U.S. Department of Justice

Tax Division

Washington, D.C. 20530

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December 10, 2015

William M. Sharp, Sr.
Sharp Partners P.A.
4890 W. Kennedy Blvd., Suite 900
Tampa, Florida 33609

Robert F. Katzberg
Kaplan & Katzberg
767 3rd Avenue, 26th Floor
New York, New York 10017

Re: Leodan Privatbank AG
(Formerly known as PHZ Privat- und Handelsbank Zürich AG)
DOJ Swiss Bank Program – Category 2
Non-Prosecution Agreement

Dear Messrs. Sharp and Katzberg:

PHZ Privat- und Handelsbank Zürich AG, which now is known as Leodan Privatbank AG, ("Leodan") submitted an initial Letter of Intent on December 20, 2013, to participate in Category 2 of the Department of Justice's Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks, as announced on August 29, 2013 (hereafter "Swiss Bank Program"). This Non-Prosecution Agreement ("Agreement") is entered into based on the representations of Leodan in its Letter of Intent and information provided by Leodan 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 Leodan of the Swiss Bank Program will constitute a breach of this Agreement.

On the understandings specified below, the Department of Justice will not prosecute Leodan 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 Leodan during the Applicable Period (the "conduct"). Leodan admits, accepts, and acknowledges responsibility for the conduct set

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

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 Leodan and does not apply to any other entities or to any individuals. Leodan 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. Leodan 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, Leodan agrees to pay the sum of $500,000 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 Leodan. This payment is in lieu of restitution, forfeiture, or criminal fine against Leodan for the conduct described in this Agreement. The Department will take no further action to collect any additional criminal penalty from Leodan with respect to the conduct described in this Agreement, unless the Tax Division determines that: (a) Leodan has materially violated the terms of this Agreement or the Swiss Bank Program as described on pages 5-6 below; or (b) Leodan or its representatives have given false, incomplete, or misleading information regarding the financial condition of Leodan or the ability of Leodan to enter into a contingent payment arrangement. Leodan 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 Leodan has violated any provision of this Agreement. Leodan 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. Leodan agrees that it shall not assist any others in filing any such claims, petitions, actions, or motions. Leodan further agrees that no portion of the penalty that Leodan has agreed to pay to the Department under the terms of this Agreement will serve as a basis for Leodan 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) Leodan'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 Leodan 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) Leodan'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) Leodan'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 Leodan 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) Leodan's retention of a qualified independent examiner who has verified the information Leodan disclosed pursuant to Part II.D.2 of the Swiss Bank Program.

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

Leodan further agrees to undertake the following:

1. Leodan 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 page 3 of this Agreement because the Tax Division has agreed to specific dollar threshold limitations for the initial production, Leodan will promptly provide the entirety of the transaction information upon request of the Tax Division.

2. Leodan 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 Leodan.

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

4. Leodan 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.

Leodan's obligations under this Agreement shall continue for a period of four (4) years from the date this Agreement is fully executed. Leodan, 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) Leodan committed any U.S. federal offenses during the term of this Agreement; (b) Leodan or any of its representatives have given materially false, incomplete, or misleading testimony or information, including but not limited to, the information provided by Leodan or its representatives regarding the financial condition of Leodan and the ability of Leodan to enter into a contingent payment arrangement; (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) Leodan has otherwise materially violated any provision of this Agreement or the terms of the Swiss Bank Program, then (i) Leodan 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 Leodan'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 Leodan'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 Leodan shall be admissible in evidence in any criminal proceeding brought against Leodan and relied upon as evidence to support any penalty on Leodan; and (iii) Leodan 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 Leodan has breached this Agreement and whether to pursue prosecution of Leodan shall be in the Tax Division's sole discretion. The decision whether conduct or statements of any current director, officer or employee, or any person acting on behalf of, or at the direction of, Leodan, will be imputed to Leodan for the purpose of determining whether Leodan 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 Leodan has breached this Agreement, the Tax Division agrees to provide Leodan with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, Leodan may respond to the Tax Division in writing to explain the nature and circumstances of such breach, as well as the actions that Leodan has taken to address and remediate the situation, which explanation the Tax Division shall consider in determining whether to pursue prosecution of Leodan.

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

Leodan and the Department recognize and acknowledge that: (a) Leodan is winding down its business operations but has not yet entered formal liquidation proceedings to cease its legal existence, and (b) Leodan expects to complete the liquidation process during the period in which this Agreement remains in force and thereupon, but no earlier than 2020, cease to exist as a legally recognized entity. At least ten days before Leodan enters formal liquidation proceedings, Leodan shall (a) provide notice of this upcoming event to the Department, (b) indicate the particulars of the person(s) or entity(ies) who will serve as the Liquidator, and (c)

provide notice to the Liquidator that, as a condition of their engagement as Liquidator, they will need to review and sign as having approved this Agreement within ten days of being appointed Liquidator. After entering formal liquidation proceedings and at least ten days before Leodan will cease to exist, Leodan shall (a) provide notice of this upcoming event to the Department, (b) indicate the particulars of the person(s) or entity(ies) who will maintain the records required to be maintained under this Agreement for ten years from the date of this Agreement and/or otherwise comply with the ongoing obligations set forth in this Agreement, consistent with Swiss law, (c) certify that all relevant records have been delivered to the relevant person or entity, and (d) provide a written undertaking by such person(s) or entity(ies) towards the Department to maintain such records and/or to otherwise comply with the ongoing obligations set forth in this Agreement, consistent with Swiss law. The Department will not undertake legal action against any such person(s) or entity(ies) based on their good-faith inability to comply with any still operative provision of this Agreement.

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

[Signatures to Follow on Next Page]

CAROLINE D. CIRAOLO
Acting Assistant Attorney General
Tax Division

1/20/2016
DATE

THOMAS J. SAWYER
Senior Counsel for International Tax Matters

20 January 2016
DATE

KIMBERLE E. DODD
Trial Attorney

1/20/2016
DATE

AGREED AND CONSENTED TO:
LEODAN PRIVATBANK AG

By: _____
MARCEL EICHMANN
Chief Executive Officer

January 18, 2016
DATE

By: _____
PASCAL FREI
Chief Operating Officer

January 18, 2016
DATE

[Signatures Continue on Next Page]

APPROVED:

WILLIAM M. SHARP, SR.
SHARP PARTNERS P.A.

January 18, 2016
DATE

ROBERT F. KATZBERG
KAPLAN & KATZBERG

January 18, 2016
DATE

EXHIBIT A TO LEODAN PRIVATBANK AG
NON-PROSECUTION AGREEMENT

STATEMENT OF FACTS

INTRODUCTION

1. Leodan Privatbank AG ("Leodan" or the "Bank") is a small private bank that commenced doing business September 1, 2009, and the Bank is organized as a corporation owned by private shareholders. Leodan previously was known as PHZ Privat- und Handelsbank Zürich AG until the Bank changed its name on August 10, 2015 as part of a new business strategy. Leodan focuses on asset management, which encompasses advisory, brokerage and custodial services, for private and institutional clients. The Bank's sole office is in Zurich, Switzerland.

2. As of December 31, 2014, Leodan held assets under management totaling approximately $578 million and had a total of approximately 258 clients or persons that have established banking relationships with the Bank. These clients may have one or more financial accounts with Leodan. Leodan employs 17 people, and since August 2008 clients with a U.S. nexus held a peak of approximately 9.6 percent of total assets under management.

3. On January 11, 2016, a meeting of Leodan's shareholders was convened, and the shareholders voted to voluntarily wind-down Leodan's banking operations.

U.S. INCOME TAX AND REPORTING OBLIGATIONS

4. 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. For the tax year 1976 forward, U.S. citizens, resident aliens, and legal permanent residents 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.

5. Since 1970, U.S. citizens, resident aliens, and legal permanent residents who have had a financial interest in, or signature authority over, one or more financial accounts in a foreign country with an aggregate value of more than $10,000 at any time during a particular year have been required to file with the Department of the Treasury a Report of Foreign Bank and Financial Accounts, FinCEN Form 114, formerly known as Form TD F 90-22.1 (the "FBAR"). The FBAR for the applicable year was due on June 30 of the following year.

6. Since 1935, Switzerland has maintained criminal laws that ensure the secrecy of client relationships at Swiss banks. While Swiss law permits the exchange of information in response to administrative requests made pursuant to a tax treaty with the United States and certain legal requests in cases of tax fraud, Swiss law otherwise prohibits the

disclosure of identifying information without client authorization. Because of the secrecy guarantee that they created, these Swiss criminal provisions have historically enabled U.S. clients to conceal their Swiss bank accounts from U.S. authorities.

7. In or about 2008, Swiss bank UBS AG ("UBS") publicly announced that it was the target of a criminal investigation by the 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 since at least August of 2008, and Leodan was aware of these cases from its inception.

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

8. In November 2009, Leodan entered into a Qualified Intermediary Agreement ("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 holding U.S. securities were properly paying U.S. tax.

9. The QI Agreement took account of the fact that Leodan, like other Swiss banks, was prohibited by Swiss law from disclosing the identity of an account holder. In general, if an account holder wanted to trade in U.S. securities and avoid mandatory U.S. tax withholding, the agreement required Leodan to obtain the consent of the account holder to disclose the client's identity to the IRS. The QI Agreement required Leodan 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.

10. Leodan continued to service U.S. clients without disclosing their identity to the IRS and without considering the impact of U.S. criminal law on that decision.

11. Leodan's view was that it could continue to accept and service U.S. account holders, even if it knew or had reason to believe they were engaged in tax evasion so long as it complied with the QI Agreement, which in the Bank's view did not apply to account holders who were not trading in U.S.-based securities or to accounts that were nominally structured in the name of a non-U.S.-based entity.

12. Until June 2013, Leodan did not require all of its U.S. clients to provide a signed IRS Form W-9 and to confirm whether their accounts were disclosed to the IRS. Rather, the Bank requested a Form W-9 only if U.S. clients wanted to engage in U.S. securities transactions.

13. As a consequence of Leodan entering into a QI Agreement with the IRS, certain Leodan private bankers and supervising employees opened accounts for some U.S. clients in the name of sham offshore entities. In connection with these accounts, Leodan employees did not request that IRS Forms W-8BEN (or Leodan's substitute forms) be provided by the directors of the offshore companies. Leodan employees did, however, obtain the Swiss Forms A that accurately and truthfully represented the true beneficial owners of the assets in the accounts. These Swiss Forms A were maintained in Leodan's account records.

14. Certain Leodan private bankers and others assisted U.S. clients by accepting written instructions that directed Leodan not to acquire U.S. securities in their accounts. The purpose of such instructions was to avoid Leodan having to disclose the identities of U.S. clients to the IRS under its QI Agreement.

15. As a result of the Bank's actions, U.S. taxpayers were able to continue depositing funds into accounts at Leodan because of the nature of Swiss banking secrecy laws. Leodan was, or should have been, aware that some of its U.S. clients wanted to conceal their accounts from U.S. authorities, and Leodan assisted some of those U.S. clients in the concealment of their accounts.

16. Although it was subject to a QI Agreement, Leodan both subverted and directly violated the terms of the Qualified Intermediary Agreement by failing to fully comply with both its withholding and reporting obligations to the IRS, thus enabling U.S. account holders to avoid reporting their accounts to the U.S. authorities.

LEODAN'S U.S. CROSS-BORDER BUSINESS

17. In the Applicable Period, Leodan held a total of 44 U.S. Related Accounts, which included both declared and undeclared accounts, with an aggregate peak of approximately $59.42 million in assets under management. All of these 44 U.S Related Accounts had U.S. account holders or U.S. beneficial owners, and all 44 U.S. Related Accounts were opened after February 28, 2009.

18. Of Leodan's 44 U.S. Related Accounts, only one account held U.S. securities. Leodan failed to disclose this account to the Internal Revenue Service through Form 1099 reporting.

19. Through its managers, employees and/or others, Leodan knew or had reason to know that some U.S. taxpayers who had opened and maintained accounts at the Bank were not complying with their U.S. income tax and reporting obligations.

20. Until June 2013, Leodan conducted a U.S. cross-border banking business that aided and assisted certain of its U.S. clients in opening and maintaining undeclared accounts in Switzerland and concealing the assets and income they held in these accounts from the U.S. government.

21. Leodan offered a variety of traditional Swiss banking services that it knew could assist, and did in fact assist, U.S. clients in the concealment of assets and income from the IRS. One such service was hold mail, where the Bank would hold all correspondence for a particular client at the Bank, rather than send the correspondence to the client. Leodan charged an annual fee for the hold mail service, which was an annual flat fee of 500 Swiss francs. Approximately 59% of Leodan's U.S. Related Accounts (approximately 26 accounts), including both declared and undeclared U.S. clients, used hold mail services.

22. Leodan also offered code name or numbered account services. Upon request of the client, the Bank would allow the account holder to replace his or her identity with a code name or number on bank statements and other documentation sent to the client. Leodan charged an annual flat fee of 500 Swiss francs for coded or numbered account services. These services helped U.S. clients to eliminate the paper trail associated with the undeclared assets and income they held at Leodan in Switzerland. By accepting and maintaining such accounts, the Bank assisted two U.S. taxpayers in evading their U.S. tax obligations.

23. Moreover, among other things, Leodan:

- Opened and maintained at least 19 accounts (with an aggregate peak asset value of approximately $24.2 million) belonging to U.S. taxpayers who had left other banks being investigated by the U.S. Department of Justice without ensuring that each such account was compliant with U.S. tax law from their inception at Leodan. These accounts were referred by an external asset manager. Nine of these accounts provided a signed Form W-9 at account opening; ten did not. All ten of the accounts opened without a signed Form W-9 were structured accounts. Some of these U.S. taxpayers have since participated in an IRS Offshore Voluntary Disclosure Program or Initiative;
- Accepted instructions in connection with at least 19 U.S. Related Accounts (with an aggregate peak asset value of approximately $24.2 million) not to invest in U.S. securities and not to disclose the names of U.S. clients to U.S. tax authorities, including the IRS;
- Processed significant securities or precious metals electronic transfers in relation to U.S. Related Accounts at or around the time the clients' accounts were closed, even though Leodan knew, or had reason to know, that some of the accounts contained undeclared assets; and
- Opened and maintained at least 14 undeclared accounts in the names of sham structures that were beneficially owned by U.S. taxpayers, while knowing, or having reason to know that, these structures were used by U.S. clients to help conceal their identities from the IRS.

24. As discussed above, Leodan serviced some U.S. clients who structured their accounts so that they appeared as if they were held by a non-U.S. legal structure, such as an offshore corporation or trust, which aided and abetted the clients' ability to conceal their undeclared accounts from the IRS. At least 14 of Leodan's U.S. Related Accounts (approximately 31 percent) were held in the name of offshore structures beneficially owned by U.S. taxpayers who failed to declare these accounts.

25. Of the approximately 30 accounts maintained for U.S. taxpayers in the names of structures, at least three structured accounts were U.S. domiciled entities. Those three accounts comprised an aggregate peak value of approximately $1.35 million in assets under management.

26. Approximately 27 structured accounts were non-U.S. domiciled entities, such as an offshore corporation or trust, which aided and abetted the clients' ability to conceal their undeclared accounts from the IRS. These non-U.S. domiciled entities were established in Panama, Hong Kong, Liechtenstein, the British Virgin Islands, Germany and Cyprus. Those 27 accounts comprised an aggregate peak value of approximately $25 million. More specifically, as examples:

    a. Leodan opened in September 2009 and serviced until August 2014 an undeclared account with a peak value of approximately $2.5 million held by a Liechtenstein foundation with two beneficial owners who resided in the United States and were direct clients of the Bank;

    b. Leodan opened in September 2009 and serviced until November 2012 an undeclared account with a peak value of approximately $900,000 held by a Liechtenstein foundation with a beneficial owner who resided in the United States and was a direct client of the Bank;

    c. Leodan opened in May 2011 and serviced until November 2011 an undeclared account with a peak value of approximately $800,000 held by a Hong Kong company with a beneficial owner who was a United States citizen and resident and a client of an external asset manager; and

    d. Leodan opened in May 2011 and serviced until December 2012 an undeclared account with a peak value of approximately $3 million held by a Panama company with a beneficial owner who was a United States citizen and resident and a client of an external asset manager.

27. Because Swiss law requires Leodan to identify the true beneficial owner of structures on a document called a Form A, it knew that these were U.S. client accounts. Nonetheless, for certain U.S. client accounts, Leodan private bankers and other employees aided and assisted some of these U.S. clients in concealing these assets and income from the IRS.

28. With one exception, Leodan's clients were introduced to the Bank through referrals from the Bank's shareholders, Board of Directors, employees, or other clients. The one exception was a walk-in client, who came to the Bank on his own and expressed an interest in opening a client relationship. Leodan did not strategically prioritize the U.S. cross-border business or have a systematic strategy to acquire U.S. clients. Leodan did not maintain a U.S. desk or other unit with a particular focus on U.S. clients, and the Bank's employees never made business trips to the United States.

29. Leodan's compensation model for its private bankers is based on a fixed salary without any bonus component. Leodan's private bankers do not have sales or new net money targets, and there are no regional desks or an institutionalized focus on particular markets or clients.

30. Six private bankers at Leodan, including the Chief Executive Officer, serviced the 44 U.S. Related Accounts at the Bank. Two of these six private bankers specifically serviced the 19 U.S. Related Accounts managed by one external asset manager.

31. Leodan's U.S. client-base is divisible into two groups: (i) direct clients of Leodan for whom customary private banking and asset management services were provided; and (ii) clients whose accounts were managed by an external asset manager, for whom custodial and limited services were provided. U.S. client relationships comprise approximately 8.4 percent of all client relationships.

32. Thirty-four of Leodan's 44 U.S. Related Accounts were closed by the Bank between October 2010 and August 31, 2014. Certain accounts, although consistent with Swiss law, were closed in such a way that Leodan assisted its U.S. clients in continuing to conceal the assets and income they held at Leodan in Switzerland from the IRS. With respect to assets transferred to accounts in countries other than the United States upon account closure, significant amounts were transferred to other banks in Switzerland, the United Kingdom, and Monaco.

    a. For example, at least $1,665,000 was transferred to banks in the United Kingdom in connection with the closure of at least six U.S. Related Accounts;

    b. At least $1,975,000 was transferred to Monaco in connection with the closure of at least five U.S. Related Accounts; and

    c. At least $13,118,000 was transferred to other Swiss banks in connection with the closure of at least 17 U.S. Related Accounts. At least $12,800,000 of that amount was transferred to one specific Swiss bank, and at least $11,700,000 of the $13,118,000 in transfers was in the form of electronic delivery of securities or precious metals.

LEODAN'S BUSINESS RELATIONSHIP WITH EAM #1

33. While Leodan's U.S. client relationships comprise only 8.4 percent of all client relationships, Leodan knowingly entered into a business relationship with an external asset manager ("EAM #1") who was then under criminal investigation and later indicted in the United States for conspiring with U.S. taxpayers to help them evade their U.S. tax obligations. This relationship with EAM #1 brought approximately 43 percent of the U.S. Related Accounts to Leodan. Nineteen of the 44 U.S. Related Accounts were clients of this one external asset manager. The remaining 25 U.S. Related Accounts were direct clients of the Bank.

34. Leodan's relationship with EAM #1 developed following several meetings held by the Bank's management in its offices in October and November 2010 with two private bankers, who were not satisfied with their positions at UBS. During a meeting that was held on November 29, 2010, the two UBS private bankers ("PB #1" and "PB #2") advised Leodan management that they had dealings with EAM #1 in their current employment, and explained that their relationship with EAM #1 was an important relationship they could bring to the Bank. Leodan's management decided to meet EAM #1 before extending employment offers to PB #1 and PB #2.

35. On December 22, 2010, the Chief Executive Officer and the Chief Operating Officer of the Bank met in the Bank's offices with EAM #1, PB #1 and PB #2. EAM #1 presented his company and proposed a business relationship. During this meeting, EAM #1 informed the Bank's management that he was under investigation in the United States. The members of the Bank's management responded that the Bank only wanted to have tax compliant clients. EAM #1 assured them that he would only bring tax compliant clients to the Bank. While the Bank did not obtain a written representation to this effect, the Bank's internal files documented that oral representation. Later that same month and viewing a potential relationship with EAM #1 as a business opportunity, the Bank made a decision to hire PB #1 and PB #2 commencing May 2011 and to enter into a business relationship with EAM #1.

36. On May 3, 2011, Leodan entered into an agreement with EAM #1 that paid EAM #1 remuneration retroactively on a quarterly basis at a rate of 50 percent on defined net earnings comprised of the deposit fees of the Bank, brokerage commissions of the Bank, and the fiduciary commissions of the Bank. The volume of 20 million Swiss francs was agreed as the goal to be achieved within a two-year period following the signing of the agreement. Despite having discussed a requirement that only tax compliant clients be brought to the Bank in December 2010, the agreement with EAM #1 failed to address that condition in writing. The agreement did, however, specifically address the client identification process with respect to Swiss anti-money laundering laws. The agreement required EAM #1 to forward all client identification documentation to the Bank and reserved the right of the Bank to execute the client identification process, including account holders, beneficiaries, and authorized signatories, itself. The agreement also required EAM #1 to acknowledge that the Bank reserved the right to meet the introduced

client in person. The Bank did not exercise these rights with respect to the clients introduced by EAM #1.

37. In May 2011, PB #1 and PB #2 began their employment with the Bank, and from May 2011 through April 2012, the Bank opened 19 U.S. Related Accounts for 13 clients of EAM #1. These 19 accounts had a peak of at least $24.2 million in assets under management, and the majority of the assets in these accounts were transferred from three other Swiss banks. Of these 19 accounts, 16 were structured accounts held by non-U.S. domiciled entities.

38. The account opening documents for the 19 accounts of EAM #1 were handled by PB #1 and PB #2, and those account opening documents then were provided to the compliance officer of the Bank.

39. PB #1 and PB #2 dealt directly with EAM #1 regarding the 19 accounts, and the majority of communications with EAM #1 were by fax.

40. EAM #1 managed the client relationships. EAM #1 served as a director of his 16 structured accounts at the Bank, and EAM #1 had a power of attorney for the non-U.S. domiciled entity that held the account in its name. More specifically, as examples:

    a. Leodan opened in July 2011 and April 2012 and serviced until April and December 2012 two accounts with peak values of approximately $2.9 million and $1.4 million held by Liechtenstein and Panama entities with a beneficial owner who was a United States citizen and resident. EAM #1 served as a director and had a power of attorney on both accounts; and

    b. Leodan opened in September 2011 and serviced until November 2012 two undeclared accounts with peak values of approximately $2 million and $1.1 million held by the same Liechtenstein trust with beneficial owners who are United States citizens and residents. EAM #1 served as a director and had a power of attorney on both accounts.

41. On May 31, 2012, the Bank's external auditor furnished its annual report on regulatory matters to the Bank's Board of Directors and to the Bank's supervising regulatory agency, FINMA. In its report, the external auditor addressed the Bank's business relationship with EAM #1 and noted that EAM #1 was the subject of a number of articles in the Swiss press. Between May 2011 and October 2012, Leodan made no efforts to ascertain the status of the criminal investigation against EAM #1.

42. After receiving Leodan's audit report, FINMA requested a meeting with the Bank, and on October 16, 2012, representatives of the Bank's Board of Directors and Management Board of the Bank met with representatives of FINMA. The Bank's representatives were asked by FINMA at that meeting whether they were aware that the U.S. Attorney for the Southern District of New York had indicted EAM #1 (in July 2011). After the Bank's representatives responded that they were not aware of the indictment, FINMA

recommended that the Bank reconsider its business relationship with EAM #1. Later that same day, the Bank made the decision to terminate its relationship with EAM #1 and exit his clients.

43. On October 22, 2012, the Bank informed EAM #1 that the business relationship would be terminated immediately and he should transfer his client accounts to another bank no later than the end of November 2012.

44. The Bank terminated the employment contracts with PB #1 and PB #2 on October 31, 2012, and they were on "garden leave" as required by Swiss law from November 2012 until May and June 2013, respectively.

45. Between November 2012 and January 2013, Leodan transferred the 19 U.S. Related Accounts of EAM #1 to other banks. The majority of the assets in these accounts were transferred per the clients' instructions to one specific Swiss bank and two banks in Liechtenstein, which transfers continued to aid some of those clients in evading their U.S. taxes.

46. Leodan opened, serviced, and profited from accounts for U.S. clients with the knowledge that some were likely not complying with these obligations. Due in part to the assistance of Leodan and certain of its personnel, and with the knowledge that Swiss banking secrecy laws would prevent Leodan from disclosing their identities to the IRS absent any client or statutory authorization, some U.S. clients of Leodan filed false and fraudulent U.S. Individual Income Tax Returns, Forms 1040, that failed to report their respective interest in their undeclared Leodan accounts and the related income. Some U.S. clients of Leodan also failed to file and otherwise report their undeclared Leodan accounts on FBARs.

47. Leodan was aware that U.S. taxpayers had a legal duty to report to the IRS and pay taxes on the basis of all their income, including income earned in accounts that the U.S. taxpayers maintained at Leodan. Despite being aware of this legal duty, the Bank opened, serviced, and profited from accounts for U.S. clients who Leodan knew or had reason to know were not complying with their U.S. income tax obligations.

COMPLIANCE POLICY CHANGES AND MITIGATING FACTORS

48. In June 2013, the Bank implemented more restrictive and effective measures concerning its U.S. cross-border business. In its account opening process adopted that month, a new client must confirm tax compliance with respect to its assets and income and affirm that it will continue to remain tax compliant. Leodan's private banker or relationship manager then verifies the client's declaration and confirms this assessment in writing. If the Bank cannot verify the tax compliance status of a client, it will not open a banking relationship. This account opening process applies to all non-Swiss clients, including U.S. clients with multiple passports.

49. Between October 2010 and November 2015, Leodan closed 35 of its 44 U.S. Related Accounts. As of November 2015, the Bank still is servicing nine accounts out of its 44 U.S. Related Accounts.

50. The Bank has cooperated with the Department of Justice and provided timely and comprehensive information to the U.S. government about its cross-border business with U.S. Related Accounts. Additionally, Leodan has provided responsive, specific, and actionable information to the Department of Justice concerning associated persons, entities, and areas of concern for use in other ongoing and potential Department of Justice investigations.

51. Following Leodan's efforts, at least two of its U.S. Related Accounts have thus far entered into an IRS Voluntary Disclosure Program or Initiative. Moreover, the Bank has obtained waivers of Swiss bank secrecy for approximately 65 percent of its U.S. Related Accounts and has provided customer names for those accounts to the U.S. government.

EXHIBIT B TO LEODAN PRIVATBANK AG
NON-PROSECUTION AGREEMENT

Resolution of the Board of Directors of Leodan Privatbank AG

At a meeting duly held on January 18, 2016, the Board of Directors (the "Board") of Leodan Privatbank AG (the "Bank") resolved as follows:

WHEREAS, the Bank has been engaged in voluntary discussions with the United States Department of Justice (the "DOJ") pursuant to the terms of the "PROGRAM FOR NON-PROSECUTION AGREEMENTS OR NON-TARGET LETTERS FOR SWISS BANKS (the "Program"), which was the product of an agreement entered into by the Swiss Federal Department of Finance and the DOJ on 29 August 2013, as a means of providing a path for Swiss banks that are not currently the target of a criminal investigation authorized by the DOJ, Tax Division, to obtain resolution concerning their status in connection with the DOJ's overall investigations into the conduct of the U.S. cross-border business on the part of Swiss banks;

WHEREAS, in order to resolve outstanding liability to the U.S Government, the DOJ has presented and proposed to the Bank to enter into a draft Non-Prosecution Agreement (the "Agreement) that includes a proposed financial penalty;

WHEREAS, the Bank's U.S. and Swiss counsel have advised the Board of Directors of the Bank's rights, possible defenses, and the consequences of entering into the Agreement; This Board hereby unanimously **RESOLVES** that:

1. The Board of the Bank has reviewed the entire Agreement attached hereto, including the Statement of Facts attached as Exhibit A to the Agreement, consulted with Swiss and U.S. counsel in connection with this matter and voted to enter into the Agreement, including to pay a sum up to $ 500'000 to DOJ in connection with the Agreement;

2. Messrs Marcel Eichmann, Chief Executive Officer, and Pascal Frei, Chief Operating Officer, by collective signature (collectively the "Authorized Signatories"), are hereby authorized on behalf of the Bank to execute the Agreement substantially in such form as reviewed by this Board with such non-material changes as Authorized Signatories may approve;

3. The Board hereby authorizes, empowers and directs the Authorized Signatories to take, on behalf of the Bank, any and all actions as may be necessary or appropriate, and to approve and execute the forms, terms or provisions of any agreement or other document, as may be necessary or appropriate to carry out and effectuate the purpose and intent of the foregoing resolutions; and

4. All of the actions of the Authorized Signatories of the Bank, are hereby severally ratified, confirmed, approved and adopted as actions on behalf of the Bank.

IN WITNESS WHEREOF, the Board of Directors of Leodan Privatbank AG has executed this Resolution.

Victor Dario
Chairman

Kyle Baker

Dr. Werner Bläuenstein

Pier Tintori