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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

JOSHUA SHEINKMAN, STAFF DIRECTOR
GREGG RICHARD, REPUBLICAN STAFF DIRECTOR

March 20, 2024

Laurent Ramsey
Managing Partner
The Pictet Group
Rte des Acacias 60
1211 Genève, Switzerland

Dear Mr. Ramsey:

I write seeking information related to The Pictet Group's ("Pictet") treatment of U.S. taxpayer accounts and compliance with the Foreign Account Tax Compliance Act (FATCA).¹ As Chairman of the U.S. Senate Committee on Finance ("the Committee"), I am conducting several investigations into the extent to which bespoke financial products and foreign financial institutions may be enabling tax evasion by ultra-high net worth U.S. clients. These investigations seek to better understand policy options that will strengthen U.S. tax compliance. In particular, documents recently received by the Committee raise questions as to the thoroughness of a recent settlement between Pictet and the U.S. government.

On December 4, 2023, Pictet entered into a Deferred Prosecution Agreement ("DPA") with the U.S. government, admitting to conspiring with U.S. taxpayers and others to hide more than \$5.6 billion in 1,637 secret bank accounts in Switzerland and elsewhere and to conceal the income generated in those accounts from the Internal Revenue Service (IRS).² Pictet agreed to pay \$122.9 million as a penalty for this criminal conduct. The admitted means by which Pictet employees enabled tax evasion included "maintaining undeclared accounts in the names of offshore entities formed by others for U.S. taxpayer clients" and the use of "accounts nominally held by non-U.S. clients but still controlled by U.S. taxpayer clients via fictitious donations." Additionally, Pictet admitted to opening and maintaining Private Placement Life Insurance ("PPLI") policy accounts, also called insurance wrappers, as a means to assist U.S. clients in concealing their offshore assets from the U.S. government.³

¹ The Foreign Account Tax Compliance Act (FATCA) generally requires foreign financial institutions (FFIs) to either report annually to the IRS information about accounts they maintain belonging to U.S. taxpayers or by foreign entities in which U.S. taxpayers hold a substantial ownership interest, or be subject to withholding on certain U.S. source payments. Relatedly, the Bank Secrecy Act (BSA) generally requires, among other things, that individuals with offshore accounts file an annual Report of Foreign Bank and Financial Accounts (FBAR) with FinCEN.

² *Swiss Private Bank Banque Pictet Admits to Conspiring with U.S. Taxpayers to Hide Assets and Income in Offshore Accounts*, U.S. Department of Justice, Dec. 4, 2023, available online at <https://www.justice.gov/opa/pr/swiss-private-bank-banque-pictet-admits-conspiring-us-taxpayers-hide-assets-and-income>

I am seeking additional information to better understand whether the scope of the DPA's admitted criminal conduct accurately reflects the full extent of Pictet's illicit activity on behalf of U.S. clients. I also wish to better understand why Pictet only paid a paltry penalty of just \$122.9 million, despite admitting to tax fraud involving over \$5.6 billion worth of undeclared offshore accounts. The fine paid by Pictet is substantially smaller than that paid by other Swiss banks in the past for criminality involving multi-billion dollar tax evasion schemes.⁴ In prior comparable cases, fines paid by foreign banks for their participation in major cross-border tax evasion schemes involving U.S. persons were multiples larger than the fine paid by Pictet.⁵ The Committee is concerned the fine levied on Pictet was far too lenient and undermines efforts to deter future criminality by other foreign financial institutions or wealthy tax cheats.

My concerns in this matter are informed by the recent oversight work of the Committee. For example, on February 21, 2024, the Committee released a report titled "Private Placement Life Insurance: A Tax Shelter for the Ultra-Wealthy Masquerading as Insurance."⁶ The Committee's report only outlined potential abuses of the over \$40 billion domestic PPLI market, but noted that the thriving offshore PPLI industry was even more opaque than the domestic market with fewer curbs on potential abuses. More information about Pictet's PPLI practices will help the Committee evaluate future PPLI reforms related to the use of the offshore PPLI market by ultra-high net worth U.S. persons.

Furthermore, on March 29, 2023, the Committee released a report on the role of Credit Suisse in U.S. tax evasion schemes.⁷ In that report, based on disclosures by whistleblowers and the cooperation of Credit Suisse, the Committee exposed over \$1.3 billion in additional undeclared assets held in almost two dozen undisclosed American-owned accounts in violation of Credit Suisse's 2014 plea deal. \$700 million of the assets on these newly discovered accounts were held by ultra-high net worth Americans.

The Committee is currently in possession of documents concerning allegedly undeclared accounts at Pictet owned, maintained and/or controlled by U.S. citizen and resident [REDACTED] (hereafter "Person 1"), the billionaire [REDACTED]. The facts alleged by these documents match the general admitted criminal conduct outlined in the DPA, but are distinct in several ways from the specific cases admitted to by the bank.

According to records reviewed by the Committee, Person 1 has been a Pictet client for at least fifteen years, holding and/or controlling a set of offshore accounts at Pictet worth at least hundreds of millions of dollars. In the years leading up to [REDACTED], these accounts increased significantly in value as [REDACTED]

³ *Id.* "As further detailed below, the Pictet Group used a variety of means to assist U.S. taxpayer-clients in concealing their undeclared accounts, including by: opening and maintaining PPLI policy accounts, also called insurance wrappers, held in the name of insurance companies but beneficially owned by U.S. taxpayers and improperly managed or funded through undeclared accounts at the Pictet Group."

⁴ *How the US tax evasion crackdown impacted Swiss banking*, SWI swissinfo.ch, Dec. 5, 2023, available online at <https://www.swissinfo.ch/eng/business/how-the-us-tax-evasion-crackdown-impacted-swiss-banking/49032750>

⁵ In prior cases where a foreign bank helped thousands of clients conceal offshore accounts worth billions of dollars from the IRS, the fines paid to the U.S. government were multiples higher than that paid by Pictet. Examples of this include Credit Suisse (Over \$1.3 billion), Bank Hapoalim (\$875 million), UBS (\$780 million), Julius Baer (\$547 million) and Bank Leumi (\$400 million)

⁶ *Private Placement Life Insurance: A Tax Shelter for the Ultra-Wealthy Masquerading as Insurance*, U.S. Senate Committee on Finance, Feb. 21, 2024, available online at https://www.finance.senate.gov/imo/media/doc/ppli_report_final.pdf

⁷ *Credit Suisse's Role in U.S. Tax Evasion Schemes*, U.S. Senate Committee on Finance, Mar. 29, 2023, available online at <https://www.finance.senate.gov/imo/media/doc/SFC%20CREDIT%20SUISSE%20REPORT%20FINAL%20Mar%202028.pdf>

██████████ exploded in popularity. It appears that Person 1's accounts at Pictet received hundreds of millions of dollars of cash distributed to Person 1, and entities controlled by him.⁸

Specifically, according to bank records reviewed by the Committee, in 2013 a Pictet account maintained by Person 1, ██████████, LLC ("██████████"), received a deposit of \$255 million.⁹ However, these bank records also show that the ██████████ account was subsequently zeroed out by the end of 2013, with Person 1 withdrawing the entirety of the \$255 million from the account.¹⁰ The documents suggest that Person 1 arranged to transfer the \$255 million from the ██████████ account he explicitly controlled to a different Pictet account held by a long-time friend and non-U.S. citizen ██████████ (hereafter "Person 2").¹¹ Specifically, the \$255 million was wired by Person 1 to a Pictet account held by ██████████, LP ("██████████"), a Bahamas entity nominally owned by Person 2 but allegedly controlled by Person 1 and his associates.¹² In addition, according to documents reviewed by the Committee, beginning in 2007 Person 1 arranged for interest payments from other entities he controlled to accounts linked to a Mauritius entity nominally owned by Person 2.¹³

The Committee has also reviewed information demonstrating that Person 1 exercised true control of several Pictet entity accounts nominally owned by Person 2. For example, documents reviewed by the Committee indicate that Person 1 received bank statements and correspondence at his business address in ██████████, ██████████ regarding several Pictet accounts nominally owned by Person 2 or her entities. These documents also confirm that Person 1's representatives discussed Person 2's accounts directly with certain Pictet employees, including ██████████ (██████████), ██████████ (██████████), and ██████████ (currently Pictet's ██████████), among others. The Committee understands that Pictet representatives visited Person 1 in ██████████ on a biannual basis to discuss business, even though Pictet accounts held in the name of entities officially owned by Person 1 had zero balances.

⁸ In addition to accounts opened at Pictet in his name, it appears Person 1 owned or controlled entity accounts at Pictet for several companies including, but not limited to, ██████████, LLC ("██████████"), ██████████, LLC, ██████████, Inc., ██████████, LP, and ██████████. In particular, Person 1 received significant distributions through ██████████, LLC. A schedule of ownership reviewed by the Committee indicates that Person 1 at the time owned approximately 80% of ██████████, LLC. ██████████ LLC (dba ██████████) owns the rights to and manufactures ██████████.

⁹ In 2014 Pictet mailed a financial statement for account number ██████████ held by ██████████, LLC to Person 1 at the following address: ██████████. ██████████ is a company formed in the Cook Islands and controlled by Person 1. For year 2013, the statement listed deposits of \$255,000,910 and withdrawals of \$255,000,910. Records reviewed by the Committee list Person 1 as the manager of ██████████. Additionally, records reviewed by the Committee confirm that ██████████ was wholly owned by ██████████ Inc., another company economically owned and controlled by Person 1.

¹⁰ The Committee is in possession of a financial statement related to a Pictet account opened in the name of ██████████, LLC mailed to Person 1 at his address in ██████████. This document reveals that in 2013 the account received \$255 million in deposits in 2013 and withdrawals of an identical amount, resulting in a balance of \$0 at the end of 2013. This document also shows that as of April 30, 2014 the account maintained no assets.

¹¹ Documents reviewed by the Committee indicate that Person 2 for years lived or currently lives at a home in ██████████ owned by Person 1 located at ██████████. Person 1 purchased the home for \$5.7 million in 2009.

¹² Documents obtained by the Committee state that Person 2 owned a 99.9% limited partner interest in ██████████, LP and was listed as the "sole general partner" of the entity.

¹³ Documents obtained by the Committee suggest that Person 1 arranged for interest payments from ██████████, LLC (a pass-through entity owned by Person 1) be sent to a Pictet account held by ██████████, Inc. a Mauritius entity nominally owned by Person 2.

In November 2014, two years after the \$255 million was transferred from the [REDACTED] account to Person 2's accounts, Pictet employees sent Person 1 several FATCA documentation requests for Person 2's [REDACTED] account (no. [REDACTED]) at his business address in [REDACTED]. Similar documentation was mailed to the Person 1's [REDACTED] business address for another Person 2 Pictet account, [REDACTED] (no. [REDACTED]). Additionally, a December 2014 email from a Pictet employee to a private wealth adviser in the Cook Islands requested Person 1's signature on a FATCA inquiry regarding the Person 2 owned [REDACTED] account. That same private wealth adviser subsequently emailed one of Person 1's attorneys in [REDACTED] with a "schedule of information needed" for FATCA inquiries that lumped together Person 2's accounts and Person 1's accounts in the same spreadsheet.¹⁴

The records reviewed by the Committee suggest that FBARs filed by Person 1 did not accurately reflect Person 1's control over certain Pictet accounts. Although Person 1 filed a 2013 FBAR disclosing a \$255 million maximum balance for the [REDACTED] account for that year, Person 1 appears to have failed to disclose his continued control over the funds after the entire balance was transferred over to the [REDACTED] account owned by Person 2. He also appears to have failed to disclose to the U.S. Treasury Department his control over funds in the accounts held by [REDACTED], Inc. and other entities.

This fact pattern calls into question whether the intra-bank transfers at Pictet between Person 1 and Person 2 were truly arm's length transactions. Person 1 transferred hundreds of millions of dollars to accounts in Person 2's name, yet, with the assistance of Pictet employees, appears to have maintained control of those accounts via his office in [REDACTED]. Even though Person 1 was no longer formally listed as the account holder or had signatory authority over the funds he sent to Person 2's accounts, Pictet continued to direct inquiries and paperwork concerning the funds to Person 1 and his advisors.

The Committee also received allegations that in 2014, several of Person 1's in-house counsel and outside attorneys advised Person 1 to make a voluntary disclosure to the IRS related to the [REDACTED] account. Among these advisers was an individual who had previously served as a former senior official at the U.S. Department of Justice's tax division. It is the Committee's understanding that Person 1 declined to make a voluntary disclosure to the IRS, and that federal investigators from the Department of Justice and IRS Criminal Investigation eventually opened a criminal investigation into the matter.

It is unclear whether any accounts owned or controlled by Person 1 were included as part of Pictet's resolution with the Department of Justice. It is also unclear whether Pictet ever reported certain accounts to the IRS after sending FATCA inquiries to Person 1's representatives.

The size of the accounts in Person 1 and Person 2's alleged scheme also raises questions about the adequacy of the \$122.9 million fine paid by Pictet to resolve criminal charges with the Department of Justice. U.S. law requires all tax residents and citizens to report all foreign bank accounts with a value exceeding \$10,000 by filing an annual FBAR form. The willful failure to file an FBAR form is a felony offense that carries significant financial penalties, and in more severe cases such a failure can result in jail time. The financial penalty for a willful FBAR violation may be up to \$100,000 (adjusted for inflation) or

¹⁴ The following Pictet accounts were all grouped together by private wealth adviser [REDACTED] in an email to one of Person 1's in-house attorneys in [REDACTED]; Accounts nos. [REDACTED], [REDACTED], [REDACTED] (listing Person 2 as the addressee and [REDACTED], LP as the account holder); Account no. [REDACTED] (listing [REDACTED] LLC as the addressee and account holder).

50 percent of the aggregate value of the accounts at the time of the violation, whichever is greater.¹⁵ Willful FBAR violations can also be subject to criminal penalties, including incarceration.¹⁶

For any situation involving repeatedly undeclared accounts in excess of \$250 million at Pictet, the FBAR penalty levied on an individual taxpayer could actually exceed \$125 million, which alone would surpass the entire fine paid by Pictet regarding its role in the concealment of over \$5 billion in undeclared offshore accounts. If true, the allegations against Person 1 and Person 2 could involve potentially the largest individual FBAR penalty in U.S. history. To date, the largest FBAR penalties paid by individuals are believed to be the \$100-million FBAR penalty paid by businessman Dan Horsky and the \$83-million FBAR penalty paid by private equity executive Robert Smith.

In order to better understand the full breadth of Pictet's admitted criminal conduct and its handling of belonging to certain ultra-high net worth clients please provide answers to the following questions no later than April 22, 2024:

1. At any point between 2000 – 2022 was Person 1 the ultimate beneficial owner of, or have signatory authority over, any accounts at Pictet with a value in excess of \$1 million? If so, please provide a list of entities owned or controlled by Person 1 that maintained accounts at Pictet and whether Pictet filed all required FATCA disclosures to the U.S. Treasury Department related to those accounts.
2. At any point between 2000 – 2022 was Person 2 the ultimate beneficial owner of or have signatory authority over any accounts at Pictet with a value in excess of \$1 million? If so, please provide a list of entities owned or controlled by Person 2 that maintained accounts at Pictet and whether Pictet filed all required FATCA disclosures to the U.S. Treasury Department related to those accounts.
3. Were any accounts owned or controlled by Person 1 or Person 2 disclosed to the U.S. government as part of Pictet's DPA?
4. Has Pictet requested permission from the Swiss Federal Department of Finance, Person 1 and/or Person 2 to provide information in response to the Committee's requests? If so, for each relevant party please specify which agreed to or objected to any requests by Pictet to provide the Committee information.
5. In 2013, was \$255 million transferred from Person 1's [REDACTED], LLC account to Person 2's [REDACTED] LP account(s)? If so, please describe any due diligence conducted by Pictet before, during, or after the transaction. Please provide the stated purpose of the movement of funds and what requests for information were sent to Person 1 and Person 2 regarding the transaction.
6. Did Pictet conduct any reviews to determine whether Person 1 or any of his representatives had functional ownership and/or control of accounts owned by [REDACTED] and the funds contained therein? Please provide a list of individuals authorized to discuss the funds in the account with Pictet employees. Please specify whether Person 1 or any of his associates instructed Pictet employees to make transfers, withdrawals or any other transactions with funds

¹⁵ 31 U.S.C. § 5321.

¹⁶ 18 U.S.C. § 1001; 31 C.F.R. § 1010.840(d); 31 U.S.C. § 5322(b); 31 CFR § 1010.840(c).

held in Pictet accounts owned by [REDACTED] LP or any other entities legally owned or controlled by Person 2 or anyone else associated with Person 1.

7. At any point did any Pictet employees discuss funds held by [REDACTED] LP or other Pictet accounts nominally owned by Person 2 with Person 1 or any of his representatives? If so, please describe these interactions including whether any Pictet employees traveled to the United States to meet with Person 1 or any of his associates to discuss any Pictet accounts that he did not legally own.
8. Please provide a detailed description of all due diligence inquiries done for Pictet accounts legally owned by Person 2 regarding the source of wealth and source of funds. Did any of these inquiries determine that a significant source of funds deposited in Person 2's accounts came from Person 1's business activities in the U.S.? If so, did Pictet do any follow up inquiries to determine whether any intra-bank transfers at Pictet between Person 1's and Person 2's accounts were truly arm's length transactions? Likewise, did Pictet do any follow up inquiries to determine whether any payments made by Person 1 and/or his entities to Person 2's accounts were truly arm's length transactions? Please provide the results of any inquiries intended to verify whether transfers between Person 1 and Person 2 were in fact arm's length transactions.
9. In 2014, did Pictet send FATCA documentation requests addressed to Person 2 regarding [REDACTED] LP accounts to Person 1's business address in [REDACTED]? Did Pictet report those accounts to the U.S. government as part of a FATCA disclosure after completing its inquiry? If not, please explain why.
10. Please provide a detailed list of all correspondence to Person 1's business address at [REDACTED] from 2013 to present date for the following accounts at Pictet:
 - a. [REDACTED] (account no. [REDACTED]); [REDACTED], LP (account nos. [REDACTED], [REDACTED], [REDACTED]); [REDACTED], LP (account nos. [REDACTED], [REDACTED]); [REDACTED] (account no. [REDACTED])
11. Has Person 1 ever had influence or control over Pictet accounts legally owned by Person 2 and/or entities affiliated with Person 2? These accounts include, but are not limited to the following: [REDACTED], LP, [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED], Inc.
12. Please provide all communications and correspondence between Pictet employees and any [REDACTED] employees or owners, including but not limited to CFO [REDACTED] and member [REDACTED], regarding Pictet accounts held by [REDACTED] LP, [REDACTED], and any associated entities or persons.
13. Did Person 1 or any of his associates direct Pictet employees to consolidate for reporting purposes [REDACTED], LP and [REDACTED] or other accounts legally owned by Person 2? If so, please describe this process and why Pictet employees discussed these matters with Person 1 and his associates as opposed to Person 2.
14. Did Person 1, [REDACTED] and/or [REDACTED] ever direct Pictet employees to transfer \$5 million from an [REDACTED] LP account at Pictet to an account at [REDACTED], a [REDACTED] regional bank with no locations in [REDACTED] where Person 2 lives? If so, please

explain why these instructions were given by Person 1 and/or his representatives and not by Person 2.

15. From January 1, 2008 to present date, have any Pictet employees traveled to the United States to meet with Person 1? If yes, have any of the meetings involved discussions of any Pictet accounts held by [REDACTED] LP, [REDACTED], [REDACTED], or any other entities legally owned by Person 2?

16. Please provide a list of all meetings in the United States between Person 1 and Pictet employees from January 1, 2008 to present date. For each of these meetings, please provide the names of these Pictet employees, the dates they traveled to the U.S. to meet with Person 1, and the locations where the meetings took place.

17. Please provide a list of accounts at Pictet owned or controlled by Person 1 that were disclosed by Pictet to U.S. authorities in order to comply with FATCA. Please also provide the date each of those accounts was disclosed by Pictet to the U.S. Treasury Department.

18. Were any Pictet accounts owned or controlled by Person 1 or Person 2 included in the 1,637 U.S. penalty accounts identified in the deferred prosecution agreement signed December 4, 2023? If yes, please list the accounts (by account holder) as well as the maximum assets under management for each account?

19. Has Pictet ever made a "leaver list" disclosure to DOJ under Section II.D.2 of the DOJ's Swiss bank program for any accounts owned by Person 1 or Person 2? Please list all accounts owned and controlled by Person 1 that were disclosed under Section II.D.2 of the Swiss bank program, and the date these disclosures were made.

20. Has Pictet ever been contacted by the U.S. Department of Justice or the IRS in connection with a criminal investigation into Pictet accounts held by Person 1 or Person 2? This includes, but is not limited to, accounts held by any of the following entities:

- a. [REDACTED], LLC, [REDACTED] Inc., [REDACTED], LLC, [REDACTED], LP, [REDACTED]

21. Please provide the current dollar value of all Private Placement Life Insurance Policy accounts ("PPLI accounts") at Pictet held in the name of insurance companies beneficially owned by U.S. persons. Please also provide the number of PPLI accounts currently beneficially owned by U.S. persons at Pictet

22. Please describe the process by which Pictet identifies whether clients who own PPLI accounts are U.S. persons.

23. Please describe the process by which Pictet reports PPLI accounts beneficially owned by U.S. persons to the U.S. Treasury Department in order to comply with FATCA. Has Pictet properly disclosed all PPLI accounts beneficially owned by U.S. persons to the U.S. Treasury Department?

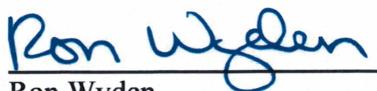
24. Please describe the Know Your Customer (KYC), Customer Due Diligence (CDD) or other anti-money laundering processes you have in place with respect to PPLI accounts. This should include

any requests for information related to the source of wealth and nationality of the beneficial owner for PPLI accounts.

25. Has Pictet ever marketed PPLI products to U.S. persons as "insurance wrappers" that could be used to conceal ownership of offshore assets from U.S. authorities? If so, please describe in extensive detail the ways in which Pictet pitched to clients that PPLI insurance wrappers could be used to avoid or evade disclosure of offshore accounts to U.S. authorities.

Thank you for your attention to this important matter. Should you have any questions or would like to discuss this request, please contact Patricio Gonzalez from my staff.

Sincerely,



Ron Wyden
United States Senator
Chairman, Committee on
Finance