



U.S. Department of Justice

Tax Division

Washington, D.C. 20530

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December 21, 2015

Mark R. Hellerer, Esq.
Pillsbury Winthrop Shaw Pittman LLP
1540 Broadway
New York, New York 10036-4039

Re: Banque Cantonale Vaudoise
DOJ-Swiss Bank Program – Category 2
Non-Prosecution Agreement

Dear Mr. Hellerer:

Banque Cantonale Vaudoise (“BCV”) submitted a Letter of Intent on December 27, 2013, to participate in Category 2 of the Department of Justice’s Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks, as announced on August 29, 2013 (hereafter “Swiss Bank Program”). This Non-Prosecution Agreement (“Agreement”) is entered into based on the representations of BCV in its Letter of Intent and information provided by BCV pursuant to the terms of the Swiss Bank Program. The Swiss Bank Program is incorporated by reference herein in its entirety in this Agreement.¹ Any violation by BCV of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute BCV for any tax-related offenses under Titles 18 or 26, United States Code, or for any monetary transaction offenses under Title 31, United States Code, Sections 5314 and 5322, in connection with undeclared U.S. Related Accounts held by BCV during the Applicable Period (the “conduct”). BCV admits, accepts, and acknowledges responsibility for the conduct set forth in the Statement of Facts, attached hereto as Exhibit A, and agrees not to make any public statement contradicting the Statement of Facts. This Agreement does not provide any protection against prosecution for any offenses except as set forth above, and applies only to BCV and does not apply to any other entities or to any individuals. BCV expressly understands that the protections provided under this Agreement shall not apply to any acquirer or successor entity unless and until such acquirer or successor formally adopts and executes this Agreement. BCV enters into

¹ Capitalized terms shall have the meaning ascribed to them in the Swiss Bank Program.

this Agreement pursuant to the authority granted by its Board of Directors in the form of a Board Resolution (a copy of which is attached hereto as Exhibit B).

In recognition of the conduct described in this Agreement and in accordance with the terms of the Swiss Bank Program, BCV agrees to pay the sum of \$41,677,000, as a penalty to the Department of Justice ("the Department"). This shall be paid directly to the United States within seven (7) days of the execution of this Agreement pursuant to payment instructions provided to BCV. This payment is in lieu of restitution, forfeiture, or criminal fine against BCV for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from BCV with respect to the conduct described in this Agreement, unless the Tax Division determines BCV has materially violated the terms of this Agreement or the Swiss Bank Program, as described on pages 5-6 below. BCV acknowledges that this penalty payment is a final payment and no portion of the payment will be refunded or returned under any circumstance, including a determination by the Tax Division that BCV has violated any provision of this Agreement. BCV agrees that it shall not file any petitions for remission, restoration, or any other assertion of ownership or request for return relating to the penalty amount or the calculation thereof, or file any other action or motion, or make any request or claim whatsoever, seeking to collaterally attack the payment or calculation of the penalty. BCV agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. BCV further agrees that no portion of the penalty that BCV has agreed to pay to the Department under the terms of this Agreement will serve as a basis for BCV to claim, assert, or apply for, either directly or indirectly, any tax deduction, any tax credit, or any other offset against any U.S. federal, state, or local tax or taxable income.

The Department enters into this Agreement based, in part, on the following Swiss Bank Program factors:

(a) BCV's timely, voluntary, and thorough disclosure of its conduct, including:

- how its cross-border business for U.S. Related Accounts was structured, operated, and supervised (including internal reporting and other communications with and among management);
- the name and function of the individuals who structured, operated, or supervised the cross-border business for U.S. Related Accounts during the Applicable Period;
- how BCV attracted and serviced account holders; and
- an in-person presentation and documentation, properly translated, supporting the disclosure of the above information and other information that was requested by the Tax Division;

(b) BCV's cooperation with the Tax Division, including conducting an internal investigation and making presentations to the Tax Division on the status and findings of the internal investigation;

(c) BCV's production of information about its U.S. Related Accounts, including:

- the total number of U.S. Related Accounts and the maximum dollar value, in the aggregate, of the U.S. Related Accounts that (i) existed on August 1, 2008; (ii) were opened between August 1, 2008, and February 28, 2009; and (iii) were opened after February 28, 2009;
- the total number of accounts that were closed during the Applicable Period; and
- upon execution of the Agreement, as to each account that was closed during the Applicable Period, (i) the maximum value, in dollars, of each account, during the Applicable Period; (ii) the number of U.S. persons or entities affiliated or potentially affiliated with each account, and further noting the nature of the relationship to the account of each such U.S. person or entity or potential U.S. person or entity (*e.g.*, a financial interest, beneficial interest, ownership, or signature authority, whether directly or indirectly, or other authority); (iii) whether it was held in the name of an individual or an entity; (iv) whether it held U.S. securities at any time during the Applicable Period; (v) the name and function of any relationship manager, client advisor, asset manager, financial advisor, trustee, fiduciary, nominee, attorney, accountant, or other individual or entity functioning in a similar capacity known by BCV to be affiliated with said account at any time during the Applicable Period; and (vi) information concerning the transfer of funds into and out of the account during the Applicable Period, including (a) whether funds were deposited or withdrawn in cash; (b) whether funds were transferred through an intermediary (including but not limited to an asset manager, financial advisor, trustee, fiduciary, nominee, attorney, accountant, or other third party functioning in a similar capacity) and the name and function of any such intermediary; (c) identification of any financial institution and domicile of any financial institution that transferred funds into or received funds from the account; and (d) identification of any country to or from which funds were transferred; and

(d) BCV's retention of a qualified independent examiner who has verified the information BCV disclosed pursuant to II.D.2 of the Swiss Bank Program.

Under the terms of this Agreement, BCV shall: (a) commit no U.S. federal offenses; and (b) truthfully and completely disclose, and continue to disclose during the term of this Agreement, consistent with applicable law and regulations, all material information described in Part II.D.1 of the Swiss Bank Program that is not protected by a valid claim of privilege or work product with respect to the activities of BCV, those of its parent company and its affiliates, and its officers, directors, employees, agents, consultants, and others, which information can be used for any purpose, except as otherwise limited in this Agreement.

Notwithstanding the term of this Agreement, BCV shall also, subject to applicable laws or regulations: (a) cooperate fully with the Department, the Internal Revenue Service, and any other federal law enforcement agency designated by the Department regarding all matters related to the conduct described in this Agreement; (b) provide all necessary information and assist the

United States with the drafting of treaty requests seeking account information of U.S. Related Accounts, whether open or closed, and collect and maintain all records that are potentially responsive to such treaty requests in order to facilitate a prompt response; (c) assist the Department or any designated federal law enforcement agency in any investigation, prosecution, or civil proceeding arising out of or related to the conduct covered by this Agreement by providing logistical and technical support for any meeting, interview, federal grand jury proceeding, or any federal trial or other federal court proceeding; (d) use its best efforts promptly to secure the attendance and truthful statements or testimony of any officer, director, employee, agent, or consultant of BCV at any meeting or interview or before a federal grand jury or at any federal trial or other federal court proceeding regarding matters arising out of or related to the conduct covered by this Agreement; (e) provide testimony of a competent witness as needed to enable the Department and any designated federal law enforcement agency to use the information and evidence obtained pursuant to BCV participation in the Swiss Bank Program; (f) provide the Department, upon request, consistent with applicable law and regulations, all information, documents, records, or other tangible evidence not protected by a valid claim of privilege or work product regarding matters arising out of or related to the conduct covered by this Agreement about which the Department or any designated federal law enforcement agency inquires, including the translation of significant documents at the expense of BCV; and (g) provide to any state law enforcement agency such assistance as may reasonably be requested in order to establish the basis for admission into evidence of documents already in the possession of such state law enforcement agency in connection with any state civil or criminal tax proceedings brought by such state law enforcement agency against an individual arising out of or related to the conduct described in this Agreement.

BCV further agrees to undertake the following:

1. BCV agrees, to the extent it has not provided complete transaction information pursuant to Part II.D.2.b.vi of the Swiss Bank Program, and set forth in subparagraph (c) on pages 2-3 of this Agreement, because the Tax Division has agreed to specific dollar threshold limitations for the initial production, BCV will promptly provide the entirety of the transaction information upon request of the Tax Division.
2. BCV agrees to close as soon as practicable, and in no event later than two years from the date of this Agreement, any and all accounts of recalcitrant account holders, as defined in Section 1471(d)(6) of the Internal Revenue Code; has implemented, or will implement, procedures to prevent its employees from assisting recalcitrant account holders to engage in acts of further concealment in connection with closing any account or transferring any funds; and will not open any U.S. Related Accounts except on conditions that ensure that the account will be declared to the United States and will be subject to disclosure by BCV.
3. BCV agrees to use best efforts to close as soon as practicable, and in no event later than the four-year term of this Agreement, any and all U.S. Related Accounts classified as "dormant" in accordance with applicable laws, regulations and guidelines, and will provide periodic reporting upon request of the Tax Division if unable to close any dormant accounts within that time period. BCV will only

provide banking or securities services in connection with any such "dormant" account to the extent that such services are required pursuant to applicable laws, regulations and guidelines. If at any point contact with the account holder(s) (or other person(s) with authority over the account) is re-established, BCV will promptly proceed to follow the procedures described above in paragraph 2.

4. BCV agrees to retain all records relating to its U.S. cross-border business, including records relating to all U.S. Related Accounts closed during the Applicable Period, for a period of ten (10) years from the termination date of the this Agreement.

With respect to any information, testimony, documents, records or other tangible evidence provided to the Tax Division pursuant to this Agreement, the Tax Division provides notice that it may, subject to applicable law and regulations, disclose such information or materials to other domestic governmental authorities for purposes of law enforcement or regulatory action as the Tax Division, in its sole discretion, shall deem appropriate.

BCV's obligations under this Agreement shall continue for a period of four (4) years from the date this Agreement is fully executed. BCV, however, shall cooperate fully with the Department in any and all matters relating to the conduct described in this Agreement, until the date on which all civil or criminal examinations, investigations, or proceedings, including all appeals, are concluded, whether those examinations, investigations, or proceedings are concluded within the four-year term of this Agreement.

It is understood that if the Tax Division determines, in its sole discretion, that: (a) BCV committed any U.S. federal offenses during the term of this Agreement; (b) BCV or any of its representatives have given materially false, incomplete, or misleading testimony or information; (c) the misconduct extended beyond that described in the Statement of Facts or disclosed to the Tax Division pursuant to Part II.D.1 of the Swiss Bank Program; or (d) BCV has otherwise materially violated any provision of this Agreement or the terms of the Swiss Bank Program, then (i) BCV shall thereafter be subject to prosecution and any applicable penalty, including restitution, forfeiture, or criminal fine, for any federal offense of which the Department has knowledge, including perjury and obstruction of justice; (ii) all statements made by BCV's representatives to the Tax Division or other designated law enforcement agents, including but not limited to the appended Statement of Facts, any testimony given by BCV's representatives before a grand jury or other tribunal whether prior to or subsequent to the signing of this Agreement, and any leads therefrom, and any documents provided to the Department, the Internal Revenue Service, or designated law enforcement authority by BCV shall be admissible in evidence in any criminal proceeding brought against BCV and relied upon as evidence to support any penalty on BCV; and (iii) BCV shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or documents or any leads therefrom should be suppressed.

Determination of whether BCV has breached this Agreement and whether to pursue prosecution of BCV shall be in the Tax Division's sole discretion. The decision whether conduct or statements of any current director, officer or employee, or any person acting on behalf of, or at the direction of BCV, will be imputed to BCV for the purpose of determining whether BCV has

materially violated any provision of this Agreement shall be in the sole discretion of the Tax Division.

In the event that the Tax Division determines that BCV has breached this Agreement, the Tax Division agrees to provide BCV with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, BCV may respond to the Tax Division in writing to explain the nature and circumstances of such breach, as well as the actions that BCV has taken to address and remediate the situation, which explanation the Tax Division shall consider in determining whether to pursue prosecution of BCV.

In addition, any prosecution for any offense referred to on page 1 of this Agreement that is not time-barred by the applicable statute of limitations on the date of the announcement of the Swiss Bank Program (August 29, 2013) may be commenced against BCV, notwithstanding the expiration of the statute of limitations between such date and the commencement of such prosecution. For any such prosecutions, BCV waives any defenses premised upon the expiration of the statute of limitations, as well as any constitutional, statutory, or other claim concerning pre-indictment delay and agrees that such waiver is knowing, voluntary, and in express reliance upon the advice of BCV's counsel.

It is understood that BCV contends that it has jurisdictional arguments and defenses that it could raise to support a claim that it is not subject to prosecution for any criminal offense in the courts of the United States. By entering into this Agreement, BCV does not prospectively waive these arguments or defenses and it reserves the right to assert any applicable jurisdictional argument or defense in any future prosecution or civil action by the United States.

It is understood that the terms of this Agreement, do not bind any other federal, state, or local prosecuting authorities other than the Department. If requested by BCV, the Tax Division will, however, bring the cooperation of BCV to the attention of such other prosecuting offices or regulatory agencies.

It is further understood that this Agreement and the Statement of Facts attached hereto may be disclosed to the public by the Department and BCV consistent with Part V.B of the Swiss Bank Program.

This Agreement supersedes all prior understandings, promises and/or conditions between the Department and BCV. No additional promises, agreements, and conditions have been entered into other than those set forth in this Agreement and none will be entered into unless in writing and signed by both parties.

[Signatures to Follow on Next Page]


LARRY J. WSZALEK
Acting Deputy Assistant Attorney General

12.23.15
DATE

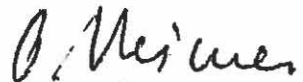

THOMAS J. SAWYER
Senior Counsel for International Tax Matters

23 December 2015
DATE


W. DAMON DENNIS
Trial Attorney

12/23/15
DATE

**AGREED AND CONSENTED TO:
BANQUE CANTONALE VAUDOISE**

By: 
OLIVIER STEIMER
Chairman

22.12.2015
DATE

By: 
PASCAL KIENER
Chief Executive Officer

22.12.2015
DATE

APPROVED:


MARK R. HELLERER
Pillsbury Winthrop Shaw Pittman LLP

12/22/15
DATE

**EXHIBIT A TO BANQUE CANTONALE VAUDOISE
NON-PROSECUTION AGREEMENT**

STATEMENT OF FACTS

BACKGROUND

1. Founded in 1845 and headquartered in Lausanne, Switzerland, Banque Cantonale Vaudoise (“BCV” or “the Bank”) was established by an Act of the Vaud Cantonal Parliament (*Grand Conseil Vaudois*) as a *société anonyme de droit public* (i.e., a corporation organized under public law). Under the Act, the Canton of Vaud must hold a majority share of BCV, and at all relevant times BCV was majority-owned by the Canton of Vaud. The Canton currently holds 66.95% of the shares of BCV. The Bank has no representative office, branch, or affiliate in the United States.
2. BCV is a retail bank whose legal mission has always been to provide banking services to the local community. Out of the 743,000 residents of Vaud, approximately 445,000 are BCV clients, serviced by 66 staffed branches and over 200 ATMs throughout the Canton. Approximately 75% of BCV’s assets under management for private banking clients are from clients residing in Switzerland. The Lake Geneva Region that includes Vaud has an extensive expatriate population, with foreign residents making up 35% of the population of the Region, which included over 3,700 U.S. citizens as of 2012. This is attributable in great part to the large number of multinational companies headquartered in the Region. BCV also serves students and professionals from the Region who move to the United States to study or work for a short period of time before returning to Switzerland.
3. As a result, BCV has provided financial services to Swiss and non-Swiss individuals and entities, including some citizens and/or residents of the United States (“U.S. persons”).
4. During the Applicable Period,¹ the Bank had approximately 520,000 accounts and held approximately \$74 billion in client assets, and had a staff of approximately 1,780 full time employees.

U.S. INCOME TAX & REPORTING OBLIGATIONS

5. U.S. citizens, resident aliens, and legal permanent residents have an obligation to report all income earned from foreign bank accounts on their tax returns and to pay the taxes due on that income. Since tax year 1976, U.S. citizens, resident aliens, and legal permanent residents have had an obligation to report to the Internal Revenue Service (“IRS”) on Schedule B of a U.S. Individual Income Tax Return, Form 1040, whether that individual had a financial interest in, or signature authority over, a financial account in a foreign country in a particular year by checking “Yes” or “No” in the appropriate box and identifying the country where the account was maintained.

¹ Capitalized terms not otherwise defined in this Statement of Facts have the meanings set forth in the United States Department of Justice’s Program for Non-Prosecution Agreement or Non-Target Letters for Swiss Banks (referred to as the “Swiss Bank Program”), issued on August 29, 2013.

6. Since 1970, U.S. citizens, resident aliens, and legal permanent residents who have had a financial interest in, or signature authority over, one or more financial accounts in a foreign country with an aggregate value of more than \$10,000 at any time during a particular year have been required to file with the Department of the Treasury a Report of Foreign Bank and Financial Accounts, FinCEN Form 114 (the "FBAR," formerly known as Form TD F 90-22.1). The FBAR must be filed on or before June 30 of the following year.
7. An "undeclared account" was a financial account owned by an individual subject to U.S. tax and maintained in a foreign country that had not been reported by the individual account owner to the U.S. government on an income tax return or other form and an FBAR as required.
8. Since 1935, Switzerland has maintained criminal laws that ensure the secrecy of client relationships at Swiss banks. While Swiss law permits the exchange of information in response to administrative requests made pursuant to a tax treaty with the United States and certain legal requests in cases of tax fraud, Swiss law otherwise prohibits the disclosure of identifying information without client authorization. Because of the secrecy guarantee that they created, these Swiss criminal provisions have historically enabled U.S. clients to conceal their Swiss bank accounts from U.S. authorities.
9. In or about 2008, Swiss bank UBS AG ("UBS") publicly announced that it was the target of a criminal investigation by the Internal Revenue Service and the United States Department of Justice and that it would be exiting and no longer accepting certain U.S. clients. On February 18, 2009, the Department of Justice and UBS filed a deferred prosecution agreement in the Southern District of Florida in which UBS admitted that its cross-border banking business used Swiss privacy law to aid and assist U.S. clients in opening and maintaining undeclared assets and income from the IRS. Since UBS, several other Swiss banks have publicly announced that they were or are the targets of similar criminal investigations and that they would likewise be exiting and not accepting certain U.S. clients (UBS and the other targeted Swiss banks are collectively referred to as "Category 1 banks"). These cases have been closely monitored by banks operating in Switzerland, including BCV, since at least August of 2008.

**BCV'S QUALIFIED INTERMEDIARY AGREEMENT
AND ITS ROLE IN NON-COMPLIANT U.S.-RELATED ACCOUNTS**

10. In 2001, BCV entered into a Qualified Intermediary Agreement with the IRS. The Qualified Intermediary regime provided a comprehensive framework for U.S. information reporting and tax withholding by a non-U.S. financial institution with respect to U.S. securities. The Qualified Intermediary Agreement was designed to help ensure that, with respect to U.S. securities held in accounts at BCV, non-U.S. persons were subject to the proper U.S. withholding tax rates and that U.S. persons holding U.S. securities were properly paying U.S. tax.

11. The Qualified Intermediary Agreement took account of the fact that BCV, like other Swiss banks, was prohibited by Swiss law from disclosing the identity of an account holder. In general, if an account holder wanted to trade in U.S. securities and avoid mandatory U.S. tax withholding, the agreement required BCV to obtain the consent of the account holder to disclose the client's identity to the IRS. The Qualified Intermediary Agreement entered into by BCV required it to obtain IRS Forms W-9 and to undertake IRS Form 1099 reporting for new and existing U.S. clients engaged in U.S. securities transactions. Since 2001, BCV prohibited U.S. clients without a Form W-9 and a bank secrecy waiver from holding U.S. securities.
12. Until 2008, BCV's view was that, if its U.S. clients elected not to invest in U.S. securities, BCV was not required to obtain a Form W-9. During this time, apart from Qualified Intermediary requirements, BCV did not have policies specific to U.S. clients. Despite having Qualified Intermediary procedures in place, BCV knew or should have known that some of its U.S. clients were not tax-compliant.

OVERVIEW OF THE BANK'S U.S. CROSS-BORDER BUSINESS

13. During the Applicable Period, BCV held approximately 2,088 U.S. Related Accounts, which included both undeclared and not undeclared accounts, with total assets of approximately \$1.3 billion.
14. BCV never utilized a strategy to market its services to U.S. citizens or U.S. residents and did not specifically target U.S. Persons as potential clients. BCV never had a U.S. desk or any foreign desk. Most of its U.S. Related Accounts were held by U.S. persons with a connection to Switzerland. Except for the policies and procedures described below, BCV did not structure, operate, or supervise its U.S. Related Accounts in any way that was different or separate from its non-U.S. Related Accounts.
15. Because BCV is a cantonal bank serving the residents of the Canton of Vaud, most of its business relates to three core areas: (i) retail banking (including home mortgages and savings accounts); (ii) small & medium enterprises; and (iii) onshore private banking. The Bank also provides private banking services to clients residing outside of Switzerland through its International Private Banking Department. U.S. clients have always comprised less than 1% of BCV's total accounts by revenue, assets under management, or number of clients.
16. U.S. clients were generally assigned to relationship managers or a call center which served as the primary contact at the Bank. The Bank had approximately 380 relationship managers during the Applicable Period. Private Banking relationship managers typically had an average of approximately 400 customers, while Retail Banking relationship managers typically had an average of approximately 700 customers. U.S. Related Accounts were distributed generally over the entire relationship manager population. For example, as of December 31, 2008, 201 relationship managers were assigned U.S. Related Accounts, each having an average of five U.S. clients representing less than 1%

of their total client portfolio. Out of the 201 relationship managers with U.S. Related Accounts as of December 31, 2008, 72 had only one or two.

17. The Bank was aware that U.S. persons had a legal duty to report to the IRS and pay taxes on the basis of all their income, including income earned in accounts that the U.S. persons maintained at the Bank. The Bank knew or had reason to know that it was likely that some U.S. taxpayers who maintained accounts at the Bank during the Applicable Period were not complying with their U.S. reporting obligations.
18. BCV offered a variety of traditional Swiss banking services that it knew could assist, and that did assist, U.S. taxpayers in concealing assets and income from the IRS. These services allowed certain U.S. taxpayers to minimize the paper trail associated with the undeclared assets and income they held at the Bank in Switzerland. Those services included the following:
 - providing hold mail service to, inter alia, 358 U.S. taxpayer-clients – a service by which U.S. persons could request that the Bank hold statements and other account-related mail at the Bank’s offices in Switzerland rather than sending the documents to the account holders in the United States;
 - opening and maintaining numbered accounts for 229 U.S. taxpayer-clients and allowing some clients to use code names for their accounts, rather than using the full account numbers, thereby assisting such U.S. taxpayers in concealing their identity and assets;
 - providing both hold mail and numbered accounts services to at least 186 U.S. taxpayer-clients; and
 - opening and maintaining potentially undeclared accounts beneficially owned by U.S. taxpayers and held in the name of structures, which were formed in the Cayman Islands, British Virgin Islands, United Kingdom, Panama, and Switzerland; which amounted to at least 41 of BCV’s U.S. Related Accounts (approximately 2 percent) after August 2008; and where in fact U.S. taxpayers were beneficial owners of those nominee entities, which enabled U.S. taxpayer-clients to conceal their identities from the IRS.
19. In addition to the above-described conduct, BCV employed a variety of other means or conduct that it knew or should have known would assist U.S. taxpayers in concealing their BCV accounts, including by:
 - in at least four instances, permitting relationship managers to have direct contact with, and accept instructions from, U.S. beneficial owners who did not have powers of attorney over the entity accounts, including accounts that were held by entities incorporated in the British Virgin Islands and Panama;

- in at least four instances, providing U.S. taxpayers with the names of two outside service providers who could create the types of structures described above, which held accounts with an aggregate assets under management of \$9.9 million;
 - in at least three instances, following U.S. taxpayer-clients' instructions to remove Bank letterhead from account statements sent to the U.S. and elsewhere;
 - in at least five instances, permitting U.S. taxpayer-clients to close undeclared U.S. Related Accounts by transferring account funds to non-U.S. Related Accounts, while continuing to exercise control or retain entitlement to the funds;
 - processing cash withdrawals in excess of \$1 million within one month of account closing for at least six U.S. Related Account holders, four of which (with an aggregate assets under management of \$9.3 million) were individual withdrawals and two of which (with an aggregate of assets under management of \$2.2 million) were amassed over the course of a month;
 - closing at least 68 U.S. Related Accounts via cash withdrawals between \$100,000 and \$1 million (considering the aggregate amount of withdrawals that occurred within the last month before the account was closed), totaling at least \$21.8 million;
 - closing at least four U.S. Related Accounts by cashing checks drawn on the accounts for amounts in excess of \$1 million within one month of account closing for an aggregate amount of \$15.6 million;
 - closing at least nine U.S. Related Accounts by cashing checks drawn on the accounts for amounts between \$100,000 and \$1 million within one month of account closing for an aggregate amount of \$3.9 million; and
 - permitting at least two relationship managers to meet with U.S. taxpayer clients in the United States prior to the Applicable Period on one occasion each, in 2002 and 2003, respectively, both of which visits had been approved by the relationship managers' superiors at the Bank.
20. In 2008, BCV opened approximately 10,000 more new client accounts bank-wide than in the previous years. A large portion of these accounts were for ex-UBS clients who left UBS during the financial crisis. Out of this overall influx of clients, between August 2008 and February 2009, the Bank opened 265 new U.S. taxpayer accounts, comprising an aggregate of \$171 million in new assets under management (but which represented less than 3% of the additional new accounts opened in 2008), without determining whether the relevant U.S. taxpayer clients were tax compliant in the United States.
21. The Bank had several relationships with independent asset managers who brought U.S. taxpayer-clients to the Bank between August 2008 and February 2009. Of the 265 new U.S. taxpayer accounts opened during this period, 93 U.S. taxpayer-clients were brought

to the Bank through independent asset managers, of whom 67 were formerly clients of UBS. Two independent asset managers, "IAM-1" and "IAM-2," whose relationships with BCV began in July 2008, brought the majority of these U.S. taxpayer-clients to the Bank. BCV did not require evidence of tax compliance with respect to these 93 accounts, which resulted in the opening of many undeclared accounts of U.S. taxpayer-clients.

22. IAM-1, which included former UBS employees, brought in 37 relevant U.S. taxpayer accounts. In line with Swiss banking practices, IAM-1 received a finders' fee of 300,000 Swiss francs for the introduction of these accounts to BCV. One of the Bank's former senior executives was involved in introducing IAM-1 to the Bank. Another former member of the Bank's Executive Board approved the new relationship and the Bank entered into a cooperation agreement with IAM-1. BCV did so without determining whether the new U.S. Clients that IAM-1 brought to the Bank were tax compliant.
23. IAM-2, which was a group that worked with Credit Suisse, UBS, and other major banks, brought in 16 U.S. taxpayer accounts. IAM-2 approached the Bank in the summer of 2008 with exclusively U.S. taxpayer accounts in its portfolio. The Bank accepted these U.S. Related Accounts without determining whether the clients were tax compliant.
24. The opening of these new U.S. Related Accounts took place in the midst of the financial crisis of 2008, when many clients, both U.S. and non-U.S., were leaving UBS out of concern about its continued solvency. At the time it entered into these relationships, however, the Bank was aware that these independent asset managers would be bringing U.S. taxpayer-clients to the Bank, including some from UBS.
25. BCV opened, serviced, and profited from accounts for U.S. clients who were not complying with their income tax obligations. Some U.S. clients of BCV filed false and fraudulent U.S. Individual Income Tax Returns, Forms 1040, on which they failed to report their interests in their undeclared accounts and the related income. Some of the Bank's U.S. clients also failed to file and otherwise report their undeclared accounts on FBARs.

MITIGATING FACTORS

26. After the Department of Justice's investigation of UBS became public in May 2008, the Bank began an analysis of its U.S. business and formulated a plan to exit that business. In November 2008, BCV placed a ban on all new U.S. private banking clients. Shortly thereafter, in December 2008, BCV expanded the ban and decided that it would open no new business relationships with U.S. taxpayer-clients bank-wide, with limited exceptions for U.S. taxpayer-clients living in Switzerland who were opening salary accounts. A week later, however, BCV accepted as a one-time exception to the ban certain accounts brought to the Bank by independent asset managers because the account opening process for these accounts was already underway at the time the ban was decided.
27. In January 2009, the ban was reinforced by prohibiting the opening of new accounts for, and the provision of additional services to, existing U.S. taxpayer-clients. Criteria for

exceptions to the ban were also specified (e.g., salary accounts for U.S. taxpayer-clients residing in the Canton of Vaud; financing for property in the Canton of Vaud).

28. In July 2009, BCV adopted a new formal policy regarding the treatment of U.S. taxpayer-clients (the "Removal Policy"). As part of the Removal Policy, the Bank required the removal of all U.S. resident clients, including U.S. resident clients brought to the Bank by independent asset managers, and prohibited any new relationship with clients or beneficial owners residing in the U.S., except under limited circumstances, e.g., for students or where the existence of a close relationship with Switzerland (such as the ownership of real estate in Switzerland) could be demonstrated. The opening of relationships with U.S. residents having a "close relationship" with Switzerland required a written request made by the relationship manager and the approval of the relevant division head (i.e., a member of the Bank's Executive Committee).
29. As part of the Bank's Removal Policy, BCV also imposed strict requirements on new non-resident U.S. taxpayer accounts. Because of BCV's mandate as a cantonal bank to serve the region, BCV did not refuse to provide banking services to U.S. taxpayers living in Switzerland. However, new non-resident U.S. taxpayer-clients were required, among other things, to provide the Bank with an executed form confirming their tax-compliant status, together with a Form W-9 if a securities account was opened.
30. In May 2012, BCV expanded its Removal Policy to all existing U.S. taxpayer-clients not residing in the United States, unless they: (i) signed an internal tax form certifying tax compliance; (ii) signed a disclosure waiver that would permit BCV to reveal their names to the U.S. government; and (iii) either lived in Switzerland or demonstrated sufficiently strong ties to Switzerland. In 2012, BCV also decided to terminate relationships with numerous independent asset managers who had brought U.S. clients to the Bank since 2008, even though all of their U.S. client accounts had already been closed or frozen through BCV's Removal Policy.
31. In total, the Bank closed more than 1,102 U.S. Related Accounts with total assets of \$499 million since August 1, 2008.
32. In December of 2013, BCV entered the Swiss Bank Program as a Category 2 bank.

BCV'S COOPERATION THROUGHOUT THE SWISS BANK PROGRAM

33. Throughout its participation in the Swiss Bank Program, BCV committed to providing full cooperation to the U.S. government and has made timely and comprehensive disclosures regarding its U.S. cross-border business. Specifically, the Bank, with the assistance of U.S. and Swiss counsel, forensic investigators, and in compliance with Swiss privacy law has:
 - conducted an internal investigation which included but is not limited to: (i) interviews of key relationship managers, supervisory relationship managers, and

members of management; (ii) reviews of client account files and correspondence; (iii) analysis of relevant management policies; and (iv) review of email;

- provided written reports on the findings of its internal review to the Department and provided in-person presentations and documentation supporting the findings of its review;
- provided information concerning several U.S. Related Accounts held at the Bank since August of 2008 sufficient for the Department to make treaty requests to the Swiss competent authority for U.S. client account records;
- described in detail the structure of its cross-border business with U.S. persons, which included, but is not limited to: (i) the policies concerning U.S. account holders effective during the Applicable Period; (ii) a summary of U.S. Related Accounts by assets under management; (iii) a redacted summary of independent asset managers and relationship managers with U.S. Related Accounts by assets under management; and (iv) information about U.S. Related Accounts associated with independent asset managers and relationship managers;
- provided a list of the names and functions of 28 individuals who structured, operated, or supervised the cross-border business at BCV--- these individuals served as members of the board of directors, members of the executive board, or heads of departments;
- provided information concerning its relationship managers;
- provided information regarding its relationship with independent asset managers;
- informed clients about, and encouraged clients to enter, the IRS's Offshore Voluntary Disclosure Program; based on BCV's efforts, many of its former U.S. clients entered into the IRS's Offshore Voluntary Disclosure Program and paid back taxes, penalties, and interest in connection with failing to report their undeclared accounts; and
- obtained over 1,400 waivers of Swiss banking secrecy from many of its former U.S. clients, and provided their names to the U.S. government.

**EXHIBIT B TO NON-PROSECUTION AGREEMENT
RESOLUTION OF THE BOARD OF DIRECTORS OF
BANQUE CANTONALE VAUDOISE**

At a meeting duly held on December 21, 2015, the Board of Directors (the "Board") of Banque Cantonale Vaudoise (the "Bank") resolved as follows:

WHEREAS, the Bank has been engaged in discussions with the United States Department of Justice (the "DOJ") arising out of the Bank's participation in Category 2 of the DOJ's Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks;

WHEREAS, in order to resolve such discussions, it is proposed that the Bank enters into a non-prosecution agreement with the DOJ, under the terms of which the Bank undertakes, among other things, to pay a sum of \$41,677,000 to the DOJ (the "Agreement"); and

WHEREAS, the Board of the Bank has reviewed the entire Agreement attached hereto, including the Statement of Facts attached as Exhibit A to the Agreement, and consulted with Swiss and U.S. counsel in connection with this matter.

The Board **RESOLVES** that:

1. The Agreement is hereby approved and shall be entered into by the Bank.
2. Mr. Olivier Steimer, Chairman of the Board, and Mr. Pascal Kiener, Chief Executive Officer (collectively, the "Authorized Signatories") are hereby authorized to execute the Agreement on behalf of the Bank, substantially in such form as reviewed by the Board, with such non-material changes as the relevant two Authorized Signatories may approve;
3. The Board hereby authorizes, empowers and directs the Authorized Signatories to take, on behalf of the Bank, any and all actions as may be necessary or appropriate, and to approve and execute the forms, terms or provisions of any agreement or other document, as may be necessary or appropriate to carry out and effectuate the purpose and intent of the foregoing resolutions; and
4. Mr. Mark R. Hellerer of the U.S. law firm Pillsbury Winthrop Shaw Pittman LLP, in his capacity as U.S. Counsel to the Bank, is hereby authorized to execute the Agreement on behalf of the Bank, in the form that the relevant two Authorized Signatories shall have approved.

In WITNESS WHEREOF, the Board has passed this Resolution, to be part of the minutes of the meeting referred to above.



Olivier Steimer
Chairman



Christian Monnier
Board Secretary