

## **Position Paper**

### **Swiss-US Treaty**

With regard to the legal and political background of the Swiss-US Treaty on a Request for Administrative Assistance in the Tax Matter regarding UBS AG, the Association's official position is as follows:

A.

The Treaty is in strict conflict with the Swiss constitution and political tradition. Changing the rules after the game is a very serious breach of the law in any civilized country under the rule of law.

B.

From the perspective of independent asset managers in Switzerland, the Treaty is unfavourable for the profession and its clients. However, the Association acknowledges that there are interests, in particular those of a number of major Swiss banks and the production industry of Switzerland, that weigh in favour of the Treaty.

As the professional chamber of independent asset managers, the Association does not comment on these aspects. These conflicting interests, however, require that any decision made, is, to as great an extent as possible, subject to a democratic decision making process.

C.

From a legal standpoint, the Treaty is not violated in any way if it is submitted to a referendum. The Treaty requires the Swiss Federal Tax Administration (SFTA) issue 4,450 decisions before the end of August 2010. It is up to the individual account holder to decide whether he or she appeals against this decision.

When deciding on these appeals, the Federal Administrative Court is not bound by any deadlines. It is thus possible (and already decided by the Federal Council) for the SFTA to issue these decisions. The success of these appeals depends not only on the individual circumstances, but also on the outcome of a referendum. There are no restrictions regarding this subject in the Treaty.

Zurich, 10 June 2010