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Credit Suisse Will Be Next to Surrender U.S. Account Holder Information

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On July 21, 2011, a superseding indictment was issued in a case against Credit Suisse bankers. The case filed in the U.S. District Court Eastern District of Virginia (1:11 -CR-95) names seven additional bankers and an eighth executive in a single count of conspiracy to aid and abet tax evasion by U.S. taxpayers. New reports about charges state that while working for or with and Credit Suisse the defendants help to hide perhaps as much as \$3 billion in USD assets. The indictment ratchets up the pressure on Credit Suisse, itself for contained in the indictment is language that can be viewed as forming the predicate charges to allow the U.S. government to take "special measures" against the bank.

Special measures are defined in Sec. 5318A of the Bank Secrecy Act include the issuance of a Regulation that would ban U.S. correspondent or pay through banks from processing transactions for the bank. This remedy is extreme and is designed to deal with primary money laundering concerns. The implication that "special measures" may be used is further evidence of the seriousness the Department of Justice is giving to offshore tax evasion by U.S. persons. Similar language was used in the criminal complaint against UBS AG.

The current offshore voluntary disclosure program (OVDI) runs through August 31, 2011, subject to up to 90 day individual extensions for reasonable cause. The California Voluntary Compliance Program begins August 1 and runs through October 30. There is a strong likelihood that Credit Suisse, other Swiss banks and other international banks will be faced with continuing pressure by the Department of Justice including the threat of "special measures" to deliver U.S. account holder information. U.S. taxpayers with undeclared foreign financial accounts still have the opportunity to avoid prosecution and a severe penalty regime (including criminal charges of tax evasion, money laundering, conspiracy and civil penalties including willfull [FBAR](#) violations of 50 % of annual account balances and income tax fraud penalties) if they step forward and enter the OVDI and for California taxpayers the VCI. There is no reason to believe that the Swiss bankers who brought forward the tax evasion schemes will not also deliver up account holder information in order to avoid "special measures".

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