U.S. Department of Justice

Tax Division

Washington, D.C. 20530

CDC:LJW:TJS:MNW
5-16-4723
CMN 2014200734

July 21, 2015

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

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

Dear Mr. Coleman:

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

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

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

successor entity unless and until such acquirer or successor formally adopts and executes this Agreement.

In recognition of the conduct described in this Agreement and in accordance with the terms of the Swiss Bank Program, Bellerive agrees to pay the sum of $57,000 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 Bellerive. This payment is in lieu of restitution, forfeiture, or criminal fine against Bellerive for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Bellerive with respect to the conduct described in this Agreement, unless the Tax Division determines Bellerive has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. Bellerive 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 Bellerive has violated any provision of this Agreement. Bellerive 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. Bellerive agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Bellerive further agrees that no portion of the penalty that Bellerive has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Bellerive 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) Bellerive'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 Bellerive 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) Bellerive'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) Bellerive'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 Bellerive 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) Bellerive's retention of a qualified independent examiner who has verified the information Bellerive disclosed pursuant to II.D.2 of the Swiss Bank Program.

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

Bellerive further agrees to undertake the following:

1. Bellerive 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, Bellerive will promptly provide the entirety of the transaction information upon request of the Tax Division.

2. Bellerive 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 Bellerive.

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

4. Bellerive 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.

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

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

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

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

7/23/2015

CAROLINE D. CIRAOLO
Acting Assistant Attorney General
Tax Division

7/23/2015

THOMAS J. SAWYER
Senior Counsel for International Tax Matters

7-23-2015

MICHAEL N. WILCOVE
Trial Attorney

AGREED AND CONSENTED TO:

PRIVATBANK BELLERIVE BANK AG

By: ______________________ 23 July 2015
WILLI ETTER DATE
Member, Executive Board

By: ______________________ 23 July 2015
DANIEL WITTMER DATE
Chief Executive Officer

APPROVED:

______________________ 23 July 2015
TIMOTHY J. COLEMAN DATE
Freshfields Bruckhaus Deringer US LLP

EXHIBIT A TO PRIVATBANK BELLERIVE NON-PROSECUTION AGREEMENT

STATEMENT OF FACTS

I. Background

1. Privatbank Bellerive AG ("Bellerive" or "the Bank") is a small private Swiss bank founded in 1988. The Bank's principal business is providing personalized wealth management and investment advisory services to a select group of high net worth individuals. The Bank's core customer base comprises a small number of wealthy Swiss families. Approximately 85 percent of the Bank's customers are domiciled in Switzerland. It accepts new clients on a referral basis only, and it does not offer retail banking or commercial banking services.

2. The Bank's sole office is in Zurich. It currently has 15 full-time employees.

II. U.S. Income Tax & Reporting Obligations

3. 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 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.

4. 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 have been 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 must be filed on or before June 30 of the following year.

5. 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.

6. 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.

7. 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 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 Bellerive, since at least August of 2008.

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

8. On November 1, 2000, the Bank 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 with respect 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 the Bank, 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 the Bank to obtain the consent of the account holder to disclose the client's identity to the IRS.

10. Prior to November 1, 2000, Bellerive required individuals subject to federal income tax under the United States Internal Revenue Code and who were beneficial owners of accounts at the Bank to sign a "Form 1" titled "W-9 Custodian Waiver." The "Form 1" contained two statements from which the beneficial owner could choose which one to sign. The first of the two options stated: "I would like to avoid disclosure of my identity to the U.S. tax authorities under the new tax regulations. To this end, I declare that I expressly agree that my account shall be frozen for all new investments in U.S. securities as from November 1, 2000." The second option stated "I [still] would like to make investments in U.S. securities in the future. Privatbank Bellerive, Ltd therefore encloses form W-9 for this purpose. I authorize Privatbank Bellerive, Ltd to forward form W-9 completed and signed by me to the U.S. custodian. I am aware that my identity will thereby be disclosed to the U.S. tax authorities [IRS]." Beginning in 2001, the Bank required all U.S. account holders

domiciled in the United States to execute a Form W-9 regardless of whether the account holder invested in U.S. securities. Henceforth, U.S. account holders signed the second option on Form 1 and accordingly authorized the forwarding of their Form W-9 to the IRS.

11. The Bank knew or had reason to know that the four U.S. account holders who signed the first option were potentially engaged in tax evasion.

12. In a directive dated November 1, 2004 titled "Qualified Intermediary—U.S. Withholding Tax," the Bank's Executive Board stated that with respect to U.S. persons, "[w]hen opening an account **Form 1** must be completed-only sign one option, If it is an **official** account, Form **W-9** must be completed and this will be forwarded to the U.S. custodian." (Emphasis in original).

13. An internal Bank memorandum dated September 16, 2008 from the then-head of "Legal Compliance, and Risk" discussed the Bank's existing practices in connection with its Qualified Intermediary Agreement and recommended modifications to those practices. In discussing practices then in place, the September 16, 2008 memorandum stated that "all Swiss banks have set up the following rules for dealing with U.S. clients:

    - Absolutely no contact as long as the client is on U.S. territory, even if the contact has been initiated by the client, including phone calls, e-mails, etc.;
    - The client may only take up contact with the bank, if he is not in the United States;
    - Assets may only be managed via a discretionary mandate, or not at all (cash on current account); and
    - No mail correspondence allowed, hold mail agreements however are permitted."

14. That memorandum further stated that "[e]ven though, according to the current QI agreement, it is still possible not to disclose U.S. persons to the U.S. authorities, for as long as they confirm that they do not want to invest in U.S. securities, and are correspondingly not allowed to trade in U.S. securities, this is likely to change soon."

15. The Bank hence knew or had reason to know that U.S. account holders not investing in U.S. securities were potentially engaged in tax evasion.

IV. The Bank's U.S. Clients

16. During the Applicable Period, the Bank maintained 20 U.S. Related Accounts, comprising a total of $68.9 million in assets under management.[1] Of the Bank's assets under management at the end of 2013, only approximately 1.25% was held in U.S. Related Accounts.

17. The Bank had hold-mail agreements with its 20 holders of U.S. Related Accounts both before and after the date of the September 16, 2008 memorandum.

18. Bellerive did not specifically maintain a U.S. desk or employ relationship managers with a specific focus on U.S. clients. The relationship managers did not direct marketing activities to U.S. clients, nor did they travel to the United States to solicit or provide services to U.S. clients.

19. The Bank, nonetheless, accepted U.S. customers. It did so on the basis of their relationships with the Bank's Swiss core customer base, personal relationships, or through introductions by three external asset managers.

20. Nine of the 20 U.S. Related Accounts, including the accounts nominally held in the names of Panamanian corporations described below, were managed by one of the three external asset managers. The Bank entered into a separate agreement with each external asset manager. The rights and obligations were the same for all external asset managers. The only term that varied was the commission, which was negotiated and agreed upon with each external asset manager. Their remuneration was based exclusively on two kinds of fees (a transaction fee and an administration fee), which the Bank charged all clients (U.S. and non-U.S. alike). The Bank paid to the external asset manager a percentage of the fees paid by the client. External asset managers did not receive finder's fees for referring U.S. related account holders to the Bank.

21. Bellerive was aware that U.S. taxpayers had a legal duty to report to the IRS and pay taxes on all of their income, including income earned in accounts that these U.S. taxpayers maintained at the Bank. Bellerive knew that it was likely that some of its U.S. customers who maintained accounts at the Bank were not complying with their tax and reporting obligations under U.S. law.

22. In the above-mentioned September 16, 2008 memorandum, the then-head of Legal, Compliance, and Risk recommended that the Bank adopt modifications to its practices regarding U.S. related accounts. One of her recommendations was that the Bank's existing U.S. clients and U.S. beneficial owners be required to sign Forms W-9 or terminate their relationship with the Bank. Fifteen holders of U.S. Related Accounts submitted Forms W-9.

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[1] Capitalized terms not otherwise defined in the Statement of Facts are defined in the United States Department of Justice's Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks (referred to as the "Swiss Bank Program").

23. In two instances, U.S. account holders, with the assistance of their external asset managers, created Panamanian corporations and paid a fee to third parties to act as directors. The companies' directors were two trust companies based in Panama.

24. Those third parties, at the direction of the U.S. account holder, opened in two cases a bank account at the Bank in the name of the entity. The Bank made no effort to determine whether each of these two entities was valid for U.S. tax purposes. In those circumstances involving a non-U.S. entity, the Bank was aware that a U.S. person was the beneficial owner of the account. Notwithstanding the Bank's internal recommendation that beneficial owners be required to sign Forms W-9, the Bank did not require the beneficial owners of these two entities to sign the forms.

25. Three holders of U.S. Related Accounts did not sign Forms W-9 after the Bank requested them to do so. One of those accounts was closed in January 2009. Another account, which was declared, was closed in December 2009. A third account holder declined to submit a Form W-9 on the basis that he was a U.S. citizen residing in Italy. That account was closed in June 2010.

V. Mitigating Factors

26. The Bank subsequently undertook remedial measures in an effort to ensure that its U.S. related customers complied with their U.S. tax obligations.

27. In 2010 and 2011, the Bank authorized acceptance of ten new U.S. account holders, but required them to provide documentation establishing their compliance with their U.S. tax obligations.

28. In February 2012, Bellerive adopted a formal directive concerning U.S. clients (the "2012 Directive"). The 2012 Directive restated and expanded upon the Bank's September 2008 policy, such that the Bank no longer accepted any new U.S. clients or U.S. beneficial owners, regardless of their domicile. The 2012 Directive also reiterated that contacts with U.S. clients must take place in Switzerland, with the account holder physically present in the country, and reaffirmed that business travel to the United States was not permitted. While the Bank had not marketed its services to U.S. customers, the 2012 Directive explicitly prohibited any marketing to U.S. persons. Pursuant to the 2012 Directive, existing U.S. clients were required to provide, by March 2012, documentation of U.S. tax compliance satisfactory to the Bank, along with a handwritten declaration confirming their compliance with U.S. tax obligations and waiving Swiss bank secrecy requirements.

29. Starting in 2013, the Bank encouraged its U.S. clients to participate in the IRS's offshore voluntary disclosure programs in case they were not in compliance with their U.S. tax filing and reporting obligations.

30. The Bank has been cooperative in complying with the requirements of the Swiss Bank Program. Furthermore, the Bank has been open and forthcoming in providing the

Independent Examiner and Government counsel with information and responding to their respective requests.

31. The Bank obtained bank secrecy waivers for 12 of its 20 U.S. Related Accounts, permitting the direct disclosure of the names of these clients to the IRS to confirm their tax status for purposes of the Swiss Bank Program.