

## **Schweizerische Wertpapiergeschäfte mit dem «Dritten Reich». Handel, Raub und Restitution**

*Switzerland and its Securities Transactions with the «Third Reich». Trading, Looting, and Restitution*  
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**Hanspeter Lussy, Barbara Bonhage, Christian Horn**

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### **Summary**

The present study describes the connections between Swiss German securities trading, the theft of securities by the «Third Reich» and the 1945 restitution of securities that had been sold in Switzerland. The basic idea underlying the study was to analyse the changes in securities trading with Germany under the altered circumstances resulting from the banking crisis of the 1930s, the accession to power of the National Socialists, and the war. In addition to describing the robber economy of the Nazi regime, the study also analysed in detail how, after the war, the Swiss banks obstructed the return of securities seized from Jews and inhabitants of the occupied countries. The study is based on Swiss banking and legal sources, while also drawing on archive material from Germany and the Netherlands.

#### *Swiss German securities trading between 1931 and 1945*

The German banking crisis in 1931 also hit the Swiss stock markets and led to severe falls in trade and in the exchange rate. The crisis (1931 to 1935 and 1938 to 1940) particularly affected trade in German securities, and small private banks and brokerage firms were hit especially hard, along with banks whose business was geared towards the German Reich. Hitherto barely investigated, analysis of securities trading, which we based on the example of some of the banks and brokerage firms represented on the Zurich Stock Exchange, shows how Swiss banks exploited profit-making opportunities that were created by the foreign exchange controls, the confiscation measures against the victims of the Nazi regime, and the war. Examples of such profit-making opportunities include the buy-back arrangements carried out for the German State and the private sector, the trade in coupons that came into being in 1933 and transactions involving securities from countries where restrictions on transfers were in force, which bore forged «non-enemy assets» declarations or none at all.

A basic distinction must be drawn between transactions in German securities and securities from annexed and occupied countries on the one hand, and transactions involving non-German, internationally tradeable securities and Swiss securities on the other. As a result of the banking crisis, transfer restrictions and political developments, by 1939 the market value of German securities had fallen to less than 20 per cent of their nominal value. Following the export ban issued by the German government in 1932, official trading in German securities between Swiss and German banks increasingly took place in one direction only: Swiss banks in Switzerland and America bought back German securities on behalf of Germany. These transactions, reported by the brokerage firm Hofmann & Cie., the Eidgenössische Bank AG, Zurich, and the Zurich offices of the Schweizerischer Bankverein (Swiss Bank Corporation – SBC), served on the one hand as a cheap means of relieving the debt of the «Third Reich» and the German economy. On the other hand the Nazi regime made huge profits from this as the securities were sold again in Germany for a high price. Such transactions took place especially in the years 1937/38 and 1940/41. From 1938 German banks and other companies close to the regime bought shares in firms in occupied countries from Swiss banks or, through their intermediation, from customers with securities deposit accounts. These transactions, sometimes funded in advance by the Swiss banks, served on the one hand to force business within areas under German rule into line with German interests. On the other hand, people persecuted by the Nazi regime also benefited from them, as many German emigrants and refugees from occupied countries were able to sell their securities on the

Swiss market for foreign currency. Moreover, investigation has shown clearly that the trade in coupons and buy-back transactions between German circles and participating Swiss banks and brokerage companies facilitated the continued existence of business relations that came into play again during the war in the import of stolen securities.

The trading in non-German and Swiss securities between Switzerland and Germany was initially influenced by German internal provisions relating to the sale of currency. From the Swiss perspective the currency laws passed in 1933, 1936 and 1938 warrant special mention. These were used by the Nazi regime to force «citizens of the Reich», under the threat of draconian penalties, to offer their foreign securities deposited abroad for sale to the State. In contrast to the securities deposits of customers from the German-occupied countries of northern and western Europe – which were frozen by the Federal Council in spring 1940 following the German attack – in addition to the German securities portfolios deposited in Switzerland, the banks also handed over Austrian, Czech and Polish assets if the customers from these countries had transferred these deposits and assets due to the pressure of the Nazi regime. Although such repatriations and orders to sell provided business for the securities market for a few months, the Swiss banks also lost a large share of their customers and business opportunities as a result.

Following the «Anschluss» of Austria in March 1938, when the provisional administrators of «aryanised» companies tried to reclaim the assets of Jewish business partners that had been deposited in Switzerland, the Swiss banks adopted a common procedure for dealing with this problem. They had significant interests to defend in Germany and Austria and feared reprisals on the part of the Nazi regime if they refused to cooperate. In order to safeguard the interests of former proprietors of businesses in Austria to some extent, they complied with the dispositions of the provisional administrators if they were co-signed by the Jewish proprietors. In cases where there was a conflict, the banks froze the deposit and lodged it with a Swiss court, which generally rejected the claims of the provisional administrators.

Some Swiss banks and small financial services companies – primarily the same players who had specialised in coupons trading and bought back German securities on behalf of Germany – were effectively accepting stolen securities from Nazi Germany by selling Swiss and foreign internationally tradeable securities, such as shares in Royal Dutch or Chade, on behalf of German banks and cover companies. Sometimes the «Third Reich» used the foreign currency thus obtained for buying back German securities or company shares in the occupied countries. Some of the securities from the banks that acquired the stolen securities in the occupied countries on the instructions of the Nazi government (Lippmann, Rosenthal & Co., Sarphatistraat, and Rebholz Effectenkantor, Amsterdam, Westminster Foreign Bank Ltd., Paris) wound up for sale in Switzerland via the Reichsbank or its subsidiary, the Deutsche Golddiskontbank in Berlin. Others were brought into Switzerland in transactions carried out under the cover of the Cologne iron trading company, Otto Wolff, and by small traders like the Berlin private bank Sponholz & Co.

Aware of the dubious origins of these securities, the more cautious Swiss banks such as Schweizerische Kreditanstalt checked securities imported from Germany and the German-occupied countries. However, no legal steps were taken either before or during the war to stop the trade in stolen assets on the Swiss stock exchanges. Pressure from the banks in the mid-1930s led the Confederation to decide against issuing a law on the stock exchange, with the result that the stock exchanges – in consultation with the Swiss Bankers Association – dealt with trading restrictions and affidavits (validation certificates) themselves. Following the outbreak of war, the managing committee of the Zurich Stock Exchange, for example, introduced «non-enemy assets» declarations and warned members against importing or trading in securities of dubious origin. After the Confederation ordered the closure of the Swiss stock exchanges for two months on May 10, 1940, official trading in securities from the occupied countries – e. g. Royal Dutch shares – was suspended in Zurich until late 1940.

Then the managing committee of the Stock Exchange restricted trading to foreign securities that had been in Swiss ownership since the beginning of the war. Outside the Stock Exchange, however, banks and brokerage companies were able to trade in foreign securities in foreign ownership for the whole duration of the war. The Swiss Bankers' Association failed to carry out strict checks on the issue of affidavits until stricter regulations were issued in August 1941, with the result that many banks ignored the affidavit system. In 1941 forging Swiss ownership certificates for securities that were partly stolen from the occupied countries was a major activity for dubious financial services companies, employees of large banks and private banks, and off-the-floor traders. Due to pressure from the banks, these transgressions were not reported to the police. Late in 1942 the managing committee of the Stock Exchange suddenly and without explanation permitted trade in Royal Dutch shares, although it knew that in the course of the previous year many securities had entered Switzerland by irregular means and were sold there for foreign currency. The Allies accused the Zurich Stock Exchange and the banks of handling stolen assets and called for a complete ban on trade in securities without Swiss ownership declarations. Only the influence of the London Declaration of 5 January 1943 and the change in the direction of the war prompted the Stock Exchange authorities to change course in early 1943. When it began to look likely that Germany would lose the war and the troops would withdraw from the occupied countries, the stock exchanges gradually introduced a tougher system of affidavits in conjunction with the Swiss Bankers Association from April 1943, in order to prevent the sale of stolen assets from the German-occupied countries on the Swiss stock exchanges.

#### *Restitution of stolen securities between 1945 and 1952*

The second part of the study describes the consequences of the trade in stolen securities after the war. Why was it not possible for many victims of the Nazi regime to reclaim assets belonging to them that had wound up in Switzerland, despite the special laws passed in Switzerland on the restitution of stolen assets? How did the Chamber for Stolen Assets (Raubgutkammer) of the Swiss Federal Supreme Court interpret the legislation after the Allies relaxed their pressure on Switzerland? Were the banks that had imported stolen assets investigated and their actions sanctioned?

After the war the victorious powers called upon the neutral countries to participate in the international «compensation» for Nazi injustices. As a result of the tremendous foreign policy pressure exerted by the Allies, in March 1945 Switzerland promised, in the framework of the Currie Agreement, that it would facilitate the tracing and restitution of stolen assets that had found their way into Switzerland. The Federal Council fulfilled this promise by passing a special law on 10 December 1945 on tracing and returning looted assets, including securities as well as cultural assets. The legislation focussed attention on those banks that had imported the stolen securities. The Swiss banks criticised the very basis of the legislation on stolen assets: the obligation to return assets that had been stolen by the Nazi regime and which were still in Switzerland had the effect of annulling existing Swiss legal principles retroactively. Thus the Chamber for Stolen Assets could order the owners of stolen securities to return them even when the securities had been acquired in good faith. Because of the considerable pressure exerted by the banks, the Swiss government in the end decided not to conduct a general survey of the banks to trace stolen securities. As a result of a complementary decision of the Federal Council on 22 February 1946, only securities that had been reported missing abroad had to be declared.

With the legislation on restitution, Switzerland greatly enhanced its foreign policy position. In addition, when the Federal Supreme Court Chamber for Stolen Assets, which had been set up specifically for this purpose, pronounced its verdicts at the start of the Cold War in 1947/48, it was no longer in the glare of international publicity. In the end, due to the complicated procedures and lack of support for potential claimants by the banks and the Confederation, when the (short) registration deadline had expired at the end of 1947 only 785 claims for release of securities had been recorded, and the total amount in litigation was

approximately two million Swiss francs. Of these claims, the representation of the Netherlands in Switzerland submitted 760 in the last three days prior to the expiry of the registration deadline; the remaining claims relating to stolen securities came from Luxembourg, France, Belgium and Czechoslovakia. Many stolen securities that had ended up in Switzerland, however, were not claimed and did not have to be restituted, either because the victims and their families had been murdered, because the value of the stolen securities was too small relative to the costs of processing the claim, or because the injured parties in the occupied countries knew nothing of the Federal Council's decision.

The law provided that the Confederation would compensate the owner of securities that had to be restituted in the event that the malicious importer could not be identified or prosecuted. A trader was deemed to be malicious if he had reason to suppose that the securities originated from unlawful ownership. Thus while it was to some extent in the interests of the Confederation if the court found the importers of the securities in question to be malicious, the banks affected tried to avoid such a verdict at all costs because of the damage it would do to their reputation and the costs it would involve. The Chamber for Stolen Assets, under the directorship of Federal Judge Georg Leuch, found a way out of this conflict of interests: on the one hand it acknowledged importing banks in many cases as having acted in good faith, but nevertheless declared them liable to pay compensation. Only in one case out of all the claims dealt with between 1947 and 1951 did the Federal Supreme Court declare the Swiss seller malicious. Alongside the claims from the Dutch applicant, the Federal Supreme Court also handled many of the other cases on a settlement basis. Verdicts of good faith or maliciousness on the part of the importing banks were thus dropped, which fitted in with the efforts of the Chamber for Stolen Assets, as it considered the special legislation to be "not unobjectionable". In 1951 the Confederation declared itself willing to pay the Netherlands the sum of 635 000 Swiss francs by way of compromise in order to settle the claims, whose total value amounted to 1.3 million francs. The banks contributed the sum of 200 000 francs to this amount, but did not make a public appearance as a party in the proceedings. In this way those who were actually responsible for importing the securities managed to keep out of the public eye.

The strategy of the Court left open the question of good faith or maliciousness, and ultimately also the question of the banks' responsibility. From today's perspective it is difficult to understand why the judges did not extricate themselves from the pressure of the banks by making fundamental decisions, but instead judged the claims on a case-by-case basis. It is also hard to understand why the decision on stolen assets excluded persons in Czechoslovakia whose assets had been confiscated from lodging a claim in Switzerland, in that it was based strictly on the principles of international law then in force: only persons whose private assets were confiscated in the occupied countries during the war, in other words between 1 September 1939 and 8 May 1945, counted as victims of violations of international law. German Jews, having been robbed by their own country and thus not covered by international law, were therefore not eligible to lodge a claim in the Federal Supreme Court.

It is striking that the processing of claims for restitution of stolen securities in Switzerland was concluded at the point in time when the international community of nations was just beginning to deal with the question of «compensation». As in the international arena, in Switzerland too the question of restitution arose again with the end of the bipolar world. The synchronisation of the restitution question with the Cold War already became visible immediately after the war. As the tension between East and West intensified, the question of the role of the neutral countries during the war was pushed further and further into the background.

Consequently, it is clear that more stolen assets entered Switzerland than have been claimed. It is also the case that more claims for restitution of stolen assets were lodged than could be met. Finally it should be emphasised that, despite the shortcomings already

mentioned, the legislation on stolen assets dating from the winter of 1945/46 did facilitate the claims for the return of stolen assets that ended up in Switzerland. Nevertheless, from today's vantage point it should be stressed that the Federal Supreme Court's interpretation of the resolutions of the Federal Council has been extremely mild.

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