

Annex 2 to the Deposit Agreement – Swiss provisions which may prevent the immediate communication set forth in article 5b) of the Agreement

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PLEASE NOTE THAT ENGLISH IS NOT AN OFFICIAL LANGUAGE OF THE SWISS CONFEDERATION. THE FOLLOWING UNOFFICIAL TRANSLATIONS ARE PROVIDED FOR INFORMATION PURPOSES ONLY AND HAVE NO LEGAL FORCE.

1. Federal Act on Combating Money Laundering and Terrorist Financing in the Financial Sector of 10 October 1997 (MLA)

Art. 10a MLA Prohibition of Information

¹ For as long as assets are frozen by decision of the financial intermediary, that intermediary is prohibited from informing the persons affected or third parties of the report under Article 9.

² If the financial intermediary itself is unable to freeze the assets, it may inform the financial intermediary that is able to do so and which is subject to this Act.

³ It may also inform another financial intermediary subject to this Act that a report has been submitted under Article 9 provided this is required in order to comply with obligations under this Act and provided both financial intermediaries:

- a. provide joint services for one customer in connection with the management of that customer's assets on the basis of a contractual agreement to cooperate; or
- b. are part of the same corporate group.

⁴ The financial intermediary who has been informed on the basis of paragraph 2 or 3 is subject to the prohibition of information in paragraph 1.

2. Federal Act on International Mutual Assistance in Criminal Matters of 20 March 1981 (IMAC)

Art. 80n IMAC Information

¹ The holder of documents has the right to inform those who mandated him of the existence of the request and of all the facts related to it, unless the competent authority has, as an exception, expressly prohibited this under the threat of the sanctions provided by Article 292 of the Swiss Criminal Code.

² The entitled person who intervenes in a pending proceeding may no longer challenge the final ruling which has entered into force.

3. Federal Act on the Treaty concluded with the United States of America on Mutual Assistance in Criminal Matters of 3 October 1975 (LTEJUS)

Art. 8 LTEJUS Preliminary measures

¹ If the execution of the request does not obviously appear to be inadmissible or inappropriate, the central office and the executing authority processing the request may order, either *ex officio* or upon application from either party or from the US central office, preliminary measures to preserve the existing situation, to safeguard threatened legal interests or to protect evidence.

² The person aware of the request may be obliged, under the threat of the sanctions provided by Article 292 of the Swiss Criminal Code, to maintain secrecy on the existence of the request and on all facts related to it, if the importance of the foreign investigation justifies it and if the lack of such a measure seems to endanger its result. This measure shall be limited in time.

³ As soon as the request is announced, the central office may also take these measures when it is in possession of information allowing it to establish that the conditions are met.

⁴ Appeals lodged against decisions taken pursuant to the present Article have no suspensive effect.

4. Swiss Criminal Code of 21 December 1937 (SCC)

Art. 292 SCC Contempt of official orders

Any person who fails to comply with an official order that has been issued to him by a competent authority or public official under the threat of the criminal penalty for non-compliance in terms of this Article shall be liable to a fine.

5. Swiss Code of Criminal Procedure of 5 October 2007 (CCP)

Art. 73 CCP Duty to maintain secrecy

¹ The members of criminal authorities, their employees as well as their experts appointed by the court must keep secret facts learned while exercising their official activity.

² The conduct of the proceedings may oblige the complainant, other parties to the proceedings and their legal advisors, under the threat of the sanctions provided by Article 292 of the Swiss Criminal Code, to maintain secrecy on the proceedings and the persons involved, when the purpose of the proceedings or a private interest so requires. This duty shall be for a limited period of time.

Art. 285 CCP Enforcement

¹ If the court of enforcement grants an application for supervision, it gives the bank or similar institution written instructions on:

- a. the type of information and the documents to be produced;
- b. the measures to maintain secrecy to be complied with.

² The bank or similar institution cannot be ordered to produce information or documents if such an exhibit may put them in issue to the extent that themselves:

- a. could incur a criminal liability;
- b. could incur a civil liability and that the interest to protect them overrides the interest of the criminal prosecution.

³ The persons having a power of disposal on the account under supervision are afterwards informed about it in accordance with Article 279 para. 1 and 2.

⁴ The persons whose banking relationships have been under supervision may lodge appeal in accordance with Articles 393 to 397. The deadline for the appeal starts to run from the receipt of the information.