



U.S. Department of Justice

Tax Division

Washington, D.C. 20530

CDC:TJS:JES:MWKotila  
5-16-4728  
2014200739

John F. Savarese, Esq.  
Ralph M. Levene, Esq.  
Wachtell, Lipton, Rosen & Katz  
51 West 52<sup>nd</sup> Street  
New York, New York 10019

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

Dear Messrs. Savarese and Levene:

Rothschild Bank AG 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 Rothschild Bank AG in its Letter of Intent and information provided by Rothschild Bank AG 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 Rothschild Bank AG of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute Rothschild Bank AG 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 Rothschild Bank AG during the Applicable Period (the "conduct"). Rothschild Bank AG 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 Rothschild Bank AG and does not apply to any other entities or to any individuals. Rothschild Bank AG expressly understands that the protections provided under this

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

Agreement shall not apply to any acquirer or successor entity unless and until such acquirer or successor formally adopts and executes this Agreement. Rothschild Bank AG 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, Rothschild Bank AG agrees to pay the sum of \$11,510,000 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 Rothschild Bank AG. This payment is in lieu of restitution, forfeiture, or criminal fine against Rothschild Bank AG for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Rothschild Bank AG with respect to the conduct described in this Agreement, unless the Tax Division determines Rothschild Bank AG has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. Rothschild Bank AG 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 Rothschild Bank AG has violated any provision of this Agreement. Rothschild Bank AG 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. Rothschild Bank AG agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Rothschild Bank AG further agrees that no portion of the penalty that Rothschild Bank AG has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Rothschild Bank AG 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) Rothschild Bank AG'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 Rothschild Bank AG 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;



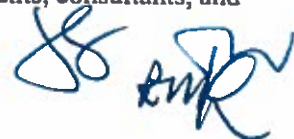
(b) Rothschild Bank AG's cooperation with the Tax Division, including conducting an internal investigation and making presentations to the Tax Division on the status and findings of the internal investigation;

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

Under the terms of this Agreement, Rothschild Bank AG 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 Rothschild Bank AG, 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, Rothschild Bank AG 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 Rothschild Bank AG 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 Rothschild Bank AG'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 Rothschild Bank AG; 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.

Rothschild Bank AG 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. Rothschild Bank AG 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. Rothschild Bank AG 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 Rothschild Bank AG.

3. Rothschild Bank AG 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. Rothschild Bank AG 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, Rothschild Bank AG will promptly proceed to follow the procedures described above in paragraph 2.
4. Rothschild Bank AG 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.

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

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

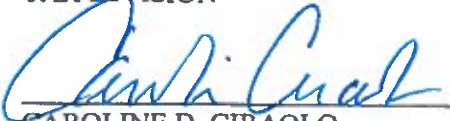
It is understood that the terms of this Agreement, do not bind any other federal, state, or local prosecuting authorities other than the Department. If requested by Rothschild Bank AG, the Tax Division will, however, bring the cooperation of Rothschild Bank AG to the attention of such other prosecuting 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 Rothschild Bank AG consistent with Part V.B of the Swiss Bank Program.



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



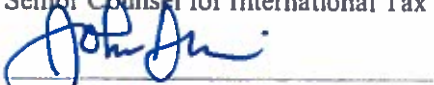
CAROLINE D. CIRAOLO  
Acting Assistant Attorney General

6/3/2015  
Date



THOMAS J. SAWYER  
Senior Counsel for International Tax Matters

6/3/2015  
Date



JOHN E. SULLIVAN  
Senior Litigation Counsel

6/3/15  
Date



MARK W. KOTILA  
Trial Attorney

6/3/15  
Date

AGREED AND CONSENTED TO:  
ROTHSCHILD BANK AG

By: 

JONATHAN WESTCOTT, ESQ.  
Member, Board of Directors  
of Rothschild Bank AG

2<sup>nd</sup> JUNE 2015  
Date

APPROVED:



JOHN F. SAVARESE, ESQ.  
Counsel for Rothschild Bank AG

2 June 2015  
Date



RALPH M. LEVENE, ESQ.  
Counsel for Rothschild Bank AG

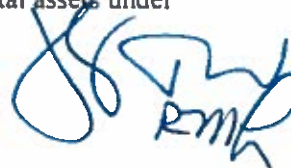
June 2, 2015  
Date

**EXHIBIT A TO THE NON-PROSECUTION AGREEMENT WITH  
ROTHSCHILD BANK AG**

**STATEMENT OF FACTS**

**INTRODUCTION**

1. Rothschild Bank AG ("Rothschild" or "the Bank") is a private bank headquartered in Zurich, Switzerland. Rothschild was founded in 1968. It also has a branch office in Geneva, Switzerland.
2. Rothschild is affiliated with the Rothschild Group, an independent worldwide group comprised of financial service companies in over 40 countries around the world. While part of the Rothschild Group's Wealth Management & Trust division, Rothschild is an independent Swiss legal entity, led by its own board of directors, chief executive officer, and executive committee, and is supported by its own legal and compliance functions. For some or all of the period August 1, 2008 to the present (the "Applicable Period"), Rothschild maintained subsidiaries and/or representative offices outside of Switzerland, including in Spain, Germany, Japan, Hong Kong, Singapore, and Guernsey. Rothschild Private Trust Holdings AG ("Rothschild Trust"), a subsidiary of Rothschild, was the holding company for entities that provided trust services located in several jurisdictions, including in Switzerland.
3. Rothschild specializes in private banking and asset management. Among other services, it offers clients portfolio management, the management and safekeeping of securities and precious metals, trading in currencies, securities, and derivatives, and secured lending. Rothschild Trust subsidiaries opened accounts for some trust clients at Rothschild, but also opened accounts for many other trust clients at other financial institutions.
4. During the Applicable Period, Rothschild did not market its services in the United States. It has never had a desk dedicated to the U.S. market or any private bankers, or "relationship managers," responsible for soliciting U.S.-based clients.
5. During the Applicable Period, Rothschild's total assets under management had a maximum value of approximately \$17.2 billion, including 332 U.S.-related accounts with an aggregate maximum balance of approximately \$1.5 billion. Of these U.S.-related accounts, 191 accounts with an aggregate maximum balance of approximately \$836 million had U.S. beneficial owners. This latter figure represented approximately five percent of the aggregate maximum balance of the Bank's total assets under management during the Applicable Period.





## 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 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.
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 (the "FBAR," formerly known as Form TD F 90-22.1). The FBAR was due on June 30 of the following year.
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 and an FBAR.
9. 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.
10. 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 Rothschild, since at least August of 2008.

### QUALIFIED INTERMEDIARY AGREEMENT AND ITS ROLE IN NON-COMPLIANT U.S. RELATED ACCOUNTS

11. In 2001, Rothschild entered into a Qualified Intermediary ("QI") Agreement with the IRS. To comply with its responsibilities as a QI, Rothschild introduced a new



Declaration U.S. Person/Non-U.S. Person form. The form was required for all new account holders and for existing account holders where possible. It required all clients to self-certify whether they were or were not U.S. persons. If the U.S. taxpayer-client provided Rothschild with a validly signed IRS Form W-9, then the client could hold U.S. securities and Rothschild would conduct Form 1099 reporting in respect of any reportable amounts, in accordance with the terms of its QI Agreement with the IRS. If the U.S. taxpayer did not provide a Form W-9, then Rothschild prohibited the client from holding any U.S. investments, in accordance with the QI Agreement, and the client's name was not provided to the IRS.

12. Thereafter, and continuing into the Applicable Period, Rothschild continued to service certain U.S. customers without disclosing their identity to the IRS and without considering the impact of U.S. criminal law on that decision.
13. Prior to April 2010, Rothschild's position was that it could service U.S. clients that it knew or had reason to believe were engaged in tax evasion so long as it (a) prohibited its accountholders from trading in U.S. based securities or (b) required that the account be nominally structured in the name of a non-U.S. based entity.
14. In the latter circumstance, U.S. clients, with the assistance of their advisors, would create an entity, such as a Liechtenstein foundation, a Panamanian corporation, or a British Virgin Islands corporation, and pay a fee to third parties to act as corporate directors. Those third parties, at the direction of the U.S. client, would then open a bank account at Rothschild in the name of the entity or transfer a pre-existing Swiss bank account from another Swiss bank. In certain instances, Rothschild made no effort to determine whether such an entity was valid for U.S. tax purposes.
15. In such cases involving a non-U.S. entity, Rothschild was aware that a U.S. client was the true beneficial owner of the account. Despite this, Rothschild would obtain from the entity's directors an IRS Form W-8BEN (or equivalent bank document) that falsely declared that the beneficial owner was not a U.S. taxpayer. Knowing it was highly probable that the U.S. client was engaging in this scheme to avoid U.S. taxes in such cases, Rothschild permitted the account to trade in U.S. securities without reporting account earnings, or transmitting any withholding taxes, to the IRS, as required by the QI Agreement. In addition, Rothschild did not institute written policies during this time prohibiting the use of offshore structures to evade the requirements of the QI Agreement.
16. During the Applicable Period, Rothschild had 66 U.S.-related accounts held by entities created in Panama, Liechtenstein, British Virgin Islands, the Cayman Islands or other foreign countries with U.S. beneficial owners. At least 21 of these accounts had false IRS Forms W-8BEN in the file.

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

17. Rothschild has, among its clients, individuals and entities resident in Switzerland along with individuals and entities resident outside of Switzerland, including certain clients who were or became citizens or residents of the United States ("U.S. taxpayers")



during the Applicable Period. Since its establishment in 1968 and through at least April 2010, Rothschild knew that it was highly probable that some U.S. taxpayers who had opened and maintained accounts at the Bank were not complying with their U.S. income tax and reporting obligations.

18. During the Applicable Period, 63 private bankers or "relationship managers" were responsible for managing at least one U.S.-related account at Rothschild. These relationship managers served as the primary contact persons for the Bank's U.S. clients or their advisors. Nineteen of the relationship managers were responsible for managing most of the U.S.-related accounts at Rothschild.
19. Rothschild offered a variety of traditional Swiss banking services that it knew could and did assist U.S. taxpayers in concealing assets and income from the IRS. As discussed above, for example, Rothschild permitted certain U.S. taxpayers to open accounts held in the name of offshore structures where the U.S. taxpayer's interest in the account was not reported to the IRS. Some such offshore structure accounts were operated without strict adherence to corporate formalities and, in effect, were operated by the U.S. beneficial owners as sham, conduit, or nominee entities. In this regard, in some instances, Rothschild relationship managers met with or took directions or instructions from the U.S. taxpayer beneficial owner of an offshore structure account, instead of the directors or other authorized parties on the account.
20. Another service that Rothschild offered was hold mail, pursuant to which the Bank would hold all mail correspondence for a particular client at the Bank. The Bank also offered code name or numbered account services. These services allowed certain U.S. taxpayers to minimize the paper trail associated with the undeclared assets and income they held at Rothschild in Switzerland.
21. In addition, the Bank employed a variety of other means to assist U.S. taxpayers in concealing their Rothschild accounts, including by:
  - a) following instructions from certain U.S. taxpayers not to disclose their names to the IRS;
  - b) accepting Forms W-8BEN that falsely stated under penalties of perjury that the sham entities beneficially owned the assets in the undeclared accounts;
  - c) opening accounts for U.S. taxpayers who had left other Swiss banks that were being investigated by the U.S. Department of Justice, including UBS;
  - d) in one instance, providing a cash card linked to an undeclared account; and
  - e) acting as a custodian with respect to bank accounts maintained by U.S. taxpayers that were managed by external asset managers.
22. Rothschild and its employees have been aware of its U.S. clients' tax and FBAR reporting obligations for many years. Nonetheless, it opened, serviced, and profited



from accounts for U.S. taxpayers with the knowledge that some were likely not complying with these obligations.

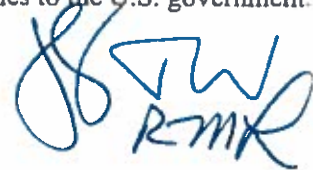
### MITIGATING FACTORS

23. Beginning in 2009, Rothschild undertook a thorough review of its policies and procedures in an effort to improve and enhance its controls over accounts, account documentation, and the tax compliance of its account holders. As part of that effort, in or about April 2010, Rothschild adopted new policies imposing stricter limitations on the opening of U.S.-taxpayer accounts. From April 2010 forward, Rothschild accepted an account for an individual U.S. taxpayer only if he or she was resident outside the U.S. and only if the prospective account holder executed an IRS Form W-9 and provided a copy of an FBAR filing or a statement from a certified public accountant confirming an FBAR filing. With respect to offshore structures with U.S. taxpayer beneficial owners, Rothschild required the account holder to provide an IRS Form W-8BEN (or Rothschild substitute form) or Form W-8IMY (or Rothschild substitute form), as applicable, and copies of IRS tax filings on an annual basis, including, as applicable, copies of IRS Form 5471 (for offshore companies) and IRS Form 3520-A (for trusts), in order to confirm that the U.S. taxpayer beneficial owners were in compliance with applicable U.S. tax and information reporting requirements.
24. Recognizing that certain accounts had been opened under prior policies, including certain U.S. taxpayer accounts that may not have been disclosed to the IRS, Rothschild instituted a legacy account remediation project beginning in early 2010. Pursuant to that project, each account held directly or indirectly by a U.S. taxpayer was required to produce evidence of U.S. tax compliance; if such accounts did not produce the required documentation, the account was terminated by Rothschild. These efforts were undertaken as part of a major initiative at Rothschild intended to augment compliance across its private banking business through enhanced rules of conduct for businesses in many markets, including the United States. With respect to the U.S. market in particular, Rothschild was also aware of the U.S. Department of Justice's investigation of UBS AG and took it as a further reason to review and enhance its compliance with respect to the handling of U.S.-taxpayer accounts.
25. Rothschild has fully cooperated with the Department of Justice ("Department") during its participation in the Swiss Bank Program. Rothschild engaged U.S. and Swiss counsel as well as forensic accounting experts to conduct an internal review in order to identify and collect data and information regarding its U.S.-taxpayer accounts and to examine its conduct in relation to such accounts. Rothschild then reported on the findings of its internal review to the Department, providing an in-person presentation and documentation supporting the findings of its review.
26. Rothschild further assisted the Department by providing on an anonymous basis aggregate and account-level information regarding accounts held by U.S. taxpayers who may not have been fully compliant with U.S. tax laws. Rothschild also assisted and has agreed to continue to assist the Department in preparing treaty requests under the Convention between the United States of America and the Swiss Confederation for



the Avoidance of Double Taxation with Respect to Taxes on Income (Oct. 2, 1996), and the Protocol Amending the Convention (Sept. 23, 2009), if and when it is in force and applicable, including by identifying U.S.-taxpayer accounts that may meet the standard for information exchange under these treaties.

27. All told, Rothschild closed approximately 296 U.S.-taxpayer accounts between August 1, 2008 and December 31, 2013, totaling approximately \$794 million in assets under management. Many of these U.S.-taxpayer accounts were closed in connection with Rothschild's remediation efforts. In addition, Rothschild informed clients about and encouraged clients to enter the IRS's offshore voluntary disclosure program. Based on Rothschild's efforts, many of its former U.S. clients entered into the IRS's voluntary disclosure program and paid back taxes, penalties, and interest in connection with failing to report their undeclared accounts. In addition, the Bank obtained waivers from some of its former U.S. clients, and provided their names to the U.S. government.

Handwritten signature and initials in blue ink. The signature appears to be 'J. G. W.' and the initials below it are 'RMR'.



## **EXHIBIT B TO THE NON-PROSECUTION AGREEMENT**

### **WITH ROTHSCHILD BANK AG**

#### **RESOLUTION OF THE BOARD OF DIRECTORS**

WHEREAS, the Board of Directors (the "Board") of Rothschild Bank AG (the "Bank") decided in December 2013 to participate in the Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks, dated 29 August 2013 (the "US Program");

WHEREAS, the Bank submitted on 23 December 2013 a Letter of Intent to the US Department of Justice ("DOJ") indicating its intention to participate as a category 2 bank in the US Program;

WHEREAS, in the Joint Statement between the DOJ and the Swiss Federal Department of Finance, Swiss banks have been encouraged by both the Swiss Government and the Swiss Financial Market Authority FINMA to participate in the US Program;

WHEREAS, the DOJ on 27 May 2015 proposed to the Bank a non-prosecution agreement (the "NPA") in connection with its participation in category 2 of the US Program;

WHEREAS, the Group Head of Legal and Compliance and the Bank's outside US counsel have advised the Board of the consequences of entering into the NPA and the rights and obligations thereunder; and

WHEREAS, management of the Bank seeks the authorization from the Board to execute the NPA on behalf of the Bank and to take such other and further actions as may be necessary or appropriate to fulfill any further obligations in connection with its participation in category 2 of the US Program and under the NPA as executed.

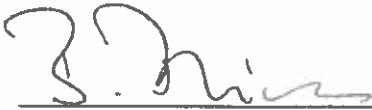
At a duly convened meeting on 1 June 2015, the Board hereby RESOLVED that:

1. The Board of the Bank has fully reviewed the NPA attached hereto, including the Statement of Facts attached as Exhibit A to the NPA.
2. The Board of the Bank has voted unanimously to enter into the NPA, including to pay a sum of USD 11,510,000 to the DOJ in connection with the NPA;
3. Jonathan Westcott, Esq., Member, Board of Directors of the Bank, is hereby authorized to solely execute the NPA on behalf of the Bank (the "Authorized Signatory") substantially in such form as reviewed by this Board with such non-material changes as the Authorized Signatory may approve;
4. Both John F. Savarese and Ralph M. Levene, Wachtell, Lipton, Rosen & Katz, US counsel to the Bank, are hereby authorized to sign the NPA as additional signatories (the "Additional Signatories");
5. The Board hereby authorizes, empowers and directs the Authorized Signatory or his delegate 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, including to effectuate the NPA and the fulfillment of the Bank's obligations thereunder; and

6. All of the actions of the Authorized Signatory (or his delegate) and the Additional Signatories which have or will be taken in connection with the Bank's participation in category 2 of the US Program and the NPA are hereby 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 this 1st day of June 2015.



Bruno Pfister  
Chairman  
Board of Directors Rothschild Bank AG



Ivona Linder  
Corporate Secretary  
Rothschild Bank AG