U.S. Department of Justice

Tax Division

Washington, D.C. 20530

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5-16-4654
2014200656

Olivia Radin, Esq.
Freshfields Bruckhaus Deringer US LLP
601 Lexington Avenue
31st Floor
New York, New York 10022

Re: Bank J. Safra Sarasin SA
DOJ Swiss Bank Program – Category 2
Non-Prosecution Agreement

Dear Ms. Radin:

On December 23, 2013, Bank J. Safra Sarasin SA ("Bank J. Safra Sarasin") submitted a Letter of Intent 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 Bank J. Safra Sarasin in its Letter of Intent and information provided by Bank J. Safra Sarasin 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 Bank J. Safra Sarasin of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute Bank J. Safra Sarasin 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 Bank J. Safra Sarasin during the Applicable Period (the "conduct"). Bank J. Safra Sarasin 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

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

does not provide any protection against prosecution for any offenses except as set forth above, and applies only to Bank J. Safra Sarasin and does not apply to any other entities or to any individuals. Bank J. Safra Sarasin 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. Bank J. Safra Sarasin 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, Bank J. Safra Sarasin agrees to pay the sum of $85,809,000 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 Bank J. Safra Sarasin. This payment is in lieu of restitution, forfeiture, or criminal fine against Bank J. Safra Sarasin for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Bank J. Safra Sarasin with respect to the conduct described in this Agreement, unless the Tax Division determines Bank J. Safra Sarasin has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. Bank J. Safra Sarasin 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 Bank J. Safra Sarasin has violated any provision of this Agreement. Bank J. Safra Sarasin 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. Bank J. Safra Sarasin agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Bank J. Safra Sarasin further agrees that no portion of the penalty that Bank J. Safra Sarasin has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Bank J. Safra Sarasin 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) Bank J. Safra Sarasin'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 Bank J. Safra Sarasin attracted and serviced account holders; and

- an in-person presentation and documentation, properly translated, supporting the disclosure of the above information and other information that was requested by the Tax Division;

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

Under the terms of this Agreement, Bank J. Safra Sarasin 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 Bank J. Safra Sarasin, 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, Bank J. Safra Sarasin 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 Bank J. Safra Sarasin 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 Bank J. Safra Sarasin'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 Bank J. Safra Sarasin; 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.

Bank J. Safra Sarasin 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. Bank J. Safra Sarasin 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. Bank J. Safra Sarasin 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 Bank J. Safra Sarasin.

3. Bank J. Safra Sarasin 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. Bank J. Safra Sarasin 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, Bank J. Safra Sarasin will promptly proceed to follow the procedures described above in paragraph 2.

4. Bank J. Safra Sarasin 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.

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

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

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

This Agreement supersedes all prior understandings, promises and/or conditions between the Department and Bank J. Safra Sarasin. 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
Date: 12/23/2015

THOMAS J. SAWYER
Senior Counsel for International Tax Matters
Date: 23 December 2015

JOHN E. SULLIVAN
Senior Litigation Counsel
Date: 12/23/15

THOMAS G. VORACEK
Trial Attorney
Date: 12/23/15

AGREED AND CONSENTED TO:
BANK J. SAFRA SARASIN SA

By:
STÉPHANE ASTRUC
General Counsel
Bank J. Safra Sarasin SA
Date: 12/22/2015

APPROVED:

OLIVIA RADIN, ESQ.
Freshfields Bruckhaus Deringer US LLP
Counsel for Bank J. Safra Sarasin SA
Date: 12/22/2015

EXHIBIT A TO BANK J. SAFRA SARASIN AG
NON-PROSECUTION AGREEMENT

STATEMENT OF FACTS

INTRODUCTION

1. Bank J. Safra Sarasin AG ("Safra Sarasin" or "the Bank") is a Swiss bank with its head office in Basel. Safra Sarasin was formed in June of 2013, through the merger ("Merger") of two Swiss banks, Banque J. Safra (Suisse) SA ("Safra") and Bank Sarasin & Cie AG ("Sarasin"). In Switzerland, Safra Sarasin has branches in Berne, Geneva, Lucerne, Lugano, and Zurich.

2. Prior to the Merger, Safra and Sarasin were separate and unrelated entities. Each had different owners, management, boards of directors, and policies.

   a. Safra was a mid-sized private bank resulting from the acquisition of Utobank (a small bank in Zurich) in 2000 and subsequent name change. It had its headquarters in Geneva and a small branch in Zurich as well as a Swiss representative office in Lugano. Prior to the Merger, Safra had approximately 130 employees, almost all of them working out of the Safra office in Geneva. Safra clients were typically introduced by client relationship managers or other customers. Safra's general policy was not to accept "walk-in" customers. From the start of the Applicable Period through the Merger, Safra's business with U.S. clients was at all times incidental to its overall strategy. Safra never marketed its services in the United States or to U.S. citizens, and it never had a U.S. desk. Safra's total assets under management had a maximum value of approximately $14.8 billion.

   b. Sarasin traces its origins to a Swiss trading and banking company founded in 1841. Prior to the Merger, it had its registered office in Basel and Swiss branches in Berne, Geneva, Lucerne, Lugano, and Zurich. It had approximately 1,100 employees in Switzerland. Sarasin provided private banking services to private and institutional clients, focusing on clients in Switzerland, other European countries, Asia and the Middle East. On July 31, 2012, Sarasin was acquired by the Safra Group, and the two entities formally merged in June 2013. Before being acquired in July 2012, Sarasin was majority-owned and controlled by a large Dutch cooperative bank that was responsible for the consolidated supervision of Sarasin. A UK-based subsidiary of Sarasin, Sarasin Asset Management Ltd. ("SAM"), has since 2003 been registered as an investment adviser with the United States Securities and Exchange Commission. SAM provides asset management services to private and institutional investors domiciled in the United States. Sarasin's total assets under management had a maximum value of approximately $71.1 billion.

3. Today, Safra Sarasin specializes in providing investment advice and asset management services to private and institutional clients, as well as to investment funds. It offers

clients portfolio management, secured lending, and financial analysis, among other services. As of October 2015, the Bank had approximately 18,422 customers and a total of 1,040 employees.

4. During the Applicable Period,[1] the Bank had 1,275 U.S. Related Accounts with an aggregate maximum value of approximately $2.2 billion. Sarasin had 1,044 U.S. Related Accounts valued at approximately $1.4 billion, and Safra had 231 U.S. Related Accounts valued at approximately $760 million. This U.S. Related Account population represents approximately two percent of the Bank's total assets under management.

U.S. INCOME TAX AND 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.

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.

[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").

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 ("the Department") and that it would be exiting and no longer accepting certain U.S. clients. On February 18, 2009, the Department 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 Safra Sarasin and its progenitors, since at least August of 2008.

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

10. In 2001, Safra and Sarasin each entered into a Qualified Intermediary ("QI") Agreement with the IRS. The QI 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 QI Agreement was designed to ensure that, with respect to U.S. securities held in an account at the Bank, non-U.S. persons were subject to proper U.S. withholding tax rates and that U.S. persons properly paid U.S. tax.

11. The QI Agreement accepted that Swiss banks were prohibited by Swiss law from disclosing the identities of account holders. If an account holder wished to trade in U.S. securities without being subjected to mandatory U.S. tax withholding, the account holder's bank was required to obtain the consent of the account holder to disclose his or her identity to the IRS.

12. However, after signing its respective QI Agreements, Safra and Sarasin continued to service certain U.S. customers without disclosing their identity to the IRS and without regard for the impact of U.S. criminal law on that decision.

OVERVIEW OF BUSINESS WITH U.S. RELATED ACCOUNTS

13. Safra Sarasin's clients included individuals and entities resident in Switzerland along with individuals and entities resident outside of Switzerland, including certain clients who were or became citizens or residents of the United States ("U.S. taxpayers") during the Applicable Period. Through at least 2014, Safra Sarasin knew that it was highly probable that some U.S. taxpayers who had opened and maintained accounts at the Bank were not complying with their U.S. income tax and reporting obligations.

14. Safra Sarasin was aware that U.S. taxpayers had a legal duty to report to the IRS—and pay taxes on—all their worldwide income, including income earned from accounts maintained in Switzerland. Despite being aware of this legal duty, the Bank failed to ensure that its U.S. clients were abiding by that duty when it accepted them as customers

and failed to investigate in situations in which the Bank had evidence indicating that its customers were using their accounts to evade their U.S. tax obligations.

15. During the Applicable Period, 176 relationship managers were responsible for managing at least one U.S. Related Account at Safra Sarasin. These relationship managers served as the primary contact persons for the bank's U.S. clients or their advisors. At Sarasin, two teams of relationship managers (one based in Geneva and one based in Zurich) were responsible for managing most of the U.S. Related Accounts. At Safra, one relationship manager was responsible for managing 59 of the U.S. Related Accounts.

16. Prior to each of Safra's and Sarasin's respective exit decisions (see below), Safra and Sarasin took the position that it could service U.S. clients that it knew or had reason to believe were engaged in tax evasion so long as it (a) prohibited its account holders from trading in U.S. based securities or (b) required that the account be nominally structured in the name of a non-U.S.-based entity.

17. In the latter circumstance, U.S. clients would create an entity, such as a Liechtenstein foundation, a Panama corporation, or a British Virgin Islands corporation, and pay a fee to third parties to act as corporate directors. Those third parties, at the direction of the U.S. client, would then open an account at Safra or Sarasin in the name of the entity or transfer a pre-existing Swiss bank account from another Swiss bank. Safra Sarasin has disclosed instances with respect to each predecessor bank in which insufficient effort was made to determine whether such an entity was valid for U.S. tax purposes.

18. In certain cases that involved a non-U.S.-based entity, the respective Safra or Sarasin predecessor was aware that a U.S. taxpayer was the true beneficial owner of an account. Despite this, the respective bank would obtain from the entity's directors an IRS Form W-8BEN (or equivalent bank document) in which the directors falsely declared that the beneficial owner was not a U.S. taxpayer. Although it was highly probable that in such cases the U.S. taxpayer was avoiding U.S. taxes, some of these accounts were permitted to trade in U.S. securities without the respective bank reporting account earnings or transmitting any withholding taxes to the IRS, as required by its QI Agreement.

19. During the Applicable Period, Safra Sarasin maintained and serviced 377 accounts with an aggregate maximum balance of approximately $1.2 billion beneficially owned by U.S. taxpayers that were held by nominee entities created in such countries such as Panama, Liechtenstein, the British Virgin Islands, and the Cayman Islands. Many of these accounts had false IRS Forms W-8BEN (or equivalent bank document) in the file and were operated by U.S. beneficial owners in violation of corporate governance procedures. In this regard, in some instances, Sarasin's and Safra's respective relationship managers met with or took directions or instructions from the U.S. taxpayer beneficial owner of an offshore structure account, instead of the directors or other authorized parties on the account.

20. Some of the Bank's relationship managers interacted with corporate service providers, including Swiss lawyers, who assisted U.S. taxpayers in setting up nominee entities for

their undeclared accounts. In some instances, relationship managers referred U.S. clients who were interested in creating nominee offshore entities to these corporate service providers. After these entities were created, relationship managers assisted these clients in opening and maintaining accounts at the Bank.

21. For example, a Geneva-based lawyer assisted U.S. clients in opening undeclared accounts in the names of Panama corporations. These accounts had high balances totaling approximately $250 million during the Applicable Period. The Geneva-based lawyer had signature authority and power of attorney over these accounts, and was a director of some of these entities. With respect to one of these accounts, the lawyer signed an IRS Form W-8BEN falsely certifying that a Panama entity was the taxpayer, and not the U.S. client. In December 2010, in connection with the closing of one of these accounts, the lawyer assisted a U.S. client in transferring the funds to a bank in Hong Kong. During 2011, in connection with the closing of seven of these accounts, the lawyer assisted the U.S. clients in transferring the funds to a Swiss bank under investigation by the Department of Justice.

22. The Bank also opened and maintained at least 36 accounts for U.S. taxpayer-clients transferring funds from other Swiss financial institutions that were closing such accounts, while knowing or having reason to know that a portion of the accounts at such other institutions were or likely were undeclared. For example, the Bank opened 20 accounts for U.S. clients who were closing accounts at UBS. These accounts had a collective high balance of approximately $57 million.

23. Of the 1,044 U.S. Related Accounts held at Sarasin, 134 of such accounts were managed by external asset managers. Approximately 12 external asset managers managed five or more U.S. Related Accounts or had aggregated assets under management of at least $5 million. Sarasin had remuneration agreements with some of these external asset managers, whose remuneration was based upon transaction fees and finder's fees.

24. From June through August 2008, one of these external asset managers used "intermediary accounts" at Sarasin to assist five U.S. clients in transferring $21.1 million from a large Swiss bank into undeclared bank accounts at Sarasin. These intermediary accounts were opened in the name of the external asset manager's company, and were used when a U.S. client wanted to deposit funds into his or her account, or transfer funds to a third party, adding a layer of concealment when transferring the assets of a client or third party to or from the U.S. client's bank account at Sarasin.

25. This same external asset manager acted as a corporate officer with full power of attorney over three of these accounts. The Bank paid the external asset manager a .25% finder's fee for bringing these accounts to the Bank, and the external asset manager was paid additional fees equal to 50% of the transaction fees that these accounts generated at the Bank. When these five accounts were closed, the assets of four U.S. clients were transferred to a Swiss bank under investigation by the Department of Justice. The assets of the fifth U.S. client were transferred to an intermediary account controlled by the external asset manager at Sarasin. In 2012, the external asset manager was charged, in a

federal court in the United States, with conspiring to impede and impair the IRS in the ascertainment, computation, assessment, and collection of U.S. income taxes, in connection with the external asset manager's activities at Swiss banks other than Safra Sarasin.

26. During the Applicable Period, Sarasin maintained six accounts, comprising an aggregate value of $24 million, that were owned by insurance companies, and which held assets relating to insurance products that were issued to U.S. taxpayer clients of the respective insurance companies. Such accounts, known commonly as "insurance-wrappers," were titled in the names of insurance companies, but were funded with assets that were transferred to the accounts for the beneficial owners of the insurance products (the "policy holder"). The assets in these accounts, while titled in the names of insurance companies, were managed by external asset managers, for the ultimate benefit of the policy holders, through powers of investment that were given by the insurance companies to the external asset managers. Insurance-wrapper accounts were commonly used during the Applicable Period as a means of enabling U.S. taxpayers in concealing their assets and income from the IRS, and in evading their U.S. tax obligations. Two of the six insurance wrapper accounts were held in the name of a Cayman Islands corporation and another account was held in the name of a Singapore company.

27. Safra Sarasin also assisted some U.S. clients in concealing assets and income from the IRS upon the closure of their accounts. Approximately 20% of the funds in U.S. Related Accounts closed by the Bank were transferred to banks in countries other than Switzerland and the United States, including Israel, Hong Kong, and Liechtenstein. In addition, the Bank processed at least 20 substantial cash or precious metal withdrawals of amounts exceeding $100,000 upon account closure, notwithstanding the fact that such withdrawals likely would be concealed from U.S. taxing authorities. In one instance, the Bank assisted a U.S. client, whose account was held in the name of a Panama company, to withdraw $2.9 million in gold at account closing. In another instance, the Bank processed five cash withdrawals of $190,000 each for a U.S. client, comprising a total aggregate amount of $950,000 in cash over a two-day period.

28. In addition, Safra Sarasin offered a variety of services, and permitted some practices, that it knew could and did assist U.S. taxpayers in concealing assets and income from the IRS. For example, the Bank:

- Opened and maintained 294 accounts to be held in code names or otherwise numbered accounts for U.S. clients. This allowed certain U.S. taxpayers to minimize the paper trail associated with the undeclared assets and income they held at Safra Sarasin in Switzerland. Sarasin charged an annual fee for numbered accounts;

- Opened and maintained 279 "hold mail" accounts at the Bank for U.S. clients with undisclosed accounts. For a fee, the Bank would hold the account statements and other account-related correspondence of certain U.S. clients, including those residing in the United States or having a U.S. mailing address, at its offices in

Switzerland, instead of sending the documents to its clients in the United States, thereby causing documents reflecting the existence of undeclared accounts to remain outside the United States;

- Provided certain U.S. beneficial owners with credit and travel cash cards linked to accounts held at the Bank. In at least 26 instances, Safra Sarasin provided credit cards and travel cash cards to U.S. clients. Use of these cards by U.S. taxpayers facilitated their access to or use of undeclared funds on deposit at the Bank; and

- Failed to register U.S. taxpayer-clients as U.S. persons in the Bank's IT system despite knowledge of the U.S. taxpayer-clients' U.S. citizenship or residence.

29. As a result of these actions, from at least August 2008 through August 2013, Safra Sarasin enabled some U.S. taxpayers to evade their U.S. tax and filing obligations, resulting in the filing of false income tax returns with the IRS and allowing U.S. taxpayers to hide offshore assets from the IRS.

MITIGATING FACTORS

30. Prior to and throughout the Applicable Period, Safra Sarasin and its predecessors undertook measures and reforms specifically intended to ensure that its clients complied with their applicable U.S. tax and reporting obligations. Since, however, Safra Sarasin's predecessor banks' remediation efforts differed somewhat, they are set out separately for each previously independent bank.

Sarasin's Compliance Remediation Efforts

31. On July 31, 2008, Sarasin decided, in light of the UBS investigation by U.S. authorities, to take immediate measures to strengthen its compliance framework for U.S. clients. On that day, it communicated to all employees that Sarasin, among other things, (i) would not open any new accounts for U.S. clients unless they submitted an IRS Form W-9; and that it (ii) would not open new accounts for structures with a U.S. beneficial owner.

32. In November 2008, Sarasin communicated to its employees new general principles applicable to U.S. clients, which replaced the measures taken in July 2008. The principles stated that accounts of U.S. clients who did not disclose their assets to the IRS would be exited. In addition, with respect to U.S. domiciled clients, Sarasin would only serve as a custodian bank, provided the accounts were managed by SAM or another non-U.S. domiciled SEC-registered investment adviser and the clients submitted an IRS Form W-9. Short deadlines were set to relationship managers to bring the existing U.S. client population in line with these principles.

33. In February 2009, Sarasin issued a directive confirming the bank's decision to only provide services to U.S. persons whose assets and income had been disclosed to the IRS. In addition, Sarasin established a task force to manage and oversee the proper

implementation of the U.S. client policy, including the termination of relevant relationships with U.S. clients.

34. At the end of February 2009, Sarasin began to contact its relevant U.S. customers to notify them that it would terminate its relationships with them if a transfer of the management of the account to SAM or to another non-U.S. domiciled SEC-registered investment adviser was not executed.

35. Between August 1, 2008 and January 31, 2014, Sarasin closed approximately 850 of 1,044 U.S Related Accounts valued at approximately $1 billion. Most of these accounts were closed in connection with Sarasin's exit decision described above. The remaining U.S. Related Accounts that should have been closed under Sarasin's exit decision included dormant accounts, accounts with illiquid assets, accounts blocked by court orders, and accounts of deceased clients. Sarasin continued to monitor these accounts for the possibility of exiting them at the earliest opportunity.

Safra's Compliance and Remediation Efforts

36. From the start of the Applicable Period through the Merger, Safra's business with U.S. clients was at all times incidental to its overall strategy. Safra never marketed its services in the United States or to U.S. citizens, and it never had a U.S. desk. Compensation was not affected by the acquisition of U.S. business, nor were relationship managers assigned to acquire U.S. clients. Safra never had a strategy to target U.S. persons who were exited by other Swiss banks.

37. In the second half of 2008, following the events at UBS, Safra began to adopt more restrictive business policies with regard to new accounts for U.S. clients, accepting new U.S. clients only if they had been declared to the IRS.

38. In the first half of 2009, Safra decided to close its existing U.S. accounts. The exit also included U.S. clients who had provided documentation of their U.S. tax compliance. Shortly thereafter, Safra resolved not to open new accounts for any U.S. clients.

39. By August 31, 2013, Safra had closed approximately 219 of 231 U.S. Related Accounts valued at approximately $756 million. Most of these accounts were closed in connection with Safra's exit decision described above. The remaining U.S. Related Accounts that should have been closed under Safra's exit decision included dormant accounts, accounts with illiquid assets, accounts blocked by court orders, and accounts of deceased clients. Safra continued to monitor these accounts for the possibility of exiting them at the earliest opportunity.

Safra Sarasin's Cooperation with the Swiss Bank Program

40. By early 2014, Safra Sarasin had successfully exited approximately 84% of its U.S. Related Accounts.

41. Safra Sarasin has fully cooperated with the Department during its participation in the Swiss Bank Program. Safra Sarasin engaged U.S. and Swiss counsel as well as forensic accounting experts to conduct an internal review in order to identify and collect data and information regarding its U.S.-taxpayer accounts and to examine its conduct in relation to such accounts. Safra Sarasin then reported on the findings of its internal review to the Department, providing in-person presentations and documentation supporting the findings of its review.

42. Safra Sarasin further assisted the Department by providing on an anonymous basis aggregate and account-level information regarding accounts held by U.S. taxpayers who may not have been fully compliant with U.S. tax laws. Safra Sarasin also assisted and has agreed to continue to assist the Department in preparing treaty requests under the Convention between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income (Oct. 2, 1996), and the Protocol Amending the Convention (Sept. 23, 2009), if and when it is in force and applicable, including by identifying U.S.-taxpayer accounts that may meet the standard for information exchange under these treaties.

43. In addition, Safra Sarasin informed clients about and encouraged clients to enter the IRS's offshore voluntary disclosure program. Following Safra Sarasin's efforts, many of its former U.S. clients entered into the IRS's voluntary disclosure program and paid back taxes, penalties, and interest in connection with failing to report their undeclared accounts. In addition, the Bank obtained waivers from some of its former U.S. clients, and provided their names to the U.S. government.

EXHIBIT B TO NON-PROSECUTION AGREEMENT

CERTIFICATE OF CORPORATE RESOLUTION OF THE BOARD OF DIRECTORS OF BANK J. SAFRA SARASIN AG

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

— That the board of directors has (i) reviewed the entire Non-Prosecution Agreement attached hereto, including the Statement of Facts attached as Exhibit A to the Non-Prosecution Agreement; (ii) consulted with counsel in connection with this matter; and (iii) unanimously voted to enter into the Non-Prosecution Agreement, including to pay a sum of USD 85,809,000 to the U.S. Department of Justice in connection with the Non-Prosecution Agreement; and

— That Stéphane Astruc, General Counsel, is hereby authorized (i) to execute with single signing authority 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 them 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 Freshfields Bruckhaus Deringer US LLP, is hereby authorized to sign the Non-Prosecution Agreement in its capacity as the Bank's U.S. counsel.

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

IN WITNESS WHEREOF, I have executed this Certification this 22 day of December 2015.

Markus Affolter
Secretary