



U.S. Department of Justice

Tax Division

Washington, D.C. 20530

LJW:TJS:BDBailey
5-16-4703
2014200714

August 20, 2015

Daniel W. Levy
Eric B. Halper
McKool Smith PC
One Bryant Park
New York, New York 10036

Re: Hypothekarbank Lenzburg AG
DOJ Swiss Bank Program – Category 2
Non-Prosecution Agreement

Dear Mr. Levy:

Hypothekarbank Lenzburg AG (“HBL”) submitted a Letter of Intent on December 30, 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 HBL in its Letter of Intent and information provided by HBL 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 HBL of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute HBL 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 HBL during the Applicable Period (the “conduct”). HBL 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 HBL and does not apply to any other entities or to any individuals. HBL 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. HBL 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, HBL agrees to pay the sum of \$560,000 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 HBL. This payment is in lieu of restitution, forfeiture, or criminal fine against HBL for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from HBL with respect to the conduct described in this Agreement, unless the Tax Division determines HBL has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. HBL 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 HBL has violated any provision of this Agreement. HBL 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. HBL agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. HBL further agrees that no portion of the penalty that HBL has agreed to pay to the Department under the terms of this Agreement will serve as a basis for HBL 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) HBL'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 HBL 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) HBL'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) HBL'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 HBL 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) HBL's retention of a qualified independent examiner who has verified the information HBL disclosed pursuant to II.D.2 of the Swiss Bank Program.

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

HBL further agrees to undertake the following:

1. HBL 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, HBL will promptly provide the entirety of the transaction information upon request of the Tax Division.
2. HBL 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 HBL.
3. HBL 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. HBL 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, HBL will promptly proceed to follow the procedures described above in paragraph 2.

4. HBL 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.

HBL's obligations under this Agreement shall continue for a period of four (4) years from the date this Agreement is fully executed. HBL, 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) HBL committed any U.S. federal offenses during the term of this Agreement; (b) HBL 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) HBL has otherwise materially violated any provision of this Agreement or the terms of the Swiss Bank Program, then (i) HBL 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 HBL'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 HBL'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 HBL shall be admissible in evidence in any criminal proceeding brought against HBL and relied upon as evidence to support any penalty on HBL; and (iii) HBL 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 HBL has breached this Agreement and whether to pursue prosecution of HBL 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, HBL, will be imputed to HBL for the purpose of determining whether HBL 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 HBL has breached this Agreement, the Tax Division agrees to provide HBL with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, HBL may respond to the Tax Division in writing to explain the nature and circumstances of such breach, as well as the actions that HBL has taken to address and remediate the situation, which explanation the Tax Division shall consider in determining whether to pursue prosecution of HBL.

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

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 HBL, the Tax Division will, however, bring the cooperation of HBL 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 HBL consistent with Part V.B of the Swiss Bank Program.

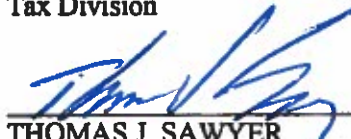
This Agreement supersedes all prior understandings, promises and/or conditions between the Department and HBL. No additional promises, agreements, and conditions have been entered into other than those set forth in this Agreement and none will be entered into unless in writing and signed by both parties.



CAROLINE D. CIRAOLO
Acting Assistant Attorney General
Tax Division

8/27/2015

DATE



THOMAS J. SAWYER
Senior Counsel for International Tax Matters

27 August 2015

DATE

Brian D. Bailey
BRIAN D. BAILEY
Trial Attorney

27 August 2015
DATE

AGREED AND CONSENTED TO:
Hypothekarbank Lenzburg AG

By: Wild
MARIANNE WILDI
Chief Executive Officer

August 21, 2015
DATE

By: Gerhard E. Hanhart
GERHARD E. HANHART
Chairman of the Board

August 21, 2015
DATE

APPROVED:

Daniel W. Levy
DANIEL W. LEVY
ERIC B. HALPER
McKool Smith PC

August 22, 2015
DATE

**EXHIBIT A TO HYPOTHEKARBANK LENZBURG AG
NON-PROSECUTION AGREEMENT**

STATEMENT OF FACTS

Introduction

1. Hypothekarbank Lenzburg AG (“HBL” or “the Bank”) was founded in 1868 and is headquartered in the Swiss town of Lenzburg.¹
2. HBL’s place of business is the Swiss Canton of Aargau, where HBL maintains its headquarters and twelve branches. HBL never maintained branches outside of the Canton of Aargau. HBL employs 220 people.
3. HBL’s principal business, focused on the Canton of Aargau, is issuing mortgages on real property and lending to businesses. Over the Applicable Period,² more than 85% of HBL’s revenue was derived from HBL’s mortgage and commercial lending activities. More than 98% of assets held by clients at HBL were owned by citizens or residents of Switzerland.
4. Except for the policies and procedures described below, HBL 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. HBL’s board of directors, executive management, and heads of various business units structured, operated, and supervised the client-facing business of HBL generally.
5. HBL did not engage in soliciting clients located abroad and its employees never traveled outside of Switzerland for business purposes. HBL’s marketing and advertising were limited to the Canton of Aargau and consisted solely of German-language advertisements and marketing materials and private events for citizens of the Canton of Aargau, the local area served by HBL. HBL’s population of U.S. Related Accounts arose out of the connections of the holders of U.S. Related Accounts to the Aargau area or to HBL.

U.S. Income Tax & Reporting Obligations

6. 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

¹ All data, including dates and amounts, provided in this Statement of Facts are approximate.

² Capitalized terms not otherwise defined in this Statement of Facts shall have the meanings set forth in the Program for Non-Prosecution or Non-Target Letters for Swiss Banks, issued on August 29, 2013 (the “Program”) or in the Agreement between the United States of America and Switzerland for Cooperation to Facilitate the Implementation of FATCA, dated February 14, 2013 (the “FATCA Agreement”).

U.S. Individual Income Tax Return, Form 1040, whether they 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.

7. 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, formerly known as Form TD F 90-22 (the “FBAR”).

8. 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 an FBAR.

9. “U.S. Related Accounts” means accounts that exceeded \$50,000 in value at any time during the Applicable Period, and as to which indicia exist that a U.S. Person or Entity has or had a financial or beneficial interest in, ownership of, or signature authority (whether direct or indirect) or other authority over the account.

10. Since 1935, Switzerland has maintained a criminal law that ensures 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 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 accounts and maintaining undeclared assets and income from the IRS. After the UBS announcement, 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”). The Category 1 banks’ cases have been closely monitored by banks operating in Switzerland, including HBL, since at least August of 2008.

HBL’s Policies with Respect to U.S. Related Accounts – 2000 through 2012

12. In 2000, HBL entered into a Qualified Intermediary (“QI”) Agreement with the IRS. Pursuant to HBL’s interpretation of the QI Agreement, an interpretation encouraged by the Swiss Bankers Association and widely adopted by Swiss banks that had entered into QI Agreements, HBL generally required U.S. persons holding an account to either: (a) execute an

IRS Form W-9 and accept disclosure of their identity to the IRS; or (b) not execute an IRS Form W-9 and request from the account holder the authority to exclude from the account any assets that generate, or could generate, “reportable payments.” Under the QI Agreement, “reportable payments” are, in general, U.S. source income, such as dividends on U.S. securities.

13. Starting in 2001, HBL required all U.S. persons seeking to open a new account to execute an IRS Form W-9. By early 2012, HBL had obtained Forms W-9 for 89% of the assets held by account holders then identified as U.S. persons and from 57% of the account holders then identified as U.S. persons. HBL’s efforts to obtain Forms W-9 for accounts held by U.S. persons and opened prior to 2001 continued after early 2012.

14. In or about late 2011 and pursuant to guidance provided by the Swiss Financial Market Supervisory Authority, HBL created a cross-border team based in its Lenzburg headquarters to help bank personnel properly service account holders residing outside of Switzerland. At the same time, HBL began to require U.S. persons to close their accounts if they did not provide HBL with a Form W-9. New U.S. clients were required to sign a Form W-9, whether they intended to trade in U.S. securities or not.

15. HBL did not have a dedicated group of relationship managers or client advisers assigned to U.S. Related Accounts. Rather, U.S. Related Accounts were distributed generally over the entire employee population. For example, a total of 57 employees were assigned to the 96 U.S. Related Accounts during the Applicable Period. Forty-four employees were each assigned to only one or two U.S. Related Accounts. Fifty-three were each assigned to U.S. Related Accounts that combined held less than \$2.5 million of assets.

16. Employees of HBL were not compensated on the basis of attracting net new money, either from U.S. persons or others. Many of the employees who were assigned U.S. Related Accounts functioned as account officers who serviced the everyday banking needs of account holders, such as bill-paying.

17. Employees assigned to U.S. Related Accounts were spread across HBL’s headquarters and various branches until 2011 when, as described above, HBL centralized its cross-border clients, *i.e.*, clients residing outside of Switzerland, in its Lenzburg headquarters.

HBL’s U.S. Related Accounts

18. During the Applicable Period, HBL had 96 U.S. Related Accounts, out of a total of 72,000 accounts. This includes both declared and undeclared accounts and represents 0.1% of HBL’s accounts.

19. Of the 96 U.S. Related Accounts, 77 were opened before August 2008, one was opened between August 1, 2008 and February 28, 2009, and 18 were opened after February 28, 2009. The last U.S. Related Account was opened in September 2011. The maximum aggregate dollar value of the U.S. Related Accounts was \$69.8 million. This represents approximately 1.3% of HBL’s total client assets of \$5.2 billion.

20. In order to open an account at HBL, clients typically were required to have a close connection to Switzerland, the Canton of Aargau, or HBL. Of the 96 U.S. Related Accounts, 92 were opened by residents or citizens of Switzerland. The four U.S. Related Accounts that were held by those who were not residents or citizens of Switzerland were held by those who had a strong connection to the Lenzburg area, either through a business relationship or a family member.

21. HBL's average annual revenue attributable to U.S. Related Accounts in the form of fees, commissions, and earnings on client funds that were loaned out by HBL, was \$198,000 or a total of \$1.2 million over the Applicable Period. This represents 0.3% of HBL's total revenue over the Applicable Period.

HBL's Servicing of U.S. Related Accounts

22. HBL offered a variety of traditional Swiss banking services that it knew could assist, and that did assist, U.S. clients in the concealment of assets and income from the IRS. For example, HBL, upon client request, did not send mail associated with some U.S. Related Accounts to the United States. More particularly, through its hold-mail service and at the request of clients, HBL did not send periodic statements or communications to its clients and, instead, retained correspondence at HBL for later client review, thus ensuring that documents reflecting the existence of the accounts remained outside the United States, beyond the reach of U.S. tax authorities, and protected by Swiss banking secrecy laws. Of the 96 U.S. Related Accounts, 23 had hold-mail service. Of the total HBL client population, 1,500 accounts had hold-mail service during the Applicable Period.

23. In addition, HBL offered "numbered" accounts to its clients, that is, a service by which access to information about an account, including the identity of the account holder, was limited to only certain employees of HBL. The identifying information obtained from the prospective account holder to open a numbered account and the information maintained by HBL about a numbered account are the same as that obtained to open and maintain a named account. Of the 96 U.S. Related Accounts, six were numbered accounts. Of the six numbered accounts, five were opened before 2001. Of the total HBL client population, 1,200 had numbered accounts during the Applicable Period.

24. In a small number of instances, HBL provided numbered accounts and hold-mail services to U.S. persons who had not provided HBL with a Form W-9. The account holders of five of the six U.S. Related Accounts that utilized numbered accounts and hold-mail services had not provided HBL with a Form W-9. Also, the account holders of five of the 17 U.S. Related Accounts that utilized hold-mail services, but did not also utilize numbered accounts, had not provided HBL with a Form W-9.

25. HBL also opened one account for a U.S. Person who exited UBS, although the account was opened on the same day that HBL promulgated a policy prohibiting the opening of such accounts. For another long-standing holder of a U.S. Related Account, HBL received into a pre-existing account at HBL a transfer of funds from an account held at UBS.

26. Some holders of U.S. Related Accounts declined to give HBL a Form W-9, which caused HBL to force such account holders to close their accounts. In a handful of instances, the account holders of U.S. Related Accounts who refused to provide a Form W-9 or who admitted that they were not tax compliant withdrew significant amounts of cash or physical assets when HBL forced the closure of these accounts.

27. For example, a long-time account holder who was a Swiss citizen and Swiss resident moved to the United States. In or about 2006, the account holder provided a Form W-9 for all of the account holder's accounts, even though the account holder never held U.S. securities in the accounts. In or about 2013, the account holder informed HBL that the account holder was not tax compliant in the United States. HBL forced the account holder to close the accounts. Upon the closure of the accounts, the account holder withdrew 300,000 Swiss francs in cash.

28. Another account holder who was a Swiss citizen opened an account in 1995. In or about 2001, the account holder provided a Form W-9 for all of the account holder's accounts, even though the account holder never held U.S. securities in the accounts. In or about 2012, the account holder withdrew 200,000 Swiss francs in cash and 200,000 Swiss francs in precious metals. At the time of the withdrawal of the assets, the account holder informed a bank representative that the account holder was not tax compliant in the United States.

29. Another account holder whose parents lived in Lenzburg and who resided in the United States for many years had two accounts, one of which was a numbered account. The account holder never held U.S. securities in either account. In or about 2001, the account holder provided a Form W-9. At the time, the Form W-9 was not account specific, that is, it did not relate specifically to any particular account held by the account holder. In 2012, the account holder's relationship manager requested a Form W-9 for the numbered account and the account holder refused to provide one. As a result, the relationship manager directed the account holder to close the numbered account. Thereafter, the account holder came to Lenzburg to close the numbered account. The account holder withdrew 240,000 Swiss francs and 12,000 euros and purchased precious metals in the amount of 318,000 Swiss francs.

30. In two instances, HBL accepted clients who left UBS as account holders. For example, one account holder opened an account in November 2008. The account holder was a dual citizen of the United States and Pakistan. The account holder had a connection to HBL through a niece, a Swiss resident and client of HBL. On December 3, 2008, HBL management discussed the account holder's relations to UBS and Pakistan, which HBL considered to be a high-risk country for money laundering, and decided that HBL did not want the account holder to deposit any funds at HBL. On the same day, but before the management decision took effect, the account holder's wire transfer of 400,000 Swiss francs from UBS was completed. The account holder was subsequently forced to close the account in part because of a refusal to provide a Form W-9 and in part because of a connection to Pakistan. The account was closed in July 2009.

31. As another example, a long-time account holder was a Swiss citizen and Swiss resident who had moved to the United States. In addition to holding an account at HBL, the account holder also had a UBS account. UBS required the account holder to close the UBS

account. Around September 2008, the account holder asked HBL for permission to transfer 51,000 Swiss francs from the UBS account to the HBL account. HBL agreed.

HBL's Cooperation Throughout The Swiss Bank Program

32. Throughout its participation in the Swiss Bank Program, HBL committed to providing full cooperation to the U.S. government and has made timely and comprehensive disclosures regarding its business with U.S. Persons. Specifically, HBL, with the assistance of U.S. and Swiss counsel and in compliance with Swiss law, has:

- conducted an internal investigation, which included but is not limited to: (a) interviews of relationship managers and members of management; (b) reviews of client account files, relationship manager notes, and correspondence; (c) analysis of relevant management policies and board meeting minutes; and (d) review of e-mail;
- reviewed U.S. Related Accounts held at HBL since August 2008 to determine whether any accounts would support treaty requests to the Swiss competent authority for U.S. client account records.
- described in detail the structure of its business with U.S. Persons, which included, but is not limited to, the policies concerning U.S. account holders effective during the Applicable Period and a description of activity in various accounts;
- provided a list of the names and functions of 13 individuals who structured, operated, or supervised the client-facing business at HBL, including the part of HBL's business that dealt with U.S. Persons. These individuals served as the chairman of the board of directors, members of the executive board, heads of departments, and heads of divisions;
- provided information concerning its relationship managers;
- sought and obtained waivers of Swiss bank secrecy from the holders of U.S. Related Accounts, such that it was able to identify the holders of 92 of 96 U.S. Related Accounts; and
- encouraged existing and prior holders of a U.S. Related Account to provide evidence of tax compliance or participation in an announced Offshore Voluntary Disclosure Program or Initiative or to disclose their accounts to the IRS through such a program.

**RESOLUTION OF THE BOARD OF DIRECTORS OF
HYPOTHEKARBANK LENZBURG AG**

At a duly held meeting held on August 21, 2015, the Board of Directors (the "Board") of Hypothekarbank Lenzburg AG (the "Bank") resolved as follows:

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

WHEREAS, in order to conclude such discussions, the Department has proposed that the Bank enter into a non-prosecution agreement with the Department substantially in the form attached hereto (the "Agreement"); and

WHEREAS, the Bank's outside U.S. and Swiss counsel have advised the Board of the Bank's rights, possible defenses, the terms of the Agreement, and the consequences of entering into the Agreement; and

WHEREAS, the Board has reviewed the Agreement, including the Statement of Facts attached to the Agreement, consulted with U.S. and Swiss counsel in connection with this matter, and unanimously voted to enter into the Agreement, including to pay to the Department the amount set forth in the Agreement;

The Board hereby RESOLVES that:

1. Gerhard E. Hanhart, Chairman of the Board, and Marianne Wildi, Chief Executive Officer, are hereby authorized to execute the Agreement on behalf of the Bank substantially in the form reviewed by the Board and with such non-material changes as they may approve.
2. Daniel W. Levy and Eric B. Halper, of McKool Smith P.C., U.S. counsel to the Bank, are hereby authorized to execute the Agreement as additional signatories.
3. The Bank agrees to pay an amount equal to US\$560,000.00 pursuant to the Agreement and to perform the obligations described in the Agreement consistent with, and subject to, Swiss law;
4. The Board hereby authorizes, empowers, and directs Gerhard E. Hanhart and Marianne Wildi, or their delegates, 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 documents as may be necessary or appropriate, to carry out and effectuate the purpose and intent of the foregoing resolutions; and

Exhibit B to Non-Prosecution Agreement, dated August 20, 2015

5. All of the actions of Gerhard E. Hanhart and Marianne Wildi, which actions would have been authorized by the foregoing resolutions except that such actions were taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved, and adopted as actions on behalf of the Bank.

IN WITNESS WHEREOF, the Board of Directors of the Bank has executed this Resolution effective as of August 21, 2015.



Rolf Bohnenblust
Secretary of the Board of Directors of
Hypothekbank Lenzburg AG