U.S. Department of Justice

Tax Division

Washington, D.C. 20530

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5-16-4709
CMN 2014200720

October 27, 2015

Timothy J. Coleman, Esquire
Freshfields, Bruckhaus Deringer US LLP
700 Thirteenth Street, NW
Washington, DC 20005

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

Dear Mr. Coleman:

Luzerner Kantonalbank AG ("LUKB") submitted a Letter of Intent on December 20, 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 LUKB in its Letter of Intent and information provided by LUKB 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 LUKB of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute LUKB 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 LUKB during the Applicable Period (the "conduct"). LUKB 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 LUKB and does not apply to any other entities or to any individuals. LUKB 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. LUKB

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

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, LUKB agrees to pay the sum of $11,031,000, 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 LUKB. This payment is in lieu of restitution, forfeiture, or criminal fine against LUKB for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from LUKB with respect to the conduct described in this Agreement, unless the Tax Division determines LUKB has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. LUKB 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 LUKB has violated any provision of this Agreement. LUKB 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. LUKB agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. LUKB further agrees that no portion of the penalty that LUKB has agreed to pay to the Department under the terms of this Agreement will serve as a basis for LUKB 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) LUKB'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 LUKB 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) LUKB'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) LUKB'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 LUKB 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) LUKB's retention of a qualified independent examiner who has verified the information LUKB disclosed pursuant to II.D.2 of the Swiss Bank Program.

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

LUKB further agrees to undertake the following:

1. LUKB agrees, to the extent it has not provided complete transaction information pursuant to Part II.D.2.b.vi of the Swiss Bank Program, and set forth in subparagraph (c) on pages 2-3 of this Agreement, LUKB will promptly provide the entirety of the transaction information upon request of the Tax Division.

2. LUKB 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 LUKB.

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

4. LUKB 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.

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

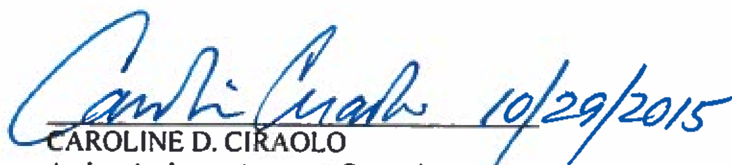
In addition, any prosecution for any offense referred to on page 1 of this Agreement that is not time-barred by the applicable statute of limitations on the date of the announcement of the Swiss Bank Program (August 29, 2013) may be commenced against LUKB, notwithstanding the expiration of the statute of limitations between such date and the commencement of such prosecution. For any such prosecutions, LUKB 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 LUKB's counsel.

It is understood that LUKB 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, LUKB 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 LUKB, the Tax Division will, however, bring the cooperation of LUKB 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 LUKB consistent with Part V.B of the Swiss Bank Program.

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



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AGREED AND CONSENTED TO:

LUZERNER KANTONALBANK AG

By:

DANIEL SALZMANN
Chief Executive Officer

October 29, 2015
DATE

By:

MARCEL HURSCHLER
Chief Financial Officer

October 29, 2015
DATE

APPROVED:

TIMOTHY J. COLEMAN
Freshfields Bruckhaus Deringer US LLP

October 29, 2015
DATE

EXHIBIT A TO LUZERNER KANTONALBANK AG

NON-PROSECUTION AGREEMENT

STATEMENT OF FACTS

INTRODUCTION

1. Luzerner Kantonalbank AG ("LUKB" or "the Bank") was established in 1850 by the Canton of Lucerne ("the Canton"), a sovereign political subdivision of the Swiss Confederation. The Canton currently owns approximately 61.5 percent of shares in the Bank. LUKB's liabilities, including all deposits, are guaranteed by the Canton.

2. Statutory law mandates that the Bank meet the financing needs of the Canton's residents, and accordingly, the Bank's primary market and most of its clientele are based in the Canton.

3. LUKB employs approximately 1,000 employees. It operates 25 offices in the Canton and one private banking office in Zurich. The Zurich office is a legacy from LUKB's acquisition of an interest in Adler & Co. Privatbank AG, which was ultimately dissolved and merged into LUKB in 2010. LUKB has never had offices, branches, or subsidiaries outside of Switzerland.

4. During the Applicable Period, as defined in the Swiss Bank Program, the Bank had approximately 300,000 accounts and held approximately $25.5 billion in client assets.[1]

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.

[1] Capitalized terms not otherwise defined in this Statement of Facts have the meanings set forth in the Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks, issued on August 29, 2013 (the "Swiss Bank Program).

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 foreign clients to conceal their Swiss bank accounts from their home country authorities.

9. In or about 2008, Swiss bank UBS AG ("UBS") publicly announced that it was the target of a criminal investigation by the IRS and the United States Department of Justice and that it would be exiting and no longer accepting certain U.S. clients. On February 18, 2009, the Department of Justice and UBS filed a deferred prosecution agreement in the Southern District of Florida in which UBS admitted that its cross-border banking business used Swiss privacy law to aid and assist U.S. clients in opening and maintaining undeclared assets and income from the IRS. Since UBS, several other Swiss banks have publically announced that they were or are the targets of similar criminal investigations and that they would likewise be exiting and not accepting certain U.S. clients. These cases have been closely monitored by banks operating in Switzerland, including LUKB, since at least August of 2008.

THE ROLE OF THE QUALIFIED INTERMEDIARY AGREEMENT

10. In 2001, LUKB entered into a Qualified Intermediary ("QI") Agreement with the IRS. The QI regime provided a comprehensive framework for U.S. securities-related information reporting and tax withholding by a non-U.S. financial institution. The QI 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 appropriate U.S. withholding tax rates and that U.S. persons holding U.S. securities were meeting their U.S. tax obligations.

11. The QI Agreement took account of the fact that LUKB, 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 LUKB to obtain the consent of the account holder to disclose the client's identity to the IRS.

12. But LUKB chose to continue 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.

13. LUKB's position was that it could assist U.S. account holders that it knew or had reason to believe were engaged in tax evasion so long as (a) its account holders were prohibited from trading in U.S. based securities, or (b) the account was nominally structured in the name of a non-U.S. based entity.

THE BANK'S U.S. CROSS-BORDER BUSINESS

14. During the Applicable Period, the Bank held a total of 595 U.S. Related Accounts. These accounts amounted to approximately $300 million, which slightly more than 1% of the Bank's total assets under management.

15. LUKB did not maintain a separate U.S. desk or employ relationship managers with a U.S. focus. The Bank did not market its services in the United States, send employees to solicit or serve clients in the United States, or offer special products or services, such as tax advisory or structuring services, to U.S. clients. U.S. Related Accounts were serviced by 166 relationship managers, 48 of which were in the private banking division.

16. Approximately twenty percent of the U.S. Related Accounts were serviced by four relationship managers.

17. LUKB maintained an External Asset Manager Desk, which was comprised of a desk head, three relationship managers and three assistants. The External Asset Manager desk reported to the market head of private banking, who, in turn, reported to the head of private banking. With respect to the externally-managed accounts, in an internal directive effective January 1, 2008, it was stated that "LUKB acts as a partner for all banking transactions. The client orders are issued by the external asset managers in the power of administration."

18. During the Applicable Period, LUKB compensated external asset managers through finder's fees (a one-time payment calculated as a percentage of assets placed with LUKB), retrocession commissions (based on a percentage of certain fees debited by LUKB from the client), and discounts in fees paid by clients who provided discretionary mandates to their external asset managers.

19. Thirty-six of the U.S. Related Accounts were serviced by 14 external asset managers.

20. LUKB 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 the U.S. taxpayers maintained at the Bank. The Bank knew or had reason to know that it was likely some taxpayers who maintained accounts at the Bank were not complying with their U.S. tax and reporting obligations.

21. LUKB offered a variety of traditional Swiss banking services that it knew could assist, and did assist, U.S. taxpayers in concealing their identity from the IRS by minimizing the paper trail associated with their undeclared assets and income.

22. One such service was hold mail, pursuant to which the Bank would hold all mail correspondence for a particular client at the Bank. LUKB entered into hold-mail agreements with at least 52 individual U.S. related individual account holders, (not including the clients described in the next paragraph), at least 49 of whom were domiciled in the United States.

23. Another service was the provision of numbered accounts. LUKB agreed with the client not to identify the client by name in its general information technology system. Instead, the client was identified in a separate information technology system which could only be accessed by a restricted group of LUKB employees. LUKB maintained at least 25 such numbered accounts. These account holders also had hold-mail agreements.

24. In addition, LUKB opened and maintained accounts held in the name of non-U.S. corporations, foundations, or other entities, while knowing, or having reason to know, that a U.S. taxpayer ultimately held an interest in these non-U.S. entities. During the Applicable period, LUKB maintained at least 17 accounts held by such non-U.S. entities, four of which held U.S. securities.

25. In at least six cases, these structured accounts were established in the names of entities set up in Panama, Seychelles and the British Virgin Islands by two-Swiss based advisory companies, which claimed to provide family office, tax advice, trust and other advisory services. The beneficial owners controlled the structured accounts through employees of the advisory companies, who in several instances were directors or members of the offshore entity. In some cases, an employee of LUKB referred bank clients to one of the advisory companies for tax advice. In at least one case, one of the advisory companies informed LUKB that the beneficial owner was concerned about the situation at UBS and wished to open an account at LUKB.

26. In at least six instances, the beneficial owner of a structured account at LUKB, upon closing the account, transferred all or the majority of the funds to a Swiss Bank Program Category 1 bank.

27. LUKB also accepted, until July 2008, instructions from at least 67 U.S. taxpayer-clients not to invest in U.S. securities and not to disclose their names to U.S. tax authorities.

28. Although LUKB did not seek to attract U.S. accounts exited from other Swiss banks, the Bank opened accounts for some U.S. taxpayers transferring from other Swiss financial institutions. In three instances, the Bank permitted U.S. taxpayers transferring from UBS to open accounts and a safe deposit box at the Bank, even though the Bank had reason to know that the accounts it was opening were undeclared.

29. In one instance, in November 2008, the Bank permitted a long-time U.S. taxpayer-client to deposit approximately $10 million in silver from an entity account he beneficially owned at UBS. In June 2009, the Bank further accepted a wire transfer of approximately $430,000 from the client's UBS account to his LUKB account. A few days later, the Bank permitted the client to withdraw cash totaling $155,000, in U.S. dollars, euros, and British pounds sterling. The client, unwilling to provide the IRS Form W-9 that the Bank requested, closed the account in autumn 2009. Prior to the closure, the client sold the silver and used the proceeds to buy maple leaf gold coins. The Bank permitted a secure transport company, retained by the client's Swiss lawyer, to collect the coins. In addition, the Bank permitted the client's children to withdraw the remaining account balance of approximately $3 million in cash.

30. In one instance, an account holder with a U.S. residence requested his relationship manager to liquidate his investments for ready pickup of the cash and to destroy the correspondence held by LUKB under a hold-mail agreement. LUKB complied with both of these requests and closed the account.

31. In at least 11 other cases, the Bank permitted U.S. taxpayer-clients who refused to provide a Form W-9 to make substantial cash withdrawals in connection with the closure of their accounts.

LUKB'S INSURANCE WRAPPER ACCOUNTS

32. LUKB also maintained 115 U.S. Related Accounts for insurance carriers as to which the Bank was aware that the policy holder or premium payer was a U.S. person, comprising approximately $65 million in assets under management. All U.S. taxpayers associated with such accounts were advised by four external asset managers.

33. An insurance-wrapped account is titled in the name of an insurance carrier, but is funded with bankable assets transferred to the account by the beneficial owner of the policy. The insurance carriers, at LUKB's request, provided LUKB with the identities of the beneficial owners of these policies.

34. The assets in the account, while titled in the name of the insurance carrier, were managed by the external asset manager for the beneficial owner through a power of attorney given by the insurance carrier.

35. Four of the external asset managers who managed the insurance-wrapped accounts were serviced by two relationship managers who worked at the External Asset Manager desk.

36. Of the 115 insurance-wrapped accounts held at LUKB, 111 were managed by External Asset Manager #1. External Asset Manager #1 approached LUKB in 2007 to discuss collaboration with LUKB, with a focus on insurance-wrapped accounts.

37. In an e-mail sent to the head of the private banking department in December 2007, the head of the External Asset Manager desk at LUKB described External Asset Manager #1 as "[specializing] in aspects of legal asset protection as well as tax optimization and has approx. CHF 750 million [Swiss francs] in assets under management, in particular in life insurances. Its main clients include wealthy U.S. nationals (doctors, lawyers, etc.)."

38. An example of the means by which an insurance-wrapped account can serve as a vehicle for concealing assets and/ or evading a tax obligation is as follows:

    - On July 3, 2008, External Asset Manager #1 instructed LUKB's external asset management desk that an insurance carrier would be sending instructions to open an annuity account.

- On July 8, 2008, LUKB confirmed the account opening with the carrier. The insurance carrier gave External Asset Manager #1 a power of attorney to manage the account.

- In August 2008, the policy holder, a citizen and resident of the United States, transferred $130,000 and securities with a value of $565,000 to the account held in the name of the insurance carrier.

- Between August 2008 and August 2009, External Asset Manager #1 made investments of securities and gold in the insurance-wrapped account.

- In May 2009, the insurance carrier transferred $110,000 to an account at a Category 1 Bank held in the name of External Asset Manager #1. The insurance carrier stated on the transfer instructions that the transfer was in "partial surrender of [the policy]."

- In December 2011, the insurance carrier informed LUKB that the policy holder had terminated the policy and instructed LUKB to transfer the funds to an account held at a Category 1 bank held by a commercial foreign exchange company.

39. LUKB knew or had reason to know that U.S. citizens, residents, and others obligated to pay U.S. taxes who contributed the assets to the insurance-wrapped accounts sought to conceal their ownership of those and also to evade their U.S. federal income tax obligations.

LUKB'S COOPERATION AND OTHER MITIGATING FACTORS

40. Prior to and throughout the Applicable Period, LUKB undertook a series of progressively more stringent measures to ensure that its clients complied with applicable U.S. tax and reporting obligations:

    - From September 15, 2008, following the UBS investigation, LUKB decided that it would only accept new U.S. clients if they provided a Form W-9 and received the approval of the Bank's Executive Board. In February 2009, the W-9 requirement was extended to all U.S. clients, along with the additional requirement of a signed bank secrecy waiver. In October 2008, however, LUKB opened three entity accounts beneficially owned by U.S. persons, without requiring a W-9 and Executive Board approval. Also in October 2008, LUKB opened one individual account for a married couple without requiring either a Form W-9 or approval of the Executive Board. The wife was born in the United States, but the Bank failed to recognize this fact at account opening. In 2013, the Bank closed the account because the wife refused to provide the required documentation. On July 3, 2009, the Bank issued detailed rules on documentation for new and existing U.S. clients, for the purpose of ensuring that their accounts were declared to the IRS. The policy required new clients to confirm that they were in compliance with U.S. tax laws and to authorize the Bank to disclose their names to the IRS if required under future QI regulations. The Bank further decided not to accept new entity clients with U.S. beneficial owners. It also extended to its existing U.S. clients all of the compliance measures already being applied to its

new U.S. clients. Starting that same month, LUKB sent letters to known U.S. clients requesting the required documentation and drawing their attention to the IRS's Offshore Voluntary Disclosure Initiative ("OVDI").

- After these rules were issued, LUKB opened one entity account with a U.S. beneficial owner. LUKB also, in July 2010, opened a jointly-held account for a Swiss citizen and second person with dual U.S. Swiss citizenship. Because of a prior relationship, LUKB had record notice of the latter account holder's dual citizenship, but failed to realize that fact. In 2015, that account holder provided a Form W-9 and FATCA waiver.

- In November 2009, the Bank began exiting U.S. clients who did not provide the documentation required under the Bank's policy.

- On December 13, 2010, subject to limited exceptions, the Bank decided to no longer accept U.S. clients, including those domiciled in Switzerland or elsewhere outside the United States. In July 2011, LUKB opened an account for a married couple with Greek citizenship; the wife, however, was born in the U.S. LUKB failed to notice the wife's U.S. nexus. In 2014, upon recognizing this oversight, LUKB closed the account because the wife refused to provide the required documentation. In three other instances, LUKB opened accounts in which the holders did not declare their U.S. nexus. Upon becoming aware of that nexus, LUKB obtained the required documentation or closed the account.

- In November 2011, subject to limited exceptions, LUKB began exiting its U.S.-domiciled clients and insurance wrapper accounts associated with U.S. policy holders, including those who previously provided the documentation required by the Bank's policy.[2] Except for two annuity accounts, which hold non-transferrable and non-tradable shares of an investment fund in liquidation, the Bank's exit of these clients was completed in August 2013. One of the two annuity accounts was closed in September 2014; the other remains open.

- On January 1, 2013, the Bank issued a formal working instruction limiting cash withdrawals in its cross-border business (including but not limited to U.S. cross-border business) to 100,000 Swiss francs per client per year.

41. The Bank has successfully closed nearly all of its U.S.-domiciled accounts and accounts held by U.S. clients who did not provide the documentation required by the Bank's policy. In

[2] One exception was for accounts held by Swiss nationals residing in the United States if the account was used to process Swiss old-age pensions, private health insurance, or disability insurance annuities. The second exception was for accounts held by Swiss nationals residing in the United States if the account was used for mortgages on real estate located in Switzerland. The third exception was for Swiss nationals temporary domiciled in the U.S if the account was used to process salaries, support payments or student loans. For all these exceptions, the account could neither hold U.S. securities nor exceed $50,000 in value.

addition, as a result of the Bank's actions, approximately 110 U.S. clients have participated in an announced IRS OVDI.

42. With respect to its participation in the Swiss Bank Program, the Bank, with the assistance of its U.S. and Swiss counsel and in compliance with Swiss privacy laws, has:

    - conducted an internal investigation which included, among other things, interviews of relationship managers and other employees, reviews of customer account files and correspondence, analysis of relevant policies, and email searches;

    - described the structure, operation, and supervision of its U.S. cross-border business, including the names of relevant individuals and entities;

    - identified additional accounts held by U.S. taxpayer-clients and, where appropriate, encouraged them to declare their accounts to the IRS through OVDI; and

    - sought and obtained Swiss bank secrecy waivers for approximately 275, or 57 percent, of its U.S. Related Accounts, and has provided customer names for those accounts to the U.S. Government.

EXHIBIT B TO NON-PROSECUTION AGREEMENT

CERTIFICATE OF CORPORATE RESOLUTION OF THE BOARD OF DIRECTORS OF LUZERNER KANTONALBANK AG

We, Markus Bachmann, chairman of the board of directors of Luzerner Kantonalbank AG (the **Bank**), a corporation duly organized and existing under the laws of Switzerland, and Prof. Dr. Christoph Lengwiler, vice chairman of the board of directors, 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 October 28, 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 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 11,031,000 to the U.S. Department of Justice in connection with the Non-Prosecution Agreement; and

— That Daniel Salzmann, chief executive officer (CEO), and Marcel Hurschler, chief financial officer (CFO), both registered in the Commercial Register of the Canton of Lucerne 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 Tim Coleman, Freshfields Bruckhaus Deringer 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 29th day of October 2015.

Markus Bachmann
Chairman of the Board of Directors

Prof. Dr. Christoph Lengwiler
Vice Chairman of the Board of Directors