management by private banks
Italy	■ Only savings banks law from 1888 ■ 1926 banking law	1926 concession system for banks; supervision by central bank	Rules to protect official secrecy	Relative size of financial center  Asset management on modest scale
Luxembourg	Luxembourg does not have its own banking supervision or central bank, just a monetary institute (Institut Monétaire Luxembourgeois, IML, since 1983)	Laws on holding companies and financial investment companies since 1915 and 1929	In 1981 banking secrecy, previously just a customary practice, was enshrined in law and protected under criminal law, similar to Swiss banking secrecy	Asset management built up after Second World War

	Banking supervision and banking law ■ When? ■ Why?	■ Triggers ■ Comments	Banking secrecy ■ Exists? ■ Form	Importance for ■ Financial center ■ Asset management
Netherlands	No banking supervision; law of 8.11.1910 regulating pawn brokers and law of 28.1.1932 regulating money lending businesses  Central bank controls bank balances, other authorities control the stock exchange	Underlying liberal attitude; but 1930s see greater intervention by the state	Banks have full duty to provide information to the authorities	Asset management business built up by many private banks after 1911  Capital flows in from Germany, Austria, France, Italy after the First World War
Austria-Hungary; Republic of Austria	■ 1819/1844 ■ 1932 law revised following German and Czech model	1931 banking crisis, introduction of bank audits	Custodial penalties for infringement  Banking secrecy currently similar to Switzerland's; but in addition anonymous accounts possible up to 1993/2002 (!)	Vienna an important financial center up to about 1931  Private banks offer asset management, though not on a huge scale
Sweden	■ Since 1911 ■ Revised in 1932	Revised owing to collapse of Kreuger Group in 1932	Custodial and monetary penalties for infringement of business secrecy since 1911	Modest financial center and asset management business
Switzerland	■ Initially only cantonal regulations for savings banks ■ 1934/35 law on banks and savings banks ■ (1971 <i>partial revision</i> )	Triggered by various banking crises in the first decades of the 20th century, especially after 1931	Codified in Art. 47 of the Banking Law of 1934/35; anonymous accounts not possible	Developed into a major financial center from the 1960s  Asset management traditionally by private banks, but clearly dominated by the major banks since the last third of the 20th century
Czechoslovakia	■ Since 1924 ■ 1932	Supplemented by audit regulations	Yes; prison and fines for infringements	Financial center not particularly important even before Second World War; hardly any asset management

	Banking supervision and banking law ■ When? ■ Why?	■ Triggers ■ Comments	Banking secrecy ■ Exists? ■ Form	Importance for ■ Financial center ■ Asset management
USA	<ul style="list-style-type: none"> <li>■ 1864 National Bank Act</li> <li>■ Emergency Banking Act, 3.3.1933</li> <li>■ Glass-Steagall Act, 16.6.1933</li> </ul>	<p>Mutual savings and stock savings banks subject to state audit authorities</p> <p>1929 stock market crash and subsequent bank rescues led to separated banking system</p>	Weak banking secrecy	<p>World's largest financial center</p> <p>Asset management mainly by major banks, few traditional private banks</p>

### The myth of numbered accounts

In the context of Swiss banking secrecy, the existence of numbered accounts does play a certain role, but their significance is overstated, especially by the general public. They are the exception in terms of how many there are, and they are used mainly for investment purposes. Although they are by no means a purely Swiss phenomenon, they have managed to acquire an almost mystical status. In fact, with a numbered account in Switzerland the relationship between client and bank differs from a normal account in only *one* regard: the number of people responsible for looking after the client within the bank is reduced to the absolutely necessary minimum. But *numbered accounts are never anonymous*<sup>121</sup>, because the conditions imposed when opening a numbered account are exactly the same as with a normal account. The difference is that only a small number of bank employees will have access to the relevant information. Numbered accounts thus offer the same protection against the outside world as normal accounts, but they offer much greater protection within the walls of the bank itself. Swiss banks only offer anonymous accounts in detective stories and TV crime series.

There is uncertainty about the origins and introduction of numbered accounts. They were probably fast-tracked into existence when the political situation of the 1930s created a need for additional protection and the banks began to introduce what could be called a second level of communication for certain clients. For example, Swiss Bank Corpo-

ration, the biggest of the Swiss major banks at that time, responded to the activities of German spies in 1934 by taking ‘measures to obscure the true ownership of client assets’.<sup>122</sup> Prior to the French elections of April 1936, the banks feared a lurch to the left, which did indeed occur; so SBC director Maurice Golay called on the bank’s branches to run all foreign accounts as numbered accounts – *‘de sorte que toutes les lettres, les bordereaux, etc., ainsi que les autres pièces comptables soient établis sous numéro seulement et que les noms des clients ne soient connus qu’à la Direction’* (‘in such a way that all letters, statements, etc., as well as all other relevant documents are established under a number only, with the names of the clients only known to management’).<sup>123</sup>

It is possible that the creation of numbered accounts was also prompted in part by the fact that especially in small towns and rural areas, where everybody knows just about everybody else, the need to maintain discretion required that access to accounts had to be limited to only certain bank employees. Bank employees should not know direct details of the financial situation of their neighbors, for example. In small towns and villages, this information should be available only to selected, trusted employees. The fact that numbered accounts were quite normal in Italy and Austria even before the First World War suggests, however, that they were not a particularly Swiss invention.

### **Experience and memory; professionalism of services**

The long-term effect of client satisfaction and of bank clients’ negative experiences, be they financial or political, in their home countries should not be underestimated. For long-term clients, including those whose families have banked in Switzerland for generations, the importance of continuity can still be seen today.<sup>124</sup> This cannot be measured in concrete figures, but it is a very obvious ‘soft factor’. The fact that wealthy foreign people who have had positive experiences with Swiss banks usually belong to social classes that have large and often international circles of acquaintances makes them ideal ‘multipliers’. A public relations agency would pay a lot of money for their personal contacts. Word of mouth plays a key PR role, with negative experiences carrying as much weight as positive. Clients’ potential experiences

and memories cannot be measured in numbers, but any long-serving bank employee will confirm that this partly emotional element plays an important role in financial affairs. The devaluation of the Swiss franc by 30% in 1936 may have come as quite a shock in the short term to individual customers, for example. But in the long term a client is more influenced by long-term experiences. The positive effect of long-term low political and currency risk is likely to outweigh the negative effect of the devaluation.

Another major factor that has contributed to the positive appeal of Swiss banks is the high level of professionalism of staff in the front office combined with the efficient and highly professional services and administrative procedures in back office areas. These have always been more straightforward and efficient than in other countries. Swiss bank employees are very well educated and tend to be multilingual. Anyone who takes a career in banking seriously in Switzerland makes sure that they spend time abroad to learn more about banking and to gain practical linguistic knowledge. This has been the case since even before the First World War, when employees would go mainly to London or Paris, and this form of training and development has long been a foundation of a banking career in Switzerland.

### **Capital flight, flight capital and tax evasion**

The term *capital flight* was used in connection with Swiss banks as early as the first half of the 20th century. In the wake of worldwide political and economic crises, a lot of capital flowed into Switzerland from the rest of Europe, especially in the 1920s and 1930s, some of which was also speculative in nature. ‘Hot money’ is another term used for this capital. The primary motivation has been described in the previous chapters – i.e. flight into the strong and stable Swiss franc by foreign clients whose own currencies were losing value. However, the largest capital flows during these years were not towards Switzerland but towards the USA, with Switzerland often being used as a transit station.<sup>125</sup>

In the aftermath of the Second World War, but especially in the 1980s and 1990s, there was a change of mood about things like capital



flight and – consequently – flight capital. The Swiss banks found themselves the target of massive criticism from national and international non-governmental organizations (NGOs). These NGOs were committed to the fight for the rights of underdeveloped countries, known collectively as the Third World. They received active support in Switzerland especially from the political left. Many of the accusations leveled at the Swiss banks concerned capital flight and flight capital. These two terms and their definitions are hard to distinguish as they overlap to some extent:

- *Capital flight* is generally defined as the unauthorized transfer of capital in the form of foreign exchange, banknotes or securities from a country that forbids or at least restricts such transfers abroad by its citizens.
- *Flight capital, meanwhile, is money looking to avoid risk.* These days such money is associated, negatively, mainly with poorer countries, while in earlier times the connotations were more positive, for example in connection with events prior to the Second World War, when people were using the term ‘safe haven’.<sup>126</sup>

Swiss banks were accused of actively encouraging capital flight, undermining and stripping the economic foundations of these countries, hiding the countries’ riches behind a protective wall of banking secrecy, and thus hampering or even completely stopping their development.

Basically, we seldom know very precisely what the underlying motivation is for individual clients to transfer capital from abroad to Switzerland. Long-term and short-term considerations may follow each other or overlap, and these considerations may be political, economic or decidedly personal. The following, unsubstantiated account is definitely inaccurate: ‘For decades the Swiss financial industry specialized in undermining the fiscal rules of neighboring countries. [...] The major banks, which were particularly focused on this business, were also the ones most affected by the international banking crisis of the 1930s.’<sup>127</sup> The Achilles heel of the Swiss banks – especially the majors – during that decade clearly lay in international credit business, particularly with

Germany, not in deposits made by foreign clients or the associated asset management business. In the wake of the credit and currency crisis of the 1930s, these banks found it very difficult to keep their currency risks and possible losses from non-performing loans within bounds. They had little room for maneuver, and the only alternatives were to shift or write off the loans. The ICE conducted a relatively thorough investigation of the circumstances surrounding the massive losses suffered by most Swiss major banks during the 1930s, which pushed some institutions to the brink of collapse and which led at the end of the war to the takeover of Eidgenössische Bank and Basler Handelsbank. The ICE came to the same conclusion<sup>128</sup>, which is worth repeating here: the crisis was caused by lending business with Germany built up during the boom years of the 'golden twenties'. The crises suffered by a series of Swiss banks had nothing to do with either the intention to facilitate tax evasion by the citizens of other countries, or with any pro-Nazi stance on the part of the banks – an accusation that has been leveled, for example, at Basler Handelsbank.<sup>129</sup>

Until the very recent past, no details were available about the amount of assets accepted and managed by the Swiss banks. At private banks and major banks alike, statistics on 'assets under management' were among the best-kept secrets. In some banks, employees were even forbidden to produce aggregated figures or statistics. Any amounts given for years up to the publication of official data by the Swiss National Bank in 1999 are imprecise and in some cases speculative; only the estimates for the 1990s are reasonably reliable.<sup>130</sup> However, estimates which purport to show the volume of assets under management for a seventy year period of the 20th century based on the bank's commission income, and which seek to make comparisons with today's figures, are unconvincing and give a false impression.<sup>131</sup> The structural differences between banking then and in the final decades of the 20th century, not to mention the differences in customer behavior, are too enormous. Additional distortions are created by the less detailed accounting methods used by banks in earlier years. From the second half of the 1960s onwards, the sharp growth in banks' total assets was accompanied by equally dramatic, fundamental, structural and permanently volatile shifts to off-balance-

sheet business.<sup>132</sup> In earlier years, banks had to do without the institutional investors, which now account for up to half of some banks' asset management business; neither did they have today's large volumes of underwriting and investment fund business, or foreign exchange, bank-note and gold trading. The commissions that modern investment banking has been generating mainly since the 1990s were also absent in that scale and form. A closer look thus reveals that the increase in commissions earned by Swiss banks from asset management business with private individuals was much smaller than suggested by some publications.<sup>133</sup> No real comparison can be made.

Another mistake that is often made is to overestimate the mobility of the general public, which from the Second World War and into the 1950s was much lower than today, and to forget how limited the technical options for money transfers were. Travel became much more available to all sections of society in the final quarter of the 20th century, but up until the Second World War and in the years immediately afterwards, only the wealthy could travel abroad with any regularity. The difficulties caused by the currency and transfer restrictions described earlier continued well into the second half of the 20th century and acted as a further hindrance to investment by foreign clients.

However, nobody disputes that tax evasion became increasingly common in certain countries after the Second World War. The reasons for this are debatable. But if a country imposes tax rates of over 80% on its citizens at certain times – a practice not just restricted to developing countries as the blatant example of Sweden shows<sup>134</sup> – it is only logical that some of the tax base will migrate to other countries. Accusations of unethical behavior can be made as easily against the responsible politicians as at the tax evaders themselves, even if the level of taxation is legitimated by democratic mandate. The ethics of taxation in one country do not depend on banking secrecy in another country, but more than anything else on reasonable tax laws and the sensible use of tax money. Money seeking to escape the tax man does not flee primarily *to* a specific country, but *from* a specific country.

One issue that is rarely discussed is whether the Swiss are more honest about tax than foreign bank clients in Switzerland. Generalized

estimates suggest that their level of honesty is very high. But it seems that tax evasion amongst the Swiss has always been rather greater than generally assumed. And the practice is not restricted to higher earners, as a survey from 1945 shows: 'It is interesting that according to the latest statistics from the Federal Tax Administration, results for the first "war tax" show that tax fraudsters come not primarily from the ranks of the so-called capitalists, but mainly from the large mass of medium-sized and small savers. The defrauding ratio is highest for savings accounts, the favorite investment of the "little man" (according to the Federal Tax Administration's calculations: 19% for equities, 21% for bonds, 33% for savings accounts).'

<sup>135</sup>

As we can see, there is no basis whatsoever for the claim that tax evasion was the motivating force behind the introduction of Article 47 of the Banking Law<sup>136</sup>. Tax evaders are merely freeloaders in this story. They are able to benefit from an arrangement that provides them with a certain amount of protection from overly grasping tax authorities. How attractive a 'safe haven' like Switzerland can be even when its interest rates are negative has already been discussed in the chapter about the convertibility of the franc.

### **Nazi money, dictators and money laundering**

There is no room here to go into all the details of how banking secrecy has been abused by dictators and money launderers, but it is worth making a brief foray into some important issues.

The debate about dictators' money probably began directly after the Second World War, when countless American secret service reports described, almost always without corroboration, how large sums of money had been deposited in Switzerland by major figures in the Nazi regime. In subsequent decades and right up to the present day, the issues surrounding this subject have repeatedly reappeared in both serious histories and in the tabloid press. However, partly because of the complexities involved and the unclear source material, nobody has really got to the bottom of the matter. Two attempts have been made recently to shed some light:

- *Investigations under the ICEP*: In 1999 the forensic investigation conducted by the Volcker Committee produced no clear conclusion about ‘looted assets’ – i. e. assets stolen from Holocaust victims by the Nazis – that were supposed to have been hidden away in Swiss banks by the perpetrators.<sup>137</sup>
- *Investigations by the ICE*: In 1996 Switzerland’s parliament and government instructed the ICE to investigate various matters including the ‘Scope and fate of assets of all types [...] that originated from members of the National Socialist German Workers Party, from the National Socialist German Reich, its institutions or representatives or from individuals and legal entities associated with it, including all financial transactions carried out with these assets’.<sup>138</sup> Despite its generous funding, the ICE was not able to fulfill this task in even the most rudimentary way. With only a very few exceptions the investigation produced no concrete results.<sup>139</sup>

Why is it that both these investigations failed, even though it would have been in the interests of Switzerland and its financial center to establish some clarity once and for all about whether the secret service reports could stand serious examination? At first sight, the sources really do seem paltry. Why is it that the German, Swiss, British and American archives, such rich source material in all other respects, contain virtually no concrete, verifiable information – rather than guesswork and speculation – about ‘cloaked’ money in Switzerland? The answer may well be that the major players in the Nazi regime had very little opportunity to transfer large sums abroad. State surveillance was too strict and mutual mistrust too great. What is more, high ranking party officials were very restricted in their movements; very few people made trips abroad. Capital transactions by private individuals were rarely possible, and then only under very onerous conditions; money and currency offences could in the worst case be punished by death. However, a few privileged members of the second tier of the Nazi hierarchy may have been able to transfer some of their assets abroad.<sup>140</sup>

The Americans’ suspicions, never proven, but for the most part never denied either, also laid the foundations for rumors about Switzerland<sup>141</sup>



being a shelter for assets acquired illegally by high-ranking politicians and statesmen. The Cold War ushered in a period during which the major Western powers supported potentates, rulers and dictators from countries especially in the 'Third World', even if these countries' policies infringed every convention and standard of humanity. When these rulers fell – victims of revolution or even of Western secret services that decided they were no longer useful – rumors quickly started circulating that they had squirreled away millions or even billions in Swiss bank accounts protected by banking secrecy.<sup>142</sup> International and national criticism soon followed. Initially, the Swiss banks generally faced down the criticism and quickly returned to business as usual.

During the 1960s, the major banks in particular experienced a major upturn as they expanded their international lending and asset management businesses and attracted a much wider international customer base. At the beginning of the 1970s, more people began to ask whether the banks were always sufficiently careful to check the identity of the asset owner when accounts and portfolios were opened. Banking secrecy came under increasing fire, and the Swiss banks began to correct certain excesses in a spirit of self-regulation. In summer 1975, the Swiss National Bank proposed the abolition of numbered accounts, but the banks opposed this.<sup>143</sup> Convention III on 'Banks' client acquisition and marketing'<sup>144</sup> was subsequently established under the aegis of the Swiss Bankers Association, obliging financial institutions to adhere to general principles. Active marketing of numbered accounts was banned, as were advertisements on Swiss and foreign radio and television stations. Advertisements and paid-for articles in foreign print media were also banned. Convention III even went as far as forbidding details of financing banks from appearing on advertising hoardings at construction sites. These and subsequent recommendations remained in force within these principles until 1997, at which point they were abolished 'owing to the changed market situation'.<sup>145</sup>

The event that triggered the self-regulation that survives today and the government regulation that has since been imposed was the 'Chiasso scandal' that hit Credit Suisse in 1977.<sup>146</sup> This traumatic event fuelled calls for tighter internal control mechanisms within the



banks and for state regulation. The banks and the Swiss National Bank concluded the 'Agreement on the Swiss Banks' Code of Conduct with regard to the Exercise of Due Diligence'.<sup>147</sup> In the 1980s, money laundering by organized criminals and drug dealers joined dictators' money as the main focus of debate. This peaked in 1988 with the 'Lebanon Connection' affair, which involved the laundering of drug money. As a result of the affair, justice minister and federal councilor Elisabeth Kopp had to resign, a highly unusual event in Switzerland, and the country was brought to the brink of constitutional crisis. Again there were loud calls for stronger state regulation as the pressure from abroad on the financial center and on banking secrecy steadily grew. Switzerland was subsequently a founding member of the Financial Action Task Force (FATF), set up during the G-7 summit meeting in Paris and affiliated to the OECD. Switzerland's Money Laundering Law came into force in 1998. This stipulates that all financial intermediaries – i.e. not just banks – have to verify the identity of their clients and establish the beneficial owner of all assets ('know your customer'). If a financial intermediary has grounds to suspect money laundering, it must report this suspicion to the responsible Money Laundering Reporting Office Switzerland and block the suspicious assets. The content of the Money Laundering law was based to a large extent on existing self-regulation, since the 1977 Agreement on the Swiss Banks' Code of Conduct already contained 'know your customer' rules. Further laws used in the fight against money laundering have been incorporated into the Swiss Criminal Code (Articles 305<sup>bis</sup> and 305<sup>ter</sup>) since 1990, and in the rules issued by the Federal Banking Commission on March 26, 1998. In addition, in 2001 Switzerland worked with the G-7 states and their justice and bank supervisory bodies to initiate and formulate detailed binding rules on the treatment of assets deposited by politically exposed persons (PEP). To date Switzerland is the only country in the world to have made these rules law.<sup>148</sup> The two major Swiss banks UBS and Credit Suisse, together with nine other international banks, agreed in 2002 to apply global due diligence standards as part of the 'Wolfsberg Anti Money Laundering Principles'. A whole series of other agreements, recommendations and guidelines all serve the same purpose, namely

preventing the misuse of the banks – and of banking secrecy – by criminals and criminal organizations in the broadest sense. As a result, banking secrecy is not absolute: the protection it affords is taken away in justified cases where legal or administrative assistance is requested by other countries, and when a crime is committed. The principle of double incrimination applies.

The question arises as to why Switzerland and its financial center work so diligently on these committees, following their recommendations and even introducing new laws. Over the last thirty years or so, Switzerland has become a worldwide leader in cross-border asset management, and now takes care of about a third of all assets managed offshore, outside the owner's home country. The statistical probability is relatively high, therefore, that the money managed in Switzerland could include money from criminal sources, money intended for laundering or money embezzled by dictators, etc. But the banks are not interested in customer relationships of this type. The potential reputational damage is much greater for the financial center, the institution concerned and, as various cases have shown, for the country as a whole, than any value that such relationships could possibly generate.

### **Attacks, affairs and insinuations since 1945**

Attacks on the Swiss financial center almost without exception imply an attack on banking secrecy, and vice versa. The list presented in the appendix<sup>149</sup> (p. 74–90) tries to present a whole series of important and representative attacks and insults, as well as real and imagined affairs and scandals that have affected the Swiss financial center since the end of the Second World War. Within the list, cases backed by no or dubious evidence outnumber the real, corroborated cases. The list makes no claims for completeness and does not include – or at least only mentions – some cases that are still open.

The original source of some supposed happenings are often untraceable, and stories are often based on unsubstantiated repetitions of alleged facts which have already been reported, copied, transformed and circulated several times. The results of various events and accusations are then laid at the door of the Swiss banks, or of Switzerland in general.

These cases fall roughly into the following categories:

- Personal or supposedly personal enrichment of foreign politicians
- Bribery or blackmail by the representatives of foreign authorities seeking information about accounts held by foreigners at Swiss banks (illegal economic espionage), etc.
- 'Normal' financial crime and fraud (often combined with money laundering)
- Internal political intrigue in other countries prompts denigration of another country – Switzerland – in order to divert attention from domestic problems
- Evasion of regulatory conditions, e.g. stock market rules, in a specific country
- Escape from excessive taxes
- Subliminal, tacit discrediting of Swiss competitors in order to benefit a country's own financial center

Taking an impartial view, one has to conclude that the overwhelming majority of cases, affairs and attacks on banking secrecy are actually driven by home-made problems in the other countries. Swiss banking secrecy is either really being seriously abused, or rumors and speculation are being spread about things that never actually materialize. They are never properly investigated or are proven to be untrue. This trend is exacerbated by the techniques used nowadays by the media, which bases its work on databases maintained by agencies, or by in-house databases or that appear on the Internet. Content is often not subjected to further examination, thus perpetuating mistakes, half-truths and lies.

As we have seen, in order to counter substantiated and unsubstantiated accusations, the Swiss banks introduced the Agreement on the Swiss Banks' Code of Conduct as an initial tool of self-regulation in the wake of Credit Suisse's 'Chiasso scandal' of 1977. A law on money laundering was then introduced, and many other instruments to prevent abuse of the banking system have been introduced, regularly amended and improved. Switzerland can be proud of the fact that today it has the world's most effective weapons in the fight against money laundering and other abuses.

### **Banking secrecy – a guarantee for thrills in ‘literature’ and film**

Over the last fifty years, awareness of banking secrecy has been spread more than anything else by literature and film, though it is worth noting that the books and films concerned are often cheap thrillers and B-movies. Owing to their worldwide impact – especially in the case of film, which is also propagated through television and its derivatives video and DVD – the Swiss banks, banking secrecy and Switzerland have been brought to the attention of a wide general audience, though unfortunately mainly with negative connotations: the ‘baddies’ try to stash their ill-gotten gains away in a Swiss bank account, usually a numbered account, in order to keep the money away from the forces of justice and to legalize it through money laundering. This portrayal of the role of the banks has taken on such momentum of its own that it is unlikely to be halted. Any author or scriptwriter worth his or her salt will squeeze in this type of plot in order to generate the necessary thrills. Criminals who use a bank in the USA, the Bahamas, London or elsewhere for their dirty deeds are simply not attractive enough. One could come to the erroneous conclusion that such things would simply not be possible in these places or in any other financial center.

The lists below give a sample of the trivial literature and film that has made a connection between Swiss banks and crime.

#### **Literature**

- 1960 Simmel, Johannes Mario: Es muss nicht immer Kaviar sein (CH)
- 1976 Erdman, Paul: The Crash of '79 (USA)
- 1976 Waller, Leslie: The Swiss Account (USA)
- 1986 Erdman, Paul: The Panic of '89 (USA)
- 1991 Harman, John: Money for Nothing (GB)
- 1992 Erdman, Paul: The Swiss Account (USA)
- 1994 Ignatius, David: The Bank of Fear (USA)
- 1998 Reich, Christopher: Numbered Account (USA)
- 1998 Leon, Donna: Quietly in their Sleep (USA/I)
- 1999 Harris, Thomas: Hannibal (USA)
- 1999 Herm, Gerhard: Der Assassine (D)
- 2001 Harland, James: The Month of the Leopard (USA)
- 2002 Geeraerts, Jef: De PG [The Attorney General] (B)
- 2002 Ludlum, Robert: The Sigma Protocol (USA)
- 2003 Reich, Christopher: The First Billion (USA)
- 2003 Brown, Dan: The Da Vinci Code (USA)

## Film

1970	The Garden of Delights (E)
1972	Ooh ... You are awful (GB)
1973	Eagle over London (GB)
1977	The Swiss Conspiracy (GB)
1977	James Bond, The Spy who loved me (GB)
1989	The Fortune Code (Hong Kong)
1992	Chao Ji Jing Cha (Hong Kong)
1997	The Spanish Prisoner (USA)
1997	The Saint (USA)
1997	James Bond, Tomorrow Never Dies (USA)
1999	James Bond, The World is Not Enough (USA)
2002	The Bourne Identity (USA)
2002	16 December (India)
2002	Bad Company (USA)
2006	James Bond, Casino Royale (USA)

The two lists are by no means exhaustive. They show only a small cross-section of the wealth of popular literature and of the films pumped out by the US and other movie industries. The many TV productions – German crime series for example – are not included.

The sum effect of these publications and productions has been to turn Swiss banking secrecy into a classic ‘brand’, but one with negative overtones: there is now an automatic correlation between banking secrecy and crime. However, the negative image of banking secrecy is also transposed onto Switzerland as a country and onto the reputation of its banks. The following example is typical: In the mid-1990s the Swiss banks were accused not only of systematically withholding dormant assets belonging to Holocaust victims from their rightful owners, but also of systematically enriching themselves as a result. Banking secrecy had allegedly been used as the pretext that allowed them to get away with this. These accusations were unequivocally dismissed by the investigations conducted by the Volcker Committee (ICEP) at the end of 1999. Nevertheless, the following dialogue was placed right at the start of the James Bond film ‘The World is Not Enough’, produced in 1999:

Bond: ‘What kind of a world would it be if we couldn’t trust a Swiss banker?’ Swiss banker: ‘I am doing the honorable thing and returning the money to its rightful owner.’ Bond: ‘And we know how difficult that can be for the Swiss!’



## Summary

‘That the individual shall have full protection in person and in property is a principle as old as the common law; but it has been found necessary from time to time to define anew the exact nature and extent of such protection.’<sup>150</sup> This call from 1890 for protection of privacy shows how much the principle has always been, and still is, subject to a ceaseless fight for acceptance. Banking secrecy, introduced to protect privacy, has been part of this fight.

The first period of expansion<sup>151</sup> of modern Swiss banking and of the Swiss financial center began soon after the start of the 20th century, i.e. well before the introduction of formal banking secrecy. Until this point the only rules governing banking business were the cantonal regulations that concentrated mainly on savings banks. Initial attempts to regulate the banks were made during and immediately after the First World War, though these did not include provisions on banking secrecy. The establishment of codified banking secrecy was merely a marginal aspect of the debate that took place between the wars about establishing a general banking law. Its introduction was motivated and gradually accelerated principally by economic and political events. The main triggers were the banking crises of the early 1930s, culminating in the second Swiss Volksbank debacle of 1933, as well as the espionage conducted by foreign governments in Switzerland. The entry into force of the Law on Banks and Savings Banks on March 1, 1935, also marked the birth of modern Swiss banking secrecy.

The banking crisis of the 1930s and the Second World War reversed the development of the Swiss banks and put them back more than a dozen years. It took many more years before they were able to return to the levels they were at before the war. However, overall the Swiss banking system has been remarkable for its stability. It survived the difficult period between 1931 and 1945 – despite painful adjustments – with its reputation more or less undiminished. Thus a foundation was laid for later success.

In the years immediately after the war, the Swiss banks tended to roll along gently without showing any great dynamism. The second,



stronger phase of development for the Swiss financial industry only came at the back end of the 1960s in the wake of generally accelerating global economic activity. As well as reinforcing the remaining major banks' traditionally strong lending business, this also helped to build up the increasingly important business of asset management. The majors permanently invaded the territory of the old-established private banks, thus giving the Swiss financial center a whole new complexion.

The idea that the success of the Swiss financial center is based at heart on moral and ethical arguments and on banking secrecy, and that this is the way it is marketed abroad, does not hold water. The real stand-out characteristics were in fact the comparative advantages offered by Switzerland's outstanding operating conditions, including political and economic stability, a stable monetary policy, and the highest possible level of legal security over the long term. These are the keys to the success of the Swiss financial center. These clearly advantageous political and economic conditions, in ever-changing combinations, have formed and influenced the foundations of success for Switzerland, its economy and its financial center for almost fifty years. The Bergier Commission also said that the reasons why Switzerland was used by Europeans as a safe haven for their assets even in the 1930s were on the one hand the currency devaluations, political uncertainties, currency controls, expropriation of assets and war afflicting their own countries, and on the other Switzerland's international reputation and easy accessibility, as well as the strength of the Swiss franc. Tax flight was not found to be a criterion.<sup>152</sup> These decisive factors have not changed since the Second World War.

This study clearly shows that the success of Swiss banking cannot be explained by banking secrecy alone. Quite the opposite, in fact: there would have been no success at all were it not for the *positive conditions* offered by Switzerland and enjoyed by its banks as described. Various external factors also helped for many years. The *negative* conditions in other countries are regrettable, of course, but they were an economic and political reality. The rise in the number of freely convertible currencies and the switch to floating exchange rates

also acted as catalysts for the development of the Swiss financial center. Another fact has to be mentioned at this point: the fact that morally and ethically fuelled attacks on Swiss banking secrecy by other countries have, right from the beginning, often actually been motivated by rather less noble motives. They may well have been prompted by the attacking country's own economic difficulties, for instance, or have been part of a huge competitive battle that saw other financial centers attacking Swiss banks in order to further themselves on the international market. In answer to the questions posed at the start, we can draw the following conclusions:

1. Until its introduction in 1935, banking secrecy was only governed by individual cantonal regulations. Before it became enshrined in federal law it was discussed briefly and controversially, but as a result of the dominant liberal attitudes of the time, it was seen by many people as inopportune. The banks actually opposed its introduction vehemently until 1933.
2. The pressure on politicians and banks to introduce a banking law was part of the reaction to the banking crisis of 1931, and especially to the events surrounding Swiss Volksbank. The aim of the new, modern banking law was to protect savers' deposits. Banking secrecy was included as a by-product and for other reasons.
3. Bank espionage and a steadily deteriorating general security situation highlighted the need for stronger legal protection of privacy. Banking secrecy is the result of this development.
4. Political and legal stability, the ongoing potential of a strong and always convertible currency, and economic prosperity were the main factors behind the international competitiveness of Switzerland and its banks.
5. An open and globally networked economy – with an efficient industrial sector and renowned banks – was another factor and was the basis for the great appeal of Switzerland to foreign bank clients. The free convertibility of the Swiss franc over many decades and the worldwide switch to free floating exchange rates in 1973 provided a subsequent boost.

6. For decades Switzerland offered foreign investors not only protection against falling value, but also the prospect of long-term maintenance or even rises in value.
7. The primary reason for people to transfer their money to Swiss banks was not banking secrecy, but the difficult political, economic, currency and fiscal conditions in other countries. The flow of foreign money into Switzerland was triggered by these negative parameters.
8. The tax issue did not form part of the political discussion about the introduction of modern banking legislation. The possible use of banking secrecy as a cover for tax evasion did not feature on the political agenda in Switzerland or anywhere else until many years after the Second World War.
9. Banking secrecy may be used by some as a means to an end, but it is never the reason for criminal or unethical behavior by the clients of Swiss banks.
10. The rise of the Swiss financial center cannot be attributed *ex post* solely to banking secrecy. Banking secrecy is only *one* element among many reasons for its success.

A sober view of the factors described and their relative importance can only lead to the conclusion that many different factors played a role in the emergence of a successful financial center in Switzerland, but that banking secrecy is only one of many. This claim is backed up by the fact that today Switzerland's neighbors and many other countries from which Swiss bank clients have traditionally come, have now themselves successfully trodden the path of political and economic stability for many years. They are increasingly providing competition for the Swiss financial center. This has been made possible by fifty years without war and the increasing political stability of Europe and other parts of the Western world. These countries' financial industries and banks have been able to benefit from a long period of political and increasingly economic stability. To the same extent, the political and in part the economic advantages offered by Switzerland are gradually being matched, or are becoming relatively less significant. However,

the importance of banking secrecy as a locational and competitive advantage is increasing – a development that the creators of banking secrecy could hardly have predicted more than seventy years ago.

# Appendix

## Selected events relevant to banking secrecy, 1945 to around 1990<sup>153</sup>

**1** = genuine case, correctly presented to the public

**2** = genuine case or possibly genuine case with overblown, sensationalist presentation to the public

**?** = case is without evidence, has never been verified, speculative

– = relevant to the course of the discussion about banking secrecy

Year Result		Event	Source	Comments
1945 <b>?</b>	USA	After the War ends, USA accuses Switzerland of continuing to receive German assets.	SBA; NZZ, 5.7.1945	No evidence presented.
1946 <b>1</b>	USA	Washington Agreement with the three Allies USA, UK and France who negotiated for themselves and on behalf of all Western European countries occupied by Germany.  German assets in Switzerland were liquidated and half of them transferred to the Allies. In addition, Switzerland was forced to pay CHF 250 million in gold as a kind of penalty for the gold received from Germany during the Second World War ('Nazi gold').	Washington, Agreement 25.5.1946	The names of the Germans concerned were not forwarded to the US authorities.  The CHF 250 million in gold was paid twice: first to Germany, and then to the Allies.
1948 1949 <b>1</b>	Romania	The Vitianu case: Romanian citizens are blackmailed to spy into bank accounts in Switzerland.	Federal Criminal Court judgment of 30.6.1949 in the Vitianu case	The Romanian Communist Party wanted to get hold of the money.

Year Result		Event	Source	Comments
1952 1953  2	Argentina	Evita Perón, the wife of President Juan Perón, was alleged to have had bank accounts in Switzerland.	F. Garbély, 'Evitas Geheimnis'	'She undoubtedly held several bank accounts' (Garbély, p. 274).  There is no evidence in the case of Evita Perón; the Argentinean investigating committee arrived at the same conclusion.
1956– 1966  ?	UK	'The Gnomes of Zurich': In 1956 Britain's shadow foreign minister Harold Wilson accused Zurich bankers of speculating with the pound sterling and called Swiss bankers 'Gnomes of Zurich'. In the mid-1960s George Brown, Chancellor of the Exchequer (finance and economics minister) in Wilson's cabinet, repeated these accusations.	<a href="http://www.thefreedictionary.com/">http://www.thefreedictionary.com/</a>	The (limited) opportunities that Swiss banks had at that time to speculate on the pound were used for domestic political reasons as an excuse to blame the permanent weakness of sterling on foreign causes.  The 'Gnomes of Zurich' became the derogatory name by which the City of London referred to Swiss bankers.
1957  ?	Cuba	Cuban dictator Fulgencio Batista and twenty members of his government were alleged to be holding Swiss bank accounts containing USD 1 million each.  Quote: 'Batista realized that it was the end and ordered that his bags be packed – he had deposited his money in Swiss banks long before.'  'In November, Che Guevara was appointed director of the National Bank of Cuba. He sold off Cuban gold reserves held at Fort Knox and transferred the money to Swiss and Canadian banks to prevent US confiscation.'	News magazine 'Revista Carteles'	National Union of Journalists, Glasgow Branch <a href="http://www.nujglasgow.org.uk/">http://www.nujglasgow.org.uk/</a>  'Through Santa Clara to Havana' (Books on Che Guevara) <a href="http://www.chehasta.narod.ru/7th_part.htm">http://www.chehasta.narod.ru/7th_part.htm</a>  The History of Cuban-American Relations <a href="http://www.ianchadwick.com/essays/cubahistory.html">http://www.ianchadwick.com/essays/cubahistory.html</a>  There is no evidence to back these stories up.



Year Result		Event	Source	Comments
1957 1958 ?	USA	SEC claims that the Soviet Union, under cover of banking secrecy, was attempting to buy up voting shares in strategically important US companies in order to control them and obtain secrets from the armaments industry; the real owners of the US securities would be concealed behind banking secrecy because the Swiss banks would exercise the voting rights; the US authorities would not therefore know the identity of the true owners; Swiss banks would support the unfriendly and hidden takeover of companies in 'proxy fights'; drug dealers, communists and financial criminals would benefit. <sup>154</sup>	NZZ, 29. 4. 1957, 21. 5. 1957, 3. 10. 1957, 12. 10. 1957, 20. 7. 1958, 24. 7. 1958	Triggered by the case of Fairbanks, Morse & Co.; simultaneously three Liechtenstein firms (Brandel Trust, Lavan Trust, Sun Investment Establishment).  Société Anonyme de Placements Mobiliers and Banque Ferrier Lullin & Cie also under suspicion.  The case of Interhandel is raised by the Chairman of the US Senate's Subcommittee for Internal Security (Olin D. Johnston). Hearings before the Senate committee, no further consequences.  Prompted PR activity by the Swiss Bankers Association in the USA.
1959– 1975 1	France	Affair concerning Mohammed Khidder, responsible for the 'FLN's fighting fund':  ■ French government accuses Swiss banks of supporting the Algerian freedom movement, the FLN; campaign in French press.  ■ In a second phase, the new Algerian state accuses Switzerland of withholding the money it is owed.	Miscellaneous  NZZ, 17. 6. 1959, 24. 6. 1959  NZZ, 15. 7. 1974  Detailed description of the case in: Chambost, p. 100–106	Start of a long-lasting dispute.  Owing to banking secrecy Banque Commerciale Arabe (Geneva) cannot deliver the FLN's money to Algeria (decision by the Federal Supreme Court, 1. 7. 1974).  On 3. 1. 1967, Khidder is assassinated in Madrid; another leading figure in the Algerian Revolution, Belkassem Krim, is murdered in 1970, presumably also in connection with the FLN's fighting fund

Year Result		Event	Source	Comments
1959 1	USA	SEC investigates Switzerland transactions by Geneva's Banque de Dépôts in connection with Bon Ami Co., Baltic Co., Jacobs Co. et al. (all USA).	NZZ, 15.2.1959, 17.12.1959, 18.2.1959	Bank secrecy invoked, so no information given to US authorities.
1959 ?	USSR	Swiss banks allegedly hoarding money from Eastern European countries that was transferred to the West before the Communists took power.	Neue Zeit, USSR, May 1959 (from NZZ, 10.6.1959)	'West German "monopolies" are trying to penetrate the economies of other countries.'
1959 ?	USA	Repeat of accusations of 1957/58.	Newsweek (NZZ, 10.6.1959)	Numbered accounts mentioned.
1961 ?	Dominican Republic	Following the death of the dictator Trujillo there is speculation about accounts at Swiss banks. His sons are alleged to have deposited USD 500 million at Swiss banks under cover of banking secrecy.	Ziegler, p.70	No evidence to support claims.
1962 ?	Nigeria	Nigerian press reports that banking secrecy is encouraging capital flight from Nigeria and corruption.	NZZ, 9.5.1962, 11.5.1962	Reported in Nigeria's 'Morning Post' and 'Daily Times' (UK-owned); motivated by domestic political factors.
1966 1	Switzerland, France	'Basel blackmail affair': Former UBS employee gives the blackmailer a list of client names.	Basler Nachrichten, National-Zeitung, 27.7.1966; Basler Woche, 5.8.1966	The bank had sacked the employee a few years earlier because of indiscretions.
1966 –	USA	Publication by T. R. Fehrenbach, 'The Swiss Banks, Gnomes of Zurich': Fehrenbach accuses the banks of, among other things, helping Communists to buy Western arms companies, financing espionage, etc.	Fehrenbach NZZ, 3.8.1966, 4.8.1966	Appeared in the UK as 'The Gnomes of Zurich'.  Some of the book is nuanced and accurate, some, however, is clearly wrong and polemic. Many critics of banking secrecy have to this day taken on much of its content without proper appraisal.

Year Result		Event	Source	Comments
1966 ?	UK	Strong attack on banking secrecy in the British media (Guardian, Financial Times, BBC).	NZZ, 10.11.1966, 25.11.1966	'Economist' defends banking secrecy; Swiss Bankers Association letter to the 'Financial Times'.
1967 ?	Austria	Simon Wiesenthal (Vienna) accuses the Swiss banks of having transferred USD 500 million worth of gold to South America at the end of the Second World War in order to help escaping war criminals.	NZZ, 12.4.1967, 27.4.1967	No evidence; denial by Swiss Bankers Association.  The accusation still hasn't been verified by any historical investigation, including investigations by the ICE. <sup>155</sup>
1967 –	Switzerland	SBA sends circular to member banks about foreign criticism, recommending that no money of uncertain origin be accepted: 'In order to maintain the reputation of Swiss banks', it recommended, among other things: 'In particular the specific advantages that our country offers should not be highlighted, e.g. extolling the benefits of our country's legally enshrined banking secrecy; setting up numbered accounts, or comparing the merits of our tax regime with those of other countries. As well as advertising and PR, the same applies to publications about Swiss banking issues.'	SBA, circular no. 3580, 9.3.1967	The Swiss Bankers Association also emphasized the following point: 'In recent publications about the Swiss banks, statements from interviews with Swiss bankers have been taken out of context in order to shore up negative portrayals of our industry.'
1968 ?	India	Discussion in Indian parliament about Indian citizens holding numbered accounts in Switzerland.	NZZ, 19.12.1968	No evidence.

Year Result		Event	Source	Comments
1968 1969  2	USA	Robert M. Morgenthau, District Attorney for the Southern District of New York, accused foreign, predominantly Swiss, banks of using banking secrecy to help American citizens to circumvent American laws, sometimes for legitimate and sometimes for tax reasons; the banks were not being very cooperative. He talked about 'many millions of dollars' without giving precise figures. Possession of gold, which was illegal for US citizens, also played a role.  The Senate banking committee also took an interest (chairman: Wright Patman).	NZZ, 10.12.1968	Morgenthau is the son of Henry Morgenthau Jr., Secretary of the Treasury (1934–1945) and a great critic of Switzerland during the Second World War.  The problem of 'margin requirements' for US banks played a role.  During this discussion, the question of a judicial assistance agreement with Switzerland was mentioned.
1968 1969  –	USA	The US tax authority, the IRS (Internal Revenue Service), carried out its 'Foreign Bank Account Project': 'In order to identify holders of secret Swiss bank accounts, the IRS photostated the faces of all airmail envelopes without return addresses, mailed from Switzerland to New York. At the same time, IRS agents wrote various Swiss banks about establishing accounts and noted the postal meter numbers on the banks' reply envelopes. The IRS then matched these numbers with those on the photostated envelopes and compiled a list of recipients of mail from Swiss banks.'	BNA Daily Tax Report of 25.9.1975 (Bureau of National Affairs, Inc., Washington, D.C.)	In 1975 the US Court of Appeals for the Second Circuit ruled that the IRS's behavior was not unconstitutional.

Year Result		Event	Source	Comments
1969 –	Switzerland	Federal decree on the licensing of foreign-owned banks, 21.3.1969: Setting up a bank in Switzerland is made dependent on, among other things, ‘an injunction on any obtrusive marketing in Switzerland or abroad by the Swiss head office or Swiss institution’ (Art.1, a).		In its introductory comments to parliament about the federal decree, the Federal Council noted that obtrusive marketing by foreign banks that mentioned banking secrecy could damage Switzerland’s reputation and prompt ‘hostility and suspicion’ on the part of foreign authorities. The apparent fiscal advantages of banking secrecy were, it said, actually consequences of Swiss tax law.
1968– 1970 –	USA	Two draft laws against organized crime are brought before the US Congress. The main focus of these is on Swiss banks and banking secrecy:  ■ Patman Bill, 1968 (House of Representatives), demands that bank documents be subject to minimum safekeeping requirements, and that domestic cash transactions and asset transfers to other countries should be reported if they exceeded a minimum sum. ■ Proxmire Bill, 1970 (Senate), demanded that in addition to Patman, securities transactions with foreign financial institutions in the USA should be stopped unless the identity of all persons with a <i>beneficial interest</i> were revealed. All US citizens to be forced to authorize their foreign banks to reveal information to American partners.	NZZ, various editions from 10.12.1968 to 12.2.1970	The Proxmire additions were rejected or massively curtailed because they were impractical.

Year Result		Event	Source	Comments
1969 2	Sweden	The Swedish banking regulators would like to inspect the transactions made by Swedish subsidiary banks in Switzerland. This is not permitted under Swiss law.	NZZ, 18.7.1969	If the diplomatic channels didn't work, branches of Swedish banks were to be set up in future in countries that 'did not have such rigorous banking secrecy rules'.
1969 1970 1	USA	The Rosenbaum/Stone/Vitello fraud, 1966, involving US Marines and, apparently, Mafia money and links to Switzerland: The case attracts much international attention; rather anti-American sentiment among general public.	Federal Supreme Court judgment (Lausanne), 1.10.1969  NZZ, 8.3.1970; miscellaneous	Federal Supreme Court allows inspection of documents at the relevant Swiss banks, although this could have serious consequences (tax evasion) for the accused (Federal Supreme Court judgment of 1.10.1969, objections rejected).
1970 2	Germany	German finance minister Alex Möller proposes a 'tax oasis law' that would ensure that German individuals and legal entities would be taxed under certain conditions as though they were domiciled in Germany. He coins the term 'legal tax flight'.	Frankfurter Allgemeine Zeitung, 6.7.1970  Wirtschaftswoche, 13.11.1970  Schweizerische Handelszeitung, 19.11.1970	This measure, aimed mainly at Switzerland and Liechtenstein, never comes to pass.  Möller resigned as finance minister in 1971 because he was unable to push through his major tax reform.
1970 –	Switzerland	National Councilors Jean Ziegler (SP) and James Schwarzenbach (independent; republican) call for Art. 47 of the Banking Law (banking secrecy) to be repealed.	Parliamentary report, NZZ, 16.12.1970	Schwarzenbach: the proposal was justified 'because banking secrecy has become a very dubious ethical principle of the financial world'.
1970 1	USA	The Federal District Court in New York accuses Bank Weisscredit, Chiasso, of having infringed the Federal Reserve System's margin requirements for stock exchange credit transactions.	NZZ, 4.2.1970	Bank Weisscredit collapsed in 1977 and had to be closed down.
1970 1	Japan	Assets worth approximately CHF22 million held by two Japanese fraudsters at five Swiss banks were seized in Zurich.	Tages-Anzeiger, 26.10.1970	The fraud case took place exclusively in Japan.



Year Result		Event	Source	Comments
1970 1971  1	USA/ Switzerland	IOS affair (Investors Overseas Services): This fraud affair involving the founder of the Geneva-based investment fund company Bernie Cornfeld and his successor Robert Vesco delivered a major blow to Switzerland's reputation. The 'fund of funds' founded by Cornfeld led to losses running into the billions as well as a political scandal in Germany (Erich Mende).	Miscellaneous	Cornfeld was sentenced in Switzerland to 11 months' prison, and was replaced by Vesco. Vesco fled on suspicion of fraud and later settled in Cuba where he was subsequently jailed for 13 years for his involvement in a cancer and AIDS treatment scam.
1971  ?	Iran	'Agitation', published by the New Left, reported that millions had been siphoned off from the 'Pahlevi Foundation' for private use by the family of Shah Reza Pahlevi, and deposited in Swiss banks. A copy of a bank statement was submitted as evidence.	Tages-Anzeiger, 11.1.1971  'Agitation' no. 13 (Zurich)	The document turned out to be a forged UBS account statement; it even contained a mathematical error of USD 4.5 million and other mistakes.  The published bank statement had already been recognized as a fake by an American Senate committee in 1962.
1971 1972  1	USA	Hughes-Irving affair: The journalist Clifford Irving swindled the renowned New Yorker publisher McGraw-Hill by posing as the ghostwriter of a biography of US billionaire Howard Hughes.	www.terrific-books.com  NZZ, 29.2.1972	Money apparently transferred to one of Hughes's accounts actually went to a concealed account held by Irving's wife at Credit Suisse in Zurich.  Thanks to Credit Suisse's cooperative attitude, the case was quickly cleared up, creating positive sentiment in the USA.
1972  1	UK	A British diplomat in Berne bribed two bankers at Société financière Mirelis SA in Geneva with GBP 50,000 to supply information about numbered accounts held by Britons.	Daily Express, 10.3.1972	As a result of the successful bribe, 'several hundred thousand pounds were taken back to Great Britain' (NZZ, 12.3.1972).

Year Result		Event	Source	Comments
1974 ?	Ethiopia	<p>Following the overthrow of Ethiopian Emperor Haile Selassie a controversy arose about the alleged USD 15 billion that he apparently deposited in Swiss banks alone.</p> <p>Haile Selassie is supposed to have signed a declaration allowing the money to be transferred back to Ethiopia.</p>	<p>NZZ, 6.11., 28.11., 2.12., 3.12.1974</p> <p>Weltwoche, 19.5.2005</p>	<p>One source cited USD 6 billion (Ziegler, p. 64), and another USD 8 billion; 'many hundreds of millions' (Weltwoche, 19.5.2005).</p> <p>According to other sources, the Emperor was killed in 1975 because he would not reveal the details of foreign bank accounts.</p> <p>According to a rumor that has never been substantiated, the dictator Mengistu unwittingly took a gold ring from the emperor during the overthrow. The numbers of Selassie's accounts were supposed to have been engraved on the inside of the ring.</p>
1975 –	Switzerland	In June 1975 the SNB called for the abolition of numbered accounts 'which are not necessarily doing much good to Switzerland's reputation'.	SNB, p. 265	Increasing public criticism of banking secrecy; people ask whether the banks were always checking the identity of the asset owner carefully enough when accounts and portfolios were opened.
1975 ?	Vietnam	Nguyen van Thieu, last president of South Vietnam, is supposed to have collaborated with Lon Nol, Cambodia's former dictator, to ship 16 t of gold to Switzerland before fleeing at the end of the Vietnam War: 'There are precise indications that suggest that this gold, worth billions, was stolen from the people of Cambodia and Vietnam and is now sitting peacefully in the safes of two discrete Swiss banks' (Ziegler).	Ziegler, p. 65 et seq.	Other sources suggest that Thieu took the gold to Taiwan, or had to throw some of it into the sea because it was weighing his plane down too much: 'South Vietnam's Thieu [...] abandoned the war effort, cursed the U.S., and split for Taiwan, his plane so overloaded with gold bullion that he had to dump some of it overboard' (from: The Gemstone Files, <a href="http://www.apfn.org/apfn/gemstone.htm">http://www.apfn.org/apfn/gemstone.htm</a> ).

Year Result		Event	Source	Comments
1977 1	Switzerland	Credit Suisse's Chiasso scandal: In April 1977 it became known that the managers of Credit Suisse's branch in Chiasso had massively exceeded their powers of authority and criminally invested client deposits amounting to CHF 2.2 billion. Instead of placing the money with first-class houses, they put it off balance sheet at Texon-Finanzanstalt of Liechtenstein. As a result, Credit Suisse suffered the largest loss in its history.	Jung, p. 245–287	The case shattered people's confidence in Swiss banks as a whole and was subject to domestic and foreign media scrutiny for months.  At the political level there was much debate about the exploitation of banking secrecy to actively aid capital flight (from Italy).
1977 –	Switzerland	In the wake of the Chiasso scandal at Credit Suisse, the Swiss banks sign up to a code of conduct on the exercise of due diligence (CDB).	Jung, p. 290 et seq.  Gehrig, p. 246 et seq.	Code of conduct (self-regulation) for banks, with corresponding sanctions and fines; revised six times up to 2003.
1977 –	USA/ Switzerland	1973 treaty between Switzerland and the USA on mutual judicial assistance in criminal cases comes into force.	Introductory comments from the Federal Council to Parliament, 28.8.1974	The judicial assistance agreement is a consequence of the accusations made against Switzerland in the 1950s and '60s (see above).  Negotiations started in 1968; USA states that they are mainly about the fight against organized crime.
1978– 1984 –	Switzerland	As a result of Credit Suisse's Chiasso scandal, the SP submits a popular initiative 'against the abuse of banking secrecy and the power of the banks' (8.10.1979).		The initiative calls for the abolition of banking secrecy. It is rejected by a majority of 73% in the referendum of 20.5.1984.

Year Result		Event	Source	Comments
1979– 1981  2	Iran	<p>Shah's Money affair: Shortly before he is overthrown, Iran's ruler and his clan allegedly take about USD 2 billion out of the country and put it into bank accounts in New York, Paris and Zurich.</p> <p>Other sources refer to the Iranian government demanding the return of CHF100 billion.</p>	<p>Der Spiegel, 9/1979</p> <p>Tages-Anzeiger, 29.7.1980</p> <p>NZZ, 21.1., 22.1.1981</p>	<p>Even in the 'Spiegel' article it was noted that Switzerland was not an ideal destination for flight capital.</p> <p>95% of the Iranian assets in Switzerland come from the Iranian central bank and other banks; Swiss banks also have claims against Iran (Tages-Anzeiger, 10.3.1979).</p> <p>Iran's new rulers demand that Switzerland block all of the Shah's assets immediately, which the government refuses to do, suggesting to Iran at the start of 1979 that it take the <i>proper legal course</i>.</p> <p>The USA freezes all Iranian assets in the USA. In 1981 USD 8 billion is transferred to an account at the Bank of England controlled by the Algerian central bank.</p> <p>In 1981, Iranian debts to American banks and companies are repaid (USD 3.7 billion).</p>
1979 ?	Central African Republic	'Emperor' Jean Bedel Bokassa is supposed to have private assets of around CHF200 million abroad, including in 'Swiss safe-deposit boxes'.	Capital, October 1986	No evidence: after his overthrow, the self-appointed emperor lived in exile – and poverty – in France.
1979 1	USA	Iran-Contra affair: Money from secret US weapon sales to Ayatollah Khomeini's new regime in Iran for the war against Iraq was diverted to Contra rebels in Nicaragua.		Misuse of Swiss banks by the CIA, America's official secret service, which did exactly what the USA always accuses Switzerland of doing.

Year Result		Event	Source	Comments
1980 1	France	Customs officer affair (Basel): Since 1977 the French customs authorities have tried to obtain account information about French clients from Swiss banks. Representatives of the French customs authorities try in 1980 to use bribery to acquire information about a large number of French customers of UBS. They fall into a trap set by Swiss police in Basel.	Various daily newspapers Le Point, 19. 5. 1980; Le Monde, 21. 5. 1980	According to Swiss law, the offence is one of forbidden economic espionage and official acts by foreign authorities on Swiss territory.  French customs men storm SBC's offices in Paris. The French authorities obtain no information.  According to the French press the main reason why French people put money in Swiss banks is the high level of inflation in France.
1982– 1985 1	USA	'Pizza Connection': Money from drug dealing (about USD 1.6 billion) is laundered under cover of a Pizza bakery in Manhattan, some of it through Swiss banks.	Tages-Anzeiger, 24. 6. 1987; NZZ, 27. 9. 1985	Because there is no money laundering law in Switzerland, the Swiss bank employees involved are prosecuted under drug laws.
1982– 1996 1	Italy	Banco Ambrosiana affair, Licio Gelli, secret Masonic lodge 'P2': Gelli is arrested in Geneva after a tip-off by UBS.	NZZ, 5. 6. 1990	UBS still had to pay a CHF 200,000 fine for violation of the CDB because the details it supplied to the authorities were not complete.
1983 1	France	Customs Officer affair (Geneva): French customs investigators obtain magnetic tapes containing UBS client data.	Various newspapers Le Canard enchaîné, July 1983	The French authorities engage in bribery, body searches of people crossing the French border, etc.; leads in 1984 to an official note of protest from Berne to Paris.
1985 –	OECD	In its paper 'Taxation and abuse of banking secrecy', the OECD Fiscal Committee recommends a relaxation of banking secrecy and greater exchange of information between tax authorities. These are not brought to a vote owing to opposition from Switzerland.	NZZ, 4. 7. 1985	Switzerland's man at the OECD, Ambassador Jean Zwahlen, states, among other things, that the success of a financial center does not depend on banking secrecy, since London was successful without having banking secrecy, while Austria is insignificant even though it has banking secrecy.

Year Result		Event	Source	Comments
1985 1	France	French satirical magazine 'Le Canard enchaîné' reveals how in 1984 French customs investigators obtained a list of names of 700 customers of the Dutch bank Robeco in Geneva.	Weltwoche, 17. 10. 1985	The leak was from Robeco employees, made possible by bribery by 'advisor' (informer).
1986 2	Haiti	Jean-Claude Duvalier, known as Baby Doc, President of Haiti (1971–1986), flees to France.  According to press reports, the Duvalier clan embezzled USD 100–120 million.	Bilanz, August 1987  Federal Council press release, 14. 4. 2002  Weltwoche, 22/2003  Schweiz global, 1/2005	The Duvaliers allegedly had direct access to all the government accounts in Switzerland, France and the USA.  Switzerland froze funds in 1986 at the request of the new Haitian government; according to a Federal Council press release, a total of CHF 7.5 million was blocked.  France froze the Duvalier accounts and seized USD 120 million that was given back to Haiti.  Haiti still hasn't proved the illegal origin of the money to this day.
1986 1	India	Bofors affair: This has occupied Indian domestic politics since 1986. During the premiership of Rajiv Gandhi, India had signed a contract with the Swedish arms firm Bofors for the supply of 410 field guns worth USD 1.4 billion. Bofors are alleged to have paid more than USD 40 million of bribes to Indian politicians via Swiss bank accounts in order to win the contract over a French rival.	Federal Supreme Court press release, 1. 9. 1999	Swiss Federal Supreme Court approves the transfer of documents to India.



Year Result		Event	Source	Comments
1986 2	Panama	Manuel Noriega, Panamanian leader (1983–1986): Under General Noriega, the former ally of the USA, Panama joined Columbia as one of the major drug trading hubs. Noriega was ousted by the USA and brought to the USA where he was prosecuted in 1992 for drug dealing and organized crime.	Report to the Committee on Foreign Relations, United States Senate, by Senator John Kerry and Senator Hank Brown, December 1992	Noriega was able to divert money for personal use via the Panamanian central bank; from the Senate report on BCCI, p. 573: 'On July 26, two Noriega accounts containing \$ 8.1 million and \$ 3 million were transferred from BCCI, Luxembourg, to the account of the Banco Nacional de Panama at the Union Bank of Switzerland in Zurich in the name of a company called [sic] "Finley International".'
1986 1	Philippines	Money held by Philippine dictator Ferdinand Marcos at Swiss banks is blocked following a surprising decision by the Federal Council on 24.3.1986.	NZZ, 1.4.1986; press release from Zurich district attorney, 5.8.2003	The blocked USD 683 million was transferred in 1998 to a blocked account in the Philippines and then in 2003 was paid out to the government following a decision by a Philippine court.  In 1991 and 1994 there was speculation in various quarters about gold allegedly hidden in Switzerland by Marcos. This was prompted by international fraudsters with false documents.
1987 –	USA	Switzerland and the USA sign a memorandum of understanding about mutual judicial assistance.	NZZ, 10.11.1987	At the same time there is an exchange of notes about judicial assistance in extended administrative cases involving criminal insider transactions.
1988 ?	Indonesia	Former Indonesian dictator Sukarno is alleged to have concealed up to USD 16 billion in Swiss banks, and gold worth USD 9 billion in British banks (1988 values).	The Wall Street Journal, 29.2.1988	The rumors were never verified; Sukarno's successor Suharto (1968–1998) requested no investigations (judicial assistance) in Switzerland; Suharto himself faced the same accusations on his departure.

Year Result		Event	Source	Comments
1988 1989  ?	Spain	‘Peseta Connection’: Money from cigarette smuggling to Spain is transferred to Liechtenstein via Swiss banks.	Weltwoche, 3.8.1989; NZZ, 16.9.1989	No criminal act committed under Swiss law; money laundering from drug dealing could not be proved.
1988 1989  1	Switzerland	<p>Lebanon Connection (Kopp/Shakarchi/Magharian affair):</p> <p>Two Lebanese men, Jean and Barkev Magharian, are alleged to have laundered money from drug dealing by the US Mafia through the Zurich currency trading firm Shakarchi Trading AG.</p> <p>Hans W. Kopp, husband of Swiss justice minister Elisabeth Kopp, is vice chairman of the company.</p> <p>In January 1989 Elisabeth Kopp resigns from the government under public pressure and suspicion of having violated official secrecy after she warns her husband to get out of the now dubious company.</p>	Various Swiss daily newspapers	<p>In Switzerland the affair leads to a heated political debate about the problem of money laundering and banking secrecy.</p> <p>In the wake of the Pizza Connection (1985), the Lebanon Connection and the Kopp scandal, on 1.7.1990 provisions were added to the penal code that obliged the banks to report to the authorities as soon as there was any suspicion of money laundering.</p> <p>The Swiss Federal Banking Commission’s revised guidelines on the combating and prevention of money laundering, which enter into force in 1992 and are revised in 1998, make interpretation of the legal provision more precise.</p> <p>The Money Laundering Act comes into force on 1.4.1998. This extends the duty of due diligence to the whole of the financial sector and defines binding standards to combat money laundering. These are based on the principle of monitored self-regulation; supervision bodies are the Swiss Federal Banking Commission and the Money Laundering Control Authority.</p>

Year Result		Event	Source	Comments
1989 1	Colombia	Around USD 10.3 million of assets held at Swiss banks by a senior member of the Medellín drug cartel (José Gonzalo Rodríguez-Gacha) is frozen.	NZZ, Tages-Anzeiger, 8.12.1989	This is just some of the assets. Money is also seized in the USA, UK, Austria and Luxembourg.
1993 ?	Italy	'Protezione' Account affair: Senior employees of UBS are accused by Genevan financier Florio Fiorini, in connection with an Italian bribery affair, of knowing about illegal payments into an account named 'Protezione' held at UBS in Geneva.	FBC, July 1993	No evidence to back up accusations. The Swiss Federal Banking Commission does not identify any infringement of the money laundering guidelines.
1995 ?	Italy	The Italian Mafia are alleged to have used Swiss banks to launder almost CHF 3 billion through building contractor Giovanni Cannizzo.	Various; L'Espresso, 7. 11. 1996	In 1996, the accusations made against the banks by the Italian authorities turn out to be untrue.

## Notes

- 1 Actually 'bank client secrecy', as it protects the client, not the bank itself.
- 2 *Die Zeit*, Hamburg, April 27, 1984.
- 3 Swiss Federal Law on Banks and Savings Banks (*Bundesgesetz über die Banken und Sparkassen*) of November 8, 1934; Article 47: Anyone who intentionally
  - as an auditor grossly violates the duties assigned to him in the performance of the audit or when producing the audit report, fails to instruct the audited bank as prescribed to carry out appropriate measures, or fails to report his findings to the Banking Commission as prescribed;
  - as a director, officer or employee of a bank, as an auditor or auditor's assistant, as a member of the Banking Commission, officer or employee of its secretariat, violates the duty of confidentiality or professional secrecy, or induces or tries to induce such violation by others,shall be punished by a fine of not more than CHF 20,000 or by imprisonment for not more than six months. The two punishments may be combined. If the act has been committed by negligence, the penalty shall be a fine not exceeding CHF 10,000.
- 4 In 1982 Faith, p. 49 et seq., already highlighted the fact that the inclusion of banking secrecy in the Federal Law on Banks and Savings Banks had been discussed much earlier, and that it was not prompted by the desire to protect the assets of Jewish refugees from Nazi Germany; in any case such an interpretation is contradicted by the actual sequence of events. Cf. also Vogler, FHR; Guex, FAZ.
- 5 Peter Hug, 'Das Märchen vom moralischen Bankgeheimnis', *Weltwoche*, Zurich, January 13, 2000, und *Le Temps*, April 27, 2000. Both of these newspaper articles are a shortened version of Hug, 'Steuerflucht'; some of what is said in the articles is a repetition of the thesis first advanced by Ernst Kindhauser in 1996: 'Unheldisch und verschwiegen ist die Herkunft des heiligen Grals', *Weltwoche*, November 28, 1996; cf. also 'Geheimniskrämer, Legendenstifter und Bankiers', *Tages-Anzeiger*, August 4, 1997.
- 6 Bulletin, Credit Suisse, Quarterly Report, No. 3, mid-November 1966: 'Interestingly it was also the intense espionage activity aimed at finding Jewish money that prompted Switzerland in 1934 to protect the persecuted by firming up the rules on banking secrecy, which had previously been a matter of custom rather than law [...], and to make infringement of banking secrecy a criminal act.'
- 7 Philippe de Weck, 'Ursprung und Bedeutung des schweizerischen Bankgeheimnisses', in: *Reformatio*, March 1978; a quick browse on the Internet confirms that this interpretation is usually unquestioningly accepted as a reason for the introduction of banking secrecy. Cf. also Guex, *The origins*, p. 237–266.
- 8 Including the Social Democrat critic of the banks Jean Ziegler in the National Council; Official Record of the Swiss Parliament (*Amtliches stenographisches Bulletin der schweizerischen Bundesversammlung*, AstB), 1970, p. 750.

- 9 Hug, *Steuerflucht*, p. 308.
- 10 Bänziger, p. 30.
- 11 Jung, *Von der Schweizerischen Kreditanstalt zur Credit Suisse Group*, p. 33; cf. ICE 13, p. 73.
- 12 Deutsches Bundesarchiv Berlin, R 3102/2598, 'Deutschlands Auslandschulden per 29. Februar 1932' (table). Cf. also Born, p. 249.
- 13 Swiss Bank Corporation (original German name: *Schweizerischer Bankverein*), Credit Suisse (*Schweizerische Kreditanstalt*), Union Bank of Switzerland (*Schweizerische Bankgesellschaft*), Swiss Volksbank (*Schweizerische Volksbank*), Banque d'Escompte Suisse, Eidgenössische Bank, Basler Handelsbank, Aktiengesellschaft Leu & Co.
- 14 Ritzmann, p. 357 et seq.
- 15 E.g. *Neue Zürcher Zeitung* (NZZ), no. 421, 1913, 'Bankzusammenbrüche'.
- 16 Cf. Landmann, *Bundesgesetz*.
- 17 Swiss National Bank (SNB), Minutes of the meeting of the Banking Committee of December 28, 1917.
- 18 Penal Code of Canton Basel-Stadt, 1872/1919, clause 162.
- 19 AstB, December 16, 1915, p. 417.
- 20 AstB, December 16, 1915, p. 420.
- 21 AstB, December 16, 1915, p. 419 et seq.; this referred to the still uncoded *de facto* banking secrecy at the national level.
- 22 AstB, December 16, 1915, p. 421.
- 23 Cf. Guex, *La politique monétaire*, p. 400.
- 24 AstB, January 29, 1919, p. 38.
- 25 7th Annual Report of the Association of Representatives of Swiss Banking (*Vereinigung von Vertretern des schweizerischen Bankgewerbes*), Basel 1919, p. 42.
- 26 Ditto, p. 42 et seq. The banking secrecy applied in Germany to this point was similar in form to Switzerland's current banking secrecy.
- 27 Cf. National Councilor Nobs on February 4, 1920; AstB, p. 98 et seq.
- 28 AstB, February 4, 1920, p. 4.
- 29 AstB, February 4, 1920, p. 21.
- 30 AstB, February 4, 1920, p. 91.
- 31 AstB, February 4, 1920, p. 93.
- 32 AstB, February 4, 1920, p. 95.
- 33 AstB, February 4, 1920, p. 130.
- 34 National Councilor Joss of the BGB (*Bauern-, Gewerbe- und Bürgerpartei*), predecessor of the Swiss People's Party (*Schweizerische Volkspartei*, SVP), *Neue Berner Zeitung*, Berne, October 1, 1924.
- 35 The SP's latest manifesto (1993) also calls for the 'overthrow of capitalism'.
- 36 Bänziger, p. 69 et seq.

- 37 Minutes of the Federal Council meeting of June 17, 1932. The interrogation of Hans Mühlhausen (German Nazi Party local leader for Lugano) revealed the existence of a 'Nazi Party military organization and organized information service in Switzerland'. A member of the Zurich local Nazi Party (Morstadt) was deported for spying; however, during an interrogation by the police in Davos on June 1, 1932, the head of the Nazi Party in Switzerland, Gustloff, denied that there was a foreign section of the German Nazi Party in Switzerland. From: Swiss Federal Archive (SFA) E 4320, File 1, vol. 2 (Office of the Attorney General of Switzerland).
- 38 On November 2, 1933, the Basel Police deported two German policemen who were pursuing a German Communist who was producing forged German stamps. The French interior minister reported to the foreign minister: 'Abus de pouvoir sur le territoire suisse', Archives du Ministère des Affaires étrangères, Paris (AMAE), Serie Europe/Suisse, vol. 201.
- 39 Bonjour, vol. III, p. 58–86: On May 2, 1935, the British House of Commons discussed the Jacob case and on April 30, 1935, the 'Times' stated in its leading article: '... a brutal act of violence has been committed against an individual and a flagrant breach of neutrality against a country which is particularly punctilious about its sovereign rights and its office of asylum for refugees. [...] In every country where freedom is still cherished the stand which Switzerland is making will be applauded.' The Jacob case was extremely serious for Swiss people at the time, but it does not receive a single mention in the 25 volumes published by the ICE.
- 40 Trade section of the FDEA to the Swiss National bank, Report from the General Consulate in Cologne, November 26, 1931; SNB Archive, 4005. There were similar worries about banking secrecy in the Netherlands as in Switzerland: In 1932 the Swiss envoy to the Netherlands reported to the FPD that during a parliamentary debate on the budget, the question of abolishing banking secrecy was raised. The government answered that there were significant amounts of foreign capital in Holland that would be withdrawn if banking secrecy was scrapped. 'This would damage important economic interests. No international ruling on the question of banking secrecy is to be expected for the time being. It would be preferable, therefore, to keep the existing situation for now'; Swiss envoy to the Netherlands to the FPD, December 15, 1932; Archive of the Swiss National Bank (SNB), 4007.
- 41 ICE 13, p. 574; cf. also ICE 15, p. 106 et seq.
- 42 Minutes of the meeting of the board of the Association of Zurich Credit Institutions (*Verband Zürcherischer Kreditinstitute*), October 30, 1931, UBS Archive, SBC Fund; letter from the Association of Zurich Credit Institutions to Zurich Cantonal Aliens Office (*Fremdenpolizei*), Zurich, December 3, 1931, Archive of the SNB, 4005.
- 43 Another example is the *Roth case* of September 1932: Zurich Cantonal Bank pressed charges of attempted espionage against Paul Roth, in: police report by Schaffhausen City Police of January 31, 1940. Swiss Federal Archive (SFA) E 4320 (B),



- 1984/29, vol. 88. A large number of further cases can also be found in the minutes and correspondence of the executive board, the directors' conference, etc., of the SBC.
- 44 Archive of the Swiss National Bank (SNB), 4005.
  - 45 Cf. the overview 'Selected events relevant to banking secrecy, 1945 to around 1990', p. 74–90 of this study.
  - 46 At the same time there were similar cases involving the Banque d'Escompte Suisse, Geneva, and the private bank Lombard Odier & Cie, Geneva. Kellenberger, vol. II, p. 80, mentions further banks, including Dutch ones, from other sources. A total of 17 banks were apparently involved.
  - 47 Neue Zürcher Zeitung, evening edition, November 10, 1932; Faith, p. 71 et seq. (no source given) states that before the end of 1932 the coalition government under Edouard Herriot was replaced by a more right-wing government that had less interest in prosecuting tax fraudsters, and that only required these people to submit a correct tax statement subsequently.
  - 48 ICE 15, p. 76.
  - 49 Kellenberger, vol. II, p. 81.
  - 50 Bauer, p. 199; special mention is made of bonds issued by the Swiss Confederation, the Swiss Federal Railways, SBB ('very attractive') and Swiss Life.
  - 51 Kellenberger, vol. I, p. 241–244.
  - 52 Hug, Steuerflucht; Guex, The origins, p. 247–252. ICE 25, p. 67 et seq., does not deliver any new insights into the significance of the Paris affair for the inclusion of banking secrecy in the Federal Law on Banks and Savings banks of 1934/35, but is based on secondary literature.
  - 53 Basler Handelsbank's commitments in Germany accounted for 29% of its total assets at the end of 1931: ICE 12, p. 230.
  - 54 8th Meeting of the board of directors of Basler Handelsbank, September 1, 1931, p. 13 et seq.: 'General Situation Report'.
  - 55 Basler Handelsbank to the FPD, February 8, 1937, Federal Archive, E 2001 (D) -/1, vol. 64; UBS Archive, SBC Fund, D 13/4-4, 769. This is the same document quoted in ICE 13, p. 243.
  - 56 Journal Officiel de la République Française, Débats parlementaires, Chambre des Députés, Séance du 10 novembre 1932, p. 2997 et seq. Albertin had a natural interest in keeping the figures as high as possible in the public discussion in order to make domestic political capital.
  - 57 ICE 13, p. 626, and ICE 25, p. 34. Until 1999 the SNB did not collate country-specific statistics on the assets managed by Swiss banks. Only the ICEP and the ICE have thus far been able to inspect the (sometimes incomplete) figures held in the archives of the individual institutions.
  - 58 Hug, Steuerflucht, p. 291.

- 59 'The investments may consist mainly of domestic and foreign securities, but also real estate and investments that do not take the form of securities. The securities investments alone are estimated to be very high – in the hundreds of millions of Swiss francs'; Minutes of the Federal Council meeting of February 14, 1936, No. 220, Negotiations with France to avoid double taxation, p. 12, SFA E 1004.1, vol. 356 (Jan./Feb. 1936).
- 60 More precisely: CHF 4,045,600, UBS AG, SBC Fund, 651 004.001, 'France, withdrawals', November 9–29, 1932.
- 61 Federal Council resolution of June 11, 1935, on Basler Handelsbank's payment extension; Archive of the Swiss National Bank (SNB), 4022, 4.1. Bank restructurings 1935–1945.
- 62 Minutes of the meeting of the board of the Swiss Bankers Association of July 16, 1930, UBS Archive, UBS/SBG Fund 12000003007; Archive of the Swiss National Bank (SNB), 4005; Adolf Jann, *Das Bankgeheimnis im schweizerischen Recht*, ca. 1938/39 (no place of publication or date given), p. 93.
- 63 Swiss Bankers Association, circular to banks of July 26, 1930.
- 64 Minutes of the meeting of the committee of the Swiss Bankers Association of April 27, 1931, and minutes of the meeting of the board of the Swiss Bankers Association of June 12, 1933; UBS Archive, UBS/SBG Fund, 12000002623.
- 65 Jost, *Das Magazin*, no. 17/97.
- 66 Bänziger, p. 110. However, Volksbank, organized as a cooperative, lost equity capital mainly because of the ongoing repayment of cooperative certificates.
- 67 Bänziger, p. 111.
- 68 Adolf Jöhr, Credit Suisse director, vice-chairman of the SBA, minutes of the expert conference on the draft Federal Banking Law, March 14, 1933.
- 69 Adolf Jöhr, Credit Suisse General Manager, vice-chairman of the SBA, minutes of parliamentary commission on the draft Federal Law on Banks and Savings Banks, 3rd meeting, February 14, 1934.
- 70 Only at federal level; money contributed by the cantons, companies and private individuals is not included in this comparison.
- 71 Introductory comments from the Federal Council to the Federal Assembly on the draft Federal Law on Banks and Savings Banks of February 2, 1934.
- 72 Cf. also Guex, *The origins*, p. 256.
- 73 AstB, 1934, p. 841.
- 74 AstB, 1934, p. 446.
- 75 Bergier, NZZ. Bergier is referring to the overly narrow focus on the 1933–1945 period, of which many historians are guilty. Cf. also Bergier, *Le Temps*.
- 76 Hug, *Steuerflucht*, p. 308.
- 77 Guex, *Avantages et coûts*, 2004, p. 3.
- 78 Bringolf, p. 171.

- 79 'Privacy' is above all an expression of the individual citizen's concerns about the omniscience of the state, its institutions and agents with regard to his or her private affairs, including financial situation.
- 80 For more on the creation of myths about banking secrecy cf. also Guex, *The origins*, p. 237–266.
- 81 ICE 15, p. 49.
- 82 In: Blattner, Gratzl, Kaufmann, p. 221 et seq.
- 83 The USA, the UK, the Netherlands and Switzerland have enjoyed almost uninterrupted system stability without major internal threats. Italy has seen its system of government change twice (1922 and 1943/1946), and Germany three times (1918/1919, 1933, 1945/1949). France is a special case. It has had three basic changes of system (1940, 1944, 1958), of which the first was caused by its occupation by Nazi Germany; the third, though it was painful, was still part of the republican tradition.
- 84 Trepp, p. 17.
- 85 Only the Alpine transit route, with its limited regional economic importance, can be claimed as a locational advantage.
- 86 Bergier, *Wirtschaftsgeschichte*, p. 192 et seq.
- 87 Ritzmann-Blickensdorfer, in: HLS, version of June 1, 2004. Real-term GDP actually doubled in the sometimes difficult years between 1924 and 1957; SNB, *75 Jahre*, p. 27.
- 88 For more on exchange rates see the chapter on the 'Free convertibility of the Swiss franc', p. 42 et seq. of this study.
- 89 Cf. 'Free convertibility of the Swiss franc', p. 42 et seq. of this study.
- 90 Cf. Vogler, *Wirtschaftsverhandlungen*; ICE 3.
- 91 Assessments of the wider political situation often differ depending on the location of the people concerned: 'The events of March and September, which led to an outflow of foreign money, had a greater impact; Austrian assets were withdrawn after the *Anschluss* and there was capital flight to America prior to the Munich Agreement. On the other hand, money flowed in from Eastern Europe and from émigré circles, while French assets remained largely unchanged.' From: Speech by managing director P. Jaberg to UBS's Annual General Meeting, February 25, 1939.
- 92 Jean-Pierre Roth (SNB), *Le Temps*, September 4, 2004.
- 93 Iklé, p. 41.
- 94 Cf. 'Economic reasons for enacting a banking law', p. 11.
- 95 Cf. Jung, *From Schweizerische Kreditanstalt to Credit Suisse Group*, p. 245–286.
- 96 Crettol and Halbeisen, p. 42.
- 97 'The result was a postwar international monetary system based on capital-account restrictions and pegged but adjustable exchange rates, one whose very success ultimately led to increasingly unmanageable speculative flows and floating dollar exchange rates among the industrialized economies'; Obstfeld and Taylor, p. 44.

- 98 Bär, *Millionen*, p. 291.
- 99 By 1964 'tied' payments had been halted with all Western nations. They also more or less came to an end with Eastern European trading countries by 1975. Between 1934 and 1958 Switzerland saw CHF 155 billion of imports and exports paid for through this system, CHF 120 billion between 1946 and 1958 alone. Final report of the Swiss Compensation Office: NZZ, April 6, 1979.
- 100 SNB, *75 Jahre*, p. 217–241. The EPU existed from 1950 to 1958. It was set up to create a platform for the free convertibility of currencies. In 1958, 14 Western European countries declared their currencies convertible. The goal was thus achieved. The EPU was dissolved and replaced by the European Monetary Agreement.
- 101 Chambost, p. 29.
- 102 Gentlemen's agreement on the acceptance of foreign money and gentlemen's agreement to deter and reduce foreign money. One of the main ideas behind both agreements was that the banks involved would undertake to accept such money only after a few months' notice and that they would no longer pay interest on it; SNB, 1957, p. 230 et seq.
- 103 SNB, *75 Jahre*, p. 233.
- 104 SNB, *75 Jahre*, p. 65. The weakness of the US dollar was caused not least by the Vietnam War, which had been going for years.
- 105 Included in the chart: the introduction of the 'Nouveau Franc' in France in 1960.
- 106 Cf. Cottrell, 'History and Globalisation' and 'Towards a Global System?.'
- 107 Ditto.
- 108 The first railways could only be financed using foreign capital, particularly from France and England. The threatened financial fiasco surrounding the construction of the Gotthard Tunnel was only avoided thanks to massive injections of capital in the form of loans from Germany and Italy.
- 109 British travel agency Thomas Cook invented the package tour when it took groups of tourists who did not have enough linguistic and geographical knowledge to go by themselves on tours, which from 1863 also included Switzerland.
- 110 Also known somewhat disparagingly as the jet-set.
- 111 This continues to the present day, as evidenced by the famous French businesspeople who have changed their official place of residence to Switzerland – and especially the region around Lake Geneva: 'Such discreet fortunes. Big names in the French business world have chosen the shores of Lake Geneva', *Le Matin Dimanche*, May 1, 2005.
- 112 Cf. Hans J. Bär, in: Gehrig, p. 172.
- 113 In 1950 there were still five major banks; in 1998 only two were left: UBS and CSG.
- 114 The most famous example was the collapse of the Spar- und Leihkasse Thun (SLT) in 1991; it had to close down completely while other banks were bought out by one of the three major banks. Bank Leu lost its independence in 1990 and SVB went in 1993; both major banks were taken over by Credit Suisse.

- 115 Schaefer, *Grossbanken*, p. 155. Depending on the basis of calculation (total assets, equity capital, stock market capitalization), even during the 1990s they were only just making it into the list of top twenty biggest banks.
- 116 The importance of the Swiss stock markets in Zurich Geneva and Basel, unified from the mid-1990s under the 'Swiss Stock Exchange' (SWX), was overestimated for many decades by the Swiss public. It was only in the 1990s that the Swiss stock market established itself as the sixth or seventh most important in the world (after the USA, the UK, Japan, Germany and Taiwan). Jörg Fischer, 'Die Bedeutung der Elektronischen Börse Schweiz für die private Kundschaft', in: Gehrig, p. 164.
- 117 Jung, *From Schweizerische Kreditanstalt to Credit Suisse Group*, p. 33.
- 118 ICE 13, p. 73.
- 119 ICE 13, p. 132.
- 120 Sources: Otto C. Fischer, *Die staatliche Bankaufsicht*, publ. International Chamber of Commerce, Basel 1939; Hans Pohl (ed.), *Europäische Bankengeschichte*, Frankfurt am Main 1993; Johannes C. C. Zahn, *Die Bankenaufsichtsgesetze der Welt*, Berlin 1937.
- 121 Anonymous accounts were allowed in Austria until they were abolished in 2002.
- 122 UBS Archive, SBC Fund, executive board minutes, May 15, 1934, p. 137. Cf. also ICE 15, p. 118, '3.1.3. Anonymisierung der Kundendaten' (Anonymization of Client Data).
- 123 UBS Archive, SBC Fund, 4.108.G.3 A, Dossier 347/1 'Private Clients 1933–1971', SBC Director M. Golay, circular to all branches, December 20, 1935.
- 124 A foreign bank client 1930: 'After all the bitter experiences my family has had, I can now only trust fully in Swiss banks', in: *Finanz-Revue*, *Schweizerisches Wirtschaftsblatt*, September 26, 1969.
- 125 ICE, Final Report, p. 261 et seq.
- 126 Both definitions from Hans J. Bär, comments to the annual general meeting of Bär Holding of June 20, 1984; basis: CDB 1977.
- 127 Hug, p. 307.
- 128 ICE 13, p. 197–276. Cf. also Jung, *Zwischen Bundeshaus und Paradeplatz. Die Banken der Credit Suisse Group im Zweiten Weltkrieg*, p. 47–50: 'Devisengesetzgebung und -bewirtschaftung in Deutschland'.
- 129 *Arbeiterzeitung*, August 16, 1945.
- 130 Blattner, Gratzl, Kaufmann, p. 29 et seq.; no earlier figures are given in this study either. Jöhr, p. 64–67, also conjectured in 1940 about the assets managed by commercial banks without citing concrete figures: 'It must be many billions.' However, he makes no distinction between Swiss and foreign clients.
- 131 Hug, *Steuerflucht*, p. 305–309, makes comparisons over 70 years; during the period in question, however, no detailed distinction was made in bank balance sheets between the different sources of commission income. No accurate statements can thus be made about income from asset management business (Hug, *Steuerflucht*, p. 308). Blattner's assertion that gross income from commissions can be used to estimate

- balance sheet-neutral assets under management refers only to the comparable period in the 1990s (Blattner, p. 31).
- 132 SNB, p. 73–78.
- 133 Hug, *Steuerflucht*, p. 306–307.
- 134 Schuster, p. 20. A sensation was caused in spring 1976 when the Swedish author of children's books Astrid Lindgren leaves Sweden's Social Democratic Party. She did this to protest against the Swedish tax system. In the fable she wrote about her situation, 'Pomperipossa in Monismania', she showed that in 1975 she earned about SKR 2 million from book sales in more than 60 countries, but that she had to pay SKR 2,002,000 on these earnings.
- 135 Schaefer, *Das Bankgeheimnis*, p. 29.
- 136 Hug, *Steuerflucht*; Guex, *Développement*.
- 137 ICEP, Annex 6, p. 101–105.
- 138 This instruction comes from article 1 of the 'Federal decree on the historical and legal investigation into the fate of assets transferred to Switzerland as a result of Nazi rule' of December 12, 1996, Art. 1, lit. c.
- 139 ICE 9, p. 128–154.
- 140 The major assets of Hermann Göring and Joachim von Ribbentrop, which were allegedly transferred abroad, were never discovered. The ICE shed a lot of light on the case of Friedrich Kadgien, ministerial advisor in the business empire controlled by Göring, in the context of the four-year plan and the Hermann-Göring-Werke, in: ICE 9, p. 383–434. However, the Kadgien case is one of the few individual cases that has come to light. Why should this be? It is hard to imagine that all the senior officials of the Nazi regime and potential exporters of stolen assets managed somehow to cover all traces, so we are left to assume that in fact such transfers were made by only relatively few people and on a very modest scale.
- 141 The 'Independent Liechtenstein Historical Commission – Second World War (*Unabhängige Historikerkommission Liechtenstein – Zweiter Weltkrieg*)' also states in its report that Liechtenstein banks did not serve the German Reich or senior Nazis as a safe haven for capital or as a hub for their foreign exchange transactions. Cf. Geiger, Liechtenstein.
- 142 Cf. also the following chapter 'Attacks, affairs and insinuations since 1945' (plus appendix).
- 143 'The significance of the greater discretion offered in connection with numbered accounts has also been improperly exaggerated to customers by certain banks.' SNB, p. 265.
- 144 SBA, Convention III on client acquisitions and advertising by banks of February 1, 1980.
- 145 SBA, circular 1277. February 18, 1997.
- 146 Cf. Jung, *From Schweizerische Kreditanstalt to Credit Suisse Group*, p. 245–286.
- 147 The sixth and final version has been force since July 1, 2003, as 'CDB 03'.



- 148 G-7 ‘Supervisors’ PEP working paper 2001’.
- 149 Cf. p. 80 et seq. of this study.
- 150 Warren and Brandeis, Harvard Law Review, 1890.
- 151 Bernet, p. 19–23.
- 152 ICE 15, p. 49.
- 153 Not an exhaustive list; all information from publicly accessible sources; individual cases up to the mid-1990s included; not all unresolved cases included.
- 154 Unrealistic accusations: Swiss investments in the USA at that time were estimated by the American authorities to account for only 0.72% of the market value of all American securities traded on Wall Street; Bär, Banking System of Switzerland, III.
- 155 ICE 13, p. 545 et seq.

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## Abbreviations

AstB	Amtliches stenographisches Bulletin der schweizerischen Bundesversammlung (Official stenographic record of the Swiss Federal Parliament)
BGB	Bauern-, Gewerbe- und Bürgerpartei (Farmers' Commercial and Citizen's Party; now the Swiss People's Party, SVP)
BHB	Basler Handelsbank
CDB	Agreement on the Swiss banks' Code of Conduct with regard to the Exercise of Due Diligence ( <i>Vereinbarung über die Standesregeln zur Sorgfaltspflicht der Banken, VSB</i> )
CSG	Credit Suisse Group (formerly Credit Suisse or Schweizerische Kreditanstalt, SKA)
Eiba	Eidgenössische Bank
EPU	European Payments Union
FATF	Financial Action Task Force of Money Laundering (set up by the G-7/OECD)
FBC	Swiss Federal Banking Commission
FDEA	Federal Department of Economic Affairs
FHR	Financial History Review
FPD	Federal Political Department (foreign ministry, now the Federal Department of Foreign Affairs)
HLS	Historisches Lexikon der Schweiz
ICE	Independent Commission of Experts Switzerland – Second World War (Bergier Commission)
ICEP	Independent Committee of Eminent Persons (Volcker Commission)
PEP	Politically Exposed Persons
SBA	Swiss Bankers Association
SBC	Swiss Bank Corporation (Schweizerischer Bankverein, SBV)
SEC	Securities and Exchange Commission
SFA	Swiss Federal Archive
SNB	Swiss National Bank
SP	Social Democratic Party of Switzerland (Sozialdemokratische Partei der Schweiz)
SVB	Swiss Volksbank
UBS	Union Bank of Switzerland (Schweizerische Bankgesellschaft, SBG)