



Treaty Series No. 9 (2013)

Agreement between the United Kingdom of Great Britain and Northern  
Ireland and the Swiss Confederation on Cooperation in the area of  
Taxation

London, 6 October 2011

Protocol amending the Agreement between the United Kingdom of Great  
Britain and Northern Ireland and the Swiss Confederation on Cooperation  
in the area of Taxation, signed at London on 6 October 2011

Brussels, 20 March 2012

Exchange of Notes between the United Kingdom of Great Britain and  
Northern Ireland and the Swiss Confederation on the Protocol amending  
the Agreement between the United Kingdom of Great Britain and  
Northern Ireland and the Swiss Confederation on Cooperation in the area  
of Taxation, signed at London on 6 October 2011

London, 5 April 2012 and 13 April 2012

[The Agreement, Protocol and Exchange of Notes entered into force on 1 January 2013]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
March 2013*

© Crown copyright 2013

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Any enquiries regarding this publication should be sent to us at Treaty Section, Foreign and Commonwealth Office, King Charles Street, London, SW1A 2AH

This publication is also available on <http://www.official-documents.gov.uk/>

ISBN: 9780101857925

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office

ID P002544269 02/13 27632 19585

Printed on paper containing 30% recycled fibre content minimum.

**AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT  
BRITAIN AND NORTHERN IRELAND AND THE SWISS  
CONFEDERATION ON COOPERATION IN THE AREA OF TAXATION**

The United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation,

desiring to strengthen their fiscal relations;

willing to intensify their cooperation in the area of taxation and crossborder financial services;

considering the Agreement dated 26 October 2004 between the Swiss Confederation and the European Community providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (hereinafter referred to as “Agreement on the Taxation of Savings”);

resolved to establish a level of cooperation which has with regard to taxation in respect of income and gains on relevant assets an enduring effect equivalent to the outcome that would be achieved through an agreement to exchange information on an automatic basis;

having regard to the existing close cooperation in the area of double taxation, in particular the Convention between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation for the Avoidance of Double Taxation with respect to Taxes on Income, signed at London on 8 December 1977, as amended by the Protocols signed at London on 5 March 1981, at Berne on 17 December 1993, at London on 26 June 2007 and at London on 7 September 2009 and the Additional Protocol signed at London on 7 September 2009 (hereinafter referred to as “Double Taxation Convention”),

have agreed as follows:

**PART 1**

**General provisions**

**ARTICLE 1**

**Scope and purpose**

1. The objective of this Agreement is to provide for bilateral cooperation between the Contracting States to ensure the effective taxation in the United Kingdom of relevant persons. The Contracting States agree that this Agreement will achieve a level of cooperation which has with regard to taxation in respect of

income and gains on relevant assets an enduring effect equivalent to the outcome that would be achieved through an agreement to exchange information about such individuals on an automatic basis.

2. In furtherance of this objective, the competent authorities of the Contracting States shall provide assistance to each other in the following main respects:

- a) the tax regularisation of relevant assets held in Switzerland by or for relevant persons;
- b) the effective taxation of the income and gains on relevant assets held in Switzerland by or for relevant persons and measures to safeguard this Agreement's purpose;
- c) under the terms set forth in this Agreement, further exchange of information by the United Kingdom to ensure the effective taxation of Swiss residents regarding assets in the United Kingdom.

## ARTICLE 2

### **Definitions**

1. For the purposes of this Agreement, unless otherwise defined,
  - a) "Contracting State" means the United Kingdom or Switzerland as the context requires;
  - b) "Switzerland" means the territory of the Swiss Confederation in accordance with its national law and international law;
  - c) "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;
  - d) "competent authority" means:
    - in the case of Switzerland, the Federal Department of Finance or an authority designated by it;
    - in the case of the United Kingdom, the Commissioners for Her Majesty's Revenue and Customs or their authorised representative;

- e) “Swiss paying agent” means banks under the Swiss Banking Act of 8 November 1934, securities dealers under the Swiss Stock Exchange Act of 24 March 1995 and natural and legal persons resident or established in Switzerland, partnerships and permanent establishments of foreign companies, which accept, hold, invest or transfer assets of third parties or merely make payments of income or gains for third parties or secure such payments in the normal course of their business.

Notwithstanding the foregoing, for the purposes of Part 3, a person is not considered to be a Swiss paying agent solely because that person pays out dividends and interest directly to its shareholders or creditors, provided that the total amount of these payments does not exceed CHF 1 million per year;

- f) “relevant assets” means all forms of bankable assets booked or deposited with a Swiss paying agent including, but not limited to, the following:

- cash accounts and precious metals accounts;
- bankable assets held by a Swiss paying agent acting as a fiduciary agent;
- all forms of stocks, shares and securities;
- options, debts and forward contracts;
- other structured products traded by the banks such as certificates and convertibles.

The following shall not be regarded as relevant assets for the purposes of this Agreement:

- contents of safe deposit boxes;
- real property;
- chattels;
- insurance contracts which are regulated by the Swiss Financial Market Supervisory Authority, with the exception of assets held by an insurance company in an account separate from the insurance company’s main accounts combined with a minimal risk protection and where the pay-out or redemption is not restricted to death, disability or illness (hereinafter referred to as “insurance wrappers”);

- g) “account or deposit” means an account or deposit holding relevant assets but the terms “account” and “deposit” when used independently shall only have this meaning if the context so requires;
- h) “relevant person” means any individual resident in the United Kingdom, who:

as a contractual partner of a Swiss paying agent, is the account holder or deposit holder and beneficial owner of assets; or

is, in accordance with the conclusions of a Swiss paying agent drawn in line with the prevailing Swiss due diligence obligations and taking into consideration all the circumstances known to it, the beneficial owner of assets held by:

- a domiciliary company (i.e. legal entities, companies, institutions, foundations, trusts, fiduciary companies and other establishments not exercising a trading or manufacturing activity or another form of commercial operations); or
- an insurance company in an insurance wrapper; or
- another individual by means of an account or a deposit with a Swiss paying agent.

A domiciliary company in the aforementioned sense is considered to be the beneficial owner in exceptional cases if proof is provided that it is itself subject to effective taxation under the general rules for direct taxation applicable under the law of its place of establishment or its place of effective management, or that it is treated as non-transparent with reference to its income under United Kingdom law.

An individual resident in the United Kingdom is not considered to be a relevant person with regard to assets of associations of persons, asset structures, trusts or foundations, if it is not possible to ascertain the beneficial ownership of such assets, e.g. due to the discretionary nature of the arrangement.

The beneficial owner of an insurance wrapper is not considered a relevant person, where the insurance company confirms to the Swiss paying agent that it will deliver the appropriate certification to the competent authority of the United Kingdom.

For the purposes of Part 3, an individual is not considered a relevant person, if he or she:

- acts as a Swiss paying agent; or
- acts on behalf of a legal entity, an investment fund or a comparable investment scheme; or
- acts on behalf of a relevant person who discloses to the Swiss paying agent his or her identity and State or jurisdiction of residence.

Where a Swiss paying agent has information suggesting that the individual who receives a payment of income or gains in accordance with Article 19 paragraphs 1 and 2 or for whom such a payment is secured is not the relevant person, that agent shall take reasonable steps to establish the identity of the relevant person. If the Swiss paying agent is unable to identify the relevant person, that agent shall treat the individual in question as the relevant person.

If a relevant person holds an interest in a collective or joint account or deposit, the entire assets are to be attributed to the relevant person, unless the Swiss paying agent can determine all the persons holding an interest in such an account or deposit. In this case, the Swiss paying agent shall allocate assets according to the number of contractual partners, unless the Swiss paying agent has been informed of, and has received appropriate documentation regarding, a different allocation. If a relevant person holds an interest in a partnership, the rules for collective or joint accounts and deposits in this subparagraph apply accordingly;

- i) “account holder” or “deposit holder” means a person who is the contractual partner of a Swiss paying agent regarding relevant assets;
- j) “non-UK domiciled individual” means:
  - (i) for the purposes of Part 2 only, a person who was not domiciled anywhere within the United Kingdom on appointed date 2 and claimed the remittance basis of taxation for the tax year ending on 5 April 2011 or for the tax year ending on 5 April 2012 and this has been verified through the certification process in accordance with Article 4;

- (ii) for the purposes of Part 3 only, a person who is not domiciled anywhere within the United Kingdom and claims the remittance basis of taxation in the United Kingdom for the relevant tax year and this has been verified through the certification process in accordance with Article 4;
- k) “United Kingdom taxpayer” means an individual who is or may be liable to tax in the United Kingdom;
- l) “tax year” means the United Kingdom tax year which lasts from 6 April in any year until 5 April of the following year;
- m) the following terms mean:
  - “appointed date 1” the 31 December 2002;
  - “appointed date 2” the 31 December 2010;
  - “appointed date 3” the last day of the month following a period of four months after the date of entry into force of this Agreement;
  - “appointed date 4” the last day of the month following a period of five months after the date of entry into force of this Agreement;
- n) “investigation” means:
  - (i) any criminal investigation conducted by the competent authority of the United Kingdom relating to those functions for which the Commissioners for Her Majesty’s Revenue and Customs are responsible as set out in the Commissioners for Revenue and Customs Act 2005 and to any money laundering offence within Part 7 of the Proceeds of Crime Act 2002 which is associated with those functions; or
  - (ii) any civil enquiry of any kind that is supported by statutory information powers and is carried out for the purpose of ascertaining whether the United Kingdom tax liabilities of the relevant person are correct and up to date; or
  - (iii) any coordinated, project-based enquiries by the competent authority of the United Kingdom into multiple identified taxpayers stemming from specific third party information;
- o) “United Kingdom disclosure facility” means any facility or campaign offered by the competent authority of the United Kingdom under which any individual liable to tax in the United Kingdom is or was able to regularise his or her United Kingdom tax position;



- p) “Swiss anticipatory tax” means “impôt anticipé” according to the Federal Act on anticipatory tax of 13 October 1965.

2. Where this Agreement refers to a specific provision in the law of one of the Contracting States, it refers to its version on the date of signature of this Agreement. The competent authorities may agree to apply a provision in its version at the time of application if this provision has been modified only in minor respects not affecting its general character or to apply another provision, which is of substantially similar character and has been modified only in minor respects not affecting its general character. The competent authorities shall without delay inform the public of the agreement reached.

3. As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Contracting State, any meaning under the applicable tax laws of that Contracting State prevailing over a meaning given to the term under other laws of that Contracting State.

### ARTICLE 3

#### **Identity and residence of relevant persons**

1. In order to establish the identity and residence of relevant persons the Swiss paying agent shall keep a record of the name, first name, birth date, address and residence details in accordance with the prevailing Swiss due diligence obligations in place when establishing business relationships. Within this framework, individuals who have their principle private address in the United Kingdom based on the due diligence records of the Swiss paying agent are deemed resident in the United Kingdom for the purposes of this Agreement.

2. For contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after the date of entry into force of this Agreement, for individuals presenting a passport issued by the United Kingdom who declare themselves to be resident in a State or jurisdiction other than the United Kingdom or Switzerland, residence shall be established by means of a tax residence certificate issued by the competent authority of the State or jurisdiction in which the individual claims to be resident. Failing the presentation of such a certificate, the United Kingdom shall be considered the state of residence. For contractual relations entered into, or transactions carried out in the absence of contractual relations, before the date of entry into force of this Agreement, an identical procedure applies as of 1 January 2004 under the Agreement on the Taxation of Savings.

3. For the purposes of Part 2, residence shall be determined as at appointed date 2.

#### ARTICLE 4

##### **Certification process for identifying non-UK domiciled individuals for the purposes of this Agreement**

1. A Swiss paying agent may only accept a relevant person as a non-UK domiciled individual when provided with a certificate produced by a lawyer, an accountant or a tax adviser who is a member of a relevant professional body confirming that the relevant person is not domiciled within the United Kingdom and has claimed the remittance basis of taxation for the tax years defined in Article 2 paragraph 1 letter j).

2. The following shall be verified by the lawyer, the accountant or the tax adviser before certifying that a relevant person is a non-UK domiciled individual for the purposes of this Agreement:

- a) The United Kingdom tax return for the relevant tax year contains a claim or statement to be not domiciled anywhere within the United Kingdom; and
- b) if appropriate, that tax return also contains a claim for the remittance basis under Part 14 Chapter A1 Income Tax Act 2007 and the tax chargeable under section 809H Income Tax Act 2007 has been paid; and
- c) to the best of their knowledge, the domicile status of the relevant person is not formally disputed by the competent authority of the United Kingdom.

3. For the purposes of Part 2, the certificate shall be provided to the Swiss paying agent by appointed date 3.

4. For the purposes of Part 3, the relevant person shall first provide by 31 March the Swiss paying agent with a declaration of intent to claim the remittance basis of taxation for the following tax year. This declaration shall then be supported by a certificate to be provided to the Swiss paying agent by 31 March following the end of the relevant tax year.

5. The relevant person shall indicate in the declaration of intent how the Swiss paying agent shall proceed where sufficient funds are not available, whether:

- a) the relevant person intends to meet any shortfall within 8 weeks from 31 March following the end of the relevant tax year; or

- b) the relevant person authorises the Swiss paying agent to disclose information in line with Article 22 paragraph 3.

Where the relevant person fails to opt for one of the options above, letter b) shall apply as if the relevant person has provided written authorisation to the Swiss paying agent to disclose.

## PART 2

### **Regularising the past**

#### ARTICLE 5

##### **Options available to relevant persons**

1. Subject to paragraph 3 a relevant person who is not a non-UK domiciled individual and who held relevant assets with a Swiss paying agent at appointed dates 2 and 3 shall have the option either to instruct the Swiss paying agent to make a one-off payment in respect of relevant assets in accordance with Article 9 paragraph 2 or to authorise the Swiss paying agent to make a disclosure in accordance with Article 10.
2. Subject to paragraph 3 a relevant person who is a non-UK domiciled individual and who held relevant assets with a Swiss paying agent at appointed dates 2 and 3 shall have the following options in relation to relevant assets:
  - a) to instruct the Swiss paying agent to make a one-off payment in accordance with Article 9 paragraph 2 (hereinafter referred to as the “capital method”); or
  - b) to authorise the Swiss paying agent to make a disclosure in accordance with Article 10; or
  - c) to disclose all non-UK income and gains which have been remitted to the United Kingdom and all amounts which arose from taxable sources within the United Kingdom between appointed date 1 and the date of initialing of this Agreement and on which the full amount of United Kingdom tax has not been paid (hereinafter referred to as “omitted taxable base”) to the Swiss paying agent by making a self-assessment of the omitted taxable base in the form prescribed and to instruct the Swiss paying agent to make a one-off payment in accordance with Article 9 paragraph 3 (hereinafter referred to as the “self-assessment method”); or

- d) to confirm to the Swiss paying agent that none of the options a) to c) in this paragraph is chosen (hereinafter referred to as the “opt out method”).

3. Where a relevant person fails to exercise by appointed date 3 one of the options described in paragraphs 1 and 2, then the Swiss paying agent shall levy the one-off payment in accordance with Article 9 paragraph 2.

## ARTICLE 6

### **Notification of the relevant person by Swiss paying agents**

1. Swiss paying agents shall within two months of the date of entry into force of this Agreement give notice to the holders of accounts and deposits in respect of which a relevant person has been identified about the content of this Agreement and the resulting rights and duties of relevant persons.

2. For relevant persons establishing a business relationship with a Swiss paying agent between the date of entry into force of this Agreement and appointed date 3, such notice shall be given at the time the contract is finalised and include a reference to the specific rights and duties provided for in Article 8.

## ARTICLE 7

### **Rights and duties of relevant persons**

1. The relevant person must inform the Swiss paying agent in writing and by appointed date 3 which option described in Article 5 paragraphs 1 and 2 he or she chooses with respect to each account or deposit in existence at appointed date 3. This notification is irrevocable. Where a notification was made before the date of entry into force of this Agreement, it shall become irrevocable if it has not been revoked as at that date.

2. The relevant person shall make sufficient funds available to the Swiss paying agent for the settlement of the one-off payment described in Article 9.

3. If the account holder or deposit holder is not the relevant person, the Swiss paying agent is entitled to act in accordance with the instructions and declarations of the account holder or deposit holder.

## ARTICLE 8

### **Establishment of new business relationships**

1. Relevant persons establishing a business relationship with a Swiss paying agent between appointed date 2 and appointed date 3 shall provide the Swiss paying agent by appointed date 4 with a written confirmation stating whether:

- a) these relevant assets were booked with another Swiss paying agent as of appointed date 2; and
- b) the business relationship with that Swiss paying agent was ongoing as of appointed date 3.

2. Where the relevant assets referred to in the written confirmation provided in accordance with paragraph 1 were booked with a Swiss paying agent on appointed date 2 and the relevant person terminated the business relationship with that Swiss paying agent before appointed date 3, the new Swiss paying agent shall apply the measures in this Part. Each previous Swiss paying agent shall cooperate with the new Swiss paying agent when so requested. By appointed date 4 the relevant person shall:

- a) notify the new Swiss paying agent in accordance with Article 7 paragraph 1; and
- b) instruct in writing the new Swiss paying agent to request from each previous Swiss paying agent all necessary information for the application of the option chosen in accordance with Article 7 paragraph 1; and
- c) instruct in writing each previous Swiss paying agent to transfer on request to the new Swiss paying agent all necessary information for the application of the option chosen in accordance with Article 7 paragraph 1.

3. Where the relevant assets referred to in the written confirmation provided in accordance with paragraph 1 were booked with a Swiss paying agent on appointed date 2 and there is a continuing business relationship with that Swiss paying agent at appointed date 3, the new Swiss paying agent shall not apply any further measures provided for in this Part on the relevant assets of the relevant person booked with it.

4. Where the relevant assets referred to in the written confirmation provided in accordance with paragraph 1 were not booked with a Swiss paying agent on appointed date 2, the new Swiss paying agent shall not apply any further measures provided for in this Part on the relevant assets of the relevant person booked with it.

5. If the relevant person does not comply with the duties provided for in paragraphs 1 to 4, the new Swiss paying agent shall disclose the available information in accordance with Article 10 as if the relevant person had provided written authorisation to the Swiss paying agent to disclose.

## ARTICLE 9

### **One-off payment and clearance of tax liabilities**

1. Subject to Articles 8 and 13, a Swiss paying agent shall on appointed date 3 levy a one-off payment on the relevant assets of relevant persons.

2. Subject to paragraph 3, the one-off payment shall be calculated in accordance with Schedule I. The applicable rate is 34%.

3. Where a non-UK domiciled individual has opted for the self-assessment method, the one-off payment shall be 34% of the omitted taxable base disclosed to the Swiss paying agent.

4. At the time the one-off payment is levied, the Swiss paying agent shall issue a certificate in the form prescribed to the relevant person. The certificate shall be considered approved by the relevant person, if he or she does not object within 30 days of issue.

5. The Swiss paying agent shall at the time of approval of the certificates issued in accordance with paragraph 4 transfer the one-off payments previously levied to the competent authority of Switzerland. Such transfers shall take place monthly starting one month after appointed date 3 with the last payment 12 months after appointed date 3. Subject to Article 34, the competent authority of Switzerland shall transfer the payments to the competent authority of the United Kingdom in monthly instalments starting two months after appointed date 3 with the last instalment 13 months after appointed date 3. One-off payments which are levied at a later date in exceptional circumstances, e.g. due to legal proceedings, shall be transferred without delay by the Swiss paying agent to the competent authority of Switzerland, which shall transfer them without delay to the competent authority of the United Kingdom.

6. The one-off payments in accordance with paragraphs 2 and 3 shall be calculated, levied and transferred to the competent authority of Switzerland by the Swiss paying agent in sterling. Where sterling is not the reference currency of the account or deposit, the Swiss paying agent shall convert the amount into sterling by using the fixed exchange rate published by the SIX Telekurs AG at the corresponding date. The competent authority of Switzerland shall transfer the payments to the competent authority of the United Kingdom in sterling.

7. Subject to paragraph 12, following approval of the certificate issued under paragraph 4 the relevant person shall cease to have any liability to the United Kingdom taxes listed in paragraph 10 for the taxable periods or charges to tax referred to in paragraph 11, in relation to the relevant assets concerning which the one-off payment has been made. This clearance shall also include without limitation interest, penalties and surcharges that may be chargeable in relation to those tax liabilities. The relevant person shall also cease to have any liability to the United Kingdom taxes listed in paragraph 10 in relation to liabilities which arise from the estate of a deceased person in respect of relevant assets concerning which the one-off payment has been made.

8. The clearance of the tax liability described in paragraph 7 shall also apply to individuals who are jointly or severally liable.

9. In the case of relevant persons who are non-UK domiciled individuals:

- a) if the capital method is applied, then the provisions of paragraph 7 apply and future payments from the amount representing those funds as at the date following the date that the capital method is applied shall not generate a further tax liability in the United Kingdom;
- b) if the self-assessment method is applied, then the provisions of paragraph 7 apply only to the income, gains and amounts disclosed in the self-assessment to the Swiss paying agent.

10. The United Kingdom taxes for which the clearance described in paragraph 7 shall apply are:

- a) income tax;
- b) capital gains tax;
- c) inheritance tax; and
- d) value added tax which the relevant person would have had to pay,

but excluding liabilities to any or all of these taxes that have been transferred to a relevant person.

11. Paragraph 7 shall apply to liabilities to the United Kingdom taxes listed in paragraph 10 concerning:

- a) taxable periods ending before the date of entry into force of this Agreement; and

- b) in the case of taxable periods commencing before the date of entry into force of this Agreement but ending on or after the date of entry into force of this Agreement, income arising and gains realised before the date of entry into force of this Agreement; and
- c) where there is no taxable period, charges to tax arising before the date of entry into force of this Agreement.

12. The amount in the account or deposit cleared in accordance with paragraph 7 as of the date of the entry into force of this Agreement is equal to  $C_r$  as defined in Schedule I. According to this:

- a) if  $C_{10}$  is smaller than  $C_8$ , then  $C_r$  equals  $C_8$ ;
- b) if  $C_{10}$  is equal or greater than  $C_8$  and equal or smaller than  $1.2 * C_8$ , then  $C_r$  equals  $C_{10}$ ;
- c) if  $C_{10}$  is greater than  $1.2 * C_8$ , then  $C_r$  equals the higher of
  - $1.2 * C_8$ ; or
  - $C_8$ , plus the sum of the following:
    - (i) inflows of capital between appointed date 2 and the date of entry into force of this Agreement which offset outflows between appointed dates 1 and 2; and
    - (ii) increases between appointed date 2 and the date of entry into force of this Agreement in the value of relevant assets as at appointed date 2 (increases in value are income and gains as defined in Article 19 paragraph 1 and unrealised capital gains),

if the relevant person provides the Swiss paying agent with all necessary documentation to enable it to apply the calculation in subparagraphs (i) and (ii) above by appointed date 3.

However, to the extent that inflows of capital come directly or indirectly from the United Kingdom and left the United Kingdom between the date of signature and the date of entry into force of this Agreement, the part of the one-off payment paid in respect of those inflows of capital shall be treated by the competent authority of the United Kingdom as a payment on account of United Kingdom taxes or other liabilities (including without limitation interest, penalties and surcharges) of that person in respect of those inflows of capital.



13. Paragraph 7 shall not apply:

- a) where, as at appointed date 3, the tax affairs of a relevant person with relevant assets are under investigation, unless prior to this investigation being commenced, a Swiss paying agent has been instructed by the relevant person to make a one-off payment in relation to those relevant assets in accordance with this Article;
  - b) where the relevant person was the subject of an investigation in the United Kingdom which has been concluded before appointed date 3; and:
    - (i) in the case of a criminal investigation this led to a conviction for offences which were punishable in the United Kingdom by two years or more imprisonment; or
    - (ii) in the case of a civil investigation concluded after appointed date 1:
      - the Commissioners for Her Majesty’s Revenue and Customs determined that the prevailing guidance issued by the competent authority of the United Kingdom at the time warranted the completion of a Certificate of Full Disclosure or a Statement of Assets and Liabilities, or a civil penalty was chargeable under the Customs and Excise Management Act 1979; or
      - the investigation was carried out for the purpose of ascertaining the correct United Kingdom tax liability of the relevant person in relation to any assets or interest of the relevant person in Switzerland,
- and the relevant person did not declare an interest in relevant assets in Switzerland held before or during the investigation.

Where the relevant person fully disclosed any relevant assets held at the time of the investigation this letter shall not apply to payments of withholding tax under Part 3;

- c) where, at any time before appointed date 3, the relevant person or their authorised representative has engaged with, participated in or been contacted personally by the United Kingdom competent authority in respect of any publicised United Kingdom disclosure facility, unless prior to this engagement, participation or contact, a Swiss paying agent has been instructed by the relevant person to make a one-off payment in relation to those relevant assets in accordance with this Article;

- d) where the relevant assets represent or are derived from (whether directly or indirectly) the proceeds of crime other than crime connected to non compliance with the tax legislation of the United Kingdom;
- e) where the relevant assets represent or are derived from (whether directly or indirectly) the proceeds of criminal attacks and systemic fraud against the tax and benefits regimes of the United Kingdom, including but not limited to cases where the United Kingdom authorities make payments to persons to which they are not entitled.

In any of the above circumstances any one-off payment shall be treated by the competent authority of the United Kingdom as a payment on account of United Kingdom taxes or other liabilities (including without limitation interest, penalties and surcharges) of that person in respect of the relevant assets.

14. An individual will not be entitled to credit the one-off payment against any individual assessment in respect of the taxable periods or charges to tax referred to in paragraph 11.

## ARTICLE 10

### **Voluntary disclosure**

1. Where written authorisation by the relevant person has been given to disclose in accordance with Article 7 paragraph 1 the Swiss paying agent shall transfer the following information to the competent authority of Switzerland on a monthly basis starting one month after appointed date 3 with the last transfer six months after appointed date 3:

- a) the identity (name, first name and date of birth) and address of the relevant person;
- b) the United Kingdom tax reference number, if known;
- c) the name and address of the Swiss paying agent;
- d) the customer number of the account or deposit holder (customer, account or deposit number, IBAN-code);
- e) for the time of the account's or deposit's existence between appointed date 1 and the date of entry into force of this Agreement, the yearly account balance and statement of assets as at 31 December of each relevant year.

2. The competent authority of Switzerland shall communicate the information referred to in paragraph 1 to the competent authority of the United Kingdom on a monthly basis starting two months after appointed date 3 with the last communication of such information occurring seven months after appointed date 3. Later disclosures, e.g. due to legal proceedings, shall be communicated without delay by the Swiss paying agent to the competent authority of Switzerland, which shall communicate them without delay to the competent authority of the United Kingdom.

3. Swiss paying agents shall issue a certificate in the form prescribed to the relevant person.

4. The competent authority of the United Kingdom may ask the competent authority of Switzerland for clarification or further information in cases where identification of the relevant person is not possible from the information provided.

#### ARTICLE 11

##### **Opt-out for non-UK domiciled individuals**

1. Where relevant persons who are non-UK domiciled individuals have chosen the opt out method, Article 9 paragraphs 7 and 9 shall not apply.

2. Swiss paying agents shall issue a certificate in the form prescribed to the relevant person.

#### ARTICLE 12

##### **Wrongful behaviour in relation to non-UK domiciled status**

1. Clearance as described in Article 9 paragraphs 7 and 9 shall not be provided where a relevant person has:

- a) falsely declared that he or she is a non-UK domiciled individual; or
- b) elected for the self-assessment method to be applied when there are outstanding tax liabilities in respect of relevant assets which were not declared in the self-assessment.

2. Where paragraph 1 applies, the one-off payment shall be treated by the competent authority of the United Kingdom as a payment on account of United Kingdom taxes or other liabilities (including without limitation interest, penalties and surcharges) of that person.

## ARTICLE 13

### **Insufficient funds**

1. Where the relevant person informs in writing the Swiss paying agent that he or she opts for the one-off payment as described in Article 9, or the one-off payment is levied by default under Article 5 paragraph 3, but insufficient funds have been made available by the relevant person to the Swiss paying agent by appointed date 3, the Swiss paying agent shall grant the relevant person in writing an extension of up to eight weeks from appointed date 3 in order to secure the one-off payment. Where Article 8 paragraph 2 applies, but insufficient funds have been made available, the Swiss paying agent shall grant an extension of up to eight weeks from the date it levied the one-off payment. The notice given by the Swiss paying agent shall include a reference to the possible consequences for the relevant person provided for in paragraph 3.
2. Where an extension is granted in accordance with paragraph 1, the Swiss paying agent shall levy the one-off payment on the day the extension ends.
3. Where the relevant person holds relevant assets with a Swiss paying agent at appointed date 3 and the one-off payment cannot be levied owing to insufficient funds, the Swiss paying agent shall disclose the identity of the relevant person in accordance with Article 10 as if the relevant person had provided written authorisation to the Swiss paying agent to disclose.

## ARTICLE 14

### **Failure to identify a relevant person**

1. In any case where a Swiss paying agent fails to identify a relevant person and inform that person of his or her rights and duties in accordance with Article 7 and that relevant person is subsequently identified by the Swiss paying agent as a relevant person then, if the competent authorities of the Contracting States so agree, the relevant person may nonetheless exercise the option set out in Article 5 paragraphs 1 and 2 and the rights and duties set out in Article 7 shall apply until a date to be agreed by the competent authorities of the Contracting States.
2. Where a one-off payment is being made in accordance with Article 9, a further amount shall be added to the one-off payment representing interest at the statutory rate applicable in the United Kingdom to unpaid tax debts between appointed date 3 and the date of payment. The competent authority of the United Kingdom shall inform the competent authority of Switzerland of the statutory rate applicable as at appointed date 3 and of any changes to the rate thereafter.

## ARTICLE 15

### **Partially or wrongly levied one-off payment**

1. Where the Swiss paying agent does not levy the one-off payment in full owing to errors in calculation or execution, the Swiss paying agent may levy the missing amount from the relevant person. A further amount representing interest shall be added in accordance with Article 14 paragraph 2. The Swiss paying agent shall remain bound towards the competent authority of Switzerland to make the one-off payment in its entirety. The same shall apply to the interest charged. Subject to Article 34, the competent authority of Switzerland shall transfer without delay the received one-off payment and interest to the competent authority of the United Kingdom.
2. Clearance under Article 9 paragraphs 7 and 9 shall not be removed in cases falling under paragraph 1, if the relevant person has taken reasonable care in checking the certificate issued by the Swiss paying agent in accordance with Article 9 paragraph 4 and the missing amount was paid upon identification of the error in calculation or execution.
3. Where the one-off payment in accordance with Article 9 has been wrongly levied by the Swiss paying agent, the competent authority of the United Kingdom shall, on receipt of appropriate evidence, refund the one-off payment including interest less the expense allowance.

## ARTICLE 16

### **Effect of the certificates**

Where, for reasons other than the implementation of this Agreement, the competent authority of the United Kingdom becomes aware of relevant assets, the competent authority of the United Kingdom may ask the relevant person to provide evidence that these assets were subject to the one-off payment in accordance with Article 9 or disclosed in accordance with Article 10. A valid certificate issued by the Swiss paying agent in accordance with Article 9 paragraph 4 or Article 10 paragraph 3 shall be considered sufficient evidence. Where the validity of a certificate is doubtful, the competent authority of the United Kingdom may ask the competent authority of Switzerland to verify its validity.

## ARTICLE 17

### **Upfront payment by Swiss paying agents**

1. Swiss paying agents shall within 20 days of the date of entry into force of this Agreement form an implementation vehicle which shall manage on their behalf all

rights and obligations arising under this Article and act as a pooling and clearing institution.

2. Swiss paying agents shall make an upfront payment of CHF 500 million to the competent authority of Switzerland within 25 days of the date of entry into force of this Agreement. The competent authority of Switzerland shall transfer the amount of the upfront payment to the competent authority of the United Kingdom within one month of the date of entry into force of this Agreement.

3. Once the upfront payment made to the competent authority of the United Kingdom in accordance with paragraph 2 and the payments transferred to the competent authority of the United Kingdom in accordance with Article 9 paragraph 5 reach the amount of CHF 1300 million, the competent authority of Switzerland shall offset the further payments under Article 9 paragraph 5 against the upfront payment according to paragraph 2. After complete offsetting of the upfront payment, further payments under Article 9 paragraph 5 shall be transferred to the competent authority of the United Kingdom. The above payments shall be converted on the date of offsetting by using the fixed exchange rate published by the SIX Telekurs AG.

4. The competent authority of Switzerland shall at the end of each month transfer to the implementation vehicle the payments by Swiss paying agents under Article 9 paragraph 5 offset with the upfront payment in accordance with paragraph 3.

## ARTICLE 18

### **Destinations of withdrawn assets**

The competent authority of Switzerland shall within 12 months of appointed date 3 report to the competent authority of the United Kingdom the 10 States or jurisdictions to which relevant persons who closed their account or deposit between the date of signature of this Agreement and appointed date 3 have transferred the largest volume of relevant assets. The report shall also include the number of relevant persons concerned for each State or jurisdiction. The Contracting States shall not make public the data collected and reported based on this Article.

## PART 3

### **Final withholding tax on income and gains on relevant assets levied by Swiss paying agents**

#### ARTICLE 19

##### **Final withholding tax levied by Swiss paying agents**

1. Subject to the provisions of Article 21 a final withholding tax (hereinafter referred to as “withholding tax”) shall be levied by a Swiss paying agent in respect of relevant persons on the following income and gains of such persons arising on relevant assets at the rates specified:

- a) interest income as defined in Article 25: 48%;
- b) dividend income as defined in Article 26: 40%;
- c) other income as defined in Article 27: 48%;
- d) capital gains as defined in Article 28: 27%.

2. A non-UK domiciled individual shall only be liable to the withholding tax in respect of the income and gains described in paragraph 1 where:

- a) such income and gains have a United Kingdom source; or
- b) amounts are derived from such income and gains that do not have a United Kingdom source and are remitted to the United Kingdom. For the purposes of this Agreement only, “remitted” means those amounts directly transferred to a payee in the United Kingdom, unless the relevant person declares to the Swiss paying agent that such amount is not remitted in a taxable form, or amounts which the relevant person declares to the Swiss paying agent to be a remittance.

Where transfers or payments other than under letter b) are made which are remittances or deemed remittances under United Kingdom law, paragraph 5 shall not apply.

3. Where a relevant person has made a declaration of intent in accordance with Article 4 paragraph 4, but his or her status as a non-UK domiciled individual has not been certified by the date specified in that paragraph, the Swiss paying agent shall not treat such a relevant person as a non-UK domiciled individual and shall accordingly levy the tax in accordance with paragraph 1 from the beginning of the relevant tax year. Contrary to paragraph 1, the applicable tax rates are:

- a) interest income as defined in Article 25: 50%;
- b) dividend income as defined in Article 26: 42.5%;
- c) other income as defined in Article 27: 50%;
- d) capital gains as defined in Article 28: 28%.

Any withholding tax levied in accordance with paragraphs 1 and 2 shall be fully credited against the withholding tax levied in accordance with this paragraph, even in cases where the credit exceeds the amount of this withholding tax.

Where the relevant person has opted to meet any shortfall within 8 weeks from 31 March following the end of the relevant tax year, but fails to do so, the Swiss paying agent shall disclose the identity of the relevant person in accordance with Article 22 as if the relevant person had provided written authorisation to the Swiss paying agent to disclose.

To ensure a proper implementation of this deferred withholding tax, the Swiss paying agent shall compute on an ongoing basis the withholding tax due under paragraph 1.

4. The relevant person is the party liable to the withholding tax. Income and capital gains from assets held by a Swiss paying agent acting as a fiduciary agent shall be treated in the same way as the underlying asset would be if held by the relevant person.

5. Subject to Article 23, where withholding tax is levied in accordance with this Article the relevant person shall cease to have any liability to United Kingdom taxes including interest, penalties and surcharges that are chargeable in respect of the income or gains falling within paragraph 1 or 2. Any other tax liabilities of the relevant person in the United Kingdom, including liabilities to tax in respect of income or gains, are not affected by this paragraph.

## ARTICLE 20

### **Amendment of tax rates**

1. The competent authority of the United Kingdom shall without delay inform the competent authority of Switzerland in writing about publicly announced and adopted changes to United Kingdom law regarding the tax rates applicable to income and gains on relevant assets.

2. Where the United Kingdom highest rates of taxation on income or gains are amended after the date of signature of this Agreement, the rates of the withholding tax levied under this Part shall simultaneously and correspondingly be amended by



the number of percentage points that the statutory rates have been amended, unless the competent authority of Switzerland has informed the competent authority of the United Kingdom in writing, within 30 days of receipt of any information provided under paragraph 1, that it will not adjust the applicable tax rates under this Part. The competent authority of Switzerland shall publish without delay all adjustments to the rates of the withholding tax levied under this Part and ensure that Swiss paying agents are informed of these adjustments.

## ARTICLE 21

### **Relationship to other taxes levied at source**

1. The provisions of the Agreement on the Taxation of Savings are not affected by anything in this Agreement. Where tax is retained in accordance with the Agreement on the Taxation of Savings from any amounts of interest income that also come within the scope of this Agreement, that tax shall be credited against the withholding tax levied under this Agreement. Article 19 paragraph 5 shall apply to the whole amount of that interest income.
2. The levy of the Swiss anticipatory tax is not affected by anything in this Agreement. To the extent provided for by the Double Taxation Convention, the Swiss paying agent shall in its own name and on behalf of the relevant person file with the Swiss authorities for total or partial reimbursement. The Swiss anticipatory tax which cannot be claimed back according to the Double Taxation Convention (residual tax) shall be credited against the withholding tax.
3. If tax is levied at source in accordance with the law of the United Kingdom on income falling within Article 19 paragraphs 1 and 2, the Swiss paying agent shall credit this tax at source against the withholding tax. This credit may not, however, exceed the amount of the withholding tax.
4. If tax is levied in a third State or jurisdiction on income falling within Article 19 paragraphs 1 and 2, the Swiss paying agent shall credit this tax against the withholding tax, to the extent that any arrangements between the United Kingdom and that third State or jurisdiction for the avoidance of double taxation exclude the reimbursement of the tax levied in that third State or jurisdiction. This credit may not, however, exceed the amount of the withholding tax.

## ARTICLE 22

### **Voluntary disclosure**

1. Where a relevant person who is not a non-UK domiciled individual expressly authorises the Swiss paying agent to disclose to the competent authority of the United Kingdom the income arisen and capital gains realised on an account or

deposit, the Swiss paying agent shall disclose such income and capital gains instead of levying the withholding tax.

2. Where a relevant person who is a non-UK domiciled individual expressly authorises the Swiss paying agent to disclose to the competent authority of the United Kingdom the income and capital gains that have a United Kingdom source and remittances to the United Kingdom from an account or deposit, the Swiss paying agent shall disclose such income, capital gains and remittances instead of levying the withholding tax.

3. A disclosure shall include the following information:

- a) the identity (name, first name and date of birth) and address of the relevant person;
- b) the United Kingdom tax reference number, if known;
- c) the name and address of the Swiss paying agent;
- d) the customer number of the account or deposit holder (customer, account or deposit number, IBAN-code);
- e) the tax year concerned;

For relevant persons except non-UK domiciled individuals:

- f) the total amount of income as defined in Article 19 paragraph 1;
- g) the total amount of capital gains and losses realised as calculated in accordance with Articles 24 and 28;

For relevant persons who are non-UK domiciled individuals:

- h) the total amount of income and capital gains as defined in Article 19 paragraph 2 letter a);
- i) the total amount of remittances as defined in Article 19 paragraph 2 letter b).

## ARTICLE 23

### **Treatment of withholding tax as payment on account**

1. The relevant person may request, on production to the competent authority of the United Kingdom of a certificate issued in accordance with Article 30, that the withholding tax is treated by the competent authority of the United Kingdom as a

payment on account of United Kingdom taxes or other liabilities (including without limitation interest, penalties and surcharges) of that person in respect of the relevant tax year to which the certificate relates. In this circumstance, Article 19 paragraph 5 shall not apply.

2. Where a payment received by a relevant person has been subject to taxes and retentions other than as provided for in this Agreement and the United Kingdom grants a tax credit for such taxes and retentions in accordance with its national law or double taxation conventions, such other taxes and retentions shall be credited before the procedure in paragraph 1 is applied.

3. Paragraphs 1 and 2 shall not apply to the extent that the taxes or retentions described in paragraph 2 have been credited based on Article 21 paragraphs 2 to 4.

## ARTICLE 24

### **Basis of assessment**

1. The amount on which the withholding tax shall be levied is the amount before any deductions.

2. The withholding tax on interest income shall be levied as follows:

- a) in the case of interest income within the meaning of Article 25 paragraph 1 letter a): on the gross amount of interest paid or credited;
- b) in the case of interest income within the meaning of Article 25 paragraph 1 letter b) or d): on the amount of interest or revenue referred to in those letters;
- c) in the case of interest income within the meaning of Article 25 paragraph 1 letter c): on the amount of interest referred to in that letter.

3. The withholding tax on dividend income shall be levied as follows:

- a) in the case of a dividend within the meaning of Article 26 paragraph 1 letter a): on the gross amount of the dividend paid or credited or, if the dividend is never paid or credited, on the market value of the dividend in kind at the time of accrual;
- b) in the case of a dividend within the meaning of Article 26 paragraph 1 letter b): on the amount of dividends referred to in that letter;
- c) in the case of a dividend within the meaning of Article 26 paragraph 1 letter c): on the amount of income referred to in that letter.

4. The withholding tax on other income shall be levied as follows:
  - a) in the case of other income within the meaning of Article 27 paragraph 1 letter a): on the gross amount of the other income paid or credited;
  - b) in the case of other income within the meaning of Article 27 paragraph 1 letter b): on the amount of other income referred to in that letter;
  - c) in the case of other income within the meaning of Article 27 paragraph 1 letter c): on the amount of other income referred to in that letter.
  
5. The withholding tax shall be levied on capital gains accruing on the disposal of relevant assets. Capital gains are computed by deducting the acquisition costs and incidental costs of acquisition and disposal from the disposal value, whereby:
  - a) Acquisition costs are the actual costs of purchase in every case, apart from in the exceptional case where accurate records are no longer available.
  - b) If accurate records of the acquisition costs are not available, the acquisition costs are the market value of the asset at 31 March 1982 or, if the asset was not in existence at that date, the market value of the asset on the date of creation.
  - c) If such market value is not known, the acquisition costs are deemed to be nil.
  - d) The transfer by a relevant person of relevant assets to the account or deposit of a third person constitutes a disposal except in cases where the transfer takes place between spouses or civil partners. In such case the disposal value shall be deemed to be the market value of the assets.
  
6. Capital losses accruing on the disposal of relevant assets booked in Switzerland can be offset against future capital gains accruing on the disposal of relevant assets booked in Switzerland to the extent they arise on assets held by the same Swiss paying agent.
  
7. Capital losses accruing on the disposal of relevant assets cannot be carried back to set against earlier capital gains or transferred to an account held with another Swiss paying agent.
  
8. No other allowances or reliefs are available to set against any capital gains or enhance any capital losses accruing on the disposal of relevant assets.

## ARTICLE 25

### Definition of interest income

1. For the purposes of this Part, “interest income” means:
  - a) interest paid, or credited to an account, relating to debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits. In particular it includes income from government securities and income from bonds or debentures as well as premiums and prizes attached to such securities, bonds or debentures, but excluding interest from loans between private individuals not acting in the course of their business. Penalty charges for late payments shall not be regarded as interest income;
  - b) interest accrued or capitalised at the sale, refund or redemption of debt claims referred to in a);
  - c) income deriving from interest payments either directly or through an entity referred to in Article 4 paragraph 2 of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments (hereinafter referred to as the “Directive”) distributed or retained by:
    - (i) undertakings for collective investment domiciled in an EU Member State;
    - (ii) entities domiciled in an EU Member State which exercise the option under Article 4 paragraph 3 of the Directive and which inform the Swiss paying agent of this fact;
    - (iii) undertakings for collective investment established outside the territory of the EU and Switzerland;
    - (iv) Swiss investment funds;
  - d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities:
    - (i) undertakings for collective investment domiciled in an EU Member State;
    - (ii) entities domiciled in an EU Member State which exercise the option under Article 4 paragraph 3 of the Directive and which inform the Swiss paying agent of this fact;

- (iii) undertakings for collective investment established outside the territory of the EU and Switzerland;
- (iv) Swiss investment funds.

2. As regards paragraph 1 letters c) and d), where a Swiss paying agent has no information concerning the proportion of the income which derives from interest payments, the total amount of the income shall be considered to be an interest payment.

## ARTICLE 26

### **Definition of dividend income**

For the purposes of this Part, “dividend income” means:

- a) dividends paid, or credited to an account being income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt claims, participating in profits as well as income from other corporate shares which is subjected to the same taxation treatment as income from shares by the laws of the State or jurisdiction of which the company making the distribution is a resident;
- b) income from dividends either directly or through an entity referred to in Article 4 paragraph 2 of the Directive distributed or retained by:
  - (i) undertakings for collective investment domiciled in an EU Member State;
  - (ii) entities domiciled in an EU Member State which exercise the option under Article 4 paragraph 3 of the Directive and which inform the Swiss paying agent of this fact;
  - (iii) undertakings for collective investment established outside the territory of the EU and Switzerland;
  - (iv) Swiss investment funds;
- c) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities:
  - (i) undertakings for collective investment domiciled in an EU Member State;

- (ii) entities domiciled in an EU Member State which exercise the option under Article 4 paragraph 3 of the Directive and which inform the Swiss paying agent of this fact;
- (iii) undertakings for collective investment established outside the territory of the EU and Switzerland;
- (iv) Swiss investment funds.

## ARTICLE 27

### **Definition of other income**

For the purposes of this Part, “other income” means:

- a) substitute payments for interest and dividends within the meaning of Articles 25 paragraph 1 letter a) and 26 paragraph 1 letter a) or sums treated for tax purposes as income arising from relevant assets under the taxation laws of the United Kingdom, as well as other fees and commissions including those received in connection with structured financial instruments, securities lending, repo business, swaps and comparable transactions;
- b) other income either directly or through an entity referred to in Article 4 paragraph 2 of the Directive distributed or retained by:
  - (i) undertakings for collective investment domiciled in an EU Member State;
  - (ii) entities domiciled in an EU Member State which exercise the option under Article 4 paragraph 3 of the Directive and which inform the Swiss paying agent of this fact;
  - (iii) undertakings for collective investment established outside the territory of the EU and Switzerland;
  - (iv) Swiss investment funds;
- c) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities:
  - (i) undertakings for collective investment domiciled in an EU Member State;

- (ii) entities domiciled in an EU Member State which exercise the option under Article 4 paragraph 3 of the Directive and which inform the Swiss paying agent of this fact;
- (iii) undertakings for collective investment established outside the territory of the EU and Switzerland;
- (iv) Swiss investment funds.

## ARTICLE 28

### **Definition of capital gains**

For the purposes of this Part, “capital gains” means:

- a) all gains realised on the disposal of relevant assets, except where the gain is interest income, dividend income or other income in accordance with Articles 25 to 27;
- b) capital gains realised either directly or through an entity referred to in Article 4 paragraph 2 of the Directive distributed or retained by:
  - (i) undertakings for collective investment domiciled in an EU Member State;
  - (ii) entities domiciled in an EU Member State which exercise the option under Article 4 paragraph 3 of the Directive and which inform the Swiss paying agent of this fact;
  - (iii) undertakings for collective investment established outside the territory of the EU and Switzerland;
  - (iv) Swiss investment funds;
- c) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities:
  - (i) undertakings for collective investment domiciled in an EU Member State;
  - (ii) entities domiciled in an EU Member State which exercise the option under Article 4 paragraph 3 of the Directive and which inform the Swiss paying agent of this fact;



- (iii) undertakings for collective investment established outside the territory of the EU and Switzerland;
- (iv) Swiss investment funds.

## ARTICLE 29

### **Administrative handling**

1. Swiss paying agents shall levy the withholding tax on an arising basis and transfer all taxes levied not later than two months after the end of the calendar year to the competent authority of Switzerland. With the transfer, the Swiss paying agents shall declare to the competent authority of Switzerland the allocation of the taxes levied under this Part to the different categories of income and capital gains.
2. The withholding tax shall be calculated, levied and transferred to the competent authority of Switzerland by the Swiss paying agent in sterling. Where sterling is not the reference currency of the account or deposit, the Swiss paying agent shall convert the amount into sterling by using the fixed exchange rate published by the SIX Telekurs AG at the corresponding date.
3. The competent authority of Switzerland shall transfer the withholding tax levied to the competent authority of the United Kingdom in sterling in one instalment within a period of three months following the end of the calendar year.
4. With respect to voluntary disclosures in accordance with Article 22 Swiss paying agents shall transfer the information according to Article 22 paragraph 3 not later than three months after the end of the tax year to the competent authority of Switzerland. The competent authority of Switzerland shall transfer this information to the competent authority of the United Kingdom. Such communications shall be automatic and take place once a year within a period of six months following the end of the tax year.

## ARTICLE 30

### **Certificates issued by Swiss paying agents**

1. Swiss paying agents shall issue to the relevant person a certificate in the form prescribed at the end of each tax year and when the banking relationship is ended.
2. The competent authority of the United Kingdom shall accept certificates issued by Swiss paying agents as sufficient evidence of payments of withholding tax made under this Part.

## ARTICLE 31

### **Transfer of relevant assets**

Where a relevant person transfers relevant assets from one Swiss paying agent to the account or deposit of another, the first Swiss paying agent shall transfer the relevant data regarding these assets necessary for the second Swiss paying agent to comply with the terms of this Agreement.

## ARTICLE 32

### **Accompanying measures to safeguard this Agreement's purpose**

1. Notwithstanding any other provisions under which the competent authority of the United Kingdom may request information from Switzerland, in order to safeguard this Agreement's purpose the competent authority of Switzerland shall on request provide information to the competent authority of the United Kingdom if the identity of a United Kingdom taxpayer and plausible grounds are provided by the competent authority of the United Kingdom. The request does not have to include the name of the Swiss paying agent.
2. For the purpose of identifying the United Kingdom taxpayer, the competent authority of the United Kingdom shall provide the name, address, and, if known, date of birth, professional activity and other information identifying the United Kingdom taxpayer.
3. Plausible grounds for the request exist where the competent authority of the United Kingdom has identified on a case-by-case basis a tax risk in relation to the United Kingdom taxpayer and sees plausible, non-arbitrary grounds for checking the tax position of a United Kingdom taxpayer. These grounds shall be based on an analysis of a range of information such as previous tax returns, level of income, third party information and knowledge of the persons who were involved in completing a tax return. So called "fishing expeditions" are excluded.
4. The competent authority of the United Kingdom shall inform the United Kingdom taxpayer in advance about the intended request for information, unless the competent authority of the United Kingdom has reasonable grounds for believing that this might seriously prejudice the assessment or collection of tax.
5. The competent authority of the United Kingdom shall confirm in its request that the requirements for such a request are met and shall indicate for which time period within the ten years prior to the request the information is needed. Based on this request, the competent authority of Switzerland shall investigate the existence of accounts and deposits.

6. Institutions governed by the Swiss Banking Act of 8 November 1934 shall on request by the competent authority of Switzerland disclose to the competent authority of Switzerland the existence of accounts and deposits of United Kingdom taxpayers to the extent required by this Article.

7. Where the United Kingdom taxpayer subject to this request has an account or deposit in Switzerland in the time period referred to in the request, the competent authority of Switzerland shall provide the name of the institution concerned and the number of existing accounts and deposits during the time period referred to in the request to the competent authority of the United Kingdom.

8. No information according to paragraph 7 shall be provided:

- a) where the United Kingdom taxpayer has no account or deposit; or
- b) in respect of accounts or deposits of the United Kingdom taxpayer where:
  - (i) there was after appointed date 2 no change in the beneficial ownership. A change of ownership due to an inheritance shall be regarded as a change of beneficial ownership for the purposes of this subparagraph; and
  - (ii) the one-off payment was levied in accordance with Article 9 paragraph 2 on all the assets in the account or deposit as at the date of entry into force of this Agreement; and
  - (iii) the income arising and capital gains realised after the date of entry into force of this Agreement were taxed in accordance with Article 19 paragraphs 1 and 2; and
  - (iv) no new money was deposited into the account or deposit after appointed date 2. For the purposes of this subparagraph, assets deposited between appointed date 2 and the date of entry into force of this Agreement which are part of the relevant assets as defined under Article 9 paragraph 12 do not qualify as new money.

9. In any case the competent authority of the United Kingdom may request administrative or judicial assistance based on the pertinent legal provisions applicable in Switzerland.

10. The competent authority of Switzerland shall inform the United Kingdom taxpayer before the information is transmitted about the intended exchange of information. The United Kingdom taxpayer may appeal against the intended exchange of information to the extent provided by Swiss law.

11. The joint commission shall following the entry into force of this Agreement determine by mutual consent the maximum number of admissible requests per calendar year under this Article. The maximum number of requests must be proportionate to the perceived risk of non-compliance by investors and in the first three years that number shall be in the low to mid hundreds and shall not exceed 500 per year. No requests for information under this Article shall be made until the joint commission has reached agreement on the maximum number of requests.

12. The maximum number of requests per calendar year shall be subject to a yearly review at the beginning of the year and, if necessary, adjusted for that year based on the requests made three years before. The first review shall take place at the beginning of 2016. Where the competent authority of the United Kingdom has in the year under review requested information in less than 20% of the maximum number of admissible requests under this Article, the maximum number of requests per calendar year shall not be adjusted. Where the competent authority of the United Kingdom has in the year under review requested information in 20% or more of the maximum number of admissible requests under this Article, the following rules apply:

- a) Requests leading solely to the identification of accounts or deposits as defined in paragraph 8 letter b) shall not be taken into consideration when determining the number of successful requests and the total number of requests under letters b) and c).
- b) If more than two thirds of the total number of requests as determined in accordance with letter a) lead to the direct or indirect identification of additional United Kingdom tax liability which amounts to at least £10,000, the maximum number of requests per calendar year shall increase by 15% for the year of the review.
- c) If less than one third of the total number of requests as determined in accordance with letter a) lead to the direct or indirect identification of additional United Kingdom tax liability which amounts to at least £10,000, the maximum number of requests per calendar year shall decrease by 15% for the year of the review.

In case of indirect identification of additional United Kingdom tax liability, a link between the account or deposit identified under this Article and the additional tax liability found is required.

13. This Article shall apply to requests concerning taxable periods beginning on or after the date of entry into force of this Agreement.

## ARTICLE 33

### **Anti-abuse**

1. The Contracting States recognise that the relevant persons remain free to book their assets in any State or jurisdiction of their choice.
2. Swiss paying agents shall not knowingly manage or encourage the use of artificial arrangements whose sole or main purpose is the avoidance of taxation of the relevant persons under the provisions of this Agreement in respect of relevant assets.
3. Notwithstanding that the relevant person is the party liable to the withholding tax in accordance with Article 19 paragraph 4, where a Swiss paying agent acts contrary to paragraph 2, the Swiss paying agent shall be liable to a payment which amounts to the withholding tax avoided. The payment shall be made to the competent authority of Switzerland, which shall transfer it to the competent authority of the United Kingdom. The Swiss paying agent may exercise a right of redress against any such relevant person who participated in such arrangements.

There are no circumstances in which the United Kingdom should retain amounts paid twice in respect of relevant assets. Where amounts have been paid twice, the competent authority of the United Kingdom shall refund the overpayment to the competent authority of Switzerland.

4. Paragraph 3 shall apply only in individual cases when clear, direct evidence is presented.

## PART 4

### **Final provisions**

## ARTICLE 34

### **Expense allowance**

The competent authority of Switzerland shall deduct an expense allowance of 0.1% from amounts transferred to the competent authority of the United Kingdom in accordance with this Agreement.

## ARTICLE 35

### **Reciprocity measures of the United Kingdom**

Switzerland may request reciprocity through the introduction of equivalent measures to secure the effective taxation of Swiss residents regarding assets in the United Kingdom. The measures to be introduced shall involve exchange of information on similar lines to the approach adopted by the United Kingdom in relation to other States and jurisdictions and shall be implemented by an agreement between the Contracting States.

## ARTICLE 36

### **Use and disclosure of information received under this Agreement**

1. Subject to paragraphs 2 and 3, any information that a Contracting State receives from the other Contracting State under this Agreement shall be treated as confidential and shall, without the consent of the relevant person, only be used for the purposes of the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals or the oversight of the above in relation to taxes and tax matters. The Contracting States shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
2. A Contracting State may use information received for other purposes, if this information can be used for such other purposes according to the law of both Contracting States and the competent authority of the supplying Contracting State gives its consent to such other use.
3. Paragraphs 1 and 2 shall not apply to information received by the competent authority of the United Kingdom as a result of voluntary disclosure made by a relevant person under Articles 10 and 22.

## ARTICLE 37

### **Implementation**

The Contracting States shall enact and implement all necessary measures to give effect to the terms of this Agreement.

## ARTICLE 38

### **Audits**

1. The competent authority of Switzerland shall carry out audits to assess whether and how Swiss paying agents fulfil their obligations under this Agreement.
2. Audits in relation to Part 2 shall be carried out throughout the first three years following the entry into force of this Agreement. The audits shall cover a representative group of Swiss paying agents.
3. Swiss paying agents shall be audited regularly in relation to Part 3.
4. A report of the aggregated outcome and main findings of all audits performed within the previous calendar year in accordance with this Article shall be made available to the competent authority of the United Kingdom by the competent authority of Switzerland and may be published.

## ARTICLE 39

### **Consultation**

1. If any disagreement arises between the competent authorities as to the interpretation or application of this Agreement, they shall consult and endeavour to resolve the issue by mutual agreement. Where no mutual agreement can be found, the competent authorities shall submit the issue to the joint commission.
2. The competent authority of the United Kingdom shall inform the competent authority of Switzerland about publicly announced and adopted amendments to its domestic tax laws regarding income and gains on relevant assets covered by this Agreement.
3. The competent authorities shall inform each other of developments which could affect the proper functioning of this Agreement. This shall also include information about any relevant agreement concluded by one of the Contracting States with a third State or jurisdiction, in particular any provisions affecting the application of Article 21.
4. The form of all certificates provided for in this Agreement shall be jointly agreed by the competent authorities.

## ARTICLE 40

### **Joint commission**

1. The Contracting States shall establish a joint commission made up of representatives of the Contracting States.
2. In addition to the specific tasks attributed to it in other provisions of this Agreement, the joint commission at the request of either Contracting State shall:
  - a) examine the proper functioning of this Agreement;
  - b) assess the relevant developments;
  - c) recommend amendments or a revision of this Agreement to the Contracting States.

## ARTICLE 41

### **Extraordinary circumstances**

In the event that extraordinary upheavals on the financial markets endanger the implementation of this Agreement, the Contracting States shall consult each other and mutually agree adequate measures.

## ARTICLE 42

### **Schedule**

Schedule I shall form an integral part of this Agreement.

## ARTICLE 43

### **Entry into force**

1. Each of the Contracting States shall notify to the other Contracting State through diplomatic channels the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on 1 January of the calendar year following the date of receipt of the later of these notifications.
2. Part 3 shall apply to income arising and gains realised on or after the date of entry into force of this Agreement.



## ARTICLE 44

### **Termination**

1. This Agreement shall remain in force until terminated by a Contracting State.
2. Either Contracting State may terminate this Agreement with effect from the end of a calendar year by giving notice to the other Contracting State at least two years in advance.
3. Where, exceptionally, a Contracting State is found to be deliberately undermining the effectiveness of this Agreement, the other Contracting State may give six months notice of termination having first informed the joint commission of its concerns and provided evidence in support of them.
4. Should the competent authority of Switzerland inform the competent authority of the United Kingdom that under Article 20 paragraph 2 Switzerland will not adjust the rates of the withholding tax the United Kingdom may terminate this Agreement in accordance with paragraph 3.
5. In the event that this Agreement is terminated:
  - a) the claims of relevant persons in accordance with Article 23 shall remain unaffected;
  - b) the competent authority of Switzerland shall calculate a final settlement of withholding tax due up to the end of the period of the applicability of this Agreement and make a final payment to the competent authority of the United Kingdom.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at London this sixth day of October, 2011, in the English and French languages, each text being equally authoritative.

**For the United Kingdom of Great  
Britain and Northern Ireland:**

**DAVID GAUKE**

**For the Swiss Confederation:**

**EVELINE  
WIDMER-SCHLUMPE**



## SCHEDULE I

### Calculation method of the one-off payment according to Article 9 paragraph 2

$$T = \max \left\{ \begin{array}{l} tr \cdot \left[ \frac{2}{3} \cdot \left( C_r - \frac{n}{8} \cdot C_b \right) + \frac{1}{3} \left( \frac{n}{10} \cdot C_r + \frac{2}{10} \cdot \left( \frac{C_9' + C_{10}'}{2} \right) \right) \right] \\ tr_{\min} \cdot C_r \end{array} \right\}$$

whereas:

$$C_9' = C_r + C_r \cdot r$$

$$C_{10}' = C_r + C_r \cdot 2 \cdot r$$

$$C_r = \begin{cases} \begin{cases} C_8 & , \text{if } C_{10} < C_8 \\ C_{10} & , \text{if } C_8 \leq C_{10} \leq 1.2 \cdot C_8 \end{cases} \\ \max \left\{ \begin{array}{l} 1.2 \cdot C_8 \\ C_8 + \sum_{i=9}^{10} \text{value increases} + \sum_{i=1}^8 \text{outflows} \end{array} \right\} & , \text{if } C_{10} > 1.2 \cdot C_8 \end{cases}$$

The following rule is established to prevent that the application of the formula for the capital element leads to a negative value:

In case  $C_r - \frac{n}{8} \cdot C_b < 0$ , then this term is set equal to zero.

T	One-off payment
tr	Rate (34%)
$C_r$	Relevant capital
n	Number of years of the bank relationship before 31 December 2010, $0 \leq n \leq 8$
$C_b$	Capital stock at the end of the year the account was opened. For accounts opened before 1 January 2003, the capital stock at 31 December 2002.
i	Year i, $1 \leq i \leq 10$ , whereby year 1 starts on 1 January 2003
$C_i$	Capital stock at the end of year i
$C_8$	Capital stock at the end of year 8 (31 December 2010)
$C_{10}$	Capital stock at the end of year 10 (31 December 2012)
$C_9', C_{10}'$	Nominal capital at the end of year 9 (31 December 2011), resp. year 10 (31 December 2012)
r	Rate of return (3%)
$tr_{\min}$	Minimum rate (19%)
outflows	Inflows years 9 and 10 that compensate for outflows years 1 to 8



**PROTOCOL AMENDING THE AGREEMENT BETWEEN THE UNITED  
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE  
SWISS CONFEDERATION ON COOPERATION IN THE AREA OF  
TAXATION, SIGNED AT LONDON ON 6 OCTOBER 2011**

*The United Kingdom of Great Britain and Northern Ireland*

*and*

*the Swiss Confederation*

(hereinafter referred to as the “Contracting States”);

Desiring to conclude a Protocol to amend the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on cooperation in the area of taxation, signed at London on 6 October 2011 (hereinafter referred to as “the Agreement”),

Have agreed as follows:

ARTICLE I

The following shall be deleted in the preamble:

“considering the Agreement dated 26 October 2004 between the Swiss Confederation and the European Community providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (hereinafter referred to as “Agreement on the Taxation of Savings”);”

ARTICLE II

1. A new paragraph 3 is added into Article 1 and it reads as follows:
  - “3. Notwithstanding any other provision, Part 3 shall not apply to income or gains in respect of which a retention is levied, or disclosure is made, in accordance with the Agreement dated 26 October 2004 between the Swiss Confederation and the European Community providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (hereinafter referred to as “Agreement on the Taxation of Savings”).”

2. A new paragraph 4 is added into Article 1 and it reads as follows:
  - “4. Notwithstanding any other provision, with effect from the date of application of the relevant provisions of any amendment to the Agreement on the Taxation of Savings, including by way of a new agreement, the reference in paragraph 3 to the Agreement on the Taxation of Savings shall be to that Agreement as so amended.”

### ARTICLE III

1. Article 2 paragraph 1 letter p) shall be deleted and replaced by the following letter p):
  - “p) “Swiss anticipatory tax” means “impôt anticipé” according to the Federal Act on anticipatory tax of 13 October 1965;”
2. A new letter q) is added into Article 2 paragraph 1 and it reads as follows:
  - “q) “authorised person” means all the personal representatives of a deceased relevant person or the beneficiary or beneficiaries to whom the relevant assets pass as a result of the death.”

### ARTICLE IV

The following shall be deleted from Article 3 paragraph 2:

“For contractual relations entered into, or transactions carried out in the absence of contractual relations, before the date of entry into force of this Agreement, an identical procedure applies as of 1 January 2004 under the Agreement on the Taxation of Savings.”

### ARTICLE V

Article 9 paragraph 10 shall be deleted and replaced by the following paragraph 10:

“10. The United Kingdom taxes for which the clearance described in paragraph 7 shall apply are those listed in paragraph 63(1)(a), (b), (d) and (f) of Schedule 36 Finance Act 2008, but excluding liabilities to any or all of these taxes that have been transferred to a relevant person.”

## ARTICLE VI

A new paragraph 15 is added into Article 9 and it reads as follows:

- “15. Nothing in this Article has any bearing on the calculation of the basis for the collection of own resources accruing from value added tax according to Council Regulation 1553/89/EC.”

## ARTICLE VII

The title of Part 3 shall be deleted and replaced by the following title:

**“Withholding tax levied by Swiss paying agents”**

## ARTICLE VIII

1. Article 19 paragraph 1 letter a) shall be deleted and replaced by the following letter a):

- “a) interest income as defined in Article 25, unless a retention is levied, or disclosure is made, in accordance with the Agreement on the Taxation of Savings: 48%,”

2. Article 19 paragraph 3 letter a) shall be deleted and replaced by the following letter a):

- “a) interest income as defined in Article 25, unless a retention is levied, or disclosure is made, in accordance with the Agreement on the Taxation of Savings: 50%,”

## ARTICLE IX

1. Article 20 paragraph 1 shall be deleted and replaced by the following paragraph 1:

- “1. The competent authority of the United Kingdom shall without delay inform the competent authority of Switzerland in writing about publicly announced and adopted changes to United Kingdom law regarding the tax rates applicable to income, gains on relevant assets, and inheritances.”

2. Article 20 paragraph 2 shall be deleted and replaced by the following paragraph 2:

“2. Where the United Kingdom highest rates of taxation on income, gains or inheritances are amended after the date of signature of this Agreement, the rates of taxes levied under this Part shall simultaneously and correspondingly be amended by the number of percentage points that the statutory rates have been amended, unless the competent authority of Switzerland has informed the competent authority of the United Kingdom in writing, within 30 days of receipt of any information provided under paragraph 1, that it will not adjust the applicable tax rates under this Part. The competent authority of Switzerland shall publish without delay all adjustments to the rates of the taxes levied under this Part and ensure that Swiss paying agents are informed of these adjustments.”

#### ARTICLE X

Article 21 paragraph 1 shall be deleted. Paragraphs 2, 3 and 4 are consequently renumbered 1, 2 and 3.

#### ARTICLE XI

Article 23 paragraph 3 shall be deleted and replaced by the following paragraph 3:

“3. Paragraphs 1 and 2 shall not apply to the extent that the taxes or retentions described in paragraph 2 have been credited based on Article 21.”

#### ARTICLE XII

1. Articles 32 to 44 shall be renumbered as Articles 33 to 45. As a consequence, the references to Article 34 in Article 9 paragraph 5 and Article 15 paragraph 1 shall be deleted and replaced by references to Article 35.

2. A new Article 32 shall be added and it reads as follows:

**“Art. 32 Inheritance**

1. Where a Swiss paying agent becomes aware of the death of a relevant person, it shall freeze the relevant assets of which the relevant person was the beneficial owner at the date of death. The Swiss paying agent shall cancel the freezing of the relevant assets after tax has been withheld in accordance with paragraph 2 or the authorised person has consented to disclosure in accordance with paragraph 3. Notwithstanding the foregoing, withdrawals shall be allowed up to a maximum of 60% of the relevant assets at the date of the relevant person's death.



The Swiss paying agent shall cancel the freezing of relevant assets when provided by the authorised person in due time with a certificate produced by a lawyer, an accountant or a tax adviser who is a member of a relevant professional body confirming that the deceased person was not domiciled within the United Kingdom and was not considered as deemed domiciled for inheritance tax purposes in United Kingdom tax law. In that case, no tax shall be withheld in accordance with paragraph 2 and there shall be no disclosure in accordance with paragraph 3.

2. An authorised person can, within a period of one year from the date of the relevant person's death, give the Swiss paying agent written authorisation to make a disclosure in accordance with paragraph 3. In the absence of such authorisation, once this period has expired or upon subsequently becoming aware of the relevant person's death, the Swiss paying agent shall withhold an amount of 40% of the relevant assets booked at the date of the relevant person's death. The Swiss paying agent shall without delay transfer the tax withheld to the competent authority of Switzerland. Article 29 paragraph 2 shall apply to the amount withheld under this paragraph.

3. Where written authorisation has been provided by the authorised person, the Swiss paying agent shall without delay transfer the following information to the competent authority of Switzerland:

- a) the identity (name, first name, date of birth and, if known, the date of death) and address of the deceased person;
- b) the name and address of the Swiss paying agent;
- c) the customer number of the account or deposit holder (customer, account or deposit number, IBAN-code);
- d) if known, the name and address of the authorised person;
- e) the account balance and statement of assets as at the date of death.

4. Where due to insufficient funds the Swiss paying agent is unable to withhold the full amount of the tax according to paragraph 2, it shall make a disclosure in accordance with paragraph 3 as if the authorised person had provided written authorisation to the Swiss paying agent to disclose, provided that the authorised person has not made available the necessary funds within a period specified by the Swiss paying agent, not exceeding eight weeks.

5. The competent authority of Switzerland shall without delay transfer the tax withheld according to paragraph 2 or the information according to paragraph 3 to the competent authority of the United Kingdom.

6. When withholding the tax in accordance with paragraph 2 or making the disclosure in accordance with paragraph 3, the Swiss paying agent shall issue to the authorised person a certificate in the form prescribed.

7. The authorised person may request, on production to the competent authority of the United Kingdom of a certificate issued in accordance with paragraph 6, that the tax withheld in accordance with paragraph 2 is treated as a payment on account of United Kingdom inheritance tax (including without limitation interest and penalties) payable in respect of the relevant assets at the date of death of the relevant person. The competent authority of the United Kingdom shall refund any excess to the authorised person. In this circumstance, paragraph 8 shall not apply.

8. Where tax is withheld in accordance with paragraph 2, the authorised person shall cease to have any liability to United Kingdom inheritance tax in respect of the relevant assets at the date of death of the relevant person, including interest and penalties that are chargeable. Any other tax liabilities of the deceased person in the United Kingdom, including liabilities to tax in respect of income or gains, are not affected by this paragraph.”

#### ARTICLE XIII

Article 33 (previously 32) paragraph 8 letter b) subparagraph (iii) shall be deleted and replaced by the following subparagraph (iii):

“(iii) the income arising and capital gains realised after the date of entry into force of this Agreement were taxed in accordance with Article 19 paragraphs 1 and 2, or, if appropriate, the tax finality payment in accordance with the joint declaration concerning a tax finality payment was applied; and”

#### ARTICLE XIV

Article 37 (previously 36) paragraph 3 shall be deleted and replaced by the following paragraph 3:

“3. Paragraphs 1 and 2 shall not apply to information received by the competent authority of the United Kingdom as a result of voluntary disclosure made by a relevant person under Articles 10 and 22 or an authorised person under Article 32 paragraph 3.”

## ARTICLE XV

Article 40 (previously 39) paragraph 2 shall be deleted and replaced by the following paragraph 2:

- “2. The competent authority of the United Kingdom shall inform the competent authority of Switzerland about publicly announced and adopted amendments to its domestic tax laws regarding income, gains on relevant assets, and inheritances covered by this Agreement.”

## ARTICLE XVI

Article 44 (previously 43) paragraph 2 shall be deleted and replaced by the following paragraph 2:

- “2. Part 3 shall apply to income arising and gains realised on or after the date of entry into force of this Agreement. Article 32 shall apply only where a relevant person dies on or after the date of entry into force of this Agreement.”

## ARTICLE XVII

Article 45 (previously 44) paragraph 5 letter a) shall be deleted and replaced by the following letter a):

- “a) the claims of relevant persons in accordance with Article 23 and of authorised persons in accordance with Article 32 paragraph 7 shall remain unaffected;”

## ARTICLE XVIII

Should Switzerland before the end of April 2012 conclude with the Federal Republic of Germany a provision regarding the one-off payment for the regularisation of the past that provides for a higher level of taxation than under the Agreement, Switzerland shall without delay inform the United Kingdom through the diplomatic channel. If the United Kingdom so requests without delay through the diplomatic channel, the higher level of taxation shall apply under the Agreement. In such case, the necessary amendments shall be jointly agreed by the competent authorities.

ARTICLE XIX

The joint declaration in Annex I concerning a tax finality payment shall form an integral part of this Protocol.

ARTICLE XX

Annex II contains a consolidated version of the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on cooperation in the area of taxation, signed at London on 6 October 2011 and its associated documents.

ARTICLE XXI

This Protocol shall enter into force on the same date as the Agreement. The Contracting States shall enact and implement all necessary measures to give effect to the terms of this Protocol.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate at Brussels, this Twentieth day of March 2012 in the English and French languages, each text being equally authoritative.

**For the Government of the United  
Kingdom of Great Britain and  
Northern Ireland:**

**DAVID HARTNETT**

**For the Government of the  
Swiss Confederation:**

**EVELINE  
WIDMER-SCHLUMPF**

## **Annex I**

### **Joint Declaration concerning a tax finality payment**

According to Switzerland's policy not to attract undeclared funds and the desire of the United Kingdom to provide tax finality to United Kingdom taxpayers who have had retention levied in accordance with the Agreement on the Taxation of Savings, the United Kingdom and Switzerland have agreed the following:

United Kingdom taxpayers who have paid both the retention under the Agreement on the Taxation of Savings and a 13% tax finality payment on interest income shall cease to have any liability for the relevant tax year to United Kingdom taxes chargeable on those interest payments, including interest, penalties and surcharges that are chargeable on those interest payments.

By choosing to pay the retention on interest income in application of the Agreement on the Taxation of Savings, a United Kingdom taxpayer is also authorising the payment of 13% on such interest amount. Swiss paying agents shall issue a certificate to United Kingdom taxpayers demonstrating that the tax finality payment has been made. The revenue generated by this payment shall be transferred to the competent authority of the United Kingdom via the competent authority of Switzerland.

In case of an amendment of the applicable tax rate on interest income according to the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on cooperation in the area of taxation, the tax finality payment shall be adjusted accordingly.



**EXCHANGE OF NOTES BETWEEN THE UNITED KINGDOM OF  
GREAT BRITAIN AND NORTHERN IRELAND AND THE SWISS  
CONFEDERATION ON THE PROTOCOL AMENDING THE  
AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT  
BRITAIN AND NORTHERN IRELAND AND THE SWISS  
CONFEDERATION ON COOPERATION IN THE AREA OF TAXATION**

**No.1**

*Embassy of Switzerland in the United Kingdom to the Foreign and Commonwealth  
Office*

*5 April 2012*

461.2-03

The Embassy of Switzerland presents its compliments to the the Foreign and Commonwealth Office and has the honour to inform it of the following matter.

With reference to Article XVII of the Protocol signed on 20 March 2012 at Brussels amending the Agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on Cooperation in the area of Taxation signed at London on 6 October 2011, the Embassy hereby informs the Foreign and Commonwealth Office that Switzerland today concluded a provision with the Federal Republic of Germany regarding a one-off payment for the regulation of the past at a higher level of taxation than under the Agreement with the United Kingdom of 6 October 2011.

Article 7 paragraph 2 of the Agreement with the Federal Republic of Germany shall be deleted and the replaced by the following, in German as an official language:

«2. Die Einmalzahlung bemisst sich nach Anhang I dieses Abkommens. Der Steuersatz beträgt 34 Prozent. Beträgt die Steuerbelastung sl 34 Prozent oder mehr und beträgt das relevante Kapital eine Million Euro order mehr, so wird die (auf das gesamte relevante Kapital anwendbare) Steuerbelastung pro Million Euro relevantes Kapital um je einen Prozentpunkt erhöht, bis maximal 41 Prozent. Der Minimalsteuersatz beträgt 21 Prozent.»

Annex I to the Agreement with the Federal Republic of Germany shall be deleted and replaced by the following:





«Berechnung des Steuerbetrages»

$$SB = \max \left\{ s \cdot \left[ \frac{2}{3} \cdot \left( K_r - \frac{n}{8} \cdot K_h \right) + \frac{1}{3} \left( \frac{n}{10} \cdot K_r + \frac{2}{10} \cdot \left( \frac{K_9' + K_{10}'}{2} \right) \right) \right] \right\} \quad (\text{Grundformel})$$

$$s_{\min} \cdot K_r$$

wobei

$$K_9' = K_r + K_r \cdot r$$

$$K_{10}' = K_r + K_r \cdot 2 \cdot r$$

$$K_r = \begin{cases} K_8 & , \text{ falls } K_{10} < K_8 \\ K_{10} & , \text{ falls } K_8 \leq K_{10} \leq 1.2 \cdot K_8 \\ \max \left\{ \begin{array}{l} 1.2 \cdot K_8 \\ K_8 + \sum_{i=9}^{10} \text{Wertsteigerungen} + \sum_{i=1}^8 \text{Rückflüsse} \end{array} \right\} & , \text{ falls } K_{10} > 1.2 \cdot K_8 \end{cases}$$

$$\frac{sl = SB}{K_r}$$

Um Negativsteuern zu verhindern, gilt:

Falls  $K_r - \frac{n}{8} \cdot K_b < 0$ , wird diese Grösse gleich null gesetzt.

Der erhöhte Steuerbetrag SB' errechnet sich wie folgt:

Falls  $sl \geq 0.34$  (d.h. 34%) und:

falls 1 Mio.  $\leq K_r < 2$  Mio., dann gilt  $sl' = 0.35$   
 falls 2 Mio.  $\leq K_r < 3$  Mio., dann gilt  $sl' = 0.36$   
 falls 3 Mio.  $\leq K_r < 4$  Mio., dann gilt  $sl' = 0.37$   
 falls 4 Mio.  $\leq K_r < 5$  Mio., dann gilt  $sl' = 0.38$   
 falls 5 Mio.  $\leq K_r < 6$  Mio., dann gilt  $sl' = 0.39$   
 falls 6 Mio.  $\leq K_r < 7$  Mio., dann gilt  $sl' = 0.40$   
 falls 7 Mio.  $\leq K_r$  dann gilt  $sl = 0.41$

Es gilt  $SB' = sl' \cdot K_r$ .

Artikel 7 Absatz 5 legt fest, dass die Einmalzahlung in Euro berechnet wird. Alle Bertäge in diesem Anhang sind somit in Euro.

SB	Steuerbetrag
SB'	Erhöhter Steuerbetrag
s	Steuersatz (34%)
sl	Steuerbelastung
sl'	Erhöhte Steuerbelastung
K <sub>r</sub>	Relevantes Kapital
n	Anzahl Jahre der Bankbeziehung vor dem 31.12.2010, $0 \leq n \leq 8$
K <sub>b</sub>	Kapitalbestand am Ende des Jahres, in dem die Bankbeziehung eröffnet wurde. Für Bankbeziehungen, die vor dem 01.01.2003 eröffnet wurden, ist der Kapitalbestand am 31.12.2002 messgebend.
i	Jahr i, $1 \leq i \leq 10$ , wobei das Jahr 1 am 01.01.2003 beginnt.
K <sub>i</sub>	Kapitalbestand am Ende des Jahres i
K <sub>8</sub>	Kapitalbestand am Ende des achten Jahres (31.12.2010)
K <sub>10</sub>	Kapitalbestand am Ende des Zehnten Jahres (31.12.2012)
K <sub>9</sub> , K <sub>10</sub> '	Fiktives Kapital am Ende des neunten (31.12.2011), resp, des zehnten Jahres (31.12.2012)
r	Rendite (3% per annum)
s <sub>min</sub>	Minimalsteuerstaz (21%)
Rückflüsse	Zuflüsse in den Jahren 9 and 10, welche Abflüsse in den Jahren 1-8 Kompensieren»

The Embassy invites the Foreign and Commonwealth office to indicate without delay, before 12 April 2012, if the United Kingdom requests that the higher level of taxation as described above shall apply to the Agreement signed on 6 October 2011.

The Embassy of Switzerland avails itself of this opportunity to renew to the Foreign and Commonwealth Office the assurance of its highest consideration.

**No. 2**

*Foreign and Commonwealth Office to the Embassy of Switzerland in the United Kingdom*

*13 April 2012*

Reference: 09/12

The European Directorate of the Foreign and Commonwealth Office presents its compliments to the Embassy of Switzerland, and has the honour to refer to the latter's note of 5 April 2012 under reference 461.2-03 FFI.

The European Directorate notes, with reference to Article XVIII of the Protocol signed on 20 March 2012 at Brussels amending the Agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on cooperation in the area of taxation signed at London ON 6 October 2011, that Switzerland has concluded a provision with the Federal Republic of Germany regarding a one-off payment for the regularisation of the past at a higher level of taxation than that under Agreement with the United Kingdom.

The European Directorate wishes to inform the Embassy of Switzerland that, in accordance with Article XVIII of the Protocol, the United Kingdom wishes the higher level of taxation to apply to the Agreement between the Swiss Confederation and the United Kingdom.

The European Directorate avails itself of this opportunity to renew to the Embassy of Switzerland the assurance of its highest consideration.



information & publishing solutions

Published by TSO (The Stationery Office) and available from:

**Online**

[www.tsoshop.co.uk](http://www.tsoshop.co.uk)

**Mail, Telephone, Fax & E-mail**

TSO

PO Box 29, Norwich NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Order through the Parliamentary Hotline Lo-Call: 0845 7 023474

Fax orders: 0870 600 5533

Email: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)

Textphone: 0870 240 3701

**The Houses of Parliament Shop**

12 Bridge Street, Parliament Square

London SW1A 2JX

Telephone orders: 020 7219 3890/General enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: [shop@parliament.uk](mailto:shop@parliament.uk)

Internet: <http://www.shop.parliament.uk>

**TSO@Blackwell and other accredited agents**

ISBN 978-0-10-185792-5



9 780101 857925