

US department of Labor (DOL)  
Public Hearing Agenda  
Proposed Amendment to the QPAM Exemption  
November 17, 2022 – Morning Session

Thank you for the floor.

My name is Andreas Frank.

In my first life, I was a banker with Goldman Sachs and HSBC.

For more than 25 years, I serve as an AML/CFT expert for various institutions such as the Bundestag, the Council of Europe and the European Parliament.

The speakers of this panel are a group of independent experts from four nations.

We have no financial stake in this hearing.

As an AML/CFT expert I would like to point to the changed overall risks we are in what makes a general rethinking imperative.

Hundred billions of Euros from Russia were laundered in the EU under the control of the FSB – the Russian secret service – with the help of EU banks according to the 2019 Council of Europe resolution 2279.

Money laundering on this scale is a serious threat to democratic stability, the rule of law and human rights according to the CoE.

The Ukraine war did not come as a surprise.

The DOL hearing from 2015 centered on Credit Swiss and our conclusions have been proven right in the meantime.

In 2013, the bilateral agreement between the DOJ and the Swiss Federal Department of Finance allowed Swiss banks to become clean.

In 2016 the DOJ reported that under the Swiss bank program around 100 Swiss banks including Credit Suisse admitted to potential or actual crimes.

There are a total of 243 Swiss banks according to the Swiss National Bank

That should mean that around 40% of the Swiss banks confessed potential or actual crimes.

The Swiss bank program did not prevent some banks from committing further crimes.

Profit margins on illicit financial transactions tend to be a multiple of the legal business.

Law-abiding banks are clearly at a competitive disadvantage.

Therefore, the legal financial sector should support better regulations also at this hearing.

The existing regulatory system for QPAM exemptions clearly failed.

In 2012 Pictet, Switzerland's fourth largest bank, announced that it is under investigation by the DOJ.

In 2022 Pictet is still under investigation according to Swiss news.

On request, the DOL confirmed that it does not know whether Pictet and/or affiliates have received QPAM exemptions.

QPAM exemptions should be seen as privileges that have to be earned.

Criminality should not be rewarded.

Therefore, I support the DOL proposals and would suggest to include the contribution by the civil society to reduce costs.

In a self-disclosure, applicants or holders of QPAM exemptions should provide information on why they deserve QPAMS exemptions including all possible convictions, deferred prosecution agreements and equivalents in a transparent and public way similar to SEC filings.

All financial actors involved in QPAMs must be identifiable by a public register including the self-disclosures.

Actors that fail their obligations or submit false business records could be placed on a FATF style name and shame list.

Better whistleblower protection would be helpful.

Thank you for your attention.