



U.S. Department of Justice

Tax Division

Washington, D.C. 20530

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CDC:TJS:JES:TGVoracek  
5-16-4699  
2014200710

Timothy J. Coleman, Esq.  
Freshfields Bruckhaus Deringer US LLP  
700 13<sup>th</sup> Street, N.W.  
Washington, D.C. 20005

Re: Graubündner Kantonalbank  
DOJ Swiss Bank Program – Category 2  
Non-Prosecution Agreement

Dear Mr. Coleman:

Graubündner Kantonalbank ("Graubündner") submitted a Letter of Intent on December 20, 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 Graubündner in its Letter of Intent and information provided by Graubündner pursuant to the terms of the Swiss Bank Program. The Swiss Bank Program is incorporated by reference herein in its entirety in this Agreement.<sup>1</sup> Any violation by Graubündner of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute Graubündner 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 Graubündner during the Applicable Period (the "conduct"). Graubündner 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 Graubündner and does not apply to any other entities or to any individuals. Graubündner 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

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<sup>1</sup> Capitalized terms shall have the meaning ascribed to them in the Swiss Bank Program.

executes this Agreement. Graubündner 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, Graubündner agrees to pay the sum of \$3,616,000 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 Graubündner. This payment is in lieu of restitution, forfeiture, or criminal fine against Graubündner for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Graubündner with respect to the conduct described in this Agreement, unless the Tax Division determines Graubündner has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. Graubündner 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 Graubündner has violated any provision of this Agreement. Graubündner 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. Graubündner agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Graubündner further agrees that no portion of the penalty that Graubündner has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Graubündner 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) Graubündner'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 Graubündner 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) Graubündner'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) Graubündner'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 Graubündner 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) Graubündner's retention of a qualified independent examiner who has verified the information Graubündner disclosed pursuant to II.D.2 of the Swiss Bank Program.

Under the terms of this Agreement, Graubündner 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 Graubündner, 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, Graubündner 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 Graubündner 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 Graubündner'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 Graubündner; 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.

Graubündner further agrees to undertake the following:

1. The Tax Division has agreed to specific dollar threshold limitations for the initial production of transaction information pursuant to Part II.D.2.b.vi of the Swiss Bank Program, and set forth in subparagraph (c) on page 3 of this Agreement. Graubündner agrees that, to the extent it has not provided complete transaction information, it will promptly provide the entirety of the transaction information upon request of the Tax Division.
2. Graubündner 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 Graubündner.
3. Graubündner 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. Graubündner 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, Graubündner will promptly proceed to follow the procedures described above in paragraph 2.

4. Graubündner 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.

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

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

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


It is understood that Graubündner 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, Graubündner 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 Graubündner, the Tax Division will, however, bring the cooperation of Graubündner to the attention of such other prosecuting offices or regulatory agencies.

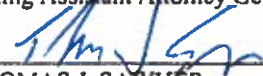
It is further understood that this Agreement and the Statement of Facts attached hereto may be disclosed to the public by the Department and Graubündner consistent with Part V.B of the Swiss Bank Program.

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


UNITED STATES DEPARTMENT OF JUSTICE  
TAX DIVISION

  
CAROLINE D. CIRAOLO  
Acting Assistant Attorney General


9/25/2015  
Date

  
THOMAS J. SAWYER  
Senior Counsel for International Tax Matters

25 Sep 2015  
Date

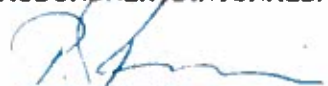
  
JOHN E. SULLIVAN  
Senior Litigation Counsel

9/24/15  
Date

  
THOMAS G. VORACEK  
Trial Attorney

9-25-15  
Date

AGREED AND CONSENTED TO:  
GRAUBÜNDNER KANTONALBANK

By:   
PETER FANCONI  
President of the Bank Council

9/23/15  
Date

By:   
ALOIS VINZENS  
Chief Executive Officer

9/23/15  
Date

APPROVED:  
  
TIMOTHY J. COLEMAN, ESQ.  
Counsel for Graubündner Kantonalbank

9/23/15  
Date

**EXHIBIT A TO THE NON-PROSECUTION AGREEMENT WITH  
GRAUBÜNDNER KANTONALBANK**

**STATEMENT OF FACTS**

**INTRODUCTION**

1. Graubündner Kantonalbank ("Graubündner" or the "Bank") was founded in 1870. The Bank is a public law institution established under cantonal law. The Bank is headquartered in Chur, Switzerland, and has 63 branches, all located within the Canton of Graubünden.
2. The Bank has never had offices, branches, or subsidiaries outside of Switzerland. The Bank has approximately 800 employees.
3. The Canton holds 100% of the voting rights and approximately 85% ownership in the Bank. The executive government of the Canton supervises the Bank and elects its board of directors.
4. Cantonal law mandates that Graubündner's main service area must be within the Canton and that it may only offer cross-border business to the extent it does not detract from the provision of services supporting the local economy. Graubündner's few foreign clients are mostly either German or Italian.
5. Except for the policies and procedures described below, the Bank did not structure, operate, or supervise its U.S. Related Accounts<sup>1</sup> in any way different or separate from its non-U.S. Related Accounts. In particular, the Bank 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.
6. During the Applicable Period, Graubündner's total assets under management had a maximum value of approximately \$23.2 billion. This included 364 U.S. Related Accounts with an aggregate maximum balance of approximately \$105.5 million – approximately 0.45% of the aggregate maximum balance of the Bank's total assets under management during the Applicable Period.

**U.S. INCOME TAX & REPORTING OBLIGATIONS**

7. 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

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<sup>1</sup> Capitalized terms not otherwise defined in this Statement of Facts have the meanings set forth in the Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks, issued on August 29, 2013 (the "Swiss Bank Program").



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.

8. 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 was due on June 30 of the following year.
9. 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.
10. 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.
11. In or about 2008, Swiss bank UBS AG ("UBS") publicly announced that it was the target of a criminal investigation by the IRS 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 publically 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. These cases have been closely monitored by banks operating in Switzerland, including Graubündner, since at least August of 2008.

#### OVERVIEW OF BUSINESS WITH U.S. RELATED ACCOUNTS

12. Over the years, Graubündner opened and maintained financial accounts for U.S. citizens, U.S. permanent legal residents, and U.S. resident aliens. Most of these clients have a close connection to Switzerland and the Canton of Graubünden. Tourist destinations in Graubünden attract visitors from abroad, so some clients are individuals who visit or have vacation residences located in the region.
13. As of August 1, 2008, the Bank had 299 U.S. Related Accounts with an aggregate maximum value of \$94.8 million. During the Applicable Period, the Bank opened 65 U.S. Related Accounts. These accounts had an aggregate maximum value of approximately \$10.7 million.

14. With respect to its U.S. Related Accounts, Graubündner offered a variety of traditional Swiss banking services that, though available to all its clients, were used by some U.S. taxpayers to conceal their undeclared assets and income. Specifically, the Bank:
- a) provided "hold-mail" services whereby the Bank held bank statements and other mail in Switzerland rather than sending the documents into the United States for approximately 76 U.S. Related Accounts;
  - b) offered "code word" or numbered account services, which it provided for approximately 23 U.S. Related Accounts, meaning that, for an annual fee, the Bank would limit access to information about an account, including the identity of the account holder, to only certain employees of the bank, and the bank statements would not reflect the account holder's name;
  - c) assisted U.S. clients in executing forms that directed the Bank not to disclose their names to the IRS;
  - d) processed, in a few cases, substantial cash withdrawals in connection with the closure of accounts by U.S. clients. For example, at an account closing in December 2009, the Bank permitted a U.S. taxpayer to withdraw approximately \$112,000 in cash; and
  - e) closed a U.S. Related Account held by a U.S. citizen and resident by transferring the account funds to another Graubündner account held in the name of the U.S. client's parents who lived in Switzerland.
15. Graubündner also opened and maintained accounts for seven U.S. taxpayers in the names of offshore structures where the U.S. taxpayer's interest in the account was not reported to the IRS. In this regard, five U.S. citizens were the beneficial owners of accounts held in the names of nominee entities, including four Liechtenstein foundations and a British Virgin Islands company. For two of these accounts, which had traded in U.S. securities, Graubündner did not report account earnings or transmit withholding taxes to the IRS as required. The Bank also opened and maintained two accounts in the names of Swiss companies, one for a Swiss citizen and one for a German citizen, both of whom resided in the United States.
16. Seven of Graubündner's U.S. Related Accounts held U.S. securities for which the Bank issued IRS Forms 1099.
17. The servicing of U.S. clients was not centralized in one office or among a few relationship managers. Rather, it was spread across all the Bank's offices, which are located throughout the Canton of Graubünden. The relationship managers never traveled to the United States to solicit U.S. clients or to serve any existing U.S. clients.
18. Some U.S. clients were served by multiple relationship managers. The vast majority of relationship managers were only peripherally involved with U.S. clients. In total,

126 relationship managers served at least one U.S. client during the Applicable Period. Most of those relationship managers served only a few U.S. clients each.

19. In December 2008, the Bank required that all of the Bank's new and existing U.S. clients, irrespective of domicile: (i) submit a handwritten declaration of compliance with their U.S. tax obligations; (ii) waive Swiss banking secrecy; and (iii) provide an IRS Form W-9. It also prohibited the opening of new accounts for entities with a U.S. beneficial owner, even with a Form W-9 and confirmation of tax compliance. New U.S. clients who failed to submit the requested documents were not supposed to be accepted, though initially some relationship managers continued to accept U.S. customers without securing a Form W-9. Existing clients who failed to do so were to be exited by June 2010.
20. In July of 2009, the Bank stopped accepting any new U.S. clients, with the exception of U.S. nationals residing in Switzerland or Swiss nationals temporarily residing in the United States.
21. By the spring of 2010, a special desk (the "U.S. desk") was staffed by specially-trained relationship managers dedicated to ensuring that the Bank's policies on U.S. business were followed. The U.S. desk centralized the Bank's compliance efforts by concentrating the service of U.S. clients to its Chur, Davos, and St. Moritz locations. These locations were staffed with relationship managers who were specially trained on U.S. legal and compliance issues. The U.S. desk played an important role in the Bank's efforts to comply with U.S. law, including by encouraging U.S. clients to participate in the IRS's OVDP and managing the exit of certain U.S. clients.
22. The Bank did not use finders or other third parties to attract U.S. customers. The Bank's external asset managers managed only three U.S. clients. In December 2008, Bank leadership specifically declined an offer to accept new externally-asset-managed assets of U.S. clients.

#### MITIGATING FACTORS

23. By May of 2008, the Bank began to evaluate its U.S. cross-border business and designated a group to ensure that U.S. clients complied with U.S. tax laws and otherwise to impose restrictions on relationships with U.S. clients. By September of 2008, the Bank required all new U.S. clients to provide a Form W-9, which the Bank believed represented its clients' intent to declare the account with the IRS. The Bank forwarded all Forms W-9 to its U.S. custodian. In December of 2008, the Bank issued a new directive requiring all of its new and existing U.S. clients to submit a handwritten and signed declaration of their compliance with their U.S. tax obligations, waive Swiss banking secrecy, and provide a Form W-9. It also prohibited any new accounts in the name of entities with U.S. beneficial owners.
24. In 2009, the Bank started to encourage its U.S. clients to participate in OVDP. In 2011, the Bank began terminating its relationships with U.S. clients it suspected of not declaring their assets and started restricting the ways by which their accounts could be closed. The Bank has closed approximately 220 U.S. Related Accounts. The U.S.

clients associated with the remaining approximately 140 accounts all have some nexus to the Canton of Graubünden (e.g., dual U.S.-Swiss citizens, clients with primary residence in Graubünden and temporary residence in the United States, and U.S. citizens domiciled in Switzerland). These remaining U.S. clients were required to sign a bank secrecy waiver and to provide a Form W-9.

25. Graubündner has fully cooperated with the Department of Justice, providing all relevant and requested information and documents as part of its participation in the Swiss Bank Program. Further evidencing the Bank's cooperation is the fact that its employees and members of the board of directors have not objected to the disclosure of their names and functions at the Bank to the Department of Justice.
26. Specifically, the Bank with the assistance of its U.S. and Swiss counsel, forensic investigators, and in compliance with Swiss privacy laws has:
  - conducted an internal investigation which included, among other things, reviews of customer account files and correspondence, analysis of relevant policies, and email searches;
  - described the structure, operation, and supervision of its U.S. cross-border business, including the names of relevant individuals and entities;
  - identified additional U.S. customer accounts that were not U.S. tax-compliant and encouraged those customers to declare their accounts to the IRS through OVDP; and
  - sought and obtained bank secrecy waivers from many of its U.S. customers, whose names were then provided to the U.S. government.

**EXHIBIT B TO NON-PROSECUTION AGREEMENT**

**CERTIFICATE OF CORPORATE RESOLUTION OF THE BOARD OF DIRECTORS  
OF GRAUBÜNDNER KANTONALBANK**

I, FLURIN BERTHER, acting corporate secretary of Graubündner Kantonalbank (the Bank), a corporation duly organized and existing under the laws of Switzerland, do hereby certify that the following is a complete and accurate copy of a resolution adopted by the board of directors of the Bank by way of circular resolution on September 23, 2015, following a duly held meeting on September 18, 2015:

- That the board of directors has (i) reviewed the entire Non-Prosecution Agreement attached hereto, including the Statement of Facts attached as Exhibit A to the Non-Prosecution Agreement; (ii) consulted with legal counsel in connection with this matter; and (iii) voted to enter into the Non-Prosecution Agreement, including to pay a sum of USD 3,616,000 to the U.S. Department of Justice in connection with the Non-Prosecution Agreement; and
- That PETER FANCONI, Chairman of the board of directors, and ALOIS VINZENS, Chief Executive Officer, both registered in the Commercial Register of the Canton of Graubünden as having joint signatory authority, are hereby authorized (i) to jointly execute the Non-Prosecution Agreement on behalf of the Bank substantially in such form as reviewed by the Board with such non-material changes as each of them may approve; and (ii) to take, on behalf of the Bank, all actions as may be necessary or advisable in order to carry out the foregoing; and
- That TIMOTHY J. COLEMAN, Freshfields Bruckhaus Deringer LLP, is entitled to approve the Non-Prosecution Agreement in his capacity as the Bank's U.S. counsel, if requested so by the U.S. Department of Justice.

I further certify that the above resolution has not been amended or revoked in any respect and remains in full force and effect.

IN WITNESS WHEREOF, I have executed this Certification the 23th day of September 2015.

  
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FLURIN BERTHER  
Secretary