U.S. Department of Justice

Tax Division

Washington, D.C. 20530

LJW:TJS:CDWasserman
DJ: 5-16-4694
CMN: 2014200702

July 20, 2015

Keith D. Krakaur, Esquire
Christopher Gunther, Esquire
Skadden, Arps, Slate, Meagher & Flom, LLP
Four Times Square
New York, NY 10036

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

Dear Messrs. Krakaur and Gunther:

Falcon Private Bank AG ("Falcon") 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 Falcon in its Letter of Intent and information provided by Falcon 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 Falcon of the Swiss Bank Program will constitute a breach of this Agreement.

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

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

unless and until such acquirer or successor formally adopts and executes this Agreement. Falcon 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, Falcon agrees to pay the sum of $1,806,000.00 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 Falcon. This payment is in lieu of restitution, forfeiture, or criminal fine against Falcon for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Falcon with respect to the conduct described in this Agreement, unless the Tax Division determines Falcon has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. Falcon 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 Falcon has violated any provision of this Agreement. Falcon 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. Falcon agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Falcon further agrees that no portion of the penalty that Falcon has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Falcon 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) Falcon'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 Falcon attracted and serviced account holders; and
- in-person presentations and documentation, properly translated, supporting the disclosure of the above information and other information that was requested by the Tax Division;

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

Under the terms of this Agreement, Falcon 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 Falcon, 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, Falcon 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 Falcon's 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 Falcon'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 Falcon; 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.

Falcon further agrees to undertake the following:

1. Falcon 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 page 2 of this Agreement, Falcon will promptly provide the entirety of the transaction information upon request of the Tax Division.

2. Falcon 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 Falcon.

3. Falcon 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. Falcon 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, Falcon will promptly proceed to follow the procedures described above in paragraph 2.

4. Falcon 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.

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

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

It is understood that Falcon contends that it has jurisdictional arguments and defenses that it could raise to support a claim that it is not subject to prosecution for any criminal offense in the courts of the United States. By entering into this Agreement, Falcon does not prospectively waive these arguments or defenses and it reserves the right to assert any applicable jurisdictional argument or defense in any future prosecution or civil action by the United States.

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

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

7/30/2015

CAROLINE D. CIRAOLO
Acting Assistant Attorney General
Tax Division

DATE

for 7.30.15

THOMAS J. SAWYER
Senior Counsel for International Tax Matters

DATE

Jly 30, '15

CARL D. WASSERMAN
Trial Attorney, Tax Division, U.S. Department of Justice

DATE

AGREED AND CONSENTED TO:

FALCON PRIVATE BANK

By: 27.7.2015

Eduardo Leemann
Chief Executive Officer

DATE

By: 27.7.2015

Tobias Unger
Chief Operating Officer

DATE

APPROVED:

July 28, 2015

KEITH KRAKAUR, ESQUIRE
Skadden, Arps, Slate, Meagher & Flom LLP

DATE

July 28, 2015

CHRISTOPER J. GUNTHER, ESQUIRE
Skadden, Arps, Slate, Meagher & Flom LLP

DATE

EXHIBIT A TO FALCON PRIVATE BANK AG
NON-PROSECUTION AGREEMENT

STATEMENT OF FACTS

I. Background

1. Falcon Private Bank AG ("Falcon" or the "Bank") is a private bank headquartered in Zurich, Switzerland. The Bank was founded in 1965 by American International Group, Inc. ("AIG"), and was originally established under the name Ubersee ("Overseas") Bank AG. The Bank has branches in Geneva, Hong Kong, and Singapore, and representative offices in Abu Dhabi, Dubai, and London. Since April 2009, Falcon has been owned by aabar Investments ("aabar"). The majority shareholder of aabar is the International Petroleum Investment Company, a sovereign wealth fund owned by the government of Abu Dhabi. As of December 31, 2014, the Bank had approximately $15.5 billion in client assets.

2. During the Applicable Period,[1] the Bank provided private banking services to individuals and entities in and outside Switzerland, including a small number of citizens and residents of the United States ("U.S. taxpayers"). The Bank provided these services principally through relationship managers based in Zurich, Switzerland. The Bank also acted as a custodian of assets that were managed by a limited number of external asset managers principally based in Switzerland, including assets beneficially owned and controlled by a small number of U.S. taxpayers.

3. 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.

II. U.S. Income Tax and Reporting Obligations

4. 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 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.

---

1 Any capitalized term not defined in this statement of facts has the meaning assigned to it in the Program.

5. Since 1970, U.S. citizens, resident aliens, and legal permanent residents who 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 90-22.1 (the "FBAR"). The FBAR for the applicable year was due by June 30 of the following year.

6. 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 other form and an FBAR as required.

7. In or about 2008, Swiss bank UBS AG ("UBS") publicly announced that it was the target of a criminal investigation by the Internal Revenue Service and the United States Department of Justice and that it would be exiting and no longer accepting certain U.S. clients. On February 18, 2009, the Department of Justice and UBS filed a deferred prosecution agreement in the Southern District of Florida in which UBS admitted that its cross-border banking business used Swiss privacy law to aid and assist U.S. clients in opening and maintaining undeclared assets and income from the IRS. Since UBS, several other Swiss banks have publicly announced that they were or are the targets of similar criminal investigations and that they would likewise be exiting and not accepting certain U.S. clients (UBS and the other targeted Swiss banks are collectively referred to as "Category 1 banks"). These cases have been closely monitored by banks operating in Switzerland including Falcon since at least August of 2008. In response, Falcon has, with limited exceptions, ceased opening new accounts involving U.S. taxpayers during the Applicable Period.

III. Qualified Intermediary Agreement and Its Role in Non-Compliant U.S. Related Accounts

8. In 2001, Falcon entered into a Qualified Intermediary Agreement with the IRS. The Qualified Intermediary regime provided a comprehensive framework for U.S. information reporting and tax withholding by a non-U.S. financial institution relating to U.S. securities. The Qualified Intermediary Agreement was designed to help ensure that, with respect to U.S. securities held in an account at the Bank, non-U.S. persons were subject to the proper U.S. withholding tax rates and that U.S. persons holding U.S. securities were properly paying U.S. tax.

9. The Qualified Intermediary Agreement took account of the fact that Falcon, like other Swiss banks, was prohibited by Swiss law from disclosing the identity of an account holder. In general, if an account holder wanted to trade in U.S. securities and avoid mandatory U.S. tax withholding, the agreement required Falcon to obtain the consent of the account holder to disclose the client's identity to the IRS.

10. Falcon determined that it could continue maintaining accounts for U.S. customers without disclosing their identity to the IRS even if the Bank knew or had reason to believe that they were engaged in tax evasion as long its account holders were prohibited from trading in U.S. based securities or the account was nominally held by a non-U.S. based

entity. Falcon failed to consider the impact of U.S. criminal law, as did many other Swiss banks.

11. With the knowledge that Swiss banking secrecy laws would prevent Falcon from disclosing their identities to the IRS absent any client or statutory authorization, certain U.S. clients of Falcon filed false and fraudulent U.S. Individual Income Tax Returns, Forms 1040, which failed to report their respective interest in their undeclared accounts and the related income. Certain U.S. clients also failed to file and otherwise report their undeclared accounts on FBARs.

IV. Overview of the U.S. Cross-Border Business

12. In the Applicable Period, the Bank maintained a total of 84 U.S. Related Accounts with an aggregate value of approximately $134 million.

13. As of August 1, 2008, Falcon had held 72 U.S. Related Accounts, with an aggregate value of approximately $122.2 million. During the Applicable Period, the Bank opened 12 additional accounts with an aggregate value of approximately $11.8 million.

14. The majority of Falcon's U.S. Related Accounts held during the Applicable Period were held in the names of entities or structures. Those accounts were almost entirely held by non-U.S. structures, such as offshore corporations or trusts. Typically, the beneficial owners of these structures created a legal entity, such as a Panamanian corporation, and paid third parties to act as the corporate "directors." Those third parties would then open a bank account at Falcon in the name of the entity, allowing clients the ability to conceal their undeclared accounts from the IRS. These U.S. Related entity accounts comprised an aggregate value of approximately $67.7 million. Falcon represents that it was not involved in establishing these entities. The majority of these structured accounts were opened prior to aabar's acquisition of the Bank, and although Falcon had a stated policy of transferring these structures to other financial institutions, as described below, Falcon was lethargic in exiting those accounts, many of which remained opened through 2013.

15. Falcon did not maintain a separate unit or desk for U.S. clients. None of its relationship managers primarily serviced U.S. clients, nor did it have any incentive structures for relationship managers to solicit or acquire U.S. Related Accounts. As a result, the 84 U.S. Related Accounts were serviced by approximately 20 different relationship managers. Although Falcon did not actively recruit U.S. clients, it maintained and serviced U.S. clients in Switzerland.

16. Some 35 of the 84 U.S. Related Accounts with an aggregate value of approximately $41.6 million were managed by nine external asset managers. Falcon did not pay any finder's fee or other fee to these external asset managers for the acquisition of U.S. clients.

17. In 2013, Falcon purchased Hyposwiss Zurich's Central & European account team in 2013, along with a number of accounts from that bank. Approximately 1,200 accounts were transferred from Hyposwiss to Falcon. Accounts with U.S. ties were explicitly excluded from the transaction.

18. Falcon maintained three insurance segregated accounts during the Applicable Period as to which it was aware that the policy holder or premium payer was a U.S. person. By placing and maintaining their assets in accounts held in the names of insurance companies and not the actual beneficial owner of the funds (a procedure known colloquially as an "insurance wrapper"), Falcon was aware that by operation of Swiss bank secrecy laws, the U.S. client's ownership would not be disclosed to U.S. authorities, including the IRS. All three insurance wrapper accounts were disclosed through an announced Offshore Voluntary Disclosure Program ("OVDP"), and the Bank obtained a waiver of Swiss bank secrecy for each of them.

19. Falcon did not market its services in the United States and its relationship managers never traveled to the United States in order to solicit or acquire clients or to market services.

20. Falcon determined that all individual U.S. clients and offshore structures should be transferred to another bank by August 31, 2009, and further decided to terminate such relationships if not transferred by September 15, 2009. As of June 2009, the Bank had identified 28 such accounts. Nevertheless, as late as July 2013, the Bank retained at least ten accounts where beneficial owners were known to have U.S. domicile without proper documentation of tax compliance. A number of those accounts were dormant accounts.

21. Through its managers, employees and/or others, Falcon knew 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.

22. Falcon also offered a variety of standard Swiss banking services which it knew could assist, and did assist, its U.S. clients in the concealment of assets and income from the IRS. One such service was hold mail. For a fee, Falcon would hold all mail correspondence for a particular client at the Bank. Falcon also offered code name or numbered account services. For a fee, the Bank would allow the account holder to replace his or her identity with a code name or number on bank statements and other documentation sent to the client. By accepting and maintaining such accounts, the Bank assisted some U.S. taxpayers who wished to evade their U.S. tax obligations. These services allowed some U.S. clients to conceal their identity and minimize the paper trail associated with undeclared assets and income they held at Falcon in Switzerland.

23. Among other things, the Bank specifically:

- Accepted instructions in connection with one U.S. Related Account not to invest in U.S. securities and not to disclose the names of U.S. taxpayer-clients to U.S. tax authorities, including the IRS.

- Issued checks, including series of checks, in amounts of less than $10,000, in seven cases, that were drawn on accounts of U.S. taxpayers or structures even though the Bank knew or had reason to know that the withdrawals were made to avoid triggering scrutiny.

- At the request of the client, held statements and other mail relating to 23 U.S. Related Accounts with an aggregate value of $24.1 million, where the U.S. taxpayers were located in the United States, rather than send them to the U.S.

taxpayers in the United States. This caused documents reflecting the existence of approximately four potentially undeclared accounts to remain outside the United States, with an aggregate value of approximately $11 million.

- Provided cash (310,000 Swiss francs and $250,000) at account closure in July 2011 to a U.S. citizen with signatory authority over an account held in the name of a British Virgin Island nominee company. Falcon knew or should have known that the account's IRS Form W-8BEN and Form A were contradictory, and that this structure was used by the U.S. taxpayer-client to help conceal her identity from the IRS.

- Closed an account at the end of 2012, held in the name of a British Virgin Islands nominee company, for the benefit of its U.S. beneficial owner. Falcon knew or should have known that the account Form W-8BEN and Form A were contradictory, and that this structure was used by the U.S. taxpayer-client to help conceal his identity from the IRS.

- Closed a British Virgin Islands nominee company account by transferring approximately $2,800,000 to a life insurance company account at a Liechtenstein bank where the beneficial owner of the account was a U.S. citizen. Falcon knew or should have known that the account Form W-8BEN and Form A were contradictory, and that this structure was used by the U.S. taxpayer-client to help conceal his identity from the IRS.

- Closed an account in 2013, held in the name of a British Virgin Islands nominee company, where the beneficial owner was a U.S. citizen. Falcon permitted the beneficial owner to withdraw 32,000 Swiss francs in 2011 without regard to corporate structure. Falcon knew or should have known that the account Form W-8BEN and Form A were contradictory, and that this structure was used by the U.S. taxpayer-client to help conceal his identity from the IRS.

- Closed an account in November 2009, held in the name of a Panamanian nominee corporation, where the beneficial owner was a U.S. citizen. Falcon permitted the beneficial owner to withdraw approximately $14,000 in 2006, and $5,000 in 2008. Falcon knew or should have known that the account Form W-8BEN and Form A were contradictory, and that this structure was used by the U.S. taxpayer-client to help conceal her identity from the IRS.

- Closed an account in October 2013 for a Panamanian nominee company where the beneficial owner was a U.S. resident. Falcon knew or should have known that the account Form W-8BEN and Form A were contradictory, and that this structure was used by the U.S. taxpayer-client to help conceal his identity from the IRS.

- Opened and maintained 11 accounts with an aggregate value of approximately $55.5 million for U.S. taxpayers who have since entered into an IRS voluntary disclosure program following notification by the Bank. One of these accounts, which had a maximum value of nearly $43,000,000 during the Applicable Period, utilized an insurance wrapper to conceal the identity of the beneficial owner. The owner of one insurance wrapper account traveled on several occasions to Falcon

to receive funds for personal use. In another insurance wrapper account, the taxpayer used a credit card/ATM card to withdraw personal funds.

24. Falcon was aware that U.S. taxpayers had a legal duty to report to the IRS, and pay taxes on the basis of all their income, including income earned in accounts that these U.S. taxpayers maintained at Falcon. Despite being aware of this legal duty, the Bank permitted accounts for U.S. taxpayers to be opened and maintained without investigating whether such accounts were undeclared.

VI. Mitigating Factors

25. During the Applicable Period, the Bank opened only 12 U.S. Related Accounts with an aggregate value of approximately $11.8 million. In three of these cases, Falcon represents that the client did not disclose that he or she was a dual citizen at account opening.

26. The Bank has cooperated with the Department and provided information to the U.S. Government about its cross-border business with U.S. Related Accounts. To do so, the Bank has, among other things, conducted email searches, reviewed client dossiers, and analyzed relevant internal documents.

27. Prior to and throughout the Applicable Period, Falcon undertook a series of reforms and actions in relation to U.S. clients. These efforts were undertaken with the specific goal of ensuring the Bank's compliance with all applicable U.S. laws.

- In 2004, the Bank decided to no longer onboard clients domiciled or incorporated in the United States as account holders. Between 2004 and 2007, no accounts were opened for U.S. domiciled clients. Eight exceptions were approved for U.S.-based operating companies owned by the Bank's former owner, AIG.

- In December 2007, the Bank decided to expand the 2004 on-boarding restrictions and to no longer accept any U.S. persons as account holders, including U.S. persons domiciled outside the United States. One exception was approved in December 2012 for one U.S.-domiciled client to enable the client to participate in an IRS offshore voluntary disclosure program, and for one operating company owned by the Bank's former owner, AIG.

28. In early 2009, the Bank decided to discontinue business relations with U.S. residents and U.S. citizens as account holders or beneficial owners. Limited exceptions to the exit policy were approved, as permitted by the U.S. securities regulations and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

29. Upon the Bank's efforts, approximately 15 percent of its U.S. Related Accounts have thus far entered into a voluntary disclosure program or initiative. Moreover, the Bank has obtained waivers of Swiss bank secrecy for approximately 60 percent of its U.S. Related Accounts and has provided customer names for those accounts to the U.S. Government.

FALCON PRIVATE BANK
SWISS PRIVATE BANKING

EXHIBIT B TO NON-PROSECUTION AGREEMENT

CERTIFICATE OF CORPORATE RESOLUTION OF THE BOARD OF DIRECTORS OF FALCON PRIVATE BANK LTD.

I, **Sylvia Weibel**, acting corporate secretary of Falcon Private Bank AG (the **Bank**), a corporation duly organized and existing under the laws of Switzerland, do hereby certify that the following is a complete and accurate copy of a resolution adopted by the board of directors of the Bank at a meeting held on July 22, 2015, at which a quorum was present and resolved as follows:

— 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 counsel in connection with this matter; and (iii) unanimously voted to enter into the Non-Prosecution Agreement, including to pay a sum of USD 1,806,000 to the U.S. Department of Justice in connection with the Non-Prosecution Agreement; and

— That Eduardo Leemann, Chief Executive Officer (CEO), and Tobias Unger, Chief Operating Officer (COO), both registered in the Commercial Register of the Canton of Zurich as having joint signatory authority, are hereby authorized (i) to jointly execute the Non-Prosecution Agreement on behalf of the Bank substantially in such form as reviewed by the Board with such non-material changes as each of they 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 Skadden, Arps, Slate, Meagher & Flom LLP, is hereby authorized to sign the Non-Prosecution Agreement in his capacity as the Bank's U.S. counsel.

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

IN WITNESS WHEREOF, I have executed this Certification this 28th day of July 2015.

Sylvia Weibel
Corporate Secretary