



U.S. Department of Justice

Tax Division

Washington, D.C. 20530

CDC:LJW:TJS:GSSeador
5-16-4665
2014200671

July 7, 2015

Bryan C. Skarlatos
Sharon L. McCarthy
Eric Smith
Kostelanetz & Fink, LLP
7 World Trade Center, 34th Floor
New York, New York 10007

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

Dear Mr. Skarlatos, Ms. McCarthy and Mr. Smith:

Banque Cantonale Neuchâteloise submitted a Letter of Intent on December 23, 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 Banque Cantonale Neuchâteloise in its Letter of Intent and information provided by Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise during the Applicable Period (the "conduct"). Banque Cantonale Neuchâteloise 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

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

offenses except as set forth above, and applies only to Banque Cantonale Neuchâteloise and does not apply to any other entities or to any individuals. Banque Cantonale Neuchâteloise 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. Banque Cantonale Neuchâteloise enters into 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, Banque Cantonale Neuchâteloise agrees to pay the sum of \$1,123,000 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 Banque Cantonale Neuchâteloise. This payment is in lieu of restitution, forfeiture, or criminal fine against Banque Cantonale Neuchâteloise for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Banque Cantonale Neuchâteloise with respect to the conduct described in this Agreement, unless the Tax Division determines Banque Cantonale Neuchâteloise has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise has violated any provision of this Agreement. Banque Cantonale Neuchâteloise 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. Banque Cantonale Neuchâteloise agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Banque Cantonale Neuchâteloise further agrees that no portion of the penalty that Banque Cantonale Neuchâteloise has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Banque Cantonale Neuchâteloise 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) Banque Cantonale Neuchâteloise'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 Banque Cantonale Neuchâteloise 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) Banque Cantonale Neuchâtelaise'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) Banque Cantonale Neuchâtelaise'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 Banque Cantonale Neuchâtelaise 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) Banque Cantonale Neuchâtelaise's retention of a qualified independent examiner who has verified the information Banque Cantonale Neuchâtelaise disclosed pursuant to II. D. 2 of the Swiss Bank Program.

Under the terms of this Agreement, Banque Cantonale Neuchâtelaise 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 Banque Cantonale Neuchâteloise, 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, Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise's 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 Banque Cantonale Neuchâteloise; 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.

Banque Cantonale Neuchâteloise further agrees to undertake the following:

1. Banque Cantonale Neuchâteloise 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, Banque Cantonale Neuchâteloise will promptly provide the entirety of the transaction information upon request of the Tax Division.
2. Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise.

3. Banque Cantonale Neuchâteloise 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. Banque Cantonale Neuchâteloise 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, Banque Cantonale Neuchâteloise will promptly proceed to follow the procedures described above in paragraph 2.
4. Banque Cantonale Neuchâteloise 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.

Banque Cantonale Neuchâteloise's obligations under this Agreement shall continue for a period of four (4) years from the date this Agreement is fully executed. Banque Cantonale Neuchâteloise, 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) Banque Cantonale Neuchâteloise committed any U. S. federal offenses during the term of this Agreement; (b) Banque Cantonale Neuchâteloise 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) Banque Cantonale Neuchâteloise has otherwise materially violated any provision of this Agreement or the terms of the Swiss Bank

Program, then (i) Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise'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 Banque Cantonale Neuchâteloise'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 Banque Cantonale Neuchâteloise shall be admissible in evidence in any criminal proceeding brought against Banque Cantonale Neuchâteloise and relied upon as evidence to support any penalty on Banque Cantonale Neuchâteloise; and (iii) Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise has breached this Agreement and whether to pursue prosecution of Banque Cantonale Neuchâteloise 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, Banque Cantonale Neuchâteloise, will be imputed to Banque Cantonale Neuchâteloise for the purpose of determining whether Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise has breached this Agreement, the Tax Division agrees to provide Banque Cantonale Neuchâteloise with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, Banque Cantonale Neuchâteloise may respond to the Tax Division in writing to explain the nature and circumstances of such breach, as well as the actions that Banque Cantonale Neuchâteloise has taken to address and remediate the situation, which explanation the Tax Division shall consider in determining whether to pursue prosecution of Banque Cantonale Neuchâteloise.

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 Banque Cantonale Neuchâteloise, notwithstanding the expiration of the statute of limitations between such date and the commencement of such prosecution. For any such prosecutions, Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise's counsel.

It is understood that Banque Cantonale Neuchâteloise 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, Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise, the Tax Division will, however, bring the cooperation of Banque Cantonale Neuchâteloise 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 Banque Cantonale Neuchâteloise consistent with Part V. B of the Swiss Bank Program.


This Agreement supersedes all prior understandings, promises and/or conditions between the Department and Banque Cantonale Neuchâteloise. 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.


CAROLINE D. CIRAOLO
Acting Assistant Attorney General

7/16/2015
DATE

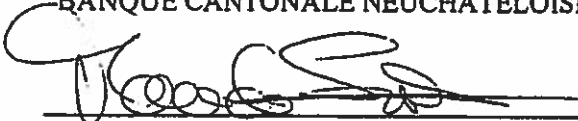

THOMAS J. SAWYER
Senior Counsel for International Tax Matters

16 July 2015
DATE

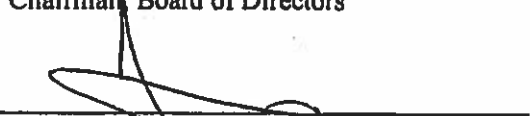

GREGORY S. SEADOR
SEAN BEATY
Trial Attorneys
Tax Division, U.S. Department of Justice

7/16/2015
DATE

AGREED AND CONSENTED TO:
BANQUE CANTONALE NEUCHÂTELOISE

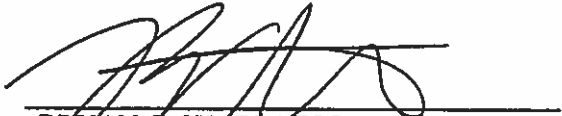

MANUELA SURDEZ
Chairman, Board of Directors

15.7.2015
DATE


JEAN-NOËL DUC
Chief Executive Officer

15.7.2015
DATE

APPROVED:


BRYAN C. SKARLATOS
SHARON L. MCCARTHY
ERIC SMITH
Kostelanetz & Fink, LLP

July 15, 2015
DATE

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

STATEMENT OF FACTS

Introduction

1. Banque Cantonale Neuchâteloise (“BCN” or the “Bank”) was formed in 1883. BCN is a public law institution established under the Cantonal Act on the Neuchâtel Cantonal Bank and is fully held by the Canton of Neuchâtel, Switzerland. BCN is headquartered in the city of Neuchâtel and has two branch offices (including headquarters) and ten representative offices in the Canton of Neuchâtel.
2. As a cantonal bank, BCN mainly operates within its local area. The clientele of BCN is almost exclusively composed of local individuals and small and medium-sized enterprises to whom BCN primarily offers retail and corporate banking services and grants credits and mortgages. BCN also offers private banking services.
3. Except for the policies and procedures described below, BCN 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. In particular, BCN 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. BCN never had a U.S. desk or any foreign desk.
4. As of December 2014, BCN had approximately \$8.4 billion in assets under management distributed over 116,000 client relationships, and a staff of around 301 full time employees.

U.S. Income Tax and 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 the 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.
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 were 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 and an FBAR.

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 BCN, since at least August of 2008.

Qualified Intermediary Agreement And Its Role in Non-Disclosed U.S. Related Accounts

10. In 2001, BCN 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 an account at the bank, non-U.S. persons were subject to the proper U.S. withholding tax rates and that U.S. persons were properly paying U.S. tax.

11. The Qualified Intermediary Agreement took account of the fact that BCN, 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 BCN to obtain the consent of the account holder to disclose the client’s identity to the IRS.

12. BCN was aware of the likelihood that some of these U.S. account holders had not properly reported their accounts to the IRS.

The Offense Conduct

13. In addition to accounts held by individuals and businesses based in Switzerland, from at least August 1, 2008 through 2013 (the “Applicable Period”), BCN provided retail and private banking services to individuals outside of Switzerland, including citizens and residents of the United States (“U.S. taxpayers”). Retail banking services were provided in all BCN's branches and representatives offices, while private banking services were provided through private bankers (referred to as “Relationship Managers”) based at BCN’s headquarters in Neuchâtel and at the La-Chaux-de-Fonds branch only.

14. During the Applicable Period, BCN had 190 U.S. clients with a total of 595 U.S. related accounts. The maximum dollar value, in the aggregate of all accounts associated with U.S. taxpayers at BCN was approximately \$67,534,366.

15. During the Applicable Period, BCN provided traditional Swiss banking services available to all clients that it knew could assist, and that did in fact assist, certain U.S. taxpayers to evade their U.S. tax obligations, file false federal tax returns with the IRS, and otherwise hide accounts held at BCN from the IRS (hereinafter “undeclared accounts”). Those services included the following:

- After it became public that the U.S. Department of Justice was investigating the conduct of UBS, and later other Swiss banks, BCN allowed several U.S. persons who closed their accounts at Category 1 banks to open accounts at BCN and transfer funds into those BCN accounts from the Category 1 banks.
- BCN permitted U.S. account holders to open accounts identified solely by number and not by the name of the account holders, thus reducing the chances that the U.S. government would learn the identities of the taxpayers.
- In some instances, BCN permitted accounts to be held by Swiss or, in one case, foreign non-operating entities that were ultimately beneficially owned by U.S. persons. By permitting U.S. account holders to hold their accounts in the name of non-operating entities, BCN thus enabled U.S. account holders to conceal their identity from the U.S. government.
- BCN agreed to hold bank statements and other mail relating to accounts at BCN, rather than send them to U.S. taxpayers located in the United States, thereby ensuring that documents reflecting the existence of the accounts remained outside the United States and beyond the reach of U.S. tax authorities.
- Until 2014, BCN permitted its U.S. account holders to withdraw funds in cash both by withdrawing sums below \$10,000 and, in some cases, withdrawing larger sums of cash when closing their accounts.

16. BCN opened, serviced, and profited from accounts for U.S clients with the knowledge that many likely were not complying with their U.S. tax obligations. Due in part to the assistance of BCN and its personnel, and with the knowledge that Swiss banking secrecy

laws would prevent BCN from disclosing their identities to the IRS, some of BCN's U.S. clients filed false and fraudulent U.S. Individual Income Tax Returns, Forms 1040, which failed to report their respective interests in their undeclared accounts and the related income. Some of BCN's U.S. clients also failed to file and otherwise report their undeclared accounts on FBARs.

17. BCN was aware that U.S. taxpayers had a legal duty to report to the IRS and pay taxes on the basis of all of their income, including income earned in accounts maintained at BCN. BCN knew or had reasons to know that it was likely that certain U.S. taxpayers were maintaining undeclared accounts at BCN in order to evade their U.S. tax obligations, in violation of U.S. law. BCN knew or had reasons to know this because some of the U.S. taxpayers entered into hold mail and/or numbered account agreements when they opened their accounts, and/or conducted business with respect to their accounts through in-person visits to BCN rather than by telephone or otherwise from the United States. BCN was aware, or should have been aware, that this conduct violated U.S. law.

BCN's Exit from Its U.S. Cross-Border Business

18. BCN had an informal policy not to pursue and/or solicit clients outside of Switzerland or even outside of the canton, but has never had a strict policy against accepting clients with U.S. citizenship or U.S. tax liabilities.

19. Prior to and during the Applicable Period, BCN modified its policies and procedures to gradually ensure that it no longer assisted undeclared U.S. taxpayers in evading U.S. income tax.

20. In December 2009, BCN began providing each new U.S. client with a disclaimer informing the new U.S. client that BCN had signed a Qualified Intermediary Agreement, and that BCN assumes that the assets being deposited have been properly declared. The client was required to countersign a disclaimer authorizing BCN to deliver data as required under the Qualified Intermediary requirements (the "QI disclaimer").

21. In November 2010, BCN formalized its requirement that U.S. clients were only accepted if they had a link with the Canton of Neuchâtel. In addition, since November 2010 all U.S. clients have been required to provide a Form W-9 as well as the above-mentioned QI disclaimer.

22. In March 2012, BCN amended its Internal Directive on Business Relationships with Overseas Clients to state that BCN would refuse to open new securities deposits for U.S. residents or to enter into a new business relationship with a client residing abroad if it was apparent that the assets deposited were not tax-compliant.

23. In July 2013, BCN's policy was modified to provide that BCN will not accept any new assets from U.S. clients domiciled outside Switzerland unless the clients provide both a Form W-9 and a signed Tax Compliance Declaration.

24. In 2014, BCN decided that it would not enter into new business relationships with U.S. persons residing outside of Switzerland and U.S. persons would be prohibited from closing business relationships by means of cash withdrawals.

25. In December 2013, BCN sent letters alerting former and current U.S. account holders of the IRS's Offshore Voluntary Disclosure Program ("OVDP"). Since that time, BCN has continued to actively encourage its relevant current and former U.S. account holders to enter the OVDP, and has sought waivers of Swiss bank secrecy law to permit BCN to provide their identities to the Government.

BCN's Cooperation Throughout the Swiss Bank Program

26. BCN has fully cooperated with the Department of Justice in relation to the Swiss Bank Program by, among other things, providing all relevant and requested information and documents to the Department of Justice relating to its U.S. related business. Further evidencing BCN's cooperation is the fact that none of its employees and members of the board of directors has objected to the disclosure to the Department of Justice of his or her name and function at the bank.

27. Based on BCN's efforts, some of its former and current U.S. clients entered into a form of voluntary disclosure acceptable to the IRS and paid back taxes, penalties and interests in connection with failing to report their undeclared accounts. In addition, BCN obtained waivers of Swiss bank secrecy from many of its former and current U.S. clients, allowing it to provide the names of these persons to the U.S. government.

28. Finally, BCN has provided certain account information related to U.S. taxpayers which may assist the Government in making requests under the 1996 Convention between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income for, among other things, the identities of U.S. account holders.

Exhibit B to Non-Prosecution Agreement

RESOLUTION OF THE BOARD OF DIRECTORS OF BANQUE CANTONALE NEUCHÂTELOISE

At a duly held meeting held on July 15, 2015, the Board of Directors (the "**Board**") of Banque Cantonale Neuchâteloise (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; and
- **WHEREAS**, in order to resolve such discussions, the DOJ has proposed that the Bank enter into a non-prosecution agreement with the DOJ substantially in the form attached hereto (the "**Agreement**"); and
- **WHEREAS**, the Bank's U.S. and Swiss counsel have advised the Board of Directors of the Bank's rights, possible defenses, the terms of the Agreement, and the consequences of entering into the Agreement;

The Board hereby **RESOLVES** that:

1. The Board of the Bank has reviewed the entire Agreement attached hereto, including the Statement of Facts attached as Exhibit A to the Agreement, consulted with Swiss and U.S. counsel in connection with this matter and voted to enter into the Agreement, including to pay a sum of US\$ 1,123,000 pursuant to the Agreement and to perform the obligations described in the Agreement consistent with, and subject to, Swiss law; and
2. Manuela Surdez, Chairwoman of the Board, and Jean-Noël Duc, Chief Executive Officer, are hereby authorized on behalf of the Bank to execute the Agreement (the "**Authorized Signatories**") substantially in such form as reviewed by this Board with such non-material changes as they may approve; and
3. Bryan C. Skariatos and Sharon L. McCarthy of Kosteianetz & Fink LLP are entitled to sign the Agreement as additional signatories (the "**Additional Signatories**"); and
4. 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

- 5. All of the actions of the Authorized Signatories and the Additional Signatories, are hereby severally ratified, confirmed, approved und adopted as actions on behalf of the Bank.

IN WITNESS WHEREOF, the Board of Directors of the Bank has executed this Resolution.



**Manuela Surdez
Chairwoman of the Board**



**Mike S. Pessotto
Corporate Secretary**