

# Swiss Court Ruling Clears Obstacle to UBS Settlement with U.S.

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[By Brian Monroe](#)

A decision by a Swiss court suspending challenges of a U.S. investigation of UBS AG accounts has cleared the way for Swiss lawmakers to decide in June whether to turn over account data.

The Swiss Federal Administrative Court in Bern said Thursday that a March 31 amendment to an agreement with the United States on the investigation suspended its ability to hear appeals by UBS accountholders challenging U.S. access to their accounts. The amending protocol effectively overturned a January ruling that blocked U.S. access to the accounts.

The decision Thursday by the Swiss court “totally destroys” appeals by most UBS clients who fear their bank data could be handed over to U.S. authorities as part of a crackdown on American tax evaders with accounts at the bank, according to Daniel Horowitz, a Lafayette, CA-based attorney who focuses on white collar crime.

The ruling also inches the prolonged negotiations, ostensibly settled in August, toward a conclusion in June, when the Swiss parliament is expected to decide whether to formally ratify the March amendment, said Scott Michel, an attorney with Washington, D.C.-based Caplin & Drysdale.

Under the August agreement, Swiss authorities will hand over data on 4,450 out of 52,000 UBS accounts that were allegedly used by American taxpayers to hide revenue from U.S. tax authorities. Approximately two dozen UBS accountholders successfully sued to block U.S. access to their accounts prior to Thursday’s ruling, according to an April 22 report by *Bloomberg*.

Whether Swiss lawmakers will allow the data to be released is unclear, however. On Friday, the Swiss Parliament’s Foreign Affairs Committee of the National Council voted 15-9 against the handover of accounts, arguing that the deal would undermine Swiss bank secrecy laws, according to an announcement on the Parliament’s Web site.

The European country’s desire to maintain good relations with the United States may ultimately prevail, however, said Dennis Brager, founder of the Los Angeles, CA.-based Brager Tax Law Group.

The clients trying to “fight it out in the Swiss courts are playing a very dangerous game of chicken,” said Brager, who is representing some of the 4,450 accountholders. “They have a real danger, if their names get turned over, of facing a criminal situation, not just civil penalties.”

In February 2009, UBS paid a \$780 million penalty as part of a deferred prosecution agreement with the U.S. Justice Department after admitting it helped at least 17,000

Americans avoid reporting taxable revenue to the IRS. A January ruling by the Swiss court, overturned in March, said that data on the suspected accounts could only be turned over in cases of tax fraud, not tax evasion.