



U.S. Department of Justice

Tax Division

Washington, D.C. 20530

CDC:TJS:JESullivan
5-16-4696
2014200706

Scott D. Michel, Esq.
Caplin & Drysdale
On Thomas Circle, N.W., Suite 1100
Washington, D.C. 20005

Eric Stupp, Esq.
Bär & Karrer AG
Brandschenkestrasse 90
8027 Zürich
Switzerland

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

Dear Messrs. Michel and Stupp:

Finter Bank Zürich 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 Finter Bank Zürich AG in its Letter of Intent and information provided by Finter Bank Zürich 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.¹ Any violation by Finter Bank Zürich 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 Finter Bank Zürich 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 Finter Bank Zürich AG during the Applicable Period (the "conduct"). Finter Bank Zürich AG admits, accepts, and acknowledges responsibility for the conduct set forth in the Statement of Facts attached hereto as

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

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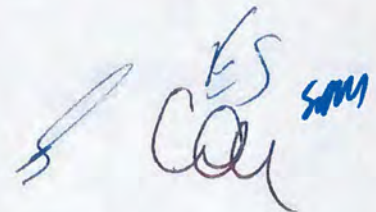
Exhibit A and agrees not to make any public statement contradicting the Statement of Facts. This Agreement does not provide any protection against prosecution for any offenses except as set forth above, and applies only to Finter Bank Zürich AG and does not apply to any other entities or to any individuals. Finter Bank Zürich AG 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. Finter Bank Zürich 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, Finter Bank Zürich AG agrees to pay the sum of \$5,414,000 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 Finter Bank Zürich AG. This payment is in lieu of restitution, forfeiture, or criminal fine against Finter Bank Zürich AG for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Finter Bank Zürich AG with respect to the conduct described in this Agreement, unless the Tax Division determines Finter Bank Zürich AG has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. Finter Bank Zürich 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 Finter Bank Zürich AG has violated any provision of this Agreement. Finter Bank Zürich 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. Finter Bank Zürich AG agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Finter Bank Zürich AG further agrees that no portion of the penalty that Finter Bank Zürich AG has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Finter Bank Zürich 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) Finter Bank Zürich 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 Finter Bank Zürich 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;

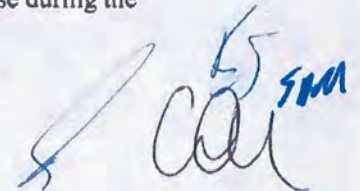
(b) Finter Bank Zürich AG's cooperation with the Tax Division, including conducting an internal investigation and making presentations to the Tax Division on the status and findings of the internal investigation;

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

Under the terms of this Agreement, Finter Bank Zürich AG shall: (a) commit no U.S. federal offenses; and (b) truthfully and completely disclose, and continue to disclose during the

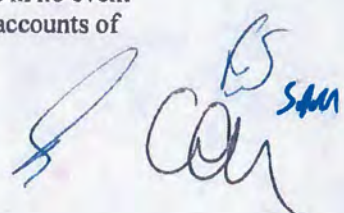


term of this Agreement, consistent with applicable law and regulations, all material information described in Part II.D.1 of the Swiss Bank Program that is not protected by a valid claim of privilege or work product with respect to the activities of Finter Bank Zürich AG, those of its parent company 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, Finter Bank Zürich 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 Finter Bank Zürich 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 Finter Bank Zürich 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 Finter Bank Zürich 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.

Finter Bank Zürich 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. Finter Bank Zürich 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. Finter Bank Zürich 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 Finter Bank Zürich AG.

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

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

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perjury and obstruction of justice; (ii) all statements made by Finter Bank Zürich 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 Finter Bank Zürich 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 Finter Bank Zürich AG shall be admissible in evidence in any criminal proceeding brought against Finter Bank Zürich AG and relied upon as evidence to support any penalty on Finter Bank Zürich AG; and (iii) Finter Bank Zürich 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 Finter Bank Zürich AG has breached this Agreement and whether to pursue prosecution of Finter Bank Zürich 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, Finter Bank Zürich AG, will be imputed to Finter Bank Zürich AG for the purpose of determining whether Finter Bank Zürich 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 Finter Bank Zürich AG has breached this Agreement, the Tax Division agrees to provide Finter Bank Zürich 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, Finter Bank Zürich AG may respond to the Tax Division in writing to explain the nature and circumstances of such breach, as well as the actions that Finter Bank Zürich AG has taken to address and remediate the situation, which explanation the Tax Division shall consider in determining whether to pursue prosecution of Finter Bank Zürich 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 Finter Bank Zürich AG, notwithstanding the expiration of the statute of limitations between such date and the commencement of such prosecution. For any such prosecutions, Finter Bank Zürich 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 Finter Bank Zürich 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 Finter Bank Zürich AG, the Tax Division will, however, bring the cooperation of Finter Bank Zürich 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 Finter Bank Zürich AG consistent with Part V.B of the Swiss Bank Program.

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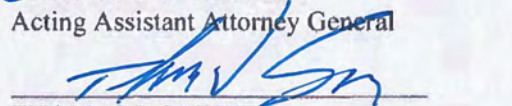
This Agreement supersedes all prior understandings, promises and/or conditions between the Department and Finter Bank Zürich AG. No additional promises, agreements, and conditions have been entered into other than those set forth in this Agreement and none will be entered into unless in writing and signed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

AGREED AND ACCEPTED

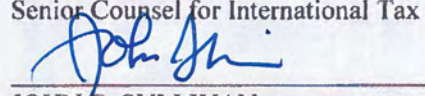
UNITED STATES DEPARTMENT OF JUSTICE
TAX DIVISION


CAROLINE D. CIRUOLO
Acting Assistant Attorney General

05/15/15
Date


THOMAS J. SAWYER
Senior Counsel for International Tax Matters

15 May 2015
Date



JOHN E. SULLIVAN
Senior Litigation Counsel

5/15/15
Date

FINTER BANK ZÜRICH AG

By: 
LUIGI CARNELLI
Chief Executive Officer
Member of the Management Board

14 MAY 2015
Date

By: 
ROGER HERREN
Member of the Management Board

14 May 2015
Date


SCOTT D. MICHEL
Counsel for Finter Bank Zürich AG

14 May 2015
Date


ERIC STUPP
Counsel for Finter Bank Zürich AG

14 May 2015
Date

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

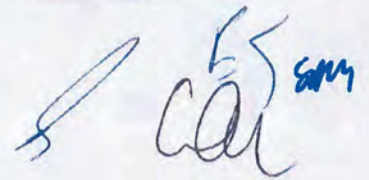
STATEMENT OF FACTS

INTRODUCTION

1. Finter Bank Zürich AG ("Finter" or "the Bank") is a private bank headquartered in Zurich, Switzerland. It primarily serves Italian and Swiss customers. Finter was founded in 1958 in Chiasso, Switzerland. It also has a branch office in Lugano, Switzerland, which was opened in 1969 after the acquisition of Banca Ferrazzini.
2. In August 2008, Finter acquired Bank Hugo Kahn AG, a Zurich-based private bank. Bank Hugo Kahn AG offered traditional private banking services to clients within and outside Switzerland, but mainly to European clients. The formal transfer of Bank Hugo Kahn AG's assets to Finter occurred on January 1, 2009, at which time Bank Hugo Kahn AG's U.S.-related accounts contained assets under management of approximately \$54 million.
3. Finter has not marketed and does 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. To the extent Finter had U.S. clients, they generally came through the Bank's non-U.S. lines of business.
4. During the relevant period, August 1, 2008 through the present, the Bank's total assets under management had a maximum value of approximately \$4.8 billion, including 283 U.S.-related accounts with an aggregate maximum balance of approximately \$235 million, or approximately five percent of the Bank's assets under management during the period.

U.S. INCOME TAX & REPORTING OBLIGATIONS

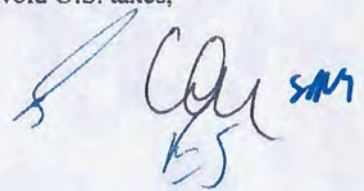
5. U.S. citizens, resident aliens, and legal permanent residents have an obligation to report all income earned from foreign bank accounts on their tax returns and to pay the taxes due on that income. Since tax year 1976, U.S. citizens, resident aliens, and legal permanent residents have had an obligation 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.
6. 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.

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7. 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.
8. 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.

USE OF NOMINEE ENTITIES TO CIRCUMVENT THE QI AGREEMENT

9. In 2001, Finter entered into a Qualified Intermediary ("QI") Agreement with the IRS. To comply with its responsibilities as a QI, Finter introduced a new Declaration U.S. Person/Non-U.S. Person form. The form was required for all new accountholders and for existing accountholders where possible. It required all clients to self-certify whether they were or were not U.S. persons. Furthermore, all U.S. persons were required to declare either that they accepted disclosure of their identity to U.S. tax authorities (in which case they could hold U.S. securities) or that they did not authorize disclosure of their name to U.S. tax authorities (in which case they could not hold U.S. securities). Finter implemented controls to block any U.S. clients who elected not to have their identities disclosed to U.S. tax authorities from holding or trading any U.S. securities.
10. But Finter continued to service U.S. customers without disclosing their identity to the IRS and without considering the impact of U.S. criminal law on that decision.
11. Finter's position was that it could actively assist 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.
12. 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 Finter in the name of the entity or transfer a pre-existing Swiss bank account from another Swiss bank. Finter made no effort to determine whether such an entity was valid for U.S. tax purposes.
13. In those circumstances involving a non-U.S. entity, Finter was aware that a U.S. client was the true beneficial owner of the account. Despite this, Finter would obtain from the entities' 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,

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Finter 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.

14. As of December 31, 2009, Finter had approximately 200 U.S.-related accounts, including accounts held by entities created in Panama, Liechtenstein, British Virgin Islands or other foreign countries with U.S. beneficial owners. At least 12 of these accounts had false IRS Forms W-8BEN in the file. In addition, at least 15 additional accounts with offshore structures did not have a signed IRS Form W-8BEN in the file.

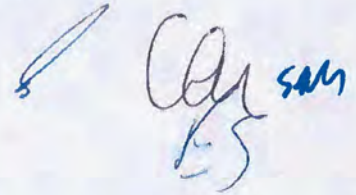
OVERVIEW OF FINTER'S U.S. CROSS-BORDER BUSINESS

15. Since its establishment in 1958 and through at least October 2011, Finter knew or should have known that it was highly probable that U.S. clients who had opened and maintained accounts at the Bank were not complying with their U.S. income tax and reporting obligations. Through its managers, employees and/or others, the Bank aided and assisted U.S. clients in opening and maintaining undeclared accounts in Switzerland and concealing the assets and income they held in these accounts from the IRS.
16. 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 concealing offshore accounts 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 Finter since at least August of 2008.
17. As of November 2008, based on internal reporting at the time, ten percent of Finter's U.S. clients, representing assets under management of \$25.2 million, had signed an IRS Form W-9, and the remaining 90 percent, with assets under management of \$129.3 million, had not. As of March 2009, based on internal reporting at the time, Finter had at least 16 U.S. ex-UBS clients, three of whom were introduced by external asset managers.
18. Relationship managers served as the primary contact for U.S. clients with undeclared accounts at Finter. Through at least October 2011, relationship managers assisted or otherwise facilitated U.S. clients in establishing and maintaining undeclared accounts in a manner designed to conceal their ownership or beneficial interest in the accounts.
19. Finter offered a variety of traditional Swiss banking services that it knew would and did assist U.S. clients in concealing assets and income from the IRS. One such service was hold mail. For a quarterly fee, the Bank would hold all mail correspondence for a

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particular client at the Bank. The Bank also offered code name or numbered account services. These services allowed U.S. clients to eliminate the paper trail associated with the undeclared assets and income they held at Finter in Switzerland.

20. In addition, the Bank employed a variety of other means to assist U.S. clients in concealing their Finter accounts, including by:
 - a) assisting clients in using sham entities as nominee beneficial owners of the undeclared accounts;
 - b) soliciting Forms W-8BEN that falsely stated under penalties of perjury that the sham entities beneficially owned the assets in the undeclared accounts;
 - c) failing to obtain and keep in its files Forms W-8BEN as required by the QI agreement;
 - d) opening accounts for U.S. clients who had left other Swiss banks that were being investigated by the U.S. Department of Justice, including UBS, Credit Suisse, and Wegelin & Co.;
 - e) providing cash cards and credit cards linked to their undeclared accounts; and
 - f) acting as a custodian with respect to bank accounts maintained by U.S. clients that were managed by external asset managers.
21. Finter 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. clients with the knowledge or suspicion that many were likely not complying with these obligations.
22. Despite the implementation of internal policies in 2009 designed to prevent the Bank from assisting U.S. clients in violating U.S. law, some relationship managers continued to assist U.S. clients in concealing their offshore accounts. Between February 2009 and October 2011, an external asset manager, who is now under indictment in the United States for conspiracy to defraud the United States, introduced 18 clients who were exiting Wegelin & Co., and one who was exiting from UBS, to the Bank. Furthermore, 13 former Credit Suisse clients became clients of Finter. Some of these new accounts were not screened or evaluated for prior or current U.S. tax compliance.
23. An internal investigation conducted in 2012 identified two employees who had violated internal bank policies. In the first instance, a Bank employee tried to circumvent the cash withdrawal limit for a U.S. client by ordering money into a meeting room while also collecting cash at the cashier desk.
24. The investigation further revealed that a second Bank employee had falsified declarations of non-U.S. status for U.S. clients. For example, in one case, this employee listed clients as being Austrian nationals, when copies of these clients' U.S.

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passports were later found in the physical customer files. In at least one instance, the Bank uncovered evidence that this second Bank employee was aware of the false U.S. status certification, including the presence of incomplete QI documentation.

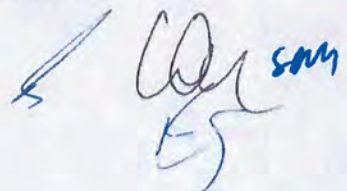
25. The Bank alerted Swiss bank regulator FINMA to these violations in 2012. FINMA investigated the Bank and found governance problems implicating these two employees, outlined in a report dated October 24, 2012. One employee was asked to leave the Bank immediately. The second employee left the Bank on his own volition before even being asked to leave. FINMA directed Finter to reorganize its board of directors to make 50 percent of its members independent, including the president. Finter was also ordered to make a majority of the audit committee and the compensation committee independent. These steps were taken. The pertinent accounts were either closed or updated to reflect their U.S. status.

WHOLLY-OWNED SUBSIDIARIES

26. Finter owned Finter Fund Management Company S.A., a Luxembourg-based fund management company. The company offered different sub-funds, which were subscribed by regulated financial intermediaries. One sub-fund invested exclusively in U.S. securities. That sub-fund was targeted only at European investors, and the sales prospectus specifically stated that the sub-fund was not open to U.S. persons. However, 22 U.S.-related accounts at Finter were invested in at least one sub-fund of the company, and two of those were invested the U.S. equities sub-fund. Finter liquidated Finter Fund Management Company S.A. in 2011.
27. Finter also owned FinterLife Lebensversicherungs AG, a Liechtenstein-based life insurance company that provided insurance and annuity products, including so-called "insurance wrapper" policies, to international, predominantly European clients. Based on the policyholders' declarations, there were no U.S. policyholders. Finter sold its majority share in FinterLife Lebensversicherungs AG in 2011.
28. Finter also owned Finter Bank & Trust (Bahamas) Ltd., a Bahamas-based bank that offered custodial, execution, and portfolio management services to international, predominantly European clients. According to Finter's policy, the Bahamian bank was not permitted to have any U.S. clients. However, one U.S. client was identified in 2009. That relationship was subsequently transferred to Finter in Switzerland. Two additional U.S. clients were identified in 2011. Those relationships were subsequently terminated. Finter also allowed one U.S. client with an account at Finter in Switzerland to withdraw \$5,000 in cash from Finter Bank & Trust in the Bahamas. Finter sold Finter Bank & Trust (Bahamas) Ltd. to another Bahamian bank in 2012.

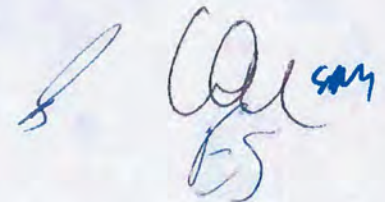
MITIGATING FACTORS

29. In August 2009, Finter's management board amended Finter's policy toward U.S.-related accounts. It prohibited all travel to the United States by Finter personnel and began requiring all potential new U.S. clients to be approved first by Finter's compliance department and second by the management board. It turned down a

Handwritten signature and initials in blue ink, including the letters 'SAM' and 'ES'.

proposal from a senior relationship manager from the UBS U.S.-client desk to bring U.S. clients to Finter. The management board also prohibited the Bank from accepting new accounts from external asset managers who referred only U.S. clients. Last, it confirmed Finter's policy that U.S. persons were prohibited from opening accounts with Finter, except for U.S. corporations with non-U.S. beneficial owners. However, Finter continued to accept U.S. clients who had not signed an IRS Form W-9 and performed no client due diligence concerning U.S. tax compliance.

30. In April 2010, the Bank published on its intranet a "Voluntary Disclosure Handbook" for various countries (including the United States), and a referral list of external service providers who were willing to advise clients concerning voluntary disclosure programs in these countries, including the IRS Offshore Voluntary Disclosure Program
31. In October 2011, the Bank implemented a policy that stated that Finter would not provide any assistance to its clients in acts aimed at deceiving Swiss or foreign authorities, particularly tax authorities, by means of incomplete or otherwise misleading attestations.
32. In November 2011, Finter decided that it would maintain accounts for U.S. clients only if the accounts had been disclosed to the relevant U.S. authorities during the period since and including 2005. In December 2011, Finter sent letters to its U.S. clients (including U.S. beneficial owners and U.S. powers of attorney) requesting a bank secrecy waiver and asking them to confirm that their accounts had been disclosed to the relevant U.S. authorities. Where the requested documentation was not provided, Finter terminated the relationship or cancelled the signature authority of the relevant U.S. person. At the same time, Finter introduced a cash withdrawal limit of \$50,000 per year for U.S. persons who had not yet provided the requested documentation. This meant that if the U.S. client refused to sign the bank secrecy waiver, upon closing the account, the client could not withdraw over \$50,000 in cash. Further, Finter determined that it could refuse to execute transfer instructions for U.S. clients who instructed that transfers be made to banks in unregulated jurisdictions. That same month, Finter revised its "Rules regarding U.S. Persons" to require that, to open any new U.S.-related account, the client was required to sign a declaration or to provide a confirmation by a U.S. tax specialist as to his or her U.S. tax compliance or to sign a bank secrecy waiver.
33. In November 2012, Finter initiated procedures to address the irregularities identified in the October 24, 2012, report to FINMA. It began providing updates to FINMA on a monthly basis. It also started performing a monthly check to detect its potential U.S. clients, using the U.S. indicia identified in the FATCA regulations.
34. In June 2013, Finter decided to terminate all relationships with U.S. clients.
35. In December 2013, Finter entered the U.S. Department of Justice's Swiss Bank Program. As a result of its participation in the Program, Finter identified additional accounts held or owned by U.S. clients who were not U.S. tax compliant.



36. Based on Finter'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 of Swiss bank secrecy from some of its former U.S. clients, and provided the names of these persons to the U.S. government.

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EXHIBIT B TO THE NON-PROSECUTION AGREEMENT

WITH FINTER BANK ZÜRICH AG

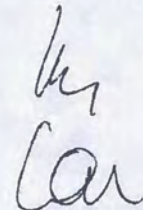
RESOLUTION OF THE BOARD OF DIRECTORS

At a duly convened meeting held on 13 May 2015, the Board of Directors (the "Board") of Finter Bank Zürich AG (the "Bank") takes note of the following:

- The Board decided in December 2013 that the Bank will participate in the Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks, dated 29 August 2013 (the "US Program"). It submitted on 23 December 2013 a Letter of Intent to the US Department of Justice ("DOJ") indicating its interest to participate as a category 2 bank in the US Program.
- 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.
- The DOJ proposed to the Bank a non-prosecution agreement (the "NPA").
- The Management of the Bank seeks the authorization from the Board to sign the NPA on behalf of the Bank.

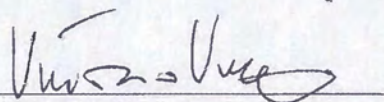
The Board hereby resolves that:

- 1 The Board of the Bank has reviewed the entire Agreement attached hereto, including the Statement of Facts attached as Exhibit A to the Agreement, including to pay a sum of USD 5,414,000.- to the DOJ in connection with the Agreement;
- 2 Luigi Carnelli, Chief Executive Officer of the Bank and Roger Herren, Head Finance & Control and Member of the Management Board are hereby jointly authorized to execute the NPA on behalf of the Bank (the "Authorized Signatories") substantially in such form as reviewed by this Board with such non-material changes as the Authorized Signatories may approve;
- 3 Both Scott Michel, Caplin & Drysdale, and Eric Stupp, Bär & Karrer Ltd., are entitled to sign the NPA as additional signatories (the "Additional Signatories");

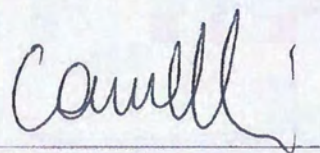


- 4 The Board hereby authorizes, empowers and directs the Authorized Signatories to take, on behalf of the Bank, any and all actions as may be necessary or appropriate, and to approve and execute the forms, terms or provisions of any agreement or other document, as may be necessary or appropriate to carry out and effectuate the purpose and intent of the foregoing resolutions; and
- 5 All of the actions of the Authorized Signatories and the Additional Signatories which have or will be taken in connection with 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.



Vittorio Volpi
Chairman
Board of Directors



Luigi Carnelli
CEO &
Designated Corporate Secretary

ADDENDUM

This Addendum to the Non-Prosecution Agreement is made by and among the Department of Justice (“the Department”), Vontobel Holding AG, and Bank Vontobel AG (“the Addendum”).

WHEREAS, Finter Bank Zurich 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 the “Swiss Bank Program”).¹

WHEREAS, on May 15, 2015, the Department and Finter Bank Zurich AG entered into a Non-Prosecution Agreement (“Agreement”).

WHEREAS, on September 30, 2015, Vontobel Holding AG acquired Finter Bank Zurich AG.

WHEREAS, on December 4, 2015, Vontobel Holding AG transferred Finter Bank Zurich AG to Bank Vontobel AG and then merged Finter Bank Zurich AG with and into Bank Vontobel AG.

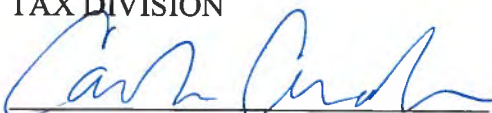
WHEREAS, pursuant to the Agreement, “the protections provided under the Agreement shall not apply to any acquirer or successor entity of Finter Bank Zurich AG unless and until such acquirer or successor formally adopts and executes this Agreement.”

NOW, THEREFORE,

1. The Department agrees that the protections afforded Finter Bank Zurich AG will continue with respect to the Finter U.S. Related Accounts that were acquired by Bank Vontobel AG. This protection relates only to matters covered by the Agreement with Finter Bank Zurich AG and does not extend to U.S. Related Accounts held by Bank Vontobel AG.
2. Bank Vontobel AG assumes the obligations of Finter Bank Zurich AG under the Agreement as they relate to Finter Bank Zurich AG.
3. Vontobel Holding AG and Bank Vontobel AG enter into the Agreement pursuant to the authority granted by the applicable laws, articles of association and regulations.

AGREED AND ACCEPTED

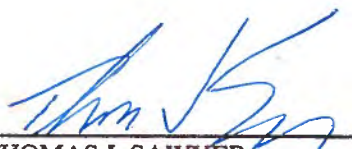
UNITED STATES DEPARTMENT OF JUSTICE
TAX DIVISION



CAROLINE D. CIRAOLO
Principal Deputy Assistant Attorney General

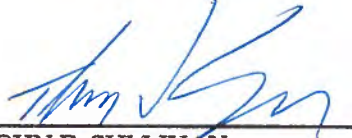
1-17-2017
Date

¹ Terms in this Addendum shall have the meaning ascribed to them in the Agreement.



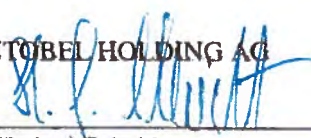
THOMAS J. SAWYER
Senior Counsel for International Tax Matters

1/17/2017
Date

FOL: 

JOHN E. SULLIVAN
Senior Litigation Counsel

1/17/2017
Date

VONTOBEL HOLDING AG
By: 


Herbert Scheidt
Chairman of the Board of Directors

11/16/17
Date

By: 

Frank Schnewlin
Member of the Board of Directors

11/16/17
Date

By: 

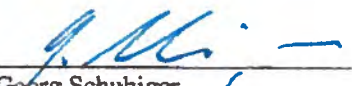
George M. Clarke III
Counsel for Vontobel Holding AG

1/16/17
Date

BANK VONTOBEL AG
By: 

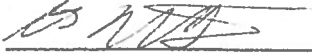
Zeno Staub
Chief Executive Officer
Member of the Executive Board

1/13/17
Date

By: 

Georg Schubiger
Member of the Executive Board

1/16/17
Date

By: 
George M. Clarke III
Counsel for Bank Vontobel AG

1/16/17
Date