



U.S. Department of Justice

Tax Division

Washington, D.C. 20530

CDC:TJS:JES:MWKotila
5-16-4647
2014200648

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

Paolo Bottini, Esq.
Bär & Karrer AG
Via Vegezzi 6
CH 6901 Lugano
Switzerland

Re: Banca dello Stato del Cantone Ticino
DOJ Swiss Bank Program – Category 2
Non-Prosecution Agreement

Dear Messrs. Michel and Bottini:

Banca dello Stato del Cantone Ticino (“Banca Stato”) submitted a Letter of Intent on December 24, 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 Banca Stato in its Letter of Intent and information provided by Banca Stato 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 Banca Stato of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute Banca Stato 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 Banca Stato during the Applicable Period (the “conduct”). Banca Stato admits, accepts, and acknowledges responsibility for the

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

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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 Banca Stato and does not apply to any other entities or to any individuals. Banca Stato 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. Banca Stato 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, Banca Stato agrees to pay the sum of \$3,393,000 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 Banca Stato. This payment is in lieu of restitution, forfeiture, or criminal fine against Banca Stato for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Banca Stato with respect to the conduct described in this Agreement, unless the Tax Division determines Banca Stato has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. Banca Stato 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 Banca Stato has violated any provision of this Agreement. Banca Stato 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. Banca Stato agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Banca Stato further agrees that no portion of the penalty that Banca Stato has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Banca Stato 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) Banca Stato'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 Banca Stato attracted and serviced account holders; and

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

Under the terms of this Agreement, Banca Stato 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 Banca Stato, 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, Banca Stato 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 Banca Stato 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 Banca Stato'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 Banca Stato; 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.

Banca Stato 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. Banca Stato 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. Banca Stato 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

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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 Banca Stato.

3. Banca Stato 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. Banca Stato 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, Banca Stato will promptly proceed to follow the procedures described above in paragraph 2.
4. Banca Stato 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.

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

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Department, the Internal Revenue Service, or designated law enforcement authority by Banca Stato shall be admissible in evidence in any criminal proceeding brought against Banca Stato and relied upon as evidence to support any penalty on Banca Stato; and (iii) Banca Stato 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 Banca Stato has breached this Agreement and whether to pursue prosecution of Banca Stato 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, Banca Stato, will be imputed to Banca Stato for the purpose of determining whether Banca Stato 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 Banca Stato has breached this Agreement, the Tax Division agrees to provide Banca Stato with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, Banca Stato may respond to the Tax Division in writing to explain the nature and circumstances of such breach, as well as the actions that Banca Stato has taken to address and remediate the situation, which explanation the Tax Division shall consider in determining whether to pursue prosecution of Banca Stato.

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

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

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

UNITED STATES DEPARTMENT OF JUSTICE
TAX DIVISION


CAROLINE D. CIRAOLO
Acting Assistant Attorney General

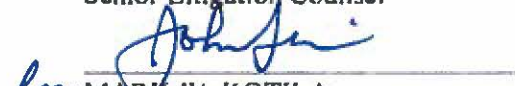
8/20/2015
Date


THOMAS J. SAWYER
Senior Counsel for International Tax Matters

20 August 2015
Date


JOHN E. SULLIVAN
Senior Litigation Counsel

8/19/15
Date

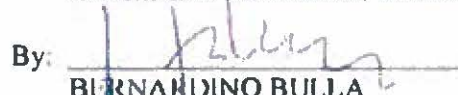
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MARK W. KOTILA
Trial Attorney

8/19/15
Date

AGREED AND CONSENTED TO:
BANCA DELLO STATO DEL CANTONE TICINO

By: 
FULVIO PELLI
Chairman of the Board of Directors

19 August 2015
Date

By: 
BERNARDINO BULLA
President of the Executive Board

19 August 2015
Date

APPROVED:

SCOTT D. MICHEL
Counsel for Banca dello Stato del Cantone Ticino

19 August 2015
Date


PAOLO BOTTINI
Counsel for Banca dello Stato del Cantone Ticino

19 August 2015
Date

**EXHIBIT A TO THE NON-PROSECUTION AGREEMENT WITH
BANCA DELLO STATO DEL CANTONE TICINO**

STATEMENT OF FACTS

INTRODUCTION

1. Banca dello Stato del Cantone Ticino ("Banca Stato" or the "Bank") is a cantonal bank headquartered in Bellinzona, Switzerland. Banca Stato was established in 1915 as an autonomous entity of public law under the Cantonal Act on the Ticino Cantonal Bank. The shares of the Bank are 100% owned by the Republic and Canton of Ticino ("Canton Ticino").
2. The Bank's statutory purpose is to promote economic development in Canton Ticino and to provide banking services to the Canton's population. The Bank's clientele consists largely of local individuals and small to medium-sized enterprises in Canton Ticino to which the Bank offers retail and corporate banking services and grants credits and mortgages.
3. The legal basis allowing the Bank to engage in "private banking" services was created in 2004. The Bank has operated a business unit to cater to high net worth individuals since only 2010. Up to that date, the Bank operated almost exclusively as a retail bank.
4. During the period August 1, 2008 to the present (the "Applicable Period"), Banca Stato operated branches in Bellinzona, Lugano, Locarno, and Chiasso, and had representative offices in thirteen towns. The Bank has never had branches or offices outside Canton Ticino. At the end of 2014, the Bank had approximately 450 full-time employees and \$9.6 billion of assets under management.
5. During the Applicable Period, Banca Stato's total assets under management had a maximum value of \$10 billion, including 187 U.S. Related Accounts, as defined under the Swiss Bank Program, with an aggregate maximum balance of approximately \$137 million. Of these U.S. Related Accounts, 174 accounts with an aggregate maximum balance of approximately \$130 million had U.S. beneficial owners. This latter figure represented approximately 1.3% of the aggregate maximum balance of the Bank's total assets under management during the Applicable Period.

U.S. INCOME TAX & REPORTING OBLIGATIONS

6. U.S. citizens, resident aliens, and legal permanent residents have an obligation to report all income earned from foreign bank accounts on their tax returns and to pay the taxes due on that income. Since tax year 1976, U.S. citizens, resident aliens, and legal permanent residents have had an obligation to report to the Internal Revenue Service ("IRS") on the Schedule B of a U.S. Individual Income Tax Return, Form 1040, whether that individual had a financial interest in, or signature authority over, a financial account in a foreign country in a particular year by checking "Yes" or "No" in the appropriate box and identifying the country where the account was maintained.

7. Since 1970, U.S. citizens, resident aliens, and legal permanent residents who have had a financial interest in, or signature authority over, one or more financial accounts in a foreign country with an aggregate value of more than \$10,000 at any time during a particular year were required to file with the Department of the Treasury a Report of Foreign Bank and Financial Accounts, FinCEN Form 114 (the "FBAR," formerly known as Form TD F 90-22.1). The FBAR was due on June 30 of the following year.
8. An "undeclared account" was a financial account owned by an individual subject to U.S. tax 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.
9. Since 1935, Switzerland has maintained criminal laws that ensure the secrecy of client relationships at Swiss banks. While Swiss law permits the exchange of information in response to administrative requests made pursuant to a tax treaty with the United States and certain legal requests in cases of tax fraud, Swiss law otherwise prohibits the disclosure of identifying information without client authorization. Because of the secrecy guarantee that they created, these Swiss criminal provisions have historically enabled U.S. clients to conceal their Swiss bank accounts from U.S. authorities.
10. In or about 2008, Swiss bank UBS 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 Banca Stato, since at least August of 2008.

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

11. In 2001, Banca Stato entered into a Qualified Intermediary Agreement with the IRS. To comply with the responsibilities as a Qualified Intermediary, the Bank created forms to be completed by each account holder subject to U.S. withholding tax. In 2001, the Bank issued an internal directive prohibiting U.S. persons without a Form W-9 on file with the Bank from buying U.S. securities. The Bank also barred transaction orders on any securities from U.S. clients where such order originated from the United States.
12. Prior to 2011, the Bank's relationship managers were not instructed to, and did not, evaluate or screen incoming U.S. clients for U.S. tax compliance status. At that time, more than 70 percent of the assets under management related to U.S. account holders who had not provided a Form W-9 to the Bank.
13. Beginning in June 2011, the Bank sent a letter to all U.S. account holders requesting that they submit a Form W-9 to the Bank. The Bank further advised

that unless it received documentation that an account was, or had become tax compliant by July 31, 2011, the account would be closed

14. But Banca Stato did not fully implement these measures, and as a result, the Bank continued to service some existing U.S. clients that had not declared their accounts to the IRS or submitted a Form W-9 to the Bank. In addition, Banca Stato opened some new accounts for U.S. persons without requiring a signed Form W-9.

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

15. During the Applicable Period, Banca Stato provided retail banking, corporate banking, asset management, and private banking services. The Bank did not have a specialized U.S. desk nor did it structure, operate, or supervise its U.S. Related Accounts in any way different or separate from its non-U.S. Related Accounts, except for reasons related to the QI Agreement. The Bank's board of directors, executive management, and heads of various business units structured, operated, and supervised the Bank's client-facing business generally.
16. Until 2011, when the Bank sought to attract tax-compliant U.S. clients, the Bank had no specific strategy aimed at acquiring U.S. clients nor did it engage in marketing efforts aimed toward U.S. clients. Most of the Bank's U.S. clients were primarily citizens and residents of the United States who lived full or part time in the Ticino region or had other connections to Switzerland, and who came to the Bank for services on their own initiative or through referrals. Banca Stato also acted as a custodian with respect to some U.S. client accounts managed by external asset managers. Until 2011, the Bank's account opening documentation, and its policies and agreements, were written only in Italian, and the Bank has not generally been equipped to service or attract non-Italian speakers.
17. In 2011 Banca Stato implemented a project that it called "Colombo" to change the manner in which handled U.S. clients. The Bank recognized both risks and rewards of handling U.S. clients. As to the former, the Bank recognized that "[w]e can no longer have clients who are U.S. Persons who have not signed the W-9 form." But the Bank also recognized an opportunity to attract new U.S. clients because many Swiss banks declined to service U.S. persons from Ticino and the Bank perceived "a huge demand from fully tax-compliant U.S. Persons ... attracted by the brand BancaStato (especially because we have no branches in the US)." Banca Stato believed it could attract fully tax-compliant U.S. customers with minimum assets under management of CHF 1 million.
18. The Bank entered into a relationship with a Lugano-based U.S. Securities and Exchange-registered investment advisory firm to partner in attracting U.S. persons living and working in the Ticino region who could not open or maintain accounts at other institutions. The Bank paid the firm a one-time finder's fee of 0.5% on the new incoming funds. Under this arrangement, the Bank intended to accept only accounts of U.S. persons that submitted a Form W-9. Despite the Bank's decision to refuse to open new accounts of U.S. persons without a Form W-9, it did not always adhere to this policy.

19. U.S. persons with accounts at Banca Stato were serviced either by the Bank's retail banking group or by its private banking group. Both these groups serviced clients through relationship managers. The Bank assigned a relationship manager to each client, whether it was a retail banking client or a private banking client. Relationship managers in the retail banking group managed approximately 1,000 accounts. Relationship managers in the private banking group managed approximately 200 to 300 accounts. Relationship managers in the private banking group created a profile for each client and documented minutes of meetings and telephone calls. By contrast, relationship managers in the retail banking group rarely had contact with their clients.
20. Approximately 60 relationship managers from both the retail banking and private banking groups managed U.S. Related Accounts. With some exceptions, each relationship manager was assigned only a few U.S. Related Accounts. In several instances, U.S. Related Accounts were shifted among several relationship managers during the existence of an account. There were instances where relationship managers emailed clients in the U.S. regarding bank and investment matters, but no Bank employees ever traveled to the United States to solicit clients, service clients, or provide clients with investment advice.
21. Banca Stato was aware that U.S. taxpayers had a legal duty to report to the IRS and pay taxes on the basis of all of their income, including income earned in accounts that the U.S. taxpayers maintained at the Bank. Despite this, the Bank opened and serviced accounts for U.S. clients who the Bank knew or had reason to know were not complying with their U.S. income tax obligations. With the knowledge that Swiss banking secrecy laws would likely prevent the Bank from disclosing their identities to the IRS, some U.S. clients of the Bank filed false and fraudulent U.S. Individual Income Tax Returns, Forms 1040, which failed to report their undeclared accounts and the related income. Some of the Bank's U.S. clients also failed to file and otherwise report their undeclared accounts on FBARs.
22. Banca Stato offered a variety of traditional Swiss banking services that it knew would and in certain instances did assist U.S. clients in concealing assets and income from the IRS. One such service was hold mail, pursuant to which the Bank would hold all mail correspondence for a particular client at the Bank. Approximately 28% of its U.S. clients used hold mail services. The Bank also offered code name or numbered account services. These services collectively allowed U.S. clients to conceal their identities and minimize the paper trail associated with the undeclared assets and income they held at Banca Stato in Switzerland.
23. In addition to the above-described conduct, the Bank employed a variety of other means or conduct that it knew or should have known would assist U.S. taxpayers in concealing their Banca Stato accounts, including by:
- a) in at least seven instances, opening accounts for U.S. taxpayers who had left other banks being investigated by the U.S. Department of Justice without ensuring that each such account was compliant with U.S. tax law from their inception at Banca Stato; and
 - b) in at least four instances, allowing U.S. clients to direct repeated wire transfers between \$9,000 and \$9,900 in an effort to conceal their Swiss

bank accounts from U.S. authorities.

MITIGATING FACTORS

24. In April 2012, the private banking group implemented a procedure to freeze U.S. Related Accounts deemed to be noncompliant. That freeze could not be undone without the consent of the head of the private banking group. Relationship managers were reminded to actively pursue a signed Form W-9 from the Bank's U.S. clients or to close the clients account if one was not provided. The freezing of accounts was systematically implemented and some accounts were closed.
25. In 2013, the Bank adopted procedures to refrain from opening new accounts for any client absent proof of tax compliance, where certain indicia of noncompliance were present, including the use of certain foreign domicile companies or substantial cash deposits. In addition, in preparation for compliance with the U.S. Foreign Account Tax Compliance Act ("FATCA"), the Bank required existing U.S. clients to provide proof of their U.S. tax compliance by signing a FATCA reporting consent form. Since 2013, new and existing U.S. Related Accounts have been subject to procedures implemented in connection with FATCA.
26. Throughout its participation in the Swiss Bank Program, Banca Stato committed to providing full cooperation to the U.S. government and has made timely and comprehensive disclosures regarding its U.S. cross-border business. Specifically, the Bank, with the assistance of U.S. and Swiss counsel, outside information technology support, and in compliance with Swiss law has:
- conducted an internal investigation which included: (a) interviews of key relationship managers, supervisory relationship managers and members of management; (b) reviews of client account files and correspondence; (c) analysis of relevant management policies; and (d) review of email;
 - reviewed U.S. Related Accounts to determine whether any accounts would support treaty requests;
 - described in detail the structure of its cross-border business with U.S. persons, including: (a) the policies concerning U.S. account holders effective during the Applicable Period; and (b) a narrative description of the arrangements for externally managed U.S. Related Accounts;
 - provided a list of the names and functions of fourteen individuals and one company who structured, operated, or supervised the cross-border business, provided information concerning the functions and roles of its relationship managers, and provided information on the structures of its relationships with external asset managers; and
 - sought and obtained client waivers of Swiss banking secrecy for certain U.S. Related Accounts, and encouraged existing and prior holders of U.S. Related Accounts to disclose their accounts to the IRS through the Offshore Voluntary Disclosure Program.



EXHIBIT B TO THE NON-PROSECUTION AGREEMENT

WITH BANCA DELLO STATO DEL CANTONE TICINO Bellinzona

RESOLUTION OF THE BOARD OF DIRECTORS

At a duly convened meeting held on 17 August 2015, the Board of Directors (the "Board") of Banca dello Stato del Cantone Ticino Bellinzona (the "Bank") takes note of the following:

- The Board decided in December 2013 that the Bank would 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 20 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.
- 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:

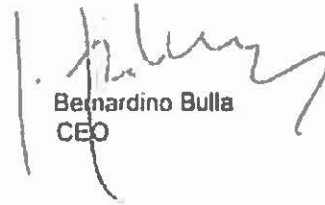
- 1 The Board of the Bank has reviewed the entire Agreement attached hereto, including the Statement of Facts attached as Exhibit A to the Agreement, including to pay a sum of USD 3'393'000.00 to the DOJ in connection with the Agreement;
- 2 Fulvio Pelli Chairman of the Board of Directors and Bernardino Bulla Chief Executive Officer of the Bank 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 Paolo Boltini, 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.



Fulvio Pell
Chairman
Board of Directors



Bernardino Bulla
CEO