

preparations for the transfer of information in only 26 cases (Schaub 2011). This was too slow for the USA and on February 17, the Department of Justice publicly threatened to indict UBS if the bank would not enter into a deferred prosecution agreement (DPA), pay a fine of USD 780 million and disclose the names of approximately 250 US clients to the IRS within the next 24 hours (Bondi 2010; GPK 2010). In response, Switzerland complied and authorised the transfer of 255 client files.

US pressure, however, did not relent. The day after UBS had entered into the DPA, US authorities requested further client files. Worried that UBS might buckle under the pressure, the Swiss government threatened to seize all US client files. In August 2009 Switzerland and the USA finally reached an agreement: in return for an additional 4,450 client files and an undertaking to expedite information requests, the USA promised to let UBS off the hook (Emmenegger 2017). These concessions were nonetheless strongly contested within Switzerland, in particular by the political right and large parts of the financial services industry. After the Swiss Federal Administrative Court had come to the conclusion (in January 2010) that some of these data transfers had violated banking secrecy regulations, the bilateral agreement could only be saved by turning it into a state treaty (in June 2010). As stated by Urs Zulauf, then chief legal adviser to the Swiss Financial Market Supervisory Authority, the government was strongly concerned about its ability to get the state treaty through parliament. As a consequence, the government interpreted the agreement in a very restrictive manner and excluded the expedited review of US information requests for banks other than UBS.¹⁴ Clearly, Switzerland was not willing to go any further than ultimately needed.

¹⁴ Personal interview, April 7, 2014. A few days before the Swiss Parliament accepted the state treaty, the Swiss People's Party launched a parliamentary initiative to give banking secrecy constitutional status, which the Parliament, however, ultimately rejected.