

FOREIGN
AFFAIRS



1/11/2022

FOREIGN
AFFAIRS

**IT'S A SECRET SOCIETY
ALL WE ASK IS TRUST:
*GANGSTERS, BANKERS AND THE
SWEET SUISSE SECRECY.***

INTERVIEW WITH RUDOLF ELMER.
WRITTEN BY SWARNA BHATTACHARJEE.

SWEET SUISSE SECRECY

Switzerland's banking system has long been under global scrutiny, which has been intriguing and bizarre. Why bizarre? This is because the Swiss passed a law regulating banks and to to save the banks in 1934, commonly known as the Swiss Banking Act. The law prohibits anyone including the government, from disclosing any personal information about the customer without their consent and without a criminal complaint against them. As a result of so called banking secrecy laws over the years Switzerland has become a haven for those evading taxes and hiding the sources of their wealth.

"The business of secrecy is still a money making machine", said Whistleblower Rudolf Elmer, who has waged a long legal fight against the Swiss banking secrecy laws. "Switzerland has a brilliant marketing department about 'Swissness', so there are not only secrecy reasons, there are also legal reasons", he further added.

"The future is not going to be bright at all", warned Elmer. "It is not a bright future for the world and for the people in developing countries, they're going to have a very difficult time. Africa should be the richest continent in the world because they have so many natural resources, but they are poor, and it's happening in South America as well. What's happening is really that places like Switzerland, London and New York are robbing the world and it's not going to be good for the future".

The Credit Suisse bank also became the first major Swiss bank to be accused of helping the Bulgarian mafia launder cocaine money, which it denies. It is a fact that major affluent groups continue to siphon wealth out of economically struggling countries, concealing their wealth and dodging taxes that would keep poor governments in the black. The problem is not limited to Credit Suisse. Globally, the financial services industry has been plagued with numerous scandals for many years. There have been a number of commitments to overhaul this since then. Notwithstanding, the industry continues to protect shady investors who have made their fortune in countries with inadequate legal systems and inept governments. We live in a world where a lay-man must fight to maintain a good credit score in order to qualify for a lower interest rate loan. The bad news is that there are also people who misappropriate funds with the help of these banks on

the other side of the coin. The strict banking laws around the world and the multifaceted cooperation do not seem to prevent these occurrences. "When you have the top bankers who run a loss repeatedly and they make one mistake after the other but at the end of the day they still receive a big bonus or they receive a golden handshake. It's not only that the company did not do well, it's also that as a man on the street, they have to fight for survival. Basically, what is happening is that they're taking or stealing money from the organization due to mismanagement", said Elmer.

All this does not happen by chance. At present, there is too much sponsoring of criminal behaviour by banks. There are a number of people who violate the laws intended to prevent them from taking advantage of the law, which are in turn not being enforced by the authorities. Despite the proper enforcement of rules, banks usually go almost scot-free with fines that can be attributed to operational costs, with the investors and customers contributing to them. There are seldom repercussions for violations overseen by high-ranking executives. As a result of bank officials handling illicit funds and enabling crimes on their watch, there should be severe penalties, including the imposition of criminal charges, in the most serious cases. Moreover, illicitly owned companies that allow criminals and corrupts to move illegal funds through the international monetary system need to be eliminated as well.

WRITTEN BY SWARNA BHATTACHARJEE

Q: WHAT LED YOU TO BECOME A WHISTLEBLOWER AFTER WORKING AS A PRIVATE BANKER AND MANAGING JULIUS BAER CARIBBEAN OPERATIONS FOR EIGHT YEARS?

RUDOLF: Basically, it's about tax evasion and tax fraud. I started to get involved in that business when I had to confirm and sign off things, which I was not really happy with it. I knew it was tax evasion, and then I started complaining to the bank, which was difficult because it's a private bank and you don't turn away business by employees who speak up. So, I tried to do it very carefully, but at the end of the day they found out that I'm not playing the game they play, and came up with a lie detector test, which was a criminal test, and used this lie detector to test to fire me. Basically, in simple terms, because they wanted to get rid of me.

FOREIGN
AFFAIRS

Q: IT HAS BEEN 20 YEARS SINCE YOU LEFT JULIUS BAER GROUP, AND SINCE THEN MORE WHISTLEBLOWERS HAVE LEAKED MORE DATA ON ILLICIT FINANCIAL FRAUDS AROUND THE WORLD. WE HAVE ALSO WITNESSED SOME INTERNATIONAL COOPERATION TACKLING TAX EVASION. WHAT IS THE STATE OF THINGS NOW?

RUDOLF: The state of things today, it's not really much better than 20 years ago. I think it's even worse because the laws have been strengthened. Very much so, in the sense that information can't get public anymore. For instance, in Switzerland and its Swiss secrets these journalists were not allowed to report about it with international journalist community because the risk was too high in 2005. The parliament set up a so-called new law in respect of that journalist in reference to the Swiss bank secrecy; they couldn't participate on that revelation of that information. From that point of view, it's getting worse. In my opinion, what we are learning at the moment about Credit Suisse, I personally think it's only the peak of the iceberg because you have to understand, Credit Swiss is a major bank in Switzerland. Many employees were trained in banking with Credit Swiss. Sometime in their career, they moved to another bank. For instance, Iqbal Khan was top Swiss then he moved to UBS or with Julius Baer. We had a lot of top managers coming from Credit Swiss. So, in other words, they learned the business model, and they used the same thing in other companies. So, Credit Suisse as such, I consider only the peak of the iceberg. There is more to come, definitely. Just yesterday, Credit Suisse had to reveal that they have another scandal, which is about \$500 million with a Mexican leasing company. So it's not getting better at all.

Q: IS THE BUSINESS OF SECRECY REALLY OVER? SWITZERLAND CONTINUES TO HAVE SIGNIFICANT GAP IN ITS PREVENTION OF MONEY LAUNDERING. SO WHAT IS THE BEST WAY TO START UNRAVELING THE SECRECY?

RUDOLF: Basically, it might be that only whistleblowers who know the inside of the Swiss banking, such a person like me, or one who knows the insight about the offshore business in general. I didn't only work for Julius Baer, I worked for Credit Swiss for Standard Bank of Africa on global companies. Basically, at the moment, it's really whistleblowers who can bring that information to the public, and the public learns about how things work. But the business of secrecy is

NEXT BIG THING

ISSUE 42

still a money-making machine and it's still the golden calf of Switzerland because you have to see they have strengthened the law after my case. People had to go to prison, maximum of six months for violating this bank secrecy. When I was in court in 2011, it was increased by five times, three years imprisonment and 250,000 Swiss Francs, punishment possible. In 2014, they increased it again. In the legal proceedings for instance, with the Falcon case with HSBC, they topped the matter with economic espionage.

Basically, he violated Swiss bank secrecy as well as economic espionage. So, what's really happening is that secrecy is going to be more enforced with rigid laws. Even the Judiciary system as such, which actually acts as the protector of the secrecy or the bank secrecy, in my view, which I can actually prove in my case, it's morally corrupt, if not corrupt, because I still have a case open against prosecutor who kept my employment contract hidden for eleven years. After eleven years, I was found twice guilty in the lower court because this employment contract wasn't there. Fortunately, we found out about it. That made all the difference in my case. Clearly, in my view it's getting worse. It's about free speech, 'free press'. It's getting very difficult to speak up. You see that also in the case of Julian Assange, that's a great example of what's going on with free speech and free press. But on the secrecy level, it's really terrible. It's not only about secrecy as such. There are several reasons to go and make business in Switzerland. Basically, Switzerland has a brilliant marketing department about the *Swissness*, so there are not only secrecy reasons, there are also legal reasons.

For instance, we are about to implement a trust law in Switzerland. Usually we have the Roman law, but I was getting it when we might have a trust law. It's clearly to attract business but that the tax base is very low in Switzerland. For instance, you pay about 10 per cent in certain states. As a company, the regulation is not very strict, it's self-regulated industry. The banking industry is self regulated. Think about it; it's not the government, but it's self-regulated of the banking, and there's supervisory issue as well. As we know, the critical system actually acts as protector of the system. As such, they will bend and stretch the law where they can to prosecute people like me. I'm very lucky. I'm the first whistleblower in Switzerland who has not been found guilty related to Swiss bank secrecy. It's relatively easy in Switzerland that huge companies have a strong influence on the laws. At the end of the day, the questions for

instance about the judge, in my case is crystal clear that the judge either serves the law or the law serves the judge to obstruct justice. And that's clearly what they wanted to do in my case. It's not only me who is saying that these, there are several law professors in Switzerland and abroad. They're talking about a corrupt Judicial system in Switzerland in order to protect the financial interests of Switzerland.

Q: AS A FORMER BANKER, HOW WOULD YOU DESCRIBE THE CURRENT STATE OF THE ANTI-MONEY LAUNDERING INNOVATIONS AND THE FINANCIAL CRIME INDUSTRY?

RUDOLF: We have different positions. The position of the Swiss supervisory body or Swiss parliament, they say it's one of the strongest anti-money laundering laws in the world. But if you look at it more closely, you learn that the key enablers, the lawyers, the consultants, the advisers, they are not included in the anti-money laundering law. You have to understand, we have about 1200 lawyers in Switzerland who deal with setting up offshore structures. And with those offshore structures, it's pretty easy to hide the beneficial owner. For instance, if you have a company in the Caymans or Jersey or Isle of man with Baer shares, the holder of the Baer shares is the owner of the company, but who is the holder of the Baer shares? So those lawyers, they are not part of the anti-money laundering law. And these are the key enablers in my view in Switzerland, besides the bankers. So, the current state of anti-money laundering law in Switzerland, in my view is poor, simply poor. Why I'm saying that it is poor? We have these issues at the moment about the Russian oligarchs, it could also be the Ukrainian oligarchs. There is no one who is investigating the banks at all. We have no task force going after that. They basically believe what these lawyers say and what the bankers say. What is the figure of assets or the financial nonfinancial assets held in Switzerland by Russian oligarchs? So how the hell can you believe bankers these days? Honestly speaking, I only can laugh. I'm not naive in that respect.

Q: HIGH-NET-WORTH INDIVIDUALS FROM DEVELOPED & DEVELOPING COUNTRIES WITH ACCOUNTS AT THE SWISS BANKS AND THEY MAY HAVE ENGAGED IN TAX EVASION. IS IT THE FAULT OF THESE COUNTRIES THAT SUCH INDIVIDUALS ENGAGE IN FINANCIAL FRAUD?

RUDOLF: No, I wouldn't say it's the fault of these countries at all. Definitely not. It's the fault of the high-net-worth individuals and the multinationals to move their assets for whatever reason, in my view, to Switzerland or London or whatever. Basically, this is the issue, we all believe with the automatic information exchange things will change and get better. But that's not going to happen at all. If automatic information exchanges about maybe 110 countries have signed this automatic information exchange but the automatic information exchange only works if you, as a person opens up an account in your name. But if you use offshore structures, and as I explained with the Baer shares or a trust, you don't know who is the beneficial loan. So, in those structures where the big money is, not only the money, also the non-financial assets like sculptures, paintings, whatever, airplanes, those will be hidden in those automatic information exchange. There's no chance to get to that sort of information at all. So countries like developed countries or developing countries, they are still in a very difficult position. It hasn't changed much in my view, because if you talk about ultra high net worth individuals or the multinationals, they do have the cash to set up those structures. Such a structure, proper structure, is waterproof costs about maybe \$60,000 or \$80,000 in the Cayman Islands. I know it's not a big amount of money. If you own hundreds of millions or even five or \$10 million, you make that investment, and then you gain 20% to 30%, or even more on taxes, because that assets remain untaxed. So actually, it's up to the western world to clean the books. It's close to impossible that the developing country has a chance to get hold of that sort of information.

Q: IS IT POSSIBLE FOR SWISS BANKS TO HAVE NEXUSES WITH OTHER BANKS AROUND THE WORLD DUE TO INSUFFICIENT REGULATORY ENFORCEMENT?

RUDOLF: Yes, definitely it is. But Swiss banks basically have a lot of other companies. Let's say in Singapore, in Hong Kong, in Indonesia, they have their own network. Obviously, they do connect with other major banks that's for sure. I'd make business with them as well. But I try to have major centers, offices, let's say, in Moscow. For instance, Julius Baer had about, I think about 100 employees there – in Russia, even Credit Suisse and other banks, because it's extremely important to be very close to the client. If the client has an issue, then you can help him and you can transfer funds through the internal network. So they do connect and they have a lot of connection internationally assistance, definitely.

**FOREIGN
AFFAIRS**

Q: IN A WORLD IN WHICH SEEMINGLY THE RICH AND POWERFUL SEEM TO CONTROL BANKING, WHAT DOES THAT SAY ABOUT THE FUTURE?

RUDOLF: It's not going to be bright at all because what's really happening is that these ultra high net individuals and multinationals, will move their assets to places like Switzerland, London. I say Switzerland is basically pirate island in the Alpes or Little Russia. The money is moved to those places. And not only the money, also the companies, non-financial assets, for instance, if you look at it, in Switzerland, besides the financial industry, we have the pharma industry in Switzerland with Novartis. We have the food industry with Nestle in Switzerland, we have commodity industry, Glencore, Cargill. We have about 80% of Russia commodity market running through Switzerland. We have about 400 companies who simply trade several things from Russia. We have 400 people who have a tax agreement with the Swiss government, 80% of them are Russians. We have the gold refinery industry in Switzerland. About 80% or 90% of the gold is refined in Switzerland. On top of it, we have a Swiss payment center in Switzerland, the so called 'Swift' in the state of Zurich. We have the freeport business where you have all these non-financial assets stored. And the newest trend is that former Swiss army bonkers are used to store assets of ultra-high net worth individuals in this world. So, it's incredible, it's really that the assets move to those places like Switzerland, Hong Kong, London, and that is not really a bright future for the world as such. For the people in developing countries, in the BRICK countries, they're going to have a very difficult time, basically. They are, you have to think about it, Africa should be the richest continent in the world because they have so much natural resources, but they are poor. And it's happening in South America as well. So basically, what's happening is places like Switzerland, like London and New York, they rob the world and it's not going to be good for the future. So, I do understand that people stand up in those developing countries, definitely, and they have to make the pressure.

Q: AS A FORMER BANKER, WHAT'S NEXT FOR CREDIT SCORES? WHAT DO YOU THINK?

RUDOLF: It's going to be a very difficult time for credit. They all talk about it's getting better in the future, but I don't really think so. It's getting worse in my view, because top management is changing every six to eight months. And on top of it, they have one scandal after next. As I said,

NEXT BIG THING

ISSUE 42

the Mexican scandal is already on its way, since yesterday, regarding this leasing company about \$500 million. I don't know what really is going to happen. Maybe it's going to be a takeover, but what's definitely happening is that in the banking business, it's all about trust and reputation and ultra high net worth individuals and multinationals have lost trust in Switzerland, or about to lose trust in Switzerland. In other words, the client portfolio, the great client portfolio that Credit Suisse used to have, moved away. So that's a key business which the bank is about to lose. So that's a big damage in there. So maybe it's going to be a takeover. It won't go bankrupt. You have to understand that it's a key bank in Switzerland, and it's relevant in Switzerland. And at the end of the day, it will be supported by taxpayers of Switzerland, I think. But I can tell you, many ordinary people or Swiss people, they are really frustrated about what's going on in Switzerland, except the top management in Credit Suisse who says we are on the move. It's getting better. Yes, we have a bad time. It's second quarter, which was poor, but it's getting better. And we still have enough share capital. But there again, the so-called monetary authority in Switzerland, the supervising body is checking if they really do have what they say proper equity to continue business.

Q: STILL ON THE REFERENCE OF CREDIT SCORE WHERE A COMMON MAN HAS TO FIGHT BASICALLY EVERY DAY TO HAVE A GOOD CREDIT SCORE IN ORDER TO QUALIFY FOR A LOAN WITH A LOWER INTEREST RATE. ON THE OTHER HAND, YOU HAVE PEOPLE WHO ARE MISAPPROPRIATING FUNDS WITH THE HELP OF THESE BANKS. WHAT IS YOUR OPINION ON THIS? WHAT DO YOU THINK ABOUT THIS?

RUDOLF: Basically, in my view it's criminal. When you have the top bankers who run a loss after the next and they make one mistake, after the other, but at the end of the day they still receive a big bonus or they receive a golden handshake or the golden parachute. Then they have to leave, even though the company didn't do well at all. And as a man in the street who has to fight for survival they don't understand, in my view it's not only mismanagement, it's basically what's going on is criminal actions – they take, or I call it, steal the money from the organization.