

UBS: Swiss government wants to reach an agreement with USA

Pubblicato: Sabato 30 Gennaio 2010

The danger is that if the civil procedure is restarted, a US judge might force UBS to provide the data of about 4450 accounts. As a result, the Swiss government intends to reach an administrative assistance agreement with the United States. This has been revealed by an official note, which states that "the Federal Council is convinced that the danger of a conflict of law and of sovereignty with the United States, with all of its negative consequences for the Swiss financial and economic system, can only be prevented definitively by implementing the agreement." After the recent decisions of the Federal Administrative Tribunal (FAT) guaranteeing banking secrecy, the Council decided to continue talks with the United States. "If necessary," the note continues, "the agreement on administrative assistance will be put for parliamentary approval at a later time."

By virtue of the sentence of principle from the FAT, which has become final, the government claims, "It may be assumed that in about 4200 cases, it is not possible to provide administrative assistance, and that an exchange of information with the US authorities is allowed in about only 250 cases. If this problem cannot be resolved by consultation and negotiation, in accordance with the agreement on UBS, the United States could adopt "suitable compensation measures" to remedy the imbalance created between rights and duties. Then, there would be the real danger that the United States might restart the civil procedure against UBS (the so-called "John-Doe-Summons") and a US judge might force the bank to provide the data of about 4450 accounts."

At the earliest possible time, the Federal Council is going to continue talks with the US authorities and will present the situation from its point of view. All possible options will also be discussed. Furthermore, Switzerland will ask the United States to provide detailed information about the clients' data received as part of the voluntary declaration program, which, according to the initial information from the US authorities, has enabled achieving excellent results. If necessary, the agreement over UBS will be put for Parliamentary approval at a later time.

The agreement has been adapted also to enable it to be applied provisionally from the moment it is signed. The Federal Council has used its authority provided by the law on the organisation of government and of administration, which permits this approach if

the safeguarding of interests important to Switzerland, and particular urgency, require it. This would allow UBS to continue to fulfil its obligations to the Federal Tax Administration (FTA). In turn, the FTA might continue to implement the administrative assistance procedure and apply necessary final decisions. Although client files concerning past cases that are final may be sent to the US authorities only after parliamentary approval, this approach allows respecting the terms of the administrative assistance agreement, which is still valid under international law.

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