

ATTACHMENT A
STATEMENT OF FACTS

This Statement of Facts is incorporated by reference as part of the deferred-prosecution agreement, dated October 29, 2013, between the United States Department of Justice, Criminal Division, Fraud Section, the United States Department of Justice, Antitrust Division, and Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. ("Rabobank"). The parties agree that the following information is true and accurate:

BACKGROUND

A. LIBOR and Euribor

1. Since its inception in approximately 1986, the London Interbank Offered Rate ("LIBOR") has been a benchmark interest rate used in financial markets around the world. Futures, options, swaps, and other derivative financial instruments traded in the over-the-counter market and on exchanges worldwide are settled based on LIBOR. The Bank of International Settlements has estimated that in the second half of 2009, for example, the notional amount of over-the-counter interest rate derivative contracts was valued at approximately \$450 trillion. In addition, mortgages, credit cards, student loans, and other consumer lending products often use LIBOR as a reference rate.

2. LIBOR is published under the auspices of the British Bankers' Association ("BBA"), a trade association with over 200 member banks that addresses issues involving the United Kingdom banking and financial services industries. The BBA defines LIBOR as:

The rate at which an individual Contributor Panel bank could borrow funds, were it to do so by asking for and then accepting inter-bank offers in reasonable market size, just prior to 11:00 [a.m.] London time.

This definition has been in place since approximately 1998.

3. LIBOR rates were initially calculated for three currencies: the United States Dollar, the British Pound Sterling, and the Japanese Yen. Over time, the use of LIBOR expanded, and benchmark rates were calculated for ten currencies, including the original three.

4. The LIBOR for a given currency is the result of a calculation based upon submissions from a panel of banks for that currency (the "Contributor Panel") selected by the BBA. Each member of the Contributor Panel submits its rates every London business day through electronic means to Thomson Reuters, as an agent for the BBA, by 11:10 a.m. London time. Once each Contributor Panel bank has submitted its rate, the contributed rates are ranked. The highest and lowest quartiles are excluded from the calculation, and the middle two quartiles (i.e., 50% of the submissions) are averaged to formulate the resulting LIBOR "fix" or "setting" for that particular currency and maturity.

5. The LIBOR contribution of each Contributor Panel bank is submitted to between two and five decimal places, and the LIBOR fix is rounded, if necessary, to five decimal places. In the context of measuring interest rates, one "basis point" (or "bp") is one-hundredth of one percent (0.01%).

6. Thomson Reuters calculates and publishes the rates each business day by approximately 11:30 a.m. London time. Fifteen maturities (or "tenors") are quoted for each currency, ranging from overnight to twelve months. The published rates are made available worldwide by Thomson Reuters and other data vendors through electronic means and through a variety of information sources. In addition to the LIBOR fix resulting from the calculation, Thomson Reuters publishes each Contributor Panel bank's submitted rates along with the names of the banks.

7. According to the BBA, each Contributor Panel bank must submit its rate without reference to rates contributed by other Contributor Panel banks. The basis for a Contributor Panel bank's submission, according to a clarification the BBA issued in June 2008, must be the rate at which members of the bank's staff primarily responsible for management of the bank's cash, rather than the bank's derivative trading book, consider that the bank can borrow unsecured inter-bank funds in the London money market. Further, according to the BBA, a Contributor Panel bank may not contribute a rate based on the pricing of any derivative financial instrument. In other words, a Contributor Panel bank's LIBOR submissions should not be influenced by its motive to maximize profit or minimize losses in derivatives transactions tied to LIBOR.

8. The Contributor Panel for United States Dollar ("Dollar") LIBOR from at least 2005 through 2010 was comprised of 16 banks, including Rabobank. Presently, there are 18 banks on the Dollar Contributor Panel, including Rabobank. From at least 2005 to the present, Rabobank has also been a member of the Contributor Panel for Pound Sterling LIBOR. Presently, there are 16 banks on the Pound Sterling LIBOR Contributor Panel, including Rabobank. Rabobank was a member of the Contributor Panel for Yen LIBOR until June 2012. The Contributor Panel for Yen LIBOR from at least 2006 through 2010 was comprised of 16 banks, including Rabobank. Presently, there are 13 banks on the Yen LIBOR Contributor Panel.

9. Rabobank was also a member of the Contributor Panel for the Euro Interbank Offered Rate ("Euribor") until January 2013. Euribor is a reference rate overseen by the European Banking Federation ("EBF"), which is based in Brussels, Belgium. Since 2005, the Euribor Contributor Panel has been comprised of approximately 42 to 48 banks. Euribor is the rate at which Euro interbank term deposits within the Euro zone are expected to be offered by one prime bank to another, at 11:00 a.m. Brussels time.

10. Thomson Reuters, as an agent of the EBF, calculates and publishes the Euribor rates each business day. Each Euribor Contributor Panel bank submits its contributed rate to Thomson Reuters through electronic means, and then the contributed rates are ranked. The highest and lowest 15% of all the quotes are excluded from the calculation, and the remaining rates (i.e., the middle 70%) are averaged to formulate the resulting Euribor fix for each tenor. The published rates, and each Contributor Panel bank's submitted rates, are made available worldwide through electronic means and through a variety of information sources.

11. Because of the widespread use of LIBOR and other benchmark interest rates in financial markets, these rates play a fundamentally important role in financial systems around the world.

B. Eurodollar Futures Contracts and Interest Rate Swaps

12. Eurodollar futures contracts are traded on the Chicago Mercantile Exchange ("CME"), and are settled based on LIBOR. Eurodollar futures contracts are highly liquid, and each has a notional value of \$1 million. A "Eurodollar" is a Dollar deposit with a bank outside of the United States. A Eurodollar futures contract is essentially the interest that would be paid on a Eurodollar deposit of \$1 million for a term of three months. Prior to the settlement date, the price of a 3-month Eurodollar futures contract is an indication of the market's prediction of the 3-month Dollar LIBOR on its settlement date. The actual settlement price of a 3-month contract is calculated as 100 less the 3-month Dollar LIBOR on the settlement date. Most Eurodollar futures contracts settle on four quarterly International Monetary Market ("IMM") dates, which are the third Wednesday of March, June, September, and December. The last trading days are the second London bank business day prior to the third Wednesday (i.e., usually Monday) in

those months. In 2009, according to the Futures Industry Association, more than 437 million Eurodollar futures contracts were traded on the CME.

13. An interest rate swap (“swap”) is a financial derivative instrument in which two parties agree to exchange interest rate cash flows. If, for example, a party has a transaction in which it pays a fixed rate of interest but wishes to pay a floating rate of interest tied to a reference rate, it can enter into an interest rate swap to exchange its fixed rate obligation for a floating rate one. Commonly, for example, Party A pays a fixed rate to Party B, while Party B pays a floating interest rate to Party A indexed to a reference rate like LIBOR. There is no exchange of principal amounts, which are commonly referred to as the “notional” amounts of the swap transactions. Interest rate swaps are traded over-the-counter; in other words, they are negotiated in transactions between counterparties and are not traded on exchanges.

C. Rabobank

14. Rabobank is a financial services corporation with headquarters located in Utrecht, the Netherlands. Rabobank is structured as a cooperative. Rabobank “Member Banks” are independent cooperatives that are members of a centralized entity called Rabobank Nederland (in the Netherlands) and Rabobank International (outside of the Netherlands) (collectively, “Rabobank”). In addition to supporting the Rabobank Member Banks, Rabobank operates its own banking business and conducts other activities such as supervising the Rabobank Member Banks on behalf of financial regulators. Rabobank has banking divisions and branches around the world, including in the United States, with its United States branch headquartered in New York. Rabobank employs derivatives traders throughout the world – including in New York, London, Utrecht, Tokyo, Hong Kong, and Singapore – who trade financial instruments tied to LIBOR and Euribor, including interest rate swaps and Eurodollar futures contracts (“swaps

traders”). Employees on Rabobank’s money markets desks in London and Utrecht have been responsible for contributing Rabobank’s LIBOR and Euribor submissions (“submitters”). Rabobank’s Dollar LIBOR and Yen LIBOR submissions were made by submitters in London until December 2008, and by submitters in Utrecht starting in January 2009; Rabobank’s Pound Sterling LIBOR submissions have always been made by submitters in London; Rabobank’s Euribor submissions have always been made by submitters in Utrecht.

RABOBANK’S MANIPULATION OF ITS LIBOR AND EURIBOR SUBMISSIONS

Swaps Traders’ Requests for Favorable Settings

Swaps Traders’ Requests Within Rabobank

15. From as early as 2005 through at least November 2010, certain Rabobank swaps traders requested that certain Rabobank LIBOR and Euribor submitters submit LIBOR and Euribor contributions that would benefit the traders’ trading positions, rather than rates that complied with the definitions of LIBOR and Euribor. The swaps traders either requested a particular LIBOR or Euribor contribution for a particular tenor and currency, or requested that the rate submitter contribute a rate higher, lower, or unchanged for a particular tenor and currency. The swaps traders made these requests via electronic messages, telephone conversations, and in-person conversations. The LIBOR and Euribor submitters agreed to accommodate, and did in fact accommodate, the swaps traders’ requests and directions for favorable LIBOR and Euribor submissions on numerous occasions.

A. U.S. Dollar LIBOR

16. From at least as early as September 2005 through approximately December 2008, in New York, London, and Utrecht, multiple Rabobank Dollar swaps traders made frequent requests for favorable Dollar LIBOR contributions to the Rabobank Dollar LIBOR submitters on

the London money markets desk. Rabobank Dollar LIBOR submitters accommodated the requests on numerous occasions and submitted Rabobank's Dollar LIBOR contributions consistent with the requests.

17. For example, on Wednesday, October 17, 2007, a U.S. Dollar swaps trader ("Trader-1") emailed the Rabobank U.S. Dollar LIBOR submitter ("Submitter-1"): "A nice low 1 month for the rest of the week please matey. Cheers."¹ Rabobank's submissions for the rest of the week were consistent with this request. That day, Rabobank's 1-month U.S. Dollar LIBOR submission dropped four basis points whereas the rest of the Contributor Panel's submissions either remained unchanged or dropped one or two basis points from the previous day. The day before the request, Rabobank's 1-month U.S. Dollar LIBOR submission had been the fifth lowest submission of the banks on the Contributor Panel. Immediately after this request for a low submission, Rabobank's 1-month LIBOR submission sank to the lowest submission of any bank on the Contributor Panel. On Thursday, October 18, 2007, Rabobank's 1-month submission was tied for the second lowest on the Contributor Panel, and on Friday, October 19, 2007, Rabobank's 1-month submission was again the lowest submission of any bank of the Contributor Panel.

18. According to multiple Rabobank employees, Trader-1 and at least one other U.S. Dollar LIBOR swaps trader also made regular verbal requests to the submitters for submissions that would benefit their positions.

19. Accommodating such requests from traders was a regular part of the rate setting process at Rabobank. On November 15, 2007, another Rabobank submitter ("Submitter-9") explained to Submitter-1: "The fixinh should be done by cash desk in agreement with deriv. I do

¹ Quotes are as in the original and have not been corrected for spelling or grammar. Where entire sentences were capitalized in the original, standard capitalization rules have been applied to improve readability.

the fixing I ask swap desk what they have.” Submitter-1 replied: “[Trader-1] had big fixing so we help him today,” and further explained: “i am low because [Trader-1] has fixing ..i go higher tomorrow.”

20. In another exchange, on September 16, 2008, Trader-1 wrote to the backup U.S. Dollar LIBOR submitter (“Submitter-2”) with the subject line: “I don’t want to have a row about it [Submitter-2] but can’t understand why you were such an arse this morning?” In the body of the message, Trader-1 pasted the LIBOR submissions for 8 banks, including Rabobank, and stated: “Before justifying from a cash perspective where the true rate should be etc, I, and you, know that if you were short of 1 month fixing you’d have put in a mid ‘60’s LIBOR. P+L wise I couldn’t give a fack but I just can’t get my head around why you were being such an arse.” Submitter-2 replied: “Mate I had no intention to be or desire to be , I have no upside upsetting you or setting the libor too high,” continuing: “i honestly thought and still do think 2.78 was fair, obviuosly from ur perspective nearer 2.70 would have helped and I apologise for that....i knew you trying to broke me to an extent , but as you know anything lower from me would only have helped by 1-2bp,” and adding: “So I would rather we move on from this , and anything u need tom tell me again and ill try my best.”

21. As another example, on the morning of Monday, August 13, 2007, another U.S. Dollar Trader (“Trader-2”) messaged Submitter-1: “High 3s and 6s pls today mate (esp 6mths!!) if u would be so kind.. Gotta make money somehow!”² Submitter-1 replied: “cool..” Trader-2 messaged back: “Cheers [Submitter-1].. Every little helps!” That day, Rabobank’s 3-month U.S. Dollar LIBOR submission went down two basis points, while the other banks in the Contributor Panel ranged from decreasing their submissions by seven basis points to increasing them by

² “3s” and “3m” refer to the 3-month LIBOR tenor. Other tenors are commonly referenced in a similar manner such as “1s” and “1m” to refer to the 1-month LIBOR tenor, including the use of “w” to refer to weeklong tenors.

seven basis points. Rabobank's submission went from being tied for the seventh highest submission on the previous day to being tied for the fifth highest submission. Rabobank's 6-month U.S. Dollar LIBOR submission went up by one basis point from its previous submission, from 5.40 to 5.41, while the other banks' submissions remained constant, on average. Rabobank went from being tied for the third lowest submission on the Contributor Panel on Friday, August 10, 2007, to making the second highest submission of any bank on the Contributor Panel.

22. Later that same day, Trader-2 messaged Submitter-1: "where do u see 6m LIBOR tomorrow pls?" Submitter-1 wrote back: "where do you like to see it, is more the question?" Trader-2 responded: "HAAA , trying to price a deal, could make/lose a tidy amount of cash!!" Submitter-1 replied: "arrh I see .. at moment 5.40 again but who knows ." Trader-2 stated: "Ok cheers mate." Later that day, Trader-2 messaged Submitter-1 again, stating: "We've dealt ... gonna need a frickin high 6 mth fix tomorrow if ok with u... 5.42?" Submitter-1 replied: "send me an e mail matey for tomorrow ..my brain can't cope !!" Trader-2 responded: "Tell me about it... Cant believe how this market is moving ... I'll send a mail , write a post it not as well, its 750 mio 6mth fix! Could be risky!" The next day, August 14, 2007, a senior Rabobank trader and Trader-2's supervisor ("Trader-3"), messaged Submitter-1's supervisor ("Submitter-3"), who served as Rabobank's Global Head of Liquidity and Finance and the head of Rabobank's money markets desk in London: "any feeling for libors today? specifically, 6mth." Submitter-3 wrote back: "hi 1,2,3 month ...59 ,56 , 53.5 ...6 month 42 , i think thats what [Trader-2] needs." Trader-3 responded: "it's actually me that needs it, but thanks." Submitter-3 replied: "ahh [Trader-2] , taking all the credit !!" That day, as requested, Rabobank's 6-month U.S. Dollar LIBOR submission was 5.42, the highest submission of any bank on the Contributor Panel.

23. In addition to accommodating swaps trader requests, certain submitters also took their own trading positions into account at times. For instance, on September 19, 2007, Submitter-1 told Submitter-9: “today i have fixing so am low on the 3mth ...” That day, Rabobank’s 3-month U.S. Dollar LIBOR submission went down 39 basis points, whereas the average submission on the Contributor Panel went down approximately 34 basis points. Rabobank’s submission went from being tied for the third highest submission on the previous day to being tied for the lowest submission on the Contributor Panel.

24. At times, submitters had to balance competing requests, either because multiple Rabobank swaps traders had trading positions that conflicted with each other or because a swaps trader’s request conflicted with the submitter’s own trading position. For instance, on March 17, 2008, Trader-2 messaged Submitter-1 and asked: “where r u gonna fix 3m today, any idea?” Submitter-1 replied: “no idea mate ..ive only been in 10 mins .. you want me to ask about ..don’t think we have anything in 3’s so hap[p]y to help.” Trader-2 wrote back: “yes, I have 3k fixing today,,, highere the better.” Submitter-1 responded: “ok mate ..[a specific swaps broker] is going 56 area..” Trader-2 replied: “go 60 pls!” Submitter-1 wrote back: “sure.” Later in the conversation, Trader-2 asked: “can u go high 1s as well today pls.” Submitter-1 wrote back: “me & [Submitter-2] have got a couple of yards fixing today ..how much you got in it mate .. not sure we make a huge difference anyway .” Trader-2 wrote back: “2 bio... just 3s then matey.” Submitter-1 replied: “ok cool .. i’ll go flat to what [the swaps broker] says as probably won’t make huge diff..” That day, as requested, Rabobank’s 3-month U.S. Dollar LIBOR submission was 2.60, tied for the highest submission of any bank on the Contributor Panel. On the previous trading day, Rabobank’s submission had been tied for the ninth highest submission. Rabobank’s

1-month LIBOR submission went down 22 basis points, approximately the same as the average change in the submissions of the other banks on the Contributor Panel.

25. Likewise, on March 12, 2008, Trader-2 wrote to Submitter-2 and asked: "High 3s and 6s pls tomorrow." Submitter-2 wrote back: "Yes ..Low 1s though." Trader-2 responded: "Low 1s is fine, I have a lot in 3s and 6s tho (about 75k/bp)!"³ On March 13, 2008, Rabobank's 3-month U.S. Dollar LIBOR submission declined by two and a half basis points, whereas the other panel banks' submissions decreased by approximately five basis points on average. Rabobank's submission went from being the lowest of any bank on the Contributor Panel on March 12, 2008, to being only the fifth lowest submission. Likewise, Rabobank's 6-month U.S. Dollar LIBOR submission declined by six basis points, whereas the other panel banks' submissions decreased by approximately eight and a half basis points on average. Rabobank's submission went from being the second lowest submission of any bank on the Contributor Panel on March 12, 2008, to being tied as the sixth lowest submission. In contrast, Rabobank's 1-month U.S. Dollar LIBOR submission declined by five basis points, whereas the other panel banks' submissions decreased by approximately four and three-quarters basis points on average. Rabobank's submission was the lowest submission of any bank on the Contributor Panel on both March 12, 2008, and March 13, 2008.

26. On another occasion, on September 26, 2007, Trader-2 wrote Submitter-2 and Submitter-3 with the subject line: "High 3s tomorrow pls gents." Submitter-2 wrote back: "What.....21hahahahaha." Trader-2 replied: "I'll get u [Submitter-2]!!" Submitter-2 wrote: "I'm setting it tom," to which Trader-2 responded: "25 (or higher) would be great..... CHEERS." Submitter-2 responded: "U do realise [Trader-1] wants the opposite ,ill do my best mate."

³ "75k/bp" refers to a profit/loss exposure of \$75,000 per basis point change in the final fixing of the U.S. Dollar LIBOR rate (i.e., for every basis point increase or decrease in the U.S. Dollar LIBOR fixing, the trade would make or lose an additional \$75,000 respectively).

Trader-2 replied: "Bugger.. We fixed at 24, anything higher is a bonus!" On September 27, 2007, Rabobank's 3-month U.S. Dollar LIBOR submission was 5.24, an increase of five basis points, whereas the other panel banks' submissions increased by approximately three basis points on average. Rabobank's submission went from being tied as the twelfth highest submission on the Contributor Panel on the previous day to being tied as the fifth highest submission on the Contributor Panel.

27. On another occasion, on August 15, 2006, Trader-2 wrote to Submitter-1 and stated: "I have loads of 1s and 3mth fixes rolling this week (sell off came at the wrong time)!! If [Trader-1] doesnt hv any preferences, can I have low 1s and 3s the next few days pls matey..." Submitter-1 replied: "His exact word's are ..'i don't give a f*ck.'"

28. Submitter-3 was aware of the conduct on the desk he supervised, playing an active role in it and sometimes handling swaps trader requests himself. For example, on October 6, 2006, Trader-2 wrote to Submitter-3: "Hello Skipper, can u put 3s at 37 for me tomorrow pls... many thanks." Submitter-3 wrote back: "Never in doubt!" That day, Rabobank's 3-month U.S. Dollar LIBOR submission was 5.37, as requested. On November 29, 2006, Trader-2 again wrote to Submitter-3: "Hi mate, low 1s high 3s LIBOR pls !!! Dont tell [Trader-1] haa haaaaaaa. Sold the market today doooooohhhh!" Submitter-3 replied: "ok mate , will do my best ...speak later." That day, Rabobank's 1-month U.S. Dollar LIBOR submission went up by two and a half basis points. In light of changes in the submissions of other banks on the Contributor Panel, however, Rabobank's submission went from being tied with the submissions of thirteen other banks on the Contributor Panel for the second highest submission to being tied for the twelfth highest submission. Rabobank's 3-month U.S. Dollar LIBOR submission was unchanged from the previous day. Given changes in the submissions of other banks on the Contributor Panel,

however, Rabobank's submission went from being tied for the third highest submission on the previous day to being tied for the second highest on November 29, 2006. Two days later, on December 1, 2006, Trader-2 again wrote to Submitter-3: "Appreciate 3s go down, but a high 3s today would be nice... cheers chief." Submitter-3 wrote back: "I am fast turning into your LIBOR bitch!!!!" Trader-2 replied: "Just friendly encouragement that's all, appreciate the help." Submitter-3 wrote back: "No worries mate, glad to help We just stuffed ourselves with good ol pie, mash n licker !!"

29. At other times, Submitter-3 would refer swaps trader requests to his subordinates. For example, on March 16, 2007, Trader-2 asked Submitter-3: "one last thing, high 3mth libor on monday pls." Submitter-3 wrote back: "ok will tell Submitter-1."

B. Yen LIBOR

30. From in or around May 2006, through in or around November 2010, several Rabobank Yen swaps traders in Tokyo, and to a lesser extent Hong Kong and Singapore, made frequent and regular requests for favorable Yen LIBOR contributions to the Rabobank Yen LIBOR submitters on the London and Utrecht money markets desks. Rabobank Yen LIBOR submitters accommodated the requests on numerous occasions.

31. For example, on October 11, 2006, a Yen LIBOR trader ("Trader-4") emailed Rabobank's Yen LIBOR submitter ("Submitter-4") with the subject line: "3mths." In the email, Trader-4 wrote: "If in 2 minds on 3mth yen libor today, prefer u to go higher rather than lower mate if you've got ntg in it." Submitter-4 replied: "no prob mate...what u want me to set mate 43?....44?" Trader-4 wrote back: "0.44 if you can keep a straight face.." Submitter-4 responded: "no prob mate 44 it is !" That day, as requested, Rabobank's 3-month Yen LIBOR submission was 0.44, an increase of one basis point. Rabobank's submission went from being tied as the

fifth highest submission on the Contributor Panel on the previous day to being tied as the second highest submission on the Contributor Panel.

32. Two weeks later, on Wednesday, October 25, 2006, Trader-4 emailed the backup Yen LIBOR submitter ("Submitter-5") with the subject line: "libors." In the email, Trader-4 wrote: "I have a few chunky rolls in the 3 mth yen libors in the next few days. I don't want to compromise your integrity.. but if you've got ntg in it maybe a smidge lower today (actually shud be anyway as futures are a abt 1 higher anyway) and then high for Thurs and Fri would be great then I will be back in my box for another 2 weeks." Submitter-5 responded: "sure no problem mate if you have a sec can i have the lvls plse." That day, Rabobank's 3-month Yen LIBOR submission was consistent with Trader-4's request, decreasing one basis point from 0.45 to 0.44, whereas the rest of the Contributor Panel stayed approximately the same on average. Rabobank's submission went from being tied as the fourth highest submission on the Contributor Panel on the previous day to being tied as the twelfth highest submission on the Contributor Panel. On the next day, Thursday, October 26, 2006, Rabobank's contribution was again consistent with Trader-4's request, increasing one basis point, from 0.44 to 0.45, whereas the rest of the Contributor Panel either remained unchanged or decreased their submissions. Rabobank's submission went from being tied as the twelfth highest submission on the Contributor Panel to being tied as the second highest submission on the Contributor Panel. The next day, Friday, October 27, 2006, Rabobank's contribution was again consistent with Trader-4's request, remaining at 0.45, whereas the rest of the Contributor Panel decreased its submissions by an average of approximately half a basis point. Rabobank's submission remained tied as the second highest submission on the Contributor Panel.

33. Two weeks later, on November 8, 2006, Trader-4 wrote to Submitter-4: "Got a few big 3mth fixings in next 2 days, any chance you cud bump it up a couple? What do u actually think 3mth today 45.25-45.5 ish?" Submitter-4 wrote back: "will set them high and dry skip!" The next day, Trader-4 wrote back: "Thx skip, 1 more today – only has to be 3 mths, others do as you pls, then im relatively square for a while.." Submitter-4 replied: "no prob mate will set it high again...is 46 lvl ok or higher?" On both days, Rabobank's 3-month Yen LIBOR submissions were consistent with Trader-4's request. On November 8, 2006, Rabobank's submission was 0.46, an increase of three basis points from the previous day's submission, whereas the rest of the Contributor Panel stayed approximately the same on average. Rabobank's submission went from being tied as the second lowest submission on the Contributor Panel on the previous day to being tied as the third highest submission on the Contributor Panel. On November 9, 2006, Rabobank's submission was again 0.46, keeping Rabobank's submission tied as the third highest submission on the Contributor Panel.

34. Requests were regularly accommodated by multiple Yen LIBOR submitters on the desk, and when one submitter on the desk was out, swaps traders knew to make their requests to others on the desk to ensure that their requests would be accommodated. For example, on February 9, 2007, Trader-4 emailed Submitter-4 with the subject line: "3 mth libors." In the message, Trader-4 wrote: "Mate, be great if you could keep your 3 mth libor unchanged today if you can get away with it and its ok with your posy." Submitter-4 replied: "you need a high one?.....no prob skip." Trader-4 wrote back: "Yes pls mate, my only major fixing for a while, cheers." Submitter-4 replied: "off next week mate so if u need any libor requests next week – give [Submitter-5] a shout." That day, as requested, Rabobank's 3-month Yen LIBOR submission was 0.55, the same as the previous day, tied as the highest submission on the

Contributor Panel. The next week, on February 14, 2007, Trader-4 wrote to Submitter-5 with the subject line "6m yen libor," and asked: "Can you keep your 6m yen libor at 0.62 today if poss as have a large fixing today?" Submitter-5 wrote back: "sure will do mate." That day, as requested, Rabobank's 6-month Yen LIBOR submission remained at 0.62. Rabobank's submission went from being tied as the third highest submission on the Contributor Panel on the previous day to being the highest submission on the Contributor Panel.

35. In addition to accommodating swaps trader requests, certain Rabobank Yen LIBOR submitters also took their own trading positions into account. At times, submitters also had to balance competing requests when multiple Rabobank swaps traders had trading positions that conflicted with each other. For example, on Monday, March 26, 2007, Trader-4 emailed Submitter-4: "On libors, this week have a fair bit of 6mths rolling off, I am short so if you can discreetly drop your 6m by 1-2 bp without any trouble would be great – if not no probs mate" and "Im happy for you to keep your 1 mth high as both [another Yen swaps trader ("Trader-5") and I are long a fair bit of those till Wed." Submitter-4 wrote back: "sure no prob - all my stuff is mainly 1 mth so will keep that high and drop 6's cheers." On Tuesday, March 27, 2007, as requested, Rabobank's 6-month Yen LIBOR submission decreased two basis points, from 0.74 to 0.72. Rabobank's submission went from being tied as the second highest submission on the Contributor Panel on the previous day to being tied as the eighth highest submission on the Contributor Panel. Likewise, Rabobank's 1-month Yen LIBOR submission decreased three basis points, whereas the other panel banks' submissions decreased by approximately four and three-quarters basis points on average. As a result, Rabobank's submission went from being tied as the second highest submission on the Contributor Panel on the previous day to being tied as the highest submission on the Contributor Panel.

36. Likewise, on September 14, 2007, Trader-4 wrote to Submitter-4, and informed him: "Im short 3ml today and [Trader-5] is long so don't let him pressure you to put it high and I wont pressure you to put it low - leave it to you to decide the right levels." Submitter-4 replied: "No worries skip - I'll look after you." On June 15, 2007, Trader-5 wrote to Submitter-4 and asked: "Hi mate what did u put for 3mth and 6mth libor today?" Submitter-4 wrote back: "3m 75 6m 87. [Trader-4] wanted a high one." Trader-5 wrote back: "Really??? [Trader-4] should have told me this. I wanted them to be lower."

37. Rabobank's Yen LIBOR submitters accommodated swaps traders' requests to the point of allowing the swaps traders significant influence over the setting process, particularly Trader-5, who made regular requests to Rabobank's London-based Yen setters. For example, on August 21, 2007, Trader-5 emailed Submitter-5 with the subject line "LIBORS" and asked: "If you can make 1 month LIBOR higher today, that would be a help mate." Submitter-5 replied: "Ok what level you looking at ?" Trader-5 wrote back: "If possible, woud prefer it to be 0.82%." Submitter-5 wrote back: "Ok mate will do." Trader-5 then wrote: "Thank you for help mate. What do you guess tdy's 3m ad 6m jpy libors? Higher or lower?" Submitter-5 responded: "Hahah you tell me I m not really watching the yen libors all my stuff going a bit mad at mom." Trader-5 later asked: "Where are you setting 3mth and 6mth libor today?" Submitter-5 repeated: "You tell me what you want mate he has no fixing at mom." Trader-5 responded: "1m 0.82," "3m 1.00," "6m 1.06:" "If you can put those rates,,, would be nice mate." Submitter-5 then offered: "Great will do if you want to give me them each day ill input whatever you want mate ok cheers." That day, as requested, Rabobank's 1-month Yen LIBOR submission was 0.82, an increase of four basis points. Rabobank's submission went from being tied as the eleventh highest submission on the Contributor Panel on the previous day to being tied as the second

highest submission on the Contributor Panel. Likewise, as requested, Rabobank's 3-month Yen LIBOR submission was 1.00, and its 6-month Yen LIBOR submission was 1.06.

38. As another example, on August 24, 2007, Trader-5 emailed Submitter-5 with the subject line "libors" and stated: "I would like today's 6m libor lower today mate," to which Submitter-5 replied: "Ok mate what level do you want mate." Later that day, Trader-5 emailed Submitter-5 again and asked: "What rate did you input for libors?" Submitter-5 responded: "Himmate I have not done them what do u want." Trader-5 wrote back: "1m 0.78," "3m 0.99," "6m 1.00." Later that day, after the Yen LIBOR submissions and fixing had been published, Trader-5 replied again: "Ops... Sorry that I meant 6m is 1.10.... Not 1.00%. Just bit surprised when I saw our 6m libor price." That day, as requested, Rabobank's 1-month Yen LIBOR submission was 0.78, and its 3-month Yen LIBOR submission was 0.99. Rabobank's 6-month Yen LIBOR submission was 1.00, consistent with Trader-5's mistaken request, a fifteen basis point decrease from the previous day's submission, whereas the other panel banks' submissions decreased by approximately half a basis point on average.

39. At times, trader input resulted in Rabobank submitting Yen LIBORs that the Yen LIBOR submitters knew were incorrect. For example, on September 21, 2007, Trader-5 emailed Submitter-4 with the subject line "libors," writing: "Wehre do you think today's libors are? If you can, I would like 1mth libors higher today." Submitter-4 replied: "Bookies reckon 1m sets at .85." Trader-5 wrote back: "I have some fixings in 1 mth so would appreciate if you can put it higher mate." Submitter-4 replied: "No prob mate let me know your level." Trader-5 responded: "Wud be nice if you could put 0.90% for 1mth cheers." Submitter-4 wrote back: "Sure no prob. I'll probably get a few phone calls but no worries mate!" Trader-5 replied: "If you may get a few phone calls then put 0.88% then." Submitter-4 responded: "Don't worry mate

– there’s bigger crooks in the market than us guys!” That day, as requested, Rabobank’s 1-month Yen LIBOR submission was 0.90, an increase of seven basis points from its previous submission, whereas the other panel banks’ submissions decreased by approximately a half of a basis point on average. Rabobank’s submission went from being tied as the tenth highest submission on the Contributor Panel on the previous day to being the highest submission on the Contributor Panel.

40. Similarly, on October 17, 2008, Trader-5 emailed Submitter-4, and asked: “If possible, could you keep setting 6m libor at 0.80% for a while please?” Submitter-4 wrote back: “Hi mate – oh yes – we are now setting all libors significantly under the market levels.”

41. On March 19, 2008, Trader-5 emailed Submitter-4 with the subject line “LIBORs,” and wrote: “We have loads of 6mth fixings today. If possible, could you set 6m libor to 1.10% please? We don’t have particular interest in other libors.” Submitter-4 wrote back: “Sry just to confirm 6m you want at 1.10??? Ok will do that but I will prob get a phone call at I set 02 yesterday and brokers reckon everything a little lower today,” continuing: “But will set your level cheers.” Trader-5 wrote back: “Actually,,, [another Yen Trader and Trader-5’s supervisor (“Trader-6”)] would like 6m to be higher today.... If it is not appropriate, it is fine mate, I will explain the situation to him. He will understand the situation. He is on holiday today. He just called me up in this morning to ask you to put libors higher.” Submitter-4 replied: “Well its no prob mate – I can set it that high. it will be quite funny to see the reaction!” Trader-5 wrote back: “I felt that it was a little funny so,,, if you can put a little higher 6mth up to the lvl you feel comfortable, 1bp or a couple of bp would be fine for him mate.” Submitter-4 wrote back: “No worres mate – I’ll set it at 1.10...” That day, as requested, Rabobank’s 6-month Yen LIBOR submission was 1.10, an increase of eight basis points from its previous submission

of 1.02, whereas the other panel banks' submissions decreased by approximately a third of a basis point on average. Rabobank's submission went from being tied as the tenth highest submission on the Contributor Panel on the previous day to being the second highest submission on the Contributor Panel.

42. Submitter-3, who supervised the Yen LIBOR submitters in addition to the U.S. Dollar LIBOR submitters, was aware of the conduct on the desk he supervised and played an active role in it. As an example, on March 14, 2007, Trader-4 messaged Submitter-3 and asked: "Is [Submitter-5] in mate?" Submitter-3 replied: "Not yet," and asked: "can I help ?" Trader-4 wrote back: "No worries mate, I think [Submitter-4] just wanted him to nudge up a few of the LIBORs.. Will send him a mail." Submitter-3 replied: "Ok cc [additional individual] and [Submitter-1] on it aswell mate , just in case." Trader-4 replied: "I got hold opf [Submitter-5] mate and he said all in hand, cheers."

43. In January 2009, Rabobank's LIBORs (with the exception of Pound Sterling LIBOR) ceased being set in London and began to be set in Utrecht. As new submitters took responsibility for setting LIBOR with limited knowledge of the process and no training, Trader-5 began to exercise even more control over the LIBOR setting process. As an example, on January 28, 2009, Trader-5 emailed the new Yen LIBOR submitter ("Submitter-6"): "Could you set todays libors,,,3mth at 0.65% 6mth at 0.83% pls?" Later, Trader-5 emailed Submitter-6 again: "If you haven't set 6m libor yet,,, could you set it at 0.82% instead of 0.83% pls? 3mth is ok with 0.65%." That day, as requested, Rabobank's 3-month Yen LIBOR was 0.65. Likewise, as requested, Rabobank's 6-month Yen LIBOR submission was 0.82, a decrease of eight basis points from its previous submission, whereas the other panel banks' submissions stayed approximately constant on average. Rabobank's submission went from being tied as the fourth

highest submission on the Contributor Panel on the previous day to being tied as the eleventh highest submission on the Contributor Panel.

44. After January 2009, when Rabobank's Yen LIBOR submitters moved to Utrecht, Trader-5 would frequently send an entire slate of LIBOR rates to the submitters for them to input. For instance, on February 25, 2009, Trader-5 wrote to Submitter-6 with the subject line "libors" and wrote: "Could you set libors for today as below please?": "1m 0.39;" "2m 0.60;" "3m 0.65;" "4m 0.71;" "5m 0.76;" "6m 0.80." The next day, he wrote again to Submitter-6 with the subject line "libors" and wrote: "Could you put the below libors for today pls?": "1m 0.55%;" "2m 0.60%;" "3m 0.65%;" "4m 0.71%;" "5m 0.76%;" "6m 0.80%." On both days, Rabobank's Yen LIBOR submissions were made as requested.

45. Likewise, on May 22, 2009, Trader-5 wrote to Submitter-6: "I will be away from the office a whole week in the next week. If nobody ask you change libors or there isn't a big move in market, could you put libors around the same level as the below for next week please?": "1w 0.15;" "2w 0.19;" "1m 0.23;" "2m 0.42;" "3m 0.52;" "4m 0.59;" "5m 0.65;" "6m 0.71." Rabobank's Yen LIBOR submissions were made consistent with Trader-5's request each day until May 29, 2009.

46. Submitters would often seek out Trader-5's input in the setting process. For instance on January 30, 2009, Submitter-6 messaged Trader-5: "any preferences in fixings today?" Trader-5 wrote back: "6m 0.82% pls," to which Submitter-6 responded: "will do." That day, as requested, Rabobank's 6-month Yen LIBOR submission was 0.82, a decrease of three basis points from its previous submission, whereas the other panel banks' submissions decreased by approximately a basis point on average. Rabobank's submission went from being tied as the

eighth highest submission on the Contributor Panel on the previous day to being the eleventh highest submission on the Contributor Panel.

47. Trader-5 monitored Rabobank's Yen LIBOR submissions and would follow up with the submitters on the occasions when their submissions strayed from his requests. For example, on January 30, 2009, Trader-5 emailed Submitter-6 and wrote: "Why did you moved up 3m libor by 10.5bp? It is ridiculous." Submitter-6 wrote back: "had again problems with publishing from my sheet," "Wrong figure came across by putting in manual adjustments," "Gonna automatize it today." Trader-5 wrote back: "3m libor could have been below 0.67 if we, Rabo, didn't moved up by 10.5bp!" Submitter-6 responded: "They didn't call from reuters why we were 10.5 tics out which they should have done," continuing: "And they take the outliers out of their calculations, so the 76.5 price shouldn't be included." Trader-5 explained: "If we have stayed at 0.66% instead of 0.765, then the 3mth libor should have been 0.668125% instead of 0.67063%. so it is below 0.67%."

48. On October 18, 2010, Trader-5 emailed Submitter-6's replacement as the Yen LIBOR submitter ("Submitter-8") and wrote: "Why did you put all the Yen LIBORs higher for today without telling me? Where is the team play? You know my position is? I cant believe you did this without telling me. If you had to put them higher for some reason but at least you could have told me in before hand. Im really fukked." At around the same time, Trader-5 messaged Submitter-8: "why did you put libors all higher?" Submitter-8 wrote back: "Hi made I just saw your email and replied.. I fukked up.. you gave [the new back-up Yen LIBOR submitter ("Submitter-7")] new libors last week.. didn't save the sheet and today I used my own computer for libors.. I fukked up, my mistake.. not on perpose mate," "I am really sorry," "And I would never change libors without consulting you." Trader-5 messaged back: "i got so surprised when

i saw rabos number. you know my position then put libors higher,” explaining: “some ppl react in this way so i worried as well if you were this kind of a guy.”

49. At times, Trader-5 made clear to the setters that the purpose of affecting Rabobank’s LIBOR submission was to affect the final LIBOR fix. For example, on January 29, 2009, Submitter-6 messaged Trader-5 and wrote: “saw the 6m vs 3m basis collapsing last night..” Trader-5 wrote back: “because we lowered 6m libor !” Submitter-6 responded: “heheh absolutely.. it comes ur way i presume,” and later: “preferences in the fixing today?” On October 20, 2010, Submitter-8 chatted with Trader-5, writing: “so whats the reason that you dont put down Rabo JPY libor numbers? just one tick to see what happens? Or is that sort of manipulation and not done? or am I saying something stupid now?” Trader-5 responded: “Rabo JPY LIBOR numbers are already one of the lowest four banks among 16 panel banks so even if we put them lower further, it wouldnt give any change on yen libors,” to which Submitter-8 replied: “I see..” Trader-5 then wrote: “and i think just keep libors one of the lowest four banks is the good idea because it isnt obvious so that ppl wouldnt notice. if it is too obvious, ppl could start looking at us manipulating libors.”

50. Trader-5 had almost complete control over the Yen LIBOR setting process at Rabobank after Rabobank’s LIBOR submitters moved to Utrecht in January 2009. For instance, on August 4, 2009, Trader-5 asked Submitter-7: “have you put todays libors?” Submitter-7 wrote back: “nope you can set them if you like.” Trader-5 wrote back: “just sent it out now. thank you.” On June 12, 2009, Trader-5 messaged Submitter-7: “i sent a email about LIBORs... did you get it?” Submitter-7 wrote back: “i will input them,” to which Trader-5 responded: “thank you for your help!” In fact, Trader-5’s control of the process was so significant that after Rabobank prohibited swaps traders from communicating about LIBOR rate setting with

submitters on November 30, 2010, Trader-5 explained to a broker: "Till two weeks ago I was setting libors for rabo but due to BBA investigation someone out side of europe shudnt have any influence of libors then I cudnt be involved in libors after then."⁴

51. In fact, although Trader-5's requests to Rabobank's Yen LIBOR submitters were frequently motivated by his own trading positions, Trader-5's communications after January 2009 were sometimes the result, at least in part, of his belief that he was Rabobank's Yen LIBOR submitter and that Rabobank's actual Yen LIBOR submitters, due to their lack of relevant knowledge, needed his input. Thus on numerous occasions Trader-5 communicated rates to Rabobank's Yen LIBOR submitters even though neither he nor others on his desk had a trading position related to that rate. As such, on numerous occasions, Trader-5's communications were, at least in part, not motivated by a desire to benefit swaps traders' trading positions.

52. Certain mid-level supervisors were likewise aware of Trader-5's behavior. For instance, on November 4, 2008, when the Yen LIBOR submission process was still being handled in London, Trader-5 wrote to Submitter-3 [Rabobank's Global Head of Liquidity and Finance and the head of Rabobank's money markets desk in London], Submitter-1 and Submitter-5, asking: "Could you set 6m libor at 0.98% today if possible please?" Submitter-5 responded: "SURE." That day, as requested, Rabobank's 6-month Yen LIBOR submission was 0.98, a decrease of five basis points from its previous submission, whereas the other panel banks' submissions decreased by approximately a third of a basis point on average. Rabobank's submission went from being tied as the fifth highest submission on the Contributor Panel on the previous day to being tied as the tenth highest submission on the Contributor Panel. Trader-5

⁴ Even after Trader-5 was instructed not to influence Rabobank's Yen LIBOR submissions, on occasion he accepted solicitations by brokers to attempt to influence Yen LIBOR submissions at other Contributor Panel banks.

likewise emailed Submitter 3, Submitter-1, and Submitter-5 on October 31, 2008, asking: "If possible could you put 0.99% for 3m libor and 1.07% for 6m LIBOR pls?" That day, as requested, Rabobank's 3-month Yen LIBOR submission was 0.99 and its 6-month Yen LIBOR submission was 1.07, both unchanged from the previous submissions, whereas the other panel banks' 3-month Yen LIBOR submissions decreased by approximately five basis points on average, and their 6-month Yen LIBOR submissions decreased by approximately four and a half basis points on average. For 3-month Yen, Rabobank's submission went from being tied as the fifth highest submission on the Contributor Panel on the previous day to being the third highest submission on the Contributor Panel. Likewise, for 6-month Yen, Rabobank's submission went from being tied as the fifth highest submission on the Contributor Panel on the previous day to being the fourth highest submission on the Contributor Panel.

53. Trader-5's own supervisor, and the head of Rabobank's Yen derivatives desk in Tokyo, Trader-6, was also aware of and intimately involved in Trader-5's conduct, directing requests to submitters through Trader-5 to benefit Trader-6's trading positions. For example, on October 8, 2008, Trader-5 emailed Submitter-4 with the subject line "Todays libors..." writing: "If is it ok,,, [Trader-6] would like todays 6m libor at 1.10%. Thank you very much for help." Submitter-4 wrote back: "Ok skip." That day, as requested, Rabobank's 6-month Yen LIBOR submission was 1.10, a decrease of ten basis points from its previous submission, whereas the other panel banks' submissions increased by approximately one and three-quarters basis points on average. Rabobank's submission went from being tied as the fifth highest submission on the Contributor Panel on the previous day to being tied as the twelfth highest submission on the Contributor Panel.

54. Likewise, on July 24, 2008, Trader-5 wrote to Submitter-4: "As for the today's libors. Could you set 6m at 0.97% please? [Trader-6] has big fixings over the next couple of weeks so that it would be nice if you could keep it as low as possible for some time." Submitter-4 responded: "Will do mate." That day, as requested, Rabobank's 6-month Yen LIBOR submission was 0.97, a decrease of three basis points, whereas the other panel banks' submissions stayed approximately constant on average. Rabobank's submission went from being tied as the sixth lowest submission on the Contributor Panel on the previous day to being tied as the second lowest submission on the Contributor Panel.

55. In a call on July 25, 2008, Trader-6 told a third party at another financial institution: "Sometimes if you want the LIBOR to be set, if you want today's LIBOR at a certain price, your desired number [would be achieved]." After the third party replied: "Really?" Trader-6 explained: "Well, we are the ones who set [the LIBOR]." Trader-6 continued: "The recent 97 had been set at 97 due to my wishes," explaining: "That is obviously . . . that's a little bad . . . Well, anyway, the person with the strongest wishes gets to decide it. Well, this is the way it is."

56. On occasion, other traders on Trader-6's desk made requests when Trader-5 was absent. On May 25, 2009, Submitter-6 forwarded Trader-5's out-of-office message to the junior trader on Trader-5's desk ("Trader-8"). Trader-8 wrote back: "What can I help you ??" Submitter-6 responded: "Normally [Trader-5] sends us his preferences for the JPY libors. If you have any let me know." Trader-8 wrote back: "We don't have any special requests for libors today." The next day, Trader-8 replied again: "About libors.. Same as last Friday pls. if no particular int from others."

57. On occasion, Trader-6 also made requests directly to Rabobank's Yen LIBOR submitters. For example, on August 4, 2008, Trader-6 messaged Submitter-4: "Please set today's 6mth LIBOR at 0.96," continuing: "I have chunky fixing.... Thanks for your help," to which Submitter-4 replied: "No worries mate." That day, as requested, Rabobank's 6-month Yen LIBOR submission was 0.96, a decrease of three basis points, whereas the other panel banks' submissions stayed approximately constant on average. Rabobank's submission went from being tied as the fourth lowest submission on the Contributor Panel on the previous day to being the second lowest submission on the Contributor Panel. Two days later, on August 6, 2008, Trader-6 messaged Submitter-4 again: "I have another side of fixing today and tomorrow," continuing: "can we make 6mth LIBOR at 0.98?" Submitter-4 wrote back: "Ok higher?...sure thing." Trader-6 responded: "Yes, only today and tomorrow...thanks." That day, Rabobank's 6-month Yen LIBOR submission was even higher than requested, 1.00, an increase of four basis points, whereas the other panel banks' submissions stayed approximately constant on average. Rabobank's submission went from being the second lowest submission on the Contributor Panel on the previous day to being tied as the fourth highest submission on the Contributor Panel. Rabobank's submission the next day remained the same, as did its submission's place on the Contributor Panel. On Friday, August 8, 2008, Trader-6 messaged Submitter-4 again: "Could you make it 6mth LIBOR at 0.97 today," explaining: "I have big fixing coming two weeks...." That day, as requested, Rabobank's 6-month Yen LIBOR submission was 0.97, a decrease of three basis points, whereas the other panel banks' submissions stayed approximately constant on average. Rabobank's submission went from being tied as the fourth highest submission on the Contributor Panel on the previous day to being tied as the second lowest submission on the Contributor Panel. Rabobank's submission remained the same on Monday, August 11, 2008,

Tuesday, August 12, 2008, and Wednesday, August 13, 2008. On August 14, 2008, Trader-6 messaged Submitter-4 yet again and wrote: "Today and 19th Aug are the biggest fixing for us. Could you set 6m LIBOR at 0.93 today." That day, Rabobank's 6-month Yen LIBOR submission was 0.94, a decrease of three basis points, whereas the other panel banks' submissions stayed approximately constant on average. Rabobank's submission went from being tied as the seventh lowest submission on the Contributor Panel on the previous day to being tied as the second lowest submission on the Contributor Panel. On August 19, 2008, Rabobank's 6-month Yen LIBOR submission was 0.93, making it tied as the lowest submission on the Contributor Panel.

58. Other Rabobank traders continued to make requests as well. For instance, on June 25, 2009, another Yen trader ("Trader-7") emailed Submitter-7 and wrote: "could you set input for the JPY 6M libor very low today (65 or so). We have a very large fixing today in the 6 month's." That day, as requested, Rabobank's 6-month Yen LIBOR submission was 0.65, a decrease of six basis points from its previous submission, whereas the other panel banks' submissions decreased by approximately a basis point on average. Rabobank's submission went from being tied as the eighth lowest submission on the Contributor Panel on the previous day to being tied as the second lowest submission on the Contributor Panel.

59. Traders and submitters did not hide the fact that traders had influence over the Yen LIBOR submission process from their supervisors. The Head of Liquidity and Finance for Europe, and later Submitter-3's replacement as Global Head of Liquidity and Finance ("Trader-9"), was informed that Trader-5 would sometimes email the Yen LIBOR submitter with requests. On December 9, 2008, Trader-9 emailed Submitter-3 and Submitter-5 with the subject line: "LIBORS." In the email, Trader-9 wrote: "Good to hear that [Submitter-8] is up and running.

Short question: only question mark for me is him sending out the daily Rabo Libor fixings. He told me that he will just 'copy, paste' the previous days Libors. Don't blame [Submitter-8] of course, but he has got no clue on this yet. What you think, is this going ok? Want to prevent that we get questions from BBA on this?" Submitter-5 replied: "Yes [Submitter-8] is doing fine, regarding the libors," explaining that with: "the yen libors sometimes [Trader-5] will email from Tokyo to ask for any special requests."

60. In March 2009, when Rabobank conducted an operational audit of the Money Markets desks in Utrecht and London, the auditor, after meeting with Submitter-6, wrote in her work papers that: "Submitter-6 also inputs the JPY Libor rates on behalf of the Tokyo team to the BBA as they have no access to do this. They provide this via email." Within her work papers, the auditor included an email from Trader-5 to Submitter-6 in which Trader-5 sent LIBOR rates to Submitter-6 for submission. Despite noting this information in her work papers, the auditor did not appreciate its significance.

C. Euribor

61. From in or around July 2007 through September 2008, multiple Rabobank Euribor swaps traders in London and Utrecht made frequent and regular requests for favorable Euribor contributions to the Rabobank Euribor submitters on the Utrecht money markets desk. Rabobank's Euribor submitters accommodated the requests on numerous occasions.

62. For example, on April 22, 2008, Rabobank's Euribor submitter, Submitter-9, messaged a Euribor swaps trader ("Trader-10"): "Hello let's cheat on the fixes ??" Trader-10 wrote back: "only biggie is really low 3s. much appreciated, as usual:)." That day, Rabobank's 3-month Euribor submission was 4.81, an increase of one basis point. Due to upward movement by other banks on the Contributor Panel, however, Rabobank's submission went from being tied

as the twenty-first highest submission on the Contributor Panel on the previous day to being tied as the twenty-eighth highest submission on the Contributor Panel. On September 5, 2008, Submitter-9 messaged Trader-10: "Hi still high 3s and 6s ??" Trader-10 wrote back: "yes, everything high pls." That day, Rabobank's 3-month Euribor submission was 4.97, an increase of one basis point. Rabobank's submission went from being tied as the thirteenth highest submission on the Contributor Panel on the previous day to being tied as the seventh highest submission on the Contributor Panel. Likewise, Rabobank's 6-month Euribor submission was 5.19, an increase of one basis point. Rabobank's submission went from being tied as the eleventh highest submission on the Contributor Panel on the previous day to being tied as the fourth highest submission on the Contributor Panel.

63. The trader requests on the Euribor desk were made both to advance the traders' trading positions and to maintain the appearance of consistency in Rabobank's submissions. On June 3, 2008, Submitter-9 messaged Trader-10: "salut fixes please ??" Trader-10 replied: "ok, hold on tight; high 3s and 6s pls!!" Submitter-9 replied: "high >?? U sure ??" Trader-10 wrote back: "yes indeed only 3s not soo big and prob tomorrow low again so maybe dont spoil the pattern too much? thanks either way:)." On September 24, 2008, Submitter-9 wrote: "hi high 3 and 6s," to which Trader-10 replied: "today low 1s and 3s, high 6s pls:-) merci!" Submitter-9 wrote back: "u got me confused here [Trader-10]." Trader-10 replied: "always high 6s, and our fixings 1s and 3s are large enough today to want lower fixings there, 1s and 3s do change daily, if e.g. 3m is small then we go for high 3s to support your high 6s. bon?" Submitter-9 replied: "a lesson in fixings !!!!"

64. In addition to accommodating swaps trader requests, a Rabobank Euribor submitter also took her own trading positions into account. On September 29, 2008, Submitter-9

messed Trader-10: "Hi low 3s and high 6s ??" Trader-10 wrote back: "yes pls [Submitter-9], low 1s and 3s actually, both are quite big.. many thanks!" Submitter-9 replied: "I have 7 bio 1s." Trader-10 replied: "meaning you need it high?" Submitter-9 wrote: "I hear between 4.95 and 5.05 is 1s what shall I put ???"

65. Certain other traders and submitters also sent and received requests. For instance, on July 12, 2007, another Euribor trader ("Trader-11") wrote to the backup Euribor submitter ("Submitter-10") with the subject line: "fixings." In the message, Trader-11 wrote: "Only when it doesn't affect you in a negative way: today we'd like to see the 6M fixing as high as possible and the 3M fixing as low as possible...many thanks!" On November 19, 2007, another U.S. Dollar and Euribor trader ("Trader-12") messaged Submitter-9: "I need high 3m euribor today!" That day, Rabobank's 3-month Euribor submission was 4.62, an increase of six basis points. Rabobank's submission went from being tied as the thirty-eighth highest submission on the Contributor Panel on the previous day to being tied as the eighteenth highest submission on the Contributor Panel.

66. According to multiple Rabobank employees, Trader-11 and at least one other Euribor swaps trader made regular and frequent verbal requests to the submitters for submissions that would benefit their positions.

D. Pound Sterling

67. From in or around November 2007 through February 2009, at least one Rabobank Pound Sterling swaps trader in London made occasional written requests for favorable LIBOR Pound Sterling contributions to the Rabobank LIBOR Pound Sterling submitters on the London money markets desk. Rabobank's LIBOR Pound Sterling submitters accommodated the requests on occasion.

68. For example, on November 30, 2007, the Pound Sterling swaps trader (“Trader-13”) emailed the Pound Sterling LIBOR setter (“Submitter-11”) with the subject line: “Libors.” The message read: “Need high 3s wnd low 1s.” Submitter-11 wrote back: “Okok.” On December 2, 2008, Trader-13 emailed Submitter-11 again with the subject line: “Libors.” The message read: “Need high 1s and 6s please.....”

Interbank Coordination of Rate Submissions

69. From as early as January 2006 through October 2008, a Rabobank Yen LIBOR submitter and a Rabobank Euribor submitter had two separate agreements with traders at other banks to make Yen LIBOR and Euribor submissions that benefitted trading positions, rather than submissions that complied with the definitions of LIBOR and Euribor. The requests were made via electronic messages and telephone conversations. The traders and submitters who received such requests agreed to accommodate, and did in fact accommodate the requests on numerous occasions.

A. *Yen LIBOR*

70. From as early as May 2006 and continuing at least through October 2008, Submitter-4 and a trader (“Trader-B”) at another Contributor Panel bank (“Bank-B”) had an agreement that they would, upon request, contribute Yen LIBOR submissions to benefit each other’s trading positions, or the trading positions of other traders, whenever doing so did not adversely affect their own trading positions. As Trader-B explained in an email forwarding a Yen LIBOR submission request from Submitter-4 to the Yen LIBOR submitters at Bank-B: “We usually try and help each other out...but only if it suits.”

71. On June 27, 2006, for example, Submitter-4 communicated with Trader-B: “i need a high 1mth today - so i will be setting an obseently high 1mth.” Trader-B responded: “sure

mate no worries...give us an idea where and i'll try n oblige...;)," to which Submitter-4 replied: "ok great - well at mo thinking of setting mine around 17." Trader-B accommodated Submitter-4's manipulation request, as Bank-B's one-month submission for that day was 0.17.

72. On July 6, 2006, Submitter-4 communicated with Trader-B: "for info i need a high 1mth set today – i will be setting something ridiclous like 28 or 29 for info." That day, Rabobank's 1-month Yen LIBOR submission was 0.29, an increase of two basis points, making Rabobank's submission the highest submission on the Contributor Panel. Likewise, Bank-B's 1-month Yen LIBOR submission also increased by two basis points.

73. On occasions when Submitter-4 or Trader-B was unable to, or failed to, accommodate the other's trading position, an effort was sometimes made to explain the attendant circumstances and to preserve their agreement. For example, on March 28, 2008, Submitter-4 preemptively contacted Trader-B to explain that their submissions would be at odds that day: "morning skip – [Trader-5] has asked me to set high libors today – gave me levels of 1m 82, 3m 94....6m 1.02." Trader-B replied: "sry mate cant oblige today...i need em lower!!!" Submitter-4 then explained: "yes was told by [a third party]...just thought i'd let you know why mine will be higher ...and you don't get cross with me."

74. Similarly, on January 5, 2007, Trader-B explained how he had mistakenly failed to accommodate a manipulation request from Submitter-4: "just b4 you beat me up....I was in meeting so didn't do me libors today...thk they put .52 for 1s..." Submitter-4 answered: "hahah no thats fine – thats what i set too.....cheers skip."

75. The agreement between Submitter-4 and Trader-B was also used to manipulate Yen LIBOR to benefit other traders at both Rabobank and Bank-B. For example, on May 10, 2006, Submitter-4 made a manipulation request of Trader-B on behalf of Trader-4 for a low six-

month submission: “re our conversation yesterday about libors...for info i’ve been asked by my singapore man to help him out with a silly low 6m fixing today.....just for your info.” Trader-B responded: “Tell him I’ll do same if he gets me a job!!!!”

76. On July 27, 2006, Submitter-4 contacted Trader-B on behalf of Trader-5 to request a high one-month submission consistent with Rabobank’s submission: “[Trader-5] wants a high 1m fix from me today....am going to set .37.” Trader-B agreed: “that suits mate,” “so happy to ablige.” Bank-B’s submission jumped from 0.35 to 0.37 between July 26, 2006, and July 27, 2006, a move that took Bank-B’s submission from being tied as the lowest submission on the Contributor Panel to being tied as the second highest submission on the Contributor Panel.

77. The following day, July 28, 2006, Submitter-4 and Trader-5 conferred internally regarding their mutual desires for another high fixing. Submitter-4 stated to Trader-5: “setting a high 1m again today - I need it!” to which Trader-5 responded: “yes pls mate...I need a higher 1m libor too.” Within approximately 20 minutes, Submitter-4 contacted Trader-B and stated: “morning skipper.....will be setting an obscenely high 1m again today...poss 38 just fyi.” Trader-B responded, “(K)...oh dear..my poor customers....hehehe!! manual input libors again today then!!!!” Both banks’ submissions on July 28, 2006, moved up one basis point, from 0.37 to 0.38, a move which again placed their submissions as the second highest submissions on the Contributor Panel that day.

78. As discussed in paragraph 41 above, on March 19, 2008, Submitter-4 agreed to a request from Trader-5 and Trader-6 to submit a six-month Yen LIBOR rate (1.10%) that Submitter-4 knew to be incorrect. Submitter-4 then contacted Trader-B pursuant to their understanding to request a similar manipulation of Bank-B’s Yen LIBOR submission for that day: “[Trader-5] needs a high 6m libor if u can help skip – asked me to set 1.10!” Trader-B

answered: "oops my 6s is 1.15!!!," "he'll love me," and "send him my regards the lovely fella....not heard from him in a while....."

79. Likewise, Trader-B had a July 19, 2007, telephone conversation with another trader at Bank-B ("Trader-C"), in which Trader-C made a manipulation request of Trader-B for three-month Yen LIBOR, and Trader-B offered to extend Trader-C's manipulation request to Submitter-4:

Trader-C: I need a little favor today for what it's worth. I don't know what you've been doing in 3 months, but we've got like a fixing of 83 billion on Monday. [unintelligible] Low threes. [unintelligible]

Trader-B: What you want to do, what you want me to put low libor in, is that what you are saying?

Trader-C: Yeah, low libor in the threes.

Trader-B: Yeah, 'course I can, mate. No worries at all.

Trader-C: That would be nice.

Trader-B: I'll have a word with [Submitter-4] as well, he'll drop it down for you as well I'm sure. [unintelligible] It needs more than one, mate, trust me. [unintelligible] Where do you want it? And I'll just pitch it wherever you want. [unintelligible]

Trader-C: Um...roughly where it was yesterday, that's fine. That makes us ten under...well, just under ten under [unintelligible] we've been funding lately.

Trader-B: [unintelligible] Yeah, sure.

A short time later, Trader-B followed through and contacted Submitter-4 with Trader-C's manipulation request: "mrng beautiful.....if u can would love a low fixing in 3s libor today...." Submitter-4 then asked: "ok skip - what u need?" to which Trader-B answered: ".77 if poss but just no higher than yest!!" Submitter-4 agreed, stating: "no prob." On that day, both Rabobank and Bank-B submitted 0.77 for the three-month Yen LIBOR, placing both banks' submissions in a tie for the second lowest submission on the Contributor Panel.

80. On July 7, 2009, Trader-5, who at the time was still working at Rabobank, communicated with Submitter-4, who was no longer working at Rabobank: "looks like some ppl are talking with each other when they put libors down. . . quite surprised that 3m libors came down a lot." Submitter-4 replied: "yes deffinite manipulation – always is tho to be honest mate. . . i always used to ask if anyone needed a favour and vise versa. . . . a little unethical but always helps to have friends in mrkt."

B. Euribor

81. From at least as early as January 2006, and at various times until at least December 2007, Submitter-9 received requests from two swaps traders located in London at a non-Contributor Panel bank ("Bank-C") to move Rabobank's Euribor submission in a direction that would benefit their trading positions. These traders requested that Rabobank's Euribor submitter contribute a particular Euribor submission, or move the submission in a particular direction (i.e., up or down). These requests were accommodated on numerous occasions.

82. In order to accommodate the requests, Submitter-9 adjusted her Euribor submissions from what she ordinarily would have submitted to a rate that benefitted the Bank-C swaps traders. For example, on September 21, 2006, she informed one of the traders ("Trader-

D”) that she saw the 1-month fix at 3.205. When informed by Trader-D that he wanted a lower submission, she lowered the Rabobank rate to 3.19.

83. On at least one occasion, Submitter-9 was asked to submit 3-month Euribor “at the ceiling” because, as another Bank-C swaps trader (“Trader-E”) explained: “I am long in fixings against Dec futures it cost me a fortune yesterday” Submitter-9 informed him that she could not because the Rabobank “long swaps need it low.”

84. Submitter-9 was aware that her Euribor submissions would impact the trading positions of the Bank-C traders. On multiple occasions, she contacted them to specifically ask if they had trading positions dependent on Euribor before submitting Rabobank’s rate. For example, on June 14, 2006, Submitter-9 asked Trader-D: “do you have fixings??” to which Trader-D responded: “yes.” Submitter-9 then asked: “what do you want?” Trader-D stated: “low the 1m and high the 3 and the 6 please.” Submitter-9 agreed, responding: “2.86 2.97 and 3.12 i’m going to get myself [kicked out of the fix] but okay.” Rabobank’s Euribor contribution that day was exactly as Submitter-9 promised.

Awareness of Rabobank Managers

85. Certain mid-level Rabobank managers⁵ were aware of, and participated in, the internal manipulation of LIBOR submissions by derivatives traders as described above.

86. For example, Submitter-3 was Rabobank’s Global Head of Liquidity and Finance. Submitter-3 was the head of Rabobank’s money market desk in London, directly supervising Submitter-1, Submitter-2, Submitter-4, and Submitter-5. Submitter-3 knew that requests were made to Rabobank’s U.S. Dollar LIBOR and Yen LIBOR submitters to contribute submissions

⁵ The term “manager” does not include members of the board of directors, executive board, or executive management of Rabobank.

to benefit swaps traders' trading books, and he not only tolerated such activity, but directly participated in it.

87. Trader-9 replaced Submitter-3 as the Global Head of Liquidity and Finance, previously having served as the Head of Liquidity and Finance for Europe. Trader-9 was the head of Rabobank's money market desk in Utrecht, directly supervising Submitter-5, Submitter-6, Submitter-7, Submitter-8, Submitter-9, and Submitter-10. Trader-9 was informed that Trader-5 would forward requests to the submitters under Trader-9's supervision, but Trader-9 did not act to stop such conduct. Further, many of the submitters under Trader-9's supervision had no training on how to calculate LIBOR submissions, creating conditions for traders to exert substantial influence on the submitters and for Trader-5 to take over the Yen LIBOR setting process.

88. Trader-6 was the head of Global Financial Markets Trading for Tokyo and, starting in October 2008, the head of Global Financial Markets for Tokyo. Trader-6 was the head of Rabobank's Yen trading desk in Tokyo, directly supervising Trader-5, Trader-7, and Trader-8. Trader-6 made numerous requests to Rabobank's Yen LIBOR submitters to benefit his trading book, was aware of the fact that Trader-5 made similar requests, and directed Trader-5 to make requests on Trader-6's behalf.

89. Trader-3 was the head of Interest Rate Derivatives for North America, directly supervising Trader-2. Trader-3 made at least one request to Rabobank's U.S. Dollar LIBOR submitters to benefit his own trading book, was aware of the fact that Trader-2 made similar requests, and directed Trader-2 to make at least one request on Trader-3's behalf.

90. Trader-4 was the Head of Money Markets and Derivatives Trading for Northeast Asia and the Head of Local Currency Trading for Asia Pacific, eventually being promoted to

Head of Liquidity and Finance for Asia Pacific in November 2010. Trader-4 not only was aware of the fact that Trader-5 made requests to Rabobank's Yen LIBOR submitters to benefit his trading book, but Trader-4 had previously made numerous such requests on his own behalf.

Implications of the Derivatives Traders' Requests

91. When Rabobank derivatives traders made requests of Rabobank rate submitters in order to influence Rabobank's benchmark interest rate submissions, and when the submitters accommodated those requests, the manipulation of the submissions affected the fixed rates on various occasions.

92. Likewise, when Rabobank derivatives traders influenced the submissions of other Contributor Panel banks by seeking and receiving accommodations from their counterparts at such banks, and when Rabobank derivatives traders accommodated the requests of traders at other Contributor Panel banks and non-panel banks, the manipulation of those submissions affected the fixed benchmark rates on various occasions.

93. Indeed, the purpose of this activity was to manipulate benchmark submissions from Rabobank and other banks to influence the resulting fixes and thus to have a favorable effect on the derivatives traders' trading positions. Because traders' compensation was based in part on the profit and loss calculation of their trading books, derivatives traders' requests were intended to benefit their compensation as well.

94. Because of the high value of the notional amounts underlying derivatives transactions tied to LIBOR and Euribor, even very small movements in those rates could have had a significant positive impact on the profitability of a trader's trading portfolio, and a correspondingly negative impact on their counterparties' trading positions.

95. Rabobank entered into interest rate derivatives transactions tied to LIBOR and Euribor – such as derivatives, forward rate agreements, and futures – with counterparties to those transactions. Many of those counterparties were located in the United States. Those United States counterparties included, among others, asset management corporations, mortgage and loan corporations, and insurance companies. Those counterparties also included banks and other financial institutions in the United States or located abroad with branches in the United States.

96. In the instances when the published benchmark interest rates were manipulated in Rabobank's favor due to Rabobank's manipulation of its own or any other Contributor Panel bank's submissions, that manipulation benefitted Rabobank derivatives traders to the detriment of counterparties, at least with respect to the particular transactions comprising the trading positions that the traders took into account in making their requests to the rate submitters. Certain Rabobank derivatives traders and rate submitters who tried to manipulate LIBOR and Euribor submissions understood the features of the derivatives products tied to these benchmark interest rates; accordingly, they understood that to the extent they increased their profits or decreased their losses in certain transactions from their efforts to manipulate rates, their counterparties would suffer corresponding adverse financial consequences with respect to those particular transactions.

97. When the requests of derivatives traders for favorable LIBOR and Euribor submissions were taken into account by the Rabobank rate submitters, Rabobank's rate submissions were false and misleading. Those false and misleading LIBOR and Euribor contributions affected or tended to affect the price of commodities, including futures contracts. Moreover, in making and in accommodating these requests, the derivatives traders and submitters were engaged in a deceptive course of conduct in an effort to gain an advantage over

their counterparties. As part of that effort: (1) derivatives traders and submitters submitted and caused the submission of materially false and misleading LIBOR and Euribor contributions; and (2) derivatives traders, both before and after initiating and continuing their effort to manipulate LIBOR and Euribor contributions, negotiated and entered into derivative transactions with counterparties that did not know that Rabobank employees were often attempting to manipulate the relevant rate.

RABOBANK'S ACCOUNTABILITY

98. Rabobank acknowledges that the wrongful acts taken by the participating employees in furtherance of the misconduct set forth above were within the scope of their employment at Rabobank. Rabobank acknowledges that the participating employees intended, at least in part, to benefit Rabobank through the actions described above. Rabobank acknowledges that due to this misconduct, Rabobank, including the Rabobank branches or agencies in the United States, have been exposed to substantial financial risk, and partly as a result of the penalties imposed by this deferred-prosecution agreement and under agreements reached with other government authorities, has suffered actual financial loss.