



U.S. Department of Justice

Tax Division

Washington, D.C. 20530

CDC:TJS:JESullivan
5-16-4727
2014200738

Douglas M. Tween, Esq.
Baker & McKenzie LLP
452 Fifth Avenue
New York, New York 10018

Re: Banque Pasche SA
DOJ Swiss Bank Program – Category 2
Non-Prosecution Agreement

Dear Mr. Tween:

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

On the understandings specified below, the Department of Justice will not prosecute Banque Pasche SA for any tax-related offenses under Titles 18 or 26, United States Code, or for any monetary transaction offenses under Title 31, United States Code, Sections 5314 and 5322, in connection with undeclared U.S. Related Accounts held by Banque Pasche SA during the Applicable Period (the "conduct"). Banque Pasche SA 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 Banque Pasche SA and does not apply to any other entities or to any individuals. Banque Pasche SA expressly understands that the protections provided under this Agreement shall not apply to any acquirer or successor entity unless and until such acquirer or successor formally adopts and executes this Agreement. Banque Pasche SA enters into this

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

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

In recognition of the conduct described in this Agreement and in accordance with the terms of the Swiss Bank Program, Banque Pasche SA agrees to pay the sum of \$7,229,000 as a penalty to the Department of Justice ("the Department"). This shall be paid directly to the United States within seven (7) days of the execution of this Agreement pursuant to payment instructions provided to Banque Pasche SA. This payment is in lieu of restitution, forfeiture, or criminal fine against Banque Pasche SA for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Banque Pasche SA with respect to the conduct described in this Agreement, unless the Tax Division determines Banque Pasche SA has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. Banque Pasche SA acknowledges that this penalty payment is a final payment and no portion of the payment will be refunded or returned under any circumstance, including a determination by the Tax Division that Banque Pasche SA has violated any provision of this Agreement. Banque Pasche SA agrees that it shall not file any petitions for remission, restoration, or any other assertion of ownership or request for return relating to the penalty amount or the calculation thereof, or file any other action or motion, or make any request or claim whatsoever, seeking to collaterally attack the payment or calculation of the penalty. Banque Pasche SA agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Banque Pasche SA further agrees that no portion of the penalty that Banque Pasche SA has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Banque Pasche SA to claim, assert, or apply for, either directly or indirectly, any tax deduction, any tax credit, or any other offset against any U.S. federal, state, or local tax or taxable income.

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

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

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

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

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

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

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

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

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

Banque Pasche SA 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. Banque Pasche SA 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. Banque Pasche SA agrees to close as soon as practicable, and in no event later than two years from the date of this Agreement, any and all accounts of recalcitrant account holders, as defined in Section 1471(d)(6) of the Internal Revenue Code; has implemented, or will implement, procedures to prevent its employees from assisting recalcitrant account holders to engage in acts of further concealment in connection with closing any account or transferring any funds; and will not open any U.S. Related Accounts except on conditions that ensure that the account will be declared to the United States and will be subject to disclosure by Banque Pasche SA.

3. Banque Pasche SA agrees to use best efforts to close as soon as practicable, and in no event later than the four-year term of this Agreement, any and all U.S. Related Accounts classified as "dormant" in accordance with applicable laws, regulations and guidelines, and will provide periodic reporting upon request of the Tax Division if unable to close any dormant accounts within that time period. Banque Pasche SA will only provide banking or securities services in connection with any such "dormant" account to the extent that such services are required pursuant to applicable laws, regulations and guidelines. If at any point contact with the account holder(s) (or other person(s) with authority over the account) is re-established, Banque Pasche SA will promptly proceed to follow the procedures described above in paragraph 2.
4. Banque Pasche SA agrees to retain all records relating to its U.S. cross-border business, including records relating to all U.S. Related Accounts closed during the Applicable Period, for a period of ten (10) years from the termination date of the this Agreement.

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

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

It is understood that if the Tax Division determines, in its sole discretion, that:

- (a) Banque Pasche SA committed any U.S. federal offenses during the term of this Agreement;
- (b) Banque Pasche SA or any of its representatives have given materially false, incomplete, or misleading testimony or information;
- (c) the misconduct extended beyond that described in the Statement of Facts or disclosed to the Tax Division pursuant to Part II.D.1 of the Swiss Bank Program; or
- (d) Banque Pasche SA has otherwise materially violated any provision of this Agreement or the terms of the Swiss Bank Program,

then (i) Banque Pasche SA shall thereafter be subject to prosecution and any applicable penalty, including restitution, forfeiture, or criminal fine, for any federal offense of which the Department has knowledge, including perjury and obstruction of justice; (ii) all statements made by Banque Pasche SA's representatives to the Tax Division or other designated law enforcement agents, including but not limited to the appended Statement of Facts, any testimony given by Banque Pasche SA's representatives before a grand jury or other tribunal whether prior to or subsequent to the signing of this Agreement, and any leads therefrom, and any documents provided to the Department, the Internal Revenue Service, or designated law enforcement authority by Banque Pasche SA shall be admissible in evidence in any criminal proceeding brought against Banque Pasche SA and relied upon as evidence to support any penalty on Banque Pasche SA; and (iii) Banque Pasche SA shall assert no claim

under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or documents or any leads therefrom should be suppressed.

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

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

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


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

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

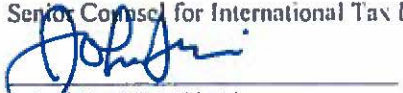
UNITED STATES DEPARTMENT OF JUSTICE
TAX DIVISION


CAROLINE D. CIRAULO
Acting Assistant Attorney General


7/9/2015
Date


THOMAS J. SAWYER
Senior Counsel for International Tax Matters

9 July 2015
Date


JOHN E. SULLIVAN
Senior Litigation Counsel

7-9-15
Date


THOMAS G. VORACEK
Trial Attorney

July 9, 2015
Date


AGREED AND CONSENTED TO:
BANQUE PASCHIE SA

By: 
ALAIN BRUNO LEVY
Vice-Chairman of the Board

7/3/2015
Date

By: 
GERIARD AUER
Member of the Board

7/3/2015
Date


DOUGLAS M. TWEEN
Counsel for Banque Pasche SA

7/3/2015
Date

**EXHIBIT A TO THE NON-PROSECUTION AGREEMENT WITH
BANQUE PASCHE SA**

STATEMENT OF FACTS

INTRODUCTION

1. Banque Pasche SA (“Banque Pasche” or “the Bank”) is headquartered in Geneva, Switzerland, where it has approximately 50 employees. The Bank currently has a branch in Zurich, with approximately 15 employees, which is largely the result of the acquisition of the Zurich-based Swissfirst Bank in 2007.
2. Banque Pasche opened and acquired several entities over the years in different jurisdictions, resulting in the creation of a group of companies owned and controlled by the Bank. In particular, in 1998 the Bank opened an entity in Monaco, and a year later established a subsidiary in Nassau, Bahamas. In 2007, in addition to the acquisition of Swissfirst Bank in Zurich, Banque Pasche acquired the Geneva-based asset management company Agefor. The Bank opened a branch office in Montevideo, Uruguay, as well.
3. In 2008, Banque Pasche took over the Liechtenstein bank SFL, and two additional companies, Valeroso and Alternative Gestion, also joined the group in 2008. The Bank then opened offices in Dubai, Shanghai, Sao Paulo and Rio de Janeiro, to focus on the development of its markets in these regions. At the end of 2012, the Bank decided to cease operations in Montevideo and Sao Paolo. The Bank is currently engaged in a process of simplification of the group by means of the sale or closure of a number of these companies and offices.
4. Banque Pasche targets primarily French clients, but also looks to the African, Middle Eastern, and Latin American markets as emerging growth areas. The Bank has never had a U.S. desk or an office in the United States. To the extent that Banque Pasche completes transactions using U.S. dollars, it used correspondent banks, including UBS AG (“UBS”).
5. During the Applicable Period, Banque Pasche’s total assets under management had a maximum value of approximately \$6.2 billion, including 186 U.S. Related Accounts, as defined under the Swiss Bank Program, with an aggregate maximum balance of approximately \$655 million. Of these U.S. Related Accounts, 110 accounts with an aggregate maximum balance of approximately \$111 million had U.S. beneficial owners. This latter figure represented approximately two 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, maintained in a foreign country, and 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 publicly announced that it was the target of a criminal investigation by the IRS and the United States Department of Justice (“Department”) and that it would be exiting and no longer accepting certain U.S. clients. On February 18, 2009, the Department 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 Banque Pasche, since at least August of 2008.

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

11. In 2001, Banque Pasche entered into a Qualified Intermediary (“QI”) Agreement with the IRS. To comply with its responsibilities as a QI, Banque Pasche 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 Banque Pasche with a validly signed IRS Form W-9, then the client could hold U.S. securities and Banque Pasche 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 Banque Pasche 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, Banque Pasche continued to service certain U.S. customers without disclosing their identity to the IRS and without regard for impact of U.S. criminal law on that decision.
13. Prior to April 2010, Banque Pasche’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 external 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 Banque Pasche in the name of the entity or transfer a pre-existing Swiss bank account from another Swiss bank. In certain instances, Banque Pasche made insufficient efforts to determine whether such an entity was valid for U.S. tax purposes.
15. In certain cases involving a non-U.S. entity, Banque Pasche was aware that a U.S. client was the true beneficial owner of the account. Despite this, Banque Pasche 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, Banque Pasche 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, Banque Pasche did not institute written policies during this time prohibiting the use of offshore structures to evade the requirements of the QI Agreement.
16. As of December 31, 2008, Banque Pasche had approximately 15 U.S. Related Accounts held by entities created in Panama or the British Virgin Islands with U.S. beneficial owners. At least ten of these accounts had false IRS Forms W-8BEN in the

file. In addition, at least 4 other U.S. Related Accounts with offshore structures did not have a signed IRS Form W-8BEN in the file.

OVERVIEW OF BUSINESS WITH U.S. RELATED ACCOUNTS

17. During the Applicable Period, 23 private bankers or “relationship managers” were responsible for managing at least one U.S. Related Account at Banque Pasche. These relationship managers served as the primary contact persons for the Bank’s U.S. clients or their advisors. Nine of the relationship managers were responsible for managing most of the U.S. Related Accounts at Banque Pasche. These numbers include relationship managers who “inherited” accounts from departing relationship managers who were the ones to open the U.S. Related Accounts.
18. Banque Pasche was aware that U.S. taxpayers had a legal duty to report to the IRS, and pay taxes on all their worldwide income, including income earned from accounts maintained in Switzerland. Despite being aware of this legal duty, Banque Pasche failed to ensure that its U.S. clients were abiding by that duty when it accepted them as customers, and failed to investigate in situations in which the Bank had evidence indicating its customers were using their accounts to evade their U.S. tax obligations.
19. In particular, from at least August 2008 through August 2013, Banque Pasche assisted certain U.S. taxpayers in evading their U.S. taxes and filing obligations, filing false income tax returns with the IRS, and hiding offshore assets from the IRS.
20. In particular, Banque Pasche opened accounts for at least 20 U.S. taxpayers who had left other Swiss banks that were being investigated by the Department, including UBS and Credit Suisse. Most of these accounts were brought to the Bank by business introducers who received commission payments based on the amount of assets they brought into the Bank.
21. With respect to the majority of these 20 accounts, Banque Pasche knew or should have known that the beneficial owners were attempting to evade U.S. tax and foreign account reporting requirements, but failed to ascertain whether they were in fact tax compliant, and did not do enough to encourage them to be tax compliant. Many of these accounts were held by Panamanian corporations with U.S. beneficial owners. With respect to some of these, a particular Geneva-based attorney held a power of attorney over the accounts. When these accounts were subsequently closed, the assets were transferred to banks located in Israel and Hong Kong in an attempt to further escape detection from U.S. authorities.
22. Banque Pasche also 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, Banque Pasche 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.

23. Another service that Banque Pasche 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 Banque Pasche in Switzerland.
24. In addition, the Bank employed a variety of other means to assist U.S. taxpayers in concealing their Banque Pasche accounts, including by:
- a) opening accounts without Forms W-9, despite knowing that the account holder was a U.S. person;
 - b) following instructions that U.S. Related Accounts not hold U.S. securities, which otherwise would require disclosure to the IRS;
 - c) accepting Forms W-8BEN that falsely stated under penalties of perjury that the sham entities beneficially owned the assets in the undeclared accounts; and
 - d) providing credit cards to U.S. clients, the bills for which were sent to the Bank and paid with funds from undeclared accounts; and
25. Despite instituting administrative policies requiring that Forms W-9 be provided in 2008, Banque Pasche did not require the closure of accounts that lacked these forms. As a result, the Bank further assisted certain U.S. taxpayers in underreporting their income to the IRS for four additional years.

MITIGATING FACTORS

26. Prior to June 2010, Banque Pasche did not have any U.S.-specific business policies. Thereafter, the Bank decided not to do further business with any U.S. clients, which eventually led to the identification and closure of many U.S. Related Accounts. As part of its closure of these accounts, the Bank urged the U.S. taxpayers to enter into the IRS Offshore Voluntary Compliance Program (“OVDP”) if their accounts were not already declared.
27. After the Swiss Bank Program was announced in August 2013, Banque Pasche immediately set up a task force to deal with the work required under the Program. The Bank has fully cooperated with the Department during its participation in the Program. Banque Pasche 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. Banque Pasche 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. Specifically, the Bank, in compliance with Swiss law, has:

- Conducted an internal investigation which included but was not limited to: (a) interviews of key relationship managers, supervisory relationship managers and members of management; (b) reviews of client account files and correspondence; and (c) analysis of relevant management policies;
 - Described in detail the structure of its business with U.S. persons, which included, but was not limited to: (a) the policies concerning U.S. account holders effective during the Applicable Period; (b) a narrative description of the top 20 accounts by value of assets; (c) a narrative description of all U.S. Related Accounts without individual U.S. beneficial owners where requested by DOJ; and (c) a narrative description of several additional U.S. Related Accounts where tax compliance documentation could not be obtained;
 - Provided the names of two-thirds of the members of the Bank's Management Committee; and
 - Provided information about its relationships with external asset managers.
28. The Bank has also implemented appropriate and required steps in order to comply with the U.S. Foreign Account Compliance Act.
29. Banque Pasche 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. Banque Pasche 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.
30. All told, Banque Pasche closed more than 90% of U.S.-taxpayer accounts between August 2008 and October 2013, totaling more than 95% of the assets under management of such accounts. Many of these U.S.-taxpayer accounts were closed in connection with Banque Pasche's remediation efforts. Based on Banque Pasche'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 a number of its former U.S. clients and provided their names to the U.S. government.

EXHIBIT B TO NON-PROSECUTION AGREEMENT


CERTIFICATE OF CORPORATE RESOLUTION OF THE BOARD OF DIRECTORS
OF BANQUE PASCHE SA

We Alain Bruno Levy, Vice-Chairman of the board of directors of Banque Pasche SA (the Bank), a corporation duly organized and existing under the laws of Switzerland, and Marcin Sztremer, acting secretary of the board of directors of the Bank, do hereby certify that the following is a complete and accurate copy of a resolution considered and adopted by the board of directors of the Bank:


- 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 Swiss and U.S. counsel in connection with this matter; and (iii) unanimously voted to enter into the Non-Prosecution Agreement, including to pay a sum of USD 7,229,000 to the U.S. Department of Justice in connection with the Non-Prosecution Agreement; and
- That Alain Bruno Levy, the Bank's Vice-Chairman of the board of directors, and Gerhard Auer, Member of the board of directors, both registered in the Commercial Register of the Canton of Geneva 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 of directors 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 Douglas M. Tween, Baker & McKenzie LLP, is hereby authorized to sign the Non-Prosecution Agreement in his capacity as the Bank's U.S. counsel.

We 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, we have executed this Certification this 3rd day of July 2015.



Alain Bruno Levy
Vice-Chairman



Marcin Sztremer
Secretary