U.S. Department of Justice

Tax Division

*Washington, D.C. 20530*

CDC:TJS:KELyon
5-16-4688
2014200696

December 10, 2015

George Clarke
Baker & McKenzie LLP
815 Connecticut Avenue N.W.
Washington, DC 20006-4078

Re: Dreyfus Sons & Co Ltd, Banquiers
DOJ Swiss Bank Program – Category 2
Non-Prosecution Agreement

Dear Mr. Clarke:

Dreyfus Sons & Co Ltd, Banquiers ("Dreyfus") submitted a Letter of Intent on December 31, 2013, to participate in Category 2 of the Department of Justice's Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks, as announced on August 29, 2013 (hereafter "Swiss Bank Program"). This Non-Prosecution Agreement ("Agreement") is entered into based on the representations of Dreyfus in its Letter of Intent and information provided by Dreyfus 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 Dreyfus of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute Dreyfus 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 Dreyfus during the Applicable Period (the "conduct"). Dreyfus admits, accepts, and acknowledges responsibility for the conduct set forth in the Statement of Facts attached hereto as Exhibit A and agrees not to make any public statement contradicting the Statement of Facts. This Agreement does not provide any protection against prosecution for any offenses except as set forth above, and applies only to Dreyfus and does not apply to any other entities or to any individuals. Dreyfus 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.

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

Dreyfus 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, Dreyfus agrees to pay the sum of $24,161,000 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 Dreyfus. This payment is in lieu of restitution, forfeiture, or criminal fine against Dreyfus for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Dreyfus with respect to the conduct described in this Agreement, unless the Tax Division determines Dreyfus has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below. Dreyfus 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 Dreyfus has violated any provision of this Agreement. Dreyfus 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. Dreyfus agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Dreyfus further agrees that no portion of the penalty that Dreyfus has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Dreyfus 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) Dreyfus'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 Dreyfus 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) Dreyfus'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) Dreyfus'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 Dreyfus 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) Dreyfus's retention of a qualified independent examiner who has verified the information Dreyfus disclosed pursuant to II.D.2 of the Swiss Bank Program.

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

Dreyfus further agrees to undertake the following:

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

2. Dreyfus 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 Dreyfus.

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

4. Dreyfus 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.

Dreyfus's obligations under this Agreement shall continue for a period of four (4) years from the date this Agreement is fully executed. Dreyfus, 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) Dreyfus committed any U.S. federal offenses during the term of this Agreement; (b) Dreyfus 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) Dreyfus has otherwise materially violated any provision of this Agreement or the terms of the Swiss Bank Program, then (i) Dreyfus 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 Dreyfus'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 Dreyfus'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 Dreyfus shall be admissible in evidence in any criminal proceeding brought against Dreyfus and relied upon as evidence to support any penalty on Dreyfus; and (iii) Dreyfus 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 Dreyfus has breached this Agreement and whether to pursue prosecution of Dreyfus 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



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of, or at the direction of, Dreyfus, will be imputed to Dreyfus for the purpose of determining whether Dreyfus 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 Dreyfus has breached this Agreement, the Tax Division agrees to provide Dreyfus with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, Dreyfus may respond to the Tax Division in writing to explain the nature and circumstances of such breach, as well as the actions that Dreyfus has taken to address and remediate the situation, which explanation the Tax Division shall consider in determining whether to pursue prosecution of Dreyfus.

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 Dreyfus, notwithstanding the expiration of the statute of limitations between such date and the commencement of such prosecution. For any such prosecutions, Dreyfus 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 Dreyfus'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 Dreyfus, the Tax Division will, however, bring the cooperation of Dreyfus 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 Dreyfus consistent with Part V.B of the Swiss Bank Program.

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

CAROLINE D. CIRAOLO
Acting Assistant Attorney General

12/15/15
DATE

THOMAS J. SAWYER
Senior Counsel for International Tax Matters

15 December 2015
DATE

KATHLEEN E. LYON
Trial Attorney
Tax Division, U.S. Department of Justice

12/15/15
DATE

AGREED AND CONSENTED TO:
DREYFUS SONS & CO LTD, BANQUIERS

By: _____
ANDREAS GUTH
Chairman, Board of Directors

December 11, 2015
DATE

By: _____
STEFAN KNÖPFEL
Chairman, Executive Management

December 11, 2015
DATE

APPROVED:

GEORGE CLARKE
Counsel for Dreyfus Sons & Co Ltd, Banquiers

December 14, 2015
DATE

**EXHIBIT A TO DREYFUS SONS & CO LTD**
**NON-PROSECUTION AGREEMENT**

## STATEMENT OF FACTS

## INTRODUCTION

1. Dreyfus Sons & Co Ltd, Banquiers ("Dreyfus" or the "Bank") is a traditional private bank founded in 1813 in Basel, Switzerland.

2. The founder of Dreyfus was a Jewish immigrant from France. Given its roots, Dreyfus has historically served many of the Jewish diaspora. The relationship between the Bank and its clients often dates back several generations. During the 1930s and World War II, the Bank was the custodian of assets from clients in Germany and German-occupied countries seeking to safeguard assets in Switzerland, which served as one of the few places they could protect their financial resources. For reasons of personal safety, many Jewish clients did not want any attention brought to their affairs. Consequently, the Bank historically did not actively market to clients, regardless of whether they were U.S. or non-U.S. clients. The Bank passively received prospective clients and determined whether to accept them based on personal client criteria.

3. As one of the oldest family-owned banks in Switzerland, Dreyfus is managed today by the sixth generation of the founder's family. Dreyfus has 200 employees, most of whom have been with the bank for many years, with an average length of service of 20 years. Some employees are children or grandchildren of former employees.

4. The Bank offers private banking, trading, and lending services, as well as a separate gold and cash storage business discussed in more detail below. The Bank's private banking function focuses on managing the assets of private individuals and some institutional clients, and includes the administration of family organizations, corporations, foundations, and trusts.

5. Dreyfus maintains four offices in Switzerland to service clients in French-, German-, and Italian-speaking regions of the country. Each of these offices is staffed by two to three persons. These offices do not have their own booking centers or back-office functionality, and all of the Bank's banking services are provided by the Basel office.

6. In November 2013, the Bank opened a representative office in Tel Aviv to serve existing and new clients in the Israeli market. The representative office is staffed by two persons. Other than the Tel Aviv representative office, the Bank has never operated a desk outside of Switzerland.

7. Dreyfus maintains a longstanding business relationship with an international investment firm that dates back to 1936. Until 2013, this investment firm's operations in New York served as Dreyfus's U.S. custodian. The investment firm's operations in Paris continue to serve as Dreyfus's custodian in France, while Dreyfus currently serves as the custodian

for the investment firm in Switzerland. This relationship also resulted in some U.S. clients being introduced to Dreyfus.

8. At the end of 2013, Dreyfus had approximately 7,000 active accounts and approximately 18 billion Swiss francs in assets under management. All assets were managed in Switzerland.

## U.S. INCOME TAX & REPORTING OBLIGATIONS

9. 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.

10. 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 United States Department of the Treasury a Report of Foreign Bank and Financial Accounts, FinCEN Form 114, formerly known as Form TD F 90-22. I (the "FBAR"). The FBAR must be filed on or before June 30 of the following year.

11. An "undeclared account" was a financial account owned by an individual subject to U.S. tax and maintained in a foreign country that had not been reported by the individual account owner to the U.S. government on an income tax return or other form and an FBAR as required.

12. Since 1935, Switzerland has maintained criminal laws that ensure the secrecy of client relationships at Swiss banks. While Swiss law permits the exchange of information in response to administrative requests made pursuant to a tax treaty with the United States and certain legal requests in cases of tax fraud, Swiss law otherwise prohibits the disclosure of identifying information without client authorization. Because of the secrecy guarantee that they created, these Swiss criminal provisions have historically enabled U.S. clients to conceal their Swiss bank accounts from U.S. authorities.

13. In or about 2008, Swiss Bank UBS AG ("UBS") publicly announced that it was the target of a criminal investigation by the Internal Revenue Service and the United States Department of Justice and that it would be exiting and no longer accepting certain U.S. clients. On February 18, 2009, the Department of Justice and UBS filed a deferred prosecution agreement in the Southern District of Florida in which UBS admitted that its cross-border Banking business used Swiss privacy law to aid and assist U.S. clients in opening and maintaining undeclared assets and income from the IRS. Since UBS,

several other Swiss Banks have publicly announced that they were or are the targets of similar criminal investigations and that they would likewise be exiting and not accepting certain U.S. clients (UBS and the other targeted Swiss Banks are collectively referred to as "Category 1 Banks"). These cases have been closely monitored by Banks operating in Switzerland, including Dreyfus, since at least August of 2008.

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

14. Effective in or about January 2001, Dreyfus entered into a Qualified Intermediary ("QI") Agreement with the IRS. The Qualified Intermediary regime provided a comprehensive framework for U.S. information reporting and tax withholding by a non-U.S. financial institution with respect to U.S. securities. The QI Agreement was designed to help ensure that, with respect to U.S. securities held in an account at the Bank, non-U.S. persons were subject to the proper U.S. withholding tax rates and that U.S. persons were properly paying U.S. tax.

15. The QI Agreement took account of the fact that Dreyfus, like other Swiss Banks, was prohibited by Swiss law from disclosing the account holder's name or other identifying information. In general, if an account holder wanted to trade in U.S. securities and avoid mandatory U.S. tax withholding, the agreement required Dreyfus to obtain the consent of the account holder to disclose the client's identity to the IRS. The QI Agreement required the Bank to obtain IRS Forms W-9 and to undertake IRS Form 1099 reporting for new and existing U.S. clients engaged in U.S. securities transactions.

16. The Bank does not and did not use any forms that allowed a client to indicate that he or she wished to avoid disclosure of an account, such as by allowing clients to decline ownership of U.S. securities while also declining to disclose his or her name to the IRS. The Bank never represented to account holders or beneficiaries of U.S. Related Accounts that it would not disclose or report such accounts to the U.S. government.

17. Nonetheless, during the early years of the QI Agreement, the Bank decided not to expend resources to verify that the beneficial owners of entity accounts that were opened before the QI agreement were fully tax compliant. Instead, the Bank relied on the fact that entities were non-transparent under the QI Agreement and did not review all such entities to exclude the holding of U.S. securities. The Bank's executive management team had ultimate responsibility for those decisions.

18. During the Applicable Period,[1] 157 U.S. Related Accounts held U.S. securities. Despite the requirements of the QI Agreement, the Bank opened and maintained 22 of those 157 U.S. Related Accounts without obtaining a Form W-9. Of those 22 accounts that lacked a Form W-9 in the file, 12 were opened after the Bank entered its QI Agreement, and, of those, seven were opened during the Applicable Period. No U.S. Related Accounts that require a Form W-9 in the file remain open.

## DREYFUS'S POLICIES WITH RESPECT TO U.S. PERSONS

19. The Bank did not have any U.S. person policy until 2010, when it adopted a policy principally related to compliance with U.S. Securities and Exchange Commission requirements, rather than U.S. tax compliance more broadly. In recent years, however, and in particular in relation to the implementation of the FATCA Agreement, the Bank has focused on collecting more information with respect to the tax compliance of its clients.

20. The Bank also did not have a travel policy in place until 2011. Pursuant to the policy, visits to clients domiciled outside Switzerland may only be conducted at the express request of the client. Bank employees may not take any documents regarding the client relationship with them and may not provide advice outside Switzerland. Bank employees also may not accept orders outside Switzerland, with the exception of its representative office in Israel.

21. Prior to the adoption of the travel policy in 2011, the Bank did not maintain travel records or perform travel audits. According to a travel audit performed after adoption of the travel policy, there was no U.S. client-related travel in connection with U.S. Related Accounts during the Applicable Period, with the exception of one trip in which a relationship manager traveled to the United States in 2013 to assist with a client's voluntary disclosure. Other limited travel to the United States occurred for the purpose of attending conferences or meeting with Latin American clients in Miami. Those clients did not have any U.S. indicia.

## OVERVIEW OF THE U.S. CROSS-BORDER BUSINESS

22. During the Applicable Period, Dreyfus held a total of 855 U.S. Related Accounts with a combined high value of assets under management of approximately $1.76 billion. Of the 855 U.S. Related Accounts, at least 233 are now closed.

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[1] Capitalized terms not otherwise defined in this Statement of Facts have the meanings set forth in the Program for Non-Prosecution Agreement or Non-Target Letters for Swiss Banks issued on August 29, 2013 ("the Swiss Bank Program") or in the Agreement between the United States of America and Switzerland for Cooperation to Facilitate the Implementation of FATCA, dated February 14, 2013 (the "FATCA Agreement").

23. In general, Dreyfus's clients come to the Bank through word-of-mouth or referrals and the Bank accepts clients only through introductions by other clients or trusted third parties. With the exception of the gold and cash storage business discussed in more detail below, historically all new clients had to visit Basel or meet with the Bank's directors to sign account opening documents.

24. During the Applicable Period, the Bank had 37 relationship managers, approximately 35 of whom were responsible for U.S. Related Accounts. Other than the relationship manager responsible for the gold and cash storage accounts at the Bank, relationship managers generally serviced between one and 15 U.S. Related Accounts.

25. The Bank's front office is divided into two divisions. The "Gérance" division of the Bank provides administrative services mainly to corporate entities (including trusts and foundations), external asset managers, and customers introduced by finders. The "Etudes Financières" division consists of 25 financial analysts, all of whom serve customers apart from their duties as analysts.

26. Two relationship managers are assigned to assist each Dreyfus client. Typically, one is a senior relationship manager who has served the client for many years, while the junior relationship manager takes over when the senior relationship manager retires. If a client from the "Gerance" division needs investment advice, one relationship manager from the Gérance division and one relationship manager from the Etudes Financières division serve the client. Senior management approves the combination of relationship managers allocated to serving clients.

27. Relationship managers are not compensated for attracting clients and are not penalized for losing clients. The Bank does not provide incentives for attaining asset turnover targets and there is no formal compensation scheme for acquisition success.

28. Nineteen external asset managers managed approximately 70 U.S. Related Accounts at the Bank. Many external asset managers managed only one account, but one external asset manager managed 15 accounts. Some external asset managers were paid for their services directly by the U.S. client, and some were compensated through the Bank. When paid through the Bank, external asset managers were compensated based on a percentage of the settlement commissions and custody account fees. Some external asset managers maintain an account at the Bank, and fees for asset management services were transferred from U.S. Related Accounts to the account on a quarterly or annual basis. To the extent external asset managers brought new client relationships to the Bank, they also received compensation as introducers, which were compensated based on a percentage of net new funds brought to the Bank.

29. The Bank did not market to or solicit U.S. clients, never had operations in the United States, and never operated a U.S. desk.

30. Despite knowing the risk posed by U.S. clients, and despite understanding that U.S. taxpayers had a legal duty to report to the IRS and to pay taxes on income earned in

accounts maintained in Switzerland, the Bank opened and maintained undeclared accounts for U.S. taxpayers. The Bank also did not implement strict enough controls to ensure that all its clients with a U.S. nexus fully complied with their U.S. tax obligations.

31. After the Department's investigation of UBS and Swiss banking in general became public in 2008, the Bank opened and maintained nine accounts from UBS and Credit Suisse between late 2008 and 2012. The accounts had a combined high value of approximately $23.5 million. In one instance, in December 2008 an existing Dreyfus account holder requested that the Bank accept an account from Credit Suisse (Zurich) of which he was the beneficial owner, but which was held in the name of a Bahamas entity. After accepting the new account, the Bank determined that there was not sufficient evidence for the beneficial owner's tax compliance on file. The Bank encouraged the U.S. person to disclose the account through the IRS Voluntary Disclosure Program, but he did not do so until three years later.

32. Dreyfus offered a variety of traditional Swiss banking services that it knew could assist, and that did assist, U.S. clients in the concealment of assets and income from the IRS. One such service was hold mail. For a fee, Dreyfus would hold all mail correspondence for a particular client at the Bank, which meant that the Bank retained periodic statements and communications to its clients at Dreyfus for client review. As a consequence, documents reflecting the existence of the accounts remained outside the United States, allowing U.S. clients to minimize the paper trail associated with the undeclared assets and income they held at Dreyfus in Switzerland. Of the 855 U.S. Related Accounts at the Bank, 78 used hold-mail services.

33. In addition, Dreyfus offered "numbered" account services. The Bank would replace the account holder's identity with a number on bank statements and other documentation sent to the client. However, the Bank's internal records reflected the identity of the U.S. clients associated with these accounts. Of the 855 U.S. Related Accounts at the Bank, 100 were numbered accounts.

34. In some cases, Dreyfus allowed U.S. persons to close their accounts by donating the funds to non-U.S. family members. Although allowed by Swiss law, the Bank knew or should have known that shifting U.S. assets to the accounts of non-U.S. persons would allow U.S. persons to conceal assets.

35. The Bank does not issue credit cards or debit cards, but such cards were issued by third parties. Ten credit cards and 19 debit cards were issued or were in use during the Applicable Period in connection with U.S. Related Accounts. Use of these cards by U.S. persons facilitated their access to or use of undeclared funds on deposit at the Bank.

36. No U.S. Related Accounts had insurance wrappers associated with them.

## GOLD AND CASH STORAGE ACCOUNTS AT DREYFUS

37. Of the 855 U.S. Related accounts at the bank, 315 accounts with a combined high value of approximately $440 million represent accounts held through a separate gold and cash storage business custodied by the Bank. Over 20 years ago, Bank management agreed to serve as a custodian for physical gold and cash for clients of a third party, a British Virgin Islands entity whose business operations are based in Switzerland ("Entity #1"). Entity #1 also maintained and operated a storage facility at the Zurich airport for the storage of precious metals other than gold, independent of its relationship with the Bank. The Bank's relationship with Entity #1 is overseen by the Bank's Head of Legal and Compliance. One relationship manager is responsible for the Entity #1-related gold and cash storage accounts.

38. The Bank has no role in bringing clients of Entity #1 to the Bank and has no contact with individuals who store gold and cash through Entity #1, whether U.S. persons or otherwise. Individuals learn about Entity #1's services from various sources and contact Entity #1 directly. Entity #1 handles all Swiss know-your-customer ("KYC") documentation and provides it to the Bank. For introducing customers to the Bank, Entity #1 receives a share of the general fees earned by the Bank for storing the gold and cash.

39. The gold and cash are held in safe custody in a segregated area of the Bank's vaults. Entity #1 maintains an account at the Bank and each U.S. person storing gold or cash at the Bank has a subaccount of Entity #1's master account. Although Entity #1's master account is held in the name of a British Virgin Islands entity, the U.S. persons' subaccount(s) may be held in the name of an individual, trust, foundation, corporation or other structure. Ninety-two of the 315 U.S.-related gold and cash accounts were held in the name of an entity. The U.S. beneficial owners of 33 gold and cash storage accounts also had separate traditional accounts directly with the Bank.

40. U.S. clients of Entity #1 interact solely with Entity #1 with respect to the stored gold and cash and transactions with respect to those assets at the Bank (such as deposits or orders to buy or sell gold or currency) are handled by Entity #1. U.S. persons with both a gold and cash storage account through Entity #1 and a traditional account with the Bank interact directly with the Bank only with respect to their non-storage account. Some funds used by clients of Entity #1 to purchase gold and currency for storage at the Bank came from the redemption of annuities issued by an insurance company used by a number of its clients. The insurance company does not have an account or other presence at the Bank and the Bank has no relationship with the insurance company.

41. As physical assets stored at the Bank, the gold and cash generally did not generate income for U.S. persons unless, for example, the gold was sold at a profit. Even where no income is generated, U.S. persons holding assets in the form of gold and cash in accounts at foreign financial institutions may have reporting obligations under U.S. law. Not all of the gold and cash accounts at the Bank were declared, as evidenced in part by disclosures of the accounts through IRS voluntary disclosure programs. Although some

of the gold and cash client base maintained their accounts because of fears related to the collapse of the banking system, upon review by the Bank and the Department, certain of the gold and cash storage accounts show strong indicia of the concealment of assets, such as being held in the name of nominee entities.

## DREYFUS'S ROLE IN ASSISTING IN THE USE OF STRUCTURED ACCOUNTS

42. Following World War II, the Bank created Panama corporations to hold funds for clients. This practice had its roots in the desire of Jewish clients to protect their assets for reasons of personal safety, and the purpose and operation of the entities was to conceal ownership of the assets from all government authorities, "friendly" or otherwise. However, the practice extended well into the 2000s. While this practice was not directly marketed to clients, the operation of these entities, combined with Swiss bank secrecy laws, obscured the clients' ownership of the underlying accounts to all governmental authorities, including U.S. tax authorities.

43. Some of the Panama entities had or developed a U.S. nexus, for example, through inheritance or the migration of non-U.S. persons to the United States. Among the Panama entity accounts created by the Bank are 33 U.S. Related Accounts, the oldest of which opened in 1951. The combined high value of these accounts was approximately $90 million. Seven of the 33 U.S.-related Panama entity accounts held U.S. securities, and 22 of the 33 accounts used hold mail services offered by the Bank. Five of the accounts both held U.S. securities and used a hold-mail service.

44. Each of the Panama entity accounts was functionally and operationally the same. The U.S. person beneficial owners of the Panama entity accounts were properly identified as beneficial owners of the entities on Forms A pursuant to Swiss "KYC" rules. However, the entities were identified as the beneficial owner on IRS Forms W-8BEN, when, as the Bank well knew, the true beneficial owners were U.S. persons. For 25 of the U.S.-related Panama entities, bank employees – primarily the Deputy Chairman of the Executive Management, a former member of the Bank's Board of Directors and Head of the Gérance division, and a former deputy manager – also served as corporate directors of the entities. For each account, the U.S. beneficial owner of the account owned the shares in the Panama corporation in whose name the account was held.

45. With respect to at least two Panama entity accounts, the entity structure was used to conceal payments into the United States.

    a. A Panama entity account was created in 1977 for an individual who was the sole shareholder of the Panama corporation. Her son inherited the shares upon her death and, after the son's death in or around 1999, his wife, a U.S. person, inherited the shares. In 2000, ownership of the shares in the Panama corporation were transferred to a Liechtenstein foundation. Between 1998 and the account's closure in September 2013, weekly checks ranging from $3,900 to $4,100 drawn on the Panama entity account were sent to the U.S. person or her family members

in the United States. The account was disclosed through the IRS Offshore Voluntary Disclosure Program.

b. A second Panama entity account was opened in 1991 with a husband and wife, both U.S. nationals living in the United States, as beneficial owners. The account, which had a high value during the Applicable Period of over $1 million, was opened with funds inherited from a relative with an account at the Bank. Beginning in 2008, checks in amounts between $4,000 and $5,000 each were sent to the husband and the couple's three sons in the United States on a regular basis. In total, 205 checks with a combined value of approximately $925,000 were sent to the individual family members in the United States. The Bank's efforts to convince the beneficial owners to disclose the account were unsuccessful and the account was closed in 2012 without being disclosed to U.S. authorities.

46. Upon implementation of the Bank's QI Agreement in 2001, the Bank adopted an unwritten, informal policy not to engage in any structuring for U.S. persons. The policy prohibited any U.S. person from using a structure to hold U.S. securities, but was only applied to new accounts and not to existing accounts. Despite the Bank's policy against engaging in structuring for U.S. persons, seven of the 33 U.S.-related Panama entity accounts, with a combined high value of approximately $25 million, were created after the Bank entered the QI Agreement, and two of the seven accounts held U.S. securities. Examples of the post-QI Panama entity accounts include the following:

a. In 2006, the Bank opened an account in the name of a Panama entity beneficially owned by a European living in Europe who used a passport that listed a New York birthplace. In May 2011, the account was closed and the funds – approximately $10 million – were transferred to an account at Dreyfus in the name of the U.S. person's sister, who was not a U.S. person. However, the U.S. person maintained beneficial ownership of the funds. In 2014, the funds were moved from the U.S. person's sister's account into an account at the Bank in the U.S. person's name.

b. Another account was opened in 2006 by an external asset manager for a European living in the United States. The account was initially opened as an individual account, but, before the account was funded, a Panama entity was created. The U.S. domicile of the individual was overlooked during the account opening process. The account was closed in 2012 as part of the Bank's exit process.

47. When the QI Agreement was implemented, Dreyfus understood that even though these structures respected the formalities of corporate governance, they could and likely would be used by U.S. clients to subvert and evade U.S. law. Indeed, many of the accounts were not declared to U.S. authorities, as evidenced in part by the disclosure of certain accounts through IRS voluntary disclosure programs.

48. Although Dreyfus put in place controls intended to prevent these uses for new structured accounts for U.S. persons, these controls were not effective insofar as new Panama

entities were created for U.S. persons after the QI Agreement was implemented, and the Bank's failure to review all preexisting accounts and structures to guard against such unlawful uses allowed the pre-QI structures to be used to conceal assets from U.S. authorities.

49. Other than the Panama entity accounts, the Bank did not assist clients in the formation of offshore entities to disguise beneficial ownership. However, it opened and maintained at least 34 U.S. Related Accounts for domiciliary entities (i.e., nominee non-operating companies) created in foreign countries including Switzerland, Liechtenstein, Isle of Man, Liberia, Bahamas, Nevis, Mauritius, and the British Virgin Islands, and for which the true owner of assets in the accounts were U.S. persons. These accounts had a combined high value of approximately $60 million. Nine of the accounts, with a high value of approximately $20 million, held U.S. securities. For each account, the U.S. beneficial owner was properly identified in bank documents for purposes of Swiss KYC rules, but the non-U.S. entity was identified as the beneficial owner of the account on IRS Forms W-8BEN. The Bank knew, or learned in the course of the Program, that the true beneficial owner of each account was a U.S. person or persons and that the Form W-8BEN did not reflect the true beneficial ownership of assets in the account. In this manner, the Bank assisted U.S. persons in concealing ownership of the assets. Indeed, not all of the accounts were declared, as evidenced in part by the disclosure of certain accounts through IRS voluntary disclosure programs.

## THE USE OF BEARER SHARES AT DREYFUS

50. Under Swiss law, an account holder has the right to withdraw his or her funds through any means including cash, gold, or physical securities, including bearer shares. Nevertheless, with respect to certain U.S. Related Accounts, the Bank allowed accounts to be closed through the use of bearer shares in circumstances in which the Bank knew or should have known that the transaction would assist U.S. persons in the concealment of assets.

51. A bearer share is a security that is not required to be registered and which can be transferred without an endorsement of any kind. Thus, a bearer share is negotiable by whoever possesses it. For example, an individual can purchase shares from an issuer and exchange the shares for cash at a financial institution that redeems bearer shares (i.e., a paying agent) or may give the shares to another individual, who may exchange the shares for cash. The issuer of the bearer shares and the paying agent have obligations only to the person bearing the shares. Dreyfus acts as a distributor and paying agent (i.e., it subscribes to and redeems units in exchange for cash on behalf of clients) for various foreign funds issued and managed by third parties. One of the funds for which Dreyfus acts as a representative and paying agent issued bearer shares.

52. With respect to four Panama entity accounts, the Bank allowed the accounts to be closed in the form of bearer shares, which assisted in the further concealment of assets in the accounts. The entities used assets in the accounts to purchase bearer shares at the Bank, with the shares then physically delivered to representatives of the Panama entities in

closure of the accounts. Because the shares could then be delivered to the U.S. persons whose assets were converted to bearer shares, or to anyone else, funds from these accounts left the Bank in a virtually untraceable manner. With respect to these four accounts, over $4 million in assets left the Bank in the form of bearer shares.

53. With respect to three other accounts, U.S. persons acquired bearer shares of approximately $8 million unrelated to the closing of a U.S. Related Account. With respect these accounts, the following facts are pertinent:

a. For one account, the U.S. person with assets in an existing account at the Bank acquired bearer shares in 2012 and delivered them to the Bank in 2014 to open a new account in her own name.

b. For two accounts, the U.S. persons acquired the bearer shares only after their accounts were closed and brought the shares to the Bank for redemption. In the first case, the U.S. person acquired bearer shares after his account was closed in 2012 and returned to the Bank to redeem them for over $800,000 in cash in 2014. The Bank did not know the U.S. person had bearer shares until he sought to redeem them. In the second case, the Bank opened a Panama entity account whose beneficial owner was identified in Bank records as a non-U.S. person. Seeing that the entity periodically transferred funds to the United States, the Bank inquired into the status of the beneficial owner, who denied any U.S. nexus and signed a Form W-8BEN with an affidavit confirming his non-U.S. status. After the beneficial owner died, the administrator of his estate revealed that the beneficial owner had lied to the bank and was in fact a U.S. resident. The administrator of the estate then asked the directors of the Panama entity, who had liquidated the entity, to deliver bearer shares to the Bank and authorized the Bank to sell the shares on behalf of the estate. The proceeds of the shares were ultimately transferred to an account of the estate at a bank in New York City.

## DREYFUS'S EXIT PROCESS FOR U.S. CLIENTS

54. When the Department's investigation of UBS became public in 2008, Dreyfus began to recognize the risks inherent in its U.S. client base. As a consequence, Dreyfus nominally adopted a program to exit U.S. persons who did not have a properly signed Form W-9. However, the exit process languished in part because no person or team was responsible for the exit process and the Bank did not devote sufficient resources to it.

55. In 2012, the Bank decided to provide resources, including staff assistance, to ensure the closure of these accounts by June 30, 2012. Although the exit process did not meet the June 30, 2012 deadline, 30 U.S. Related Accounts that were open in early 2012 and lacked a Form W-9 in the file were closed by the end of 2012, with another 17 closed in subsequent years.

## DREYFUS'S DELIBERATE LACK OF CANDOR AND CONDUCT DURING THE SWISS BANK PROGRAM

56. The Bank appointed an employee, Manager #1, to oversee the 2012 exit process and, based on his performance on that project, the Bank appointed him, in 2013, to manage the Bank's participation in the Swiss Bank Program. The Bank understood, however, at the time of this appointment, that Manager #1 was a U.S. person with undeclared accounts at Dreyfus. More particularly:

a. Manager #1 was a U.S. person with five U.S. Related Accounts at Dreyfus that were not disclosed to the IRS until August 2014. The accounts had a combined high value of approximately $1 million. The oldest of the accounts opened in 1991 and the most recently opened account was opened in 2010. Manager #1 was born in the United States, but has lived in Switzerland for most of his life.

b. The Bank became aware of Manager #1's status as a U.S. person when it appointed him to oversee the Bank's participation in the Program in late 2013. At that time, the Bank urged Manager #1 to regularize U.S. tax matters, which he thereafter did.

c. Despite learning about Manager #1's status as a U.S. person before submitting a letter of intent to the Department to participate in the Program as a Category 2 bank, the Bank did not forthrightly address the matter with the Department, but, instead, included Manager #1's name among materials submitted with respect to U.S. persons from whom the Bank had obtained a waiver of Swiss bank secrecy laws for the purpose of mitigating its penalty under the Program. Dreyfus deliberately chose not to provide Manager #1's name to the Department until after Manager #1 had disclosed his undeclared accounts to the IRS, in order to give him the opportunity to discreetly regularize his U.S. tax matters. The Bank did not discuss the matter with the Department until confronted with the information by the Department.

d. In December 2014 and early February 2015, the Bank discussed with the Department the circumstances of the Bank's decision not to disclose Manager #1's status to the Department until it identified him in mitigation materials. In mid-February 2015, the Bank provided a letter to the Department explaining its conduct and apologizing for its decision not to disclose the information related to Manager #1 when it first came to the Bank's attention. The Bank subsequently withdrew its request for mitigation of Manager #1's accounts.

57. Despite the Bank's deliberate lack of candor regarding Manager #1, Dreyfus otherwise provided responsive, specific, and actionable information to the Department of Justice concerning certain persons, entities, and areas of concern for use in ongoing and potential Department of Justice investigations.

58. Dreyfus also solicited and obtained waivers of Swiss bank secrecy from a significant percentage of its U.S. clients. The Bank obtained waivers from approximately 90 percent of U.S. persons associated with U.S. Related Accounts at the Bank during the Applicable Period. Of U.S. persons with active U.S. Related Accounts at the Bank, the Bank obtained waivers from approximately 99 percent of those clients.

59. The Bank has also taken action to encourage U.S. persons to disclose their accounts to U.S. authorities. As a result of their efforts, many U.S. persons have voluntarily disclosed their accounts to the IRS.

EXHIBIT B TO NON-PROSECUTION AGREEMENT

CERTIFICATE OF CORPORATE RESOLUTION OF THE BOARD OF DIRECTORS OF DREYFUS SONS & CO. LIMITED, BANQUIERS

I, Dr Sebastian Burckhardt, secretary of the board of directors of Dreyfus Sons & Co. Limited, Banquiers (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 December 11, 2015, at which a quorum was present and resolved as follows:

- That the board of directors has (i) reviewed the entire Non-Prosecution Agreement attached hereto, including the Statement of Facts attached as Exhibit A to the non-Prosecution Agreement; (ii) consulted with Swiss and U.S. counsel in connection with this matter; and (iii) unanimously voted to enter into the Non-Prosecution Agreement, including to pay a sum of USD 24,161,000 to the U.S. Department of Justice in connection with the Non-Prosecution Agreement; and

- That Andreas Guth, chairman of the board, and Stefan Knöpfel, CEO, both registered in the Commercial Register of the Canton of Basel-Stadt as having joint signatory authority, are hereby authorized (i) to jointly execute the Non-Prosecution Agreement on behalf of the Bank substantially in such form as reviewed by the Board with such non-material changes as they each 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

- George Clarke, Baker & McKenzie LLP, is hereby authorized to sign the Non-Prosecution Agreement in his 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 11th day of December 2015.

S. Burckhardt

Dr Sebastian Burckhardt
Secretary