

AGREEMENT

BETWEEN

SWITZERLAND

AND

THE UNITED STATES OF AMERICA

**TO IMPROVE INTERNATIONAL TAX COMPLIANCE AND TO IMPLEMENT
FATCA**

Whereas, the Swiss Confederation (“Switzerland”) and the United States of America (“United States”) (each, a “Party,” and together, the “Parties”) have signed the Agreement between Switzerland and the United States of America for Cooperation to Facilitate the Implementation of FATCA, signed at Bern February 14, 2013, as supplemented by the exchange of notes dated March 21 and 27, 2013, as amended by exchange of notes dated September 6 and 13, 2013, as corrected by exchanges of notes dated June 10, 2013 and May 21, 2014, and September 25, 2014 and January 7, 2015, and as updated by the Agreement between the Competent Authority of Switzerland and the Competent Authority of the United States of America to Update Annex II of the Agreement between Switzerland and the United States of America for Cooperation to Facilitate the Implementation of FATCA, signed at Bern February 19 and 29, 2016 (collectively the “2013 Agreement”), and noting the Memorandum of Understanding signed at Washington June 7, 2013, the letter sent by the United States to Switzerland pursuant to Article 12 of the 2013 Agreement dated March 27, 2015, and the Memorandum of Understanding signed at Bern July 28, 2015, as supplemented by the exchange of notes dated April 20 and June 9, 2016;

Whereas, Article 26 of the Convention between the Swiss Confederation and the United States of America for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Washington October 2, 1996, with a Protocol signed the same day, as amended by the Protocol Amending the Convention between the Swiss Confederation and the United States of America for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Washington on October 2, 1996, signed at Washington September 23, 2009 (collectively the “Convention”), authorizes the exchange of information for tax purposes, including on an automatic basis;

Whereas, the United States enacted provisions commonly known as the Foreign Account Tax Compliance Act (“FATCA”), which introduce a reporting regime for financial institutions with respect to certain accounts;

Whereas, in the expectation of contributing to a solid basis for an enhanced cooperation in tax matters with the United States, Switzerland is supportive of the implementation of FATCA;

Whereas, FATCA has raised a number of issues, including that Swiss financial institutions may not be able to comply with certain aspects of FATCA due to domestic legal impediments;

Whereas, the United States collects information regarding certain accounts maintained by U.S. financial institutions held by residents of Switzerland and is committed to exchanging such information with Switzerland and pursuing equivalent levels of exchange, provided that the appropriate safeguards and infrastructure for an effective exchange relationship are in place;

Whereas, an intergovernmental approach to FATCA implementation would address legal impediments and reduce burdens for Swiss financial institutions;

Whereas, the Parties desire to enter into a new agreement to improve international tax compliance with respect to relevant reporting periods and which provides for the implementation of FATCA based on domestic reporting and reciprocal automatic exchange pursuant to the Convention, and subject to the confidentiality and other protections provided for therein, including the provisions limiting the use of the information exchanged under the Convention;

Now, therefore, the Parties have agreed as follows:

Article 1 Definitions

1. For purposes of this agreement and any annexes thereto (the “Agreement”), the following terms shall have the meanings set forth below:

- a) The term “**United States**” means the United States of America, including the States thereof and the District of Columbia, but does not include the U.S. Territories. For purposes of applying this Agreement, any reference to a “**State**” of the United States includes the District of Columbia.
- b) The term “**U.S. Territory**” means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands.
- c) The term “**IRS**” means the U.S. Internal Revenue Service.
- d) The term “**Switzerland**” means the Swiss Confederation.
- e) The term “**Partner Jurisdiction**” means a jurisdiction that has in effect an agreement with the United States to facilitate the implementation of FATCA. The IRS shall publish a list identifying all Partner Jurisdictions.
- f) The term “**Competent Authority**” means:
 - (1) in the case of the United States, the Secretary of the Treasury or his delegate; and
 - (2) in the case of Switzerland, the Head of the Federal Department of Finance or his authorized representative.
- g) The term “**Financial Institution**” means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
- h) The term “**Custodial Institution**” means any Entity that holds, as a substantial portion of its business, financial assets for the account of others. An entity holds financial assets for the account of others as a substantial portion of its business if the entity’s gross income attributable to the holding of financial assets and related financial services equals or exceeds 20 percent of the entity’s gross income during the shorter of: (i) the three-year period that ends on December 31 (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or (ii) the period during which the entity has been in existence.
- i) The term “**Depository Institution**” means any Entity that accepts deposits in the ordinary course of a banking or similar business.
- j) The term “**Investment Entity**” means any Entity that conducts as a business (or is managed by an entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:
 - (1) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - (2) individual and collective portfolio management; or
 - (3) otherwise investing, administering, or managing funds or money on behalf of other persons.

This subparagraph 1(j) shall be interpreted in a manner consistent with similar language set forth in the definition of “financial institution” in the Financial Action Task Force Recommendations.

- k) The term “**Specified Insurance Company**” means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.
- l) The term “**Swiss Financial Institution**” means (i) any Financial Institution resident in Switzerland, but excluding any branch of such Financial Institution that is located outside Switzerland, and (ii) any branch of a Financial Institution not resident in Switzerland, if such branch is located in Switzerland.
- m) The term “**Partner Jurisdiction Financial Institution**” means (i) any Financial Institution established in a Partner Jurisdiction, but excluding any branch of such Financial Institution that is located outside the Partner Jurisdiction, and (ii) any branch of a Financial Institution not established in the Partner Jurisdiction, if such branch is located in the Partner Jurisdiction.
- n) The term “**Reporting Financial Institution**” means a Reporting Swiss Financial Institution or a Reporting U.S. Financial Institution, as the context requires.
- o) The term “**Reporting Swiss Financial Institution**” means any Swiss Financial Institution that is not a Non-Reporting Swiss Financial Institution.
- p) The term “**Reporting U.S. Financial Institution**” means (i) any Financial Institution that is resident in the United States, but excluding any branch of such Financial Institution that is located outside the United States, and (ii) any branch of a Financial Institution not resident in the United States, if such branch is located in the United States, provided that the Financial Institution or branch has control, receipt, or custody of income with respect to which information is required to be exchanged under subparagraph (2)(b) of Article 2 of this Agreement.
- q) The term “**Non-Reporting Swiss Financial Institution**” means any Swiss Financial Institution, or other Entity resident in Switzerland, that is described in Annex II as a Non-Reporting Swiss Financial Institution or that otherwise qualifies as a deemed-compliant FFI or an exempt beneficial owner under relevant U.S. Treasury Regulations.
- r) The term “**Nonparticipating Financial Institution**” means a nonparticipating FFI, as that term is defined in relevant U.S. Treasury Regulations, but does not include a Swiss Financial Institution or other Partner Jurisdiction Financial Institution other than a Financial Institution treated as a Nonparticipating Financial Institution pursuant to subparagraph 2(b) of Article 5 of this Agreement or the corresponding provision in an agreement between the United States and a Partner Jurisdiction.
- s) The term “**Financial Account**” means an account maintained by a Financial Institution, and includes:
 - (1) in the case of an Entity that is a Financial Institution solely because it is an Investment Entity, any equity or debt interest (other than interests that are regularly traded on an established securities market) in the Financial Institution;

- (2) in the case of a Financial Institution not described in subparagraph 1(s)(1) of this Article, any equity or debt interest in the Financial Institution (other than interests that are regularly traded on an established securities market), if (i) the value of the debt or equity interest is determined, directly or indirectly, primarily by reference to assets that give rise to U.S. Source Withholdable Payments, and (ii) the class of interests was established with a purpose of avoiding reporting in accordance with this Agreement; and
- (3) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, nontransferable immediate life annuity that is issued to an individual and monetizes a pension or disability benefit provided under an account that is excluded from the definition of Financial Account in Annex II.

Notwithstanding the foregoing, the term “Financial Account” does not include any account, product, or arrangement that is excluded from the definition of Financial Account in Annex II. For purposes of this Agreement, interests are “regularly traded” if there is a meaningful volume of trading with respect to the interests on an ongoing basis, and an “established securities market” means an exchange that is officially recognized and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange. For purposes of this subparagraph 1(s), an interest in a Financial Institution is not “regularly traded” and shall be treated as a Financial Account if the holder of the interest (other than a Financial Institution acting as an intermediary) is registered on the books of such Financial Institution. The preceding sentence will not apply to interests first registered on the books of such Financial Institution prior to July 1, 2014.

- t) The term “**Depository Account**” includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.
- u) The term “**Custodial Account**” means an account (other than an Insurance Contract or Annuity Contract) for the benefit of another person that holds any financial instrument or contract held for investment (including, but not limited to, a share or stock in a corporation, a note, bond, debenture, or other evidence of indebtedness, a currency or commodity transaction, a credit default swap, a swap based upon a nonfinancial index, a notional principal contract, an Insurance Contract or Annuity Contract, and any option or other derivative instrument).
- v) The term “**Equity Interest**” means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Specified U.S. Person shall be treated as being a beneficiary of a foreign trust if such Specified U.S. Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.

- w) The term “**Insurance Contract**” means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.
- x) The term “**Annuity Contract**” means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.
- y) The term “**Cash Value Insurance Contract**” means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value greater than \$50,000.
- z) The term “**Cash Value**” means the greater of (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan), and (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term “Cash Value” does not include an amount payable under an Insurance Contract as:
- (1) a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
 - (2) a refund to the policyholder of a previously paid premium under an Insurance Contract (other than under a life insurance contract) due to policy cancellation or termination, decrease in risk exposure during the effective period of the Insurance Contract, or arising from a redetermination of the premium due to correction of posting or other similar error; or
 - (3) a policyholder dividend based upon the underwriting experience of the contract or group involved.
- aa) The term “**Reportable Account**” means a U.S. Reportable Account or a Swiss Reportable Account, as the context requires.
- bb) The term “**Swiss Reportable Account**” means a Financial Account maintained by a Reporting U.S. Financial Institution if: (i) in the case of a Depository Account, the account is held by an individual resident in Switzerland and more than \$10 of interest is paid to such account in any given calendar year; or (ii) in the case of a Financial Account other than a Depository Account, the Account Holder is a resident of Switzerland, including an Entity that certifies that it is resident in Switzerland for tax purposes, with respect to which U.S. source income that is subject to reporting under chapter 3 of subtitle A or chapter 61 of subtitle F of the U.S. Internal Revenue Code is paid or credited.
- cc) The term “**U.S. Reportable Account**” means a Financial Account maintained by a Reporting Swiss Financial Institution and held by one or more Specified U.S. Persons or by a Non-U.S. Entity with one or more Controlling Persons that is a Specified U.S. Person. Notwithstanding the foregoing, an account shall not be treated as a U.S. Reportable Account if such account is not identified as a U.S. Reportable Account after application of the due diligence procedures in Annex I.

- dd) The term “**Account Holder**” means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of this Agreement, and such other person is treated as holding the account. For purposes of the immediately preceding sentence, the term “Financial Institution” does not include a Financial Institution organized or incorporated in a U.S. Territory. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.
- ee) The term “**U.S. Person**” means a U.S. citizen or resident individual, a partnership or corporation organized in the United States or under the laws of the United States or any State thereof, a trust if (i) a court within the United States would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust, and (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States. This subparagraph 1(ee) shall be interpreted in accordance with the U.S. Internal Revenue Code.
- ff) The term “**Specified U.S. Person**” means a U.S. Person, other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) any corporation that is a member of the same expanded affiliated group, as defined in section 1471(e)(2) of the U.S. Internal Revenue Code, as a corporation described in clause (i); (iii) the United States or any wholly owned agency or instrumentality thereof; (iv) any State of the United States, any U.S. Territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing; (v) any organization exempt from taxation under section 501(a) of the U.S. Internal Revenue Code or an individual retirement plan as defined in section 7701(a)(37) of the U.S. Internal Revenue Code; (vi) any bank as defined in section 581 of the U.S. Internal Revenue Code; (vii) any real estate investment trust as defined in section 856 of the U.S. Internal Revenue Code; (viii) any regulated investment company as defined in section 851 of the U.S. Internal Revenue Code or any entity registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-64); (ix) any common trust fund as defined in section 584(a) of the U.S. Internal Revenue Code; (x) any trust that is exempt from tax under section 664(c) of the U.S. Internal Revenue Code or that is described in section 4947(a)(1) of the U.S. Internal Revenue Code; (xi) a dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State; (xii) a broker as defined in section 6045(c) of the U.S. Internal Revenue Code; or (xiii) any tax-exempt trust under a plan that is described in section 403(b) or section 457(g) of the U.S. Internal Revenue Code.
- gg) The term “**Entity**” means a legal person or a legal arrangement such as a trust.
- hh) The term “**Non-U.S. Entity**” means an Entity that is not a U.S. Person.

- ii) The term **“U.S. Source Withholdable Payment”** means any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the United States. Notwithstanding the foregoing, a U.S. Source Withholdable Payment does not include any payment that is not treated as a withholdable payment in relevant U.S. Treasury Regulations.

- jj) An Entity is a **“Related Entity”** of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose control includes direct or indirect ownership of more than 50 percent of the vote or value in an Entity. Notwithstanding the foregoing, Switzerland may treat an Entity as not a Related Entity of another Entity if the two Entities are not members of the same expanded affiliated group as defined in section 1471(e)(2) of the U.S. Internal Revenue Code.

- kk) The term **“U.S. TIN”** means a U.S. federal taxpayer identifying number.

- ll) The term **“Swiss TIN”** means a Swiss taxpayer identifying number.

- mm) The term **“Controlling Persons”** means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term **“Controlling Persons”** shall be interpreted in a manner consistent with the Financial Action Task Force Recommendations.

- nn) Except as provided in Section VI of Annex I, the term **“FFI Agreement”** means an agreement published by the U.S. Internal Revenue Service that sets forth the requirements, consistent with the 2013 Agreement, for a Reporting Swiss Financial Institution to be treated as complying with the requirements of section 1471(b) of the U.S. Internal Revenue Code.

2. Any term not otherwise defined in this Agreement shall, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Party applying this Agreement, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 2

Obligations to Obtain and Exchange Information with Respect to Reportable Accounts

1. Subject to the provisions of Article 3 of this Agreement, each Party shall obtain the information specified in paragraph 2 of this Article with respect to all Reportable Accounts and shall annually exchange this information with the other Party on an automatic basis pursuant to the provisions of Article 26 of the Convention.

2. The information to be obtained and exchanged is:
 - a) In the case of Switzerland with respect to each U.S. Reportable Account of each Reporting Swiss Financial Institution:
 - (1) the name, address, and U.S. TIN of each Specified U.S. Person that is an Account

Holder of such account and, in the case of a Non-U.S. Entity that, after application of the due diligence procedures set forth in Annex I, is identified as having one or more Controlling Persons that is a Specified U.S. Person, the name, address, and U.S. TIN (if any) of such entity and each such Specified U.S. Person;

- (2) the account number (or functional equivalent in the absence of an account number);
 - (3) the name and identifying number of the Reporting Swiss Financial Institution;
 - (4) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year, immediately before closure;
 - (5) in the case of any Custodial Account:
 - (A) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - (B) the total gross proceeds from the sale or redemption of property paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Swiss Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
 - (6) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
 - (7) in the case of any account not described in subparagraph 2(a)(5) or 2(a)(6) of this Article, the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Swiss Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.
- b) In the case of the United States, with respect to each Swiss Reportable Account of each Reporting U.S. Financial Institution:
- (1) the name, address, and Swiss TIN of any person that is a resident of Switzerland and is an Account Holder of the account;
 - (2) the account number (or the functional equivalent in the absence of an account number);
 - (3) the name and identifying number of the Reporting U.S. Financial Institution;
 - (4) the gross amount of interest paid on a Depository Account;

- (5) the gross amount of U.S. source dividends paid or credited to the account; and
- (6) the gross amount of other U.S. source income paid or credited to the account, to the extent subject to reporting under chapter 3 of subtitle A or chapter 61 of subtitle F of the U.S. Internal Revenue Code.

Article 3

Time and Manner of Exchange of Information

1. For purposes of the exchange obligation in Article 2 of this Agreement, the amount and characterization of payments made with respect to a U.S. Reportable Account may be determined in accordance with the principles of the tax laws of Switzerland, and the amount and characterization of payments made with respect to a Swiss Reportable Account may be determined in accordance with principles of U.S. federal income tax law.
2. For purposes of the exchange obligation in Article 2 of this Agreement, the information exchanged shall identify the currency in which each relevant amount is denominated.
3. With respect to paragraph 2 of Article 2 of this Agreement, information shall be obtained and exchanged with respect to the calendar year of entry into force of this Agreement and all subsequent years.
4. The information described in Article 2 of this Agreement shall be exchanged by the later of nine months after the end of the calendar year to which the information relates or the next September 30 after the obligation of the Party to exchange information under Article 2 takes effect.
5. The Competent Authorities of Switzerland and the United States shall enter into an agreement or arrangement under the mutual agreement procedure provided for in Article 25 of the Convention, which shall:
 - a) establish the procedures for the automatic exchange obligations described in Article 2 of this Agreement; and
 - b) prescribe rules and procedures as may be necessary to implement Article 5 of this Agreement.
6. All information exchanged shall be subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged.
7. The U.S. Competent Authority shall provide written notification to the Swiss Competent Authority when it is satisfied that the Swiss Competent Authority has in place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement shall remain confidential and be used solely for tax purposes, and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and demonstrated capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Article 5 of this Agreement).
8. Switzerland shall ensure that information received pursuant to this Agreement that it shares with its subnational entities (such as Cantons and communes) remains confidential and is used solely for tax purposes. Switzerland shall require its subnational entities to promptly notify the Swiss Competent Authority of any breach that actually or potentially affects the confidentiality and other protections provided for in the Convention (a “data breach”). Upon receipt of a

notification described in the preceding sentence from a subnational entity, the Swiss Competent Authority shall promptly notify the U.S. Competent Authority of the data breach and such notification shall include sufficient details to allow the U.S. Competent Authority to address such data breach as it affects the United States. Under its current practices, the U.S. Competent Authority would not systematically share information exchanged under this Agreement with any of the States of the United States or any political subdivision or local authority thereof.

9. The obligation of the United States to exchange information under Article 2 of this Agreement shall take effect on the date of the written notification by the U.S. Competent Authority described in paragraph 7 of this Article.

Article 4 **Application of FATCA to Swiss Financial Institutions**

1. **Treatment of Reporting Swiss Financial Institutions.** Each Reporting Swiss Financial Institution shall be treated as complying with, and not subject to withholding under, section 1471 of the U.S. Internal Revenue Code if Switzerland complies with its obligations under Articles 2 and 3 of this Agreement with respect to such Reporting Swiss Financial Institution, and the Reporting Swiss Financial Institution:

- a) identifies U.S. Reportable Accounts and reports annually to the Swiss Competent Authority the information required to be reported in subparagraph 2(a) of Article 2 of this Agreement in the time and manner described in Article 3 of this Agreement;
- b) complies with the applicable registration requirements on the IRS FATCA registration website;
- c) to the extent that a Reporting Swiss Financial Institution is (i) acting as a qualified intermediary (for purposes of section 1441 of the U.S. Internal Revenue Code) that has elected to assume primary withholding responsibility under chapter 3 of subtitle A of the U.S. Internal Revenue Code, (ii) a foreign partnership that has elected to act as a withholding foreign partnership (for purposes of both sections 1441 and 1471 of the U.S. Internal Revenue Code), or (iii) a foreign trust that has elected to act as a withholding foreign trust (for purposes of both sections 1441 and 1471 of the U.S. Internal Revenue Code), withholds 30 percent of any U.S. Source Withholdable Payment to any Nonparticipating Financial Institution; and
- d) in the case of a Reporting Swiss Financial Institution that is not described in subparagraph 1(c) of this Article and that makes a payment of, or acts as an intermediary with respect to, a U.S. Source Withholdable Payment to any Nonparticipating Financial Institution, the Reporting Swiss Financial Institution provides to any immediate payor of such U.S. Source Withholdable Payment the information required for withholding and reporting to occur with respect to such payment.

Notwithstanding the foregoing, a Reporting Swiss Financial Institution with respect to which the conditions of this paragraph 1 are not satisfied shall not be subject to withholding under section 1471 of the U.S. Internal Revenue Code unless such Reporting Swiss Financial Institution is treated by the United States as a Nonparticipating Financial Institution pursuant to subparagraph 2(b) of Article 5 of this Agreement.

2. **Suspension of Rules Relating to Recalcitrant Accounts.** The United States shall not require a Reporting Swiss Financial Institution to withhold tax under section 1471 or 1472 of the U.S. Internal Revenue Code with respect to an account held by a recalcitrant account holder (as defined

in section 1471(d)(6) of the U.S. Internal Revenue Code), or to close such account, if the U.S. Competent Authority receives the information set forth in subparagraph 2(a) of Article 2 of this Agreement, subject to the provisions of Article 3 of this Agreement, with respect to such account.

3. **Specific Treatment of Swiss Retirement Plans.** The United States shall treat as deemed-compliant FFIs or exempt beneficial owners, as appropriate, for purposes of sections 1471 and 1472 of the U.S. Internal Revenue Code, Swiss retirement plans described in Annex II. For this purpose, a Swiss retirement plan includes an Entity established or located in, and regulated by, Switzerland, or a predetermined contractual or legal arrangement, operated to provide pension or retirement benefits or earn income for providing such benefits under the laws of Switzerland and regulated with respect to contributions, distributions, reporting, sponsorship, and taxation.

4. **Identification and Treatment of Other Deemed-Compliant FFIs and Exempt Beneficial Owners.** The United States shall treat each Non-Reporting Swiss Financial Institution as a deemed-compliant FFI or as an exempt beneficial owner, as appropriate, for purposes of section 1471 of the U.S. Internal Revenue Code.

5. **Special Rules Regarding Related Entities and Branches That Are Nonparticipating Financial Institutions.** If a Swiss Financial Institution, that otherwise meets the requirements described in paragraph 1 of this Article or is described in paragraph 3 or 4 of this Article, has a Related Entity or branch that operates in a jurisdiction that prevents such Related Entity or branch from fulfilling the requirements of a participating FFI or deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code or has a Related Entity or branch that is treated as a Nonparticipating Financial Institution solely due to the expiration of the transitional rule for limited FFIs and limited branches under relevant U.S. Treasury Regulations, such Swiss Financial Institution shall continue to be in compliance with the terms of this Agreement and shall continue to be treated as a deemed-compliant FFI or exempt beneficial owner, as appropriate, for purposes of section 1471 of the U.S. Internal Revenue Code, provided that:

- a) the Swiss Financial Institution treats each such Related Entity or branch as a separate Nonparticipating Financial Institution for purposes of all the reporting and withholding requirements of this Agreement and each such Related Entity or branch identifies itself to withholding agents as a Nonparticipating Financial Institution;
- b) each such Related Entity or branch identifies its U.S. accounts and reports the information with respect to those accounts as required under section 1471 of the U.S. Internal Revenue Code to the extent permitted under the relevant laws pertaining to the Related Entity or branch; and
- c) such Related Entity or branch does not specifically solicit U.S. accounts held by persons that are not resident in the jurisdiction where such Related Entity or branch is located or accounts held by Nonparticipating Financial Institutions that are not established in the jurisdiction where such Related Entity or branch is located, and such Related Entity or branch is not used by the Swiss Financial Institution or any other Related Entity to circumvent the obligations under this Agreement or under section 1471 of the U.S. Internal Revenue Code, as appropriate.

6. **Coordination of Timing.** Notwithstanding paragraphs 3 and 4 of Article 3 of this Agreement:

- a) Switzerland shall not be obligated to obtain and exchange information with respect to a calendar year that is prior to the calendar year with respect to which similar information is required to be reported to the IRS by participating FFIs pursuant to relevant U.S. Treasury Regulations;

- b) Switzerland shall not be obligated to begin exchanging information prior to the date by which participating FFIs are required to report similar information to the IRS under relevant U.S. Treasury Regulations;
- c) the United States shall not be obligated to obtain and exchange information with respect to a calendar year that is prior to the first calendar year with respect to which Switzerland is required to obtain and exchange information; and
- d) the United States shall not be obligated to begin exchanging information prior to the date by which Switzerland is required to begin exchanging information.

7. **Coordination of Definitions with U.S. Treasury Regulations.** Notwithstanding Article 1 of this Agreement and the definitions provided in the Annexes to this Agreement, in implementing this Agreement, Switzerland may use, and may permit Swiss Financial Institutions to use, a definition in relevant U.S. Treasury Regulations in lieu of a corresponding definition in this Agreement, provided that such application would not frustrate the purposes of this Agreement.

Article 5

Collaboration on Compliance and Enforcement

1. **Minor and Administrative Errors.** A Competent Authority shall notify the Competent Authority of the other Party when the first-mentioned Competent Authority has reason to believe that administrative errors or other minor errors may have led to incorrect or incomplete information reporting or resulted in other infringements of this Agreement. The Competent Authority of such other Party shall apply its domestic law (including applicable penalties) to obtain corrected and/or complete information or to resolve other infringements of this Agreement.
2. **Significant Non-Compliance.**
 - a) A Competent Authority shall notify the Competent Authority of the other Party when the first-mentioned Competent Authority has determined that there is significant non-compliance with the obligations under this Agreement with respect to a Reporting Financial Institution in the other jurisdiction. The Competent Authority of such other Party shall apply its domestic law (including applicable penalties) to address the significant non-compliance described in the notice.
 - b) If, in the case of a Reporting Swiss Financial Institution, such enforcement actions do not resolve the non-compliance within a period of 18 months after notification of significant non-compliance is first provided, the United States shall treat the Reporting Swiss Financial Institution as a Nonparticipating Financial Institution pursuant to this subparagraph 2(b).
3. **Reliance on Third Party Service Providers.** Each Party may allow Reporting Financial Institutions to use third party service providers to fulfill the obligations imposed on such Reporting Financial Institutions by a Party, as contemplated in this Agreement, but these obligations shall remain the responsibility of the Reporting Financial Institutions.
4. **Prevention of Avoidance.** The Parties shall implement as necessary requirements to prevent Financial Institutions from adopting practices intended to circumvent the reporting required under this Agreement.

Article 6
Mutual Commitment to Continue to Enhance the Effectiveness of Information Exchange and Transparency

1. **Reciprocity.** The United States acknowledges the need to achieve equivalent levels of reciprocal automatic information exchange with Switzerland. The United States is committed to further improve transparency and enhance the exchange relationship with Switzerland by pursuing the adoption of regulations and advocating and supporting relevant legislation to achieve such equivalent levels of reciprocal automatic information exchange.
2. **Treatment of Passthru Payments.** The Parties are committed to work together, along with Partner Jurisdictions, to develop a practical and effective alternative approach to achieve the policy objectives of foreign passthru payment withholding that minimizes burden.

Article 7
Consistency in the Application of FATCA to Partner Jurisdictions

1. Switzerland shall be granted the benefit of any more favorable terms under Article 4 or Annex I of this Agreement relating to the application of FATCA to Swiss Financial Institutions afforded to another Partner Jurisdiction under a signed bilateral agreement pursuant to which the other Partner Jurisdiction commits to undertake the same obligations as Switzerland described in Articles 2 and 3 of this Agreement, and subject to the same terms and conditions as described therein and in Articles 5 through 9 of this Agreement.
2. The United States shall notify Switzerland of any such more favorable terms, and such more favorable terms shall apply automatically under this Agreement as if such terms were specified in this Agreement and effective as of the date of signing of the agreement incorporating the more favorable terms, unless Switzerland declines in writing the application thereof.

Article 8
Consultations and Amendments

1. In case any difficulties in the implementation of this Agreement arise, either Party may request consultations to develop appropriate measures to ensure the fulfillment of this Agreement.
2. This Agreement may be amended by written mutual agreement of the Parties. Unless otherwise agreed upon, such an amendment shall enter into force through the same procedures as set forth in paragraph 1 of Article 10 of this Agreement.

Article 9
Annexes

The two Annexes form an integral part of this Agreement.

Article 10
Term of Agreement

1. This Agreement shall enter into force on January 1 of the calendar year following the date of Switzerland's written notification to the United States that Switzerland has completed its necessary internal procedures for entry into force of this Agreement.
2. Either Party may terminate this Agreement by giving notice of termination in writing to the other Party. Such termination shall become effective on the first day of the month following the

expiration of a period of 12 months after the date of the notice of termination.

3. The Parties shall consult in good faith to amend this Agreement as necessary to reflect progress on the commitments set forth in Article 6 of this Agreement, or, in the event that the U.S. Competent Authority systematically shares information received under this Agreement with any of the States of the United States or any political subdivision or local authority thereof.

Article 11 Transitional Provisions

1. Upon entry into force of this Agreement, the 2013 Agreement shall terminate.
2. Notwithstanding paragraph 1 of this Article, the Parties shall continue to apply the terms of the 2013 Agreement as follows:
 - a) with respect to reporting periods prior to the entry into force of this Agreement, amounts withheld shall be paid consistent with the terms of the 2013 Agreement and any applicable FFI Agreement;
 - b) with respect to reporting periods prior to the entry into force of this Agreement, information other than late-filed reports described in paragraph 3 of this Article shall be reported consistent with the terms of the 2013 Agreement and any applicable FFI Agreement;
 - c) the Parties' rights and obligations under Articles 5 and 7 of the 2013 Agreement shall continue to apply with respect to the handling of group requests made pursuant to Article 5 of the 2013 Agreement until December 31 of the calendar year in which this Agreement enters into force; and
 - d) with respect to reporting periods prior to entry into force of this Agreement, a Reporting Swiss Financial Institution shall be required to withhold as described in paragraph 2 of Article 7 of the 2013 Agreement in cases where the Swiss Competent Authority does not exchange with the IRS the requested information described in paragraph 1 of Article 5 of the 2013 Agreement within 8 months from the date of the receipt of such request.
3. New, amended, corrected, and voided reports that are prepared consistently with the terms of the 2013 Agreement and any applicable FFI Agreement (except as provided in subparagraph b), but submitted after December 31 of the year in which this Agreement enters into force that relate to reporting periods prior to entry into force of this Agreement ("late-filed reports") shall be reported in accordance with subparagraphs a) through c) of this paragraph 3. Notwithstanding paragraph 2 of Article 1 of this Agreement, any terms used in this paragraph that are not defined in this Agreement shall have the same meaning as provided in the 2013 Agreement.
 - a) The Swiss Competent Authority shall provide late-filed reports received from a Reporting Swiss Financial Institution to the U.S. Competent Authority on a monthly basis rather than requiring such reports to be transmitted directly from the Reporting Swiss Financial Institution to the IRS;
 - b) A Reporting Swiss Financial Institution shall not be required to report a Non-Consenting U.S. Account in an aggregate report as described in subparagraph 1(b)(ii) and (iii) of Article 3 of the 2013 Agreement if the Swiss Financial Institution reports specific information on the account (including the U.S. TIN) as if it were a U.S. Account that is not a Non-Consenting U.S. Account; and

- c) Late-filed reports that are amended, corrected, or voided reports that are transmitted by the Swiss Competent Authority as provided in subparagraph (a) of this paragraph 3 shall be transmitted as new reports (rather than as amended, corrected, or voided reports) with respect to the prior reporting period, and shall specify in a manner mutually acceptable to the Competent Authorities that such reports are corrections, amendments, or voided reports (as applicable).

4. Except for the treatment of non-consenting or recalcitrant account holders, the due-diligence rules under Annex I of the 2013 Agreement are consistent with the rules under Annex I of this Agreement. As such, a Swiss Financial Institution that was covered by the 2013 Agreement and that has, consistent with the terms of Annex I of the 2013 Agreement, and in compliance with the FFI Agreement, identified, prior to entry into force of this Agreement, an account holder as a U.S. citizen or resident, a Specified U.S. Person, a Passive NFFE (as defined in Annex I) with one or more Controlling Persons that is a Specified U.S. Person, a Swiss Financial Institution or other Partner Jurisdiction Financial Institution, a participating FFI, a deemed-compliant FFI, an exempt beneficial owner, an Active NFFE (as defined in Annex I), or a Nonparticipating Financial Institution may continue to rely upon that prior identification for purposes of any requirements described in this Agreement. In the case of a non-consenting or recalcitrant account holder that is treated as a U.S. Account consistent with Annex I of the 2013 Agreement, Switzerland may allow the Swiss Financial Institution to treat such account as a U.S. Reportable Account for purposes of any requirements described in this Agreement provided that Swiss Financial Institutions obtain and report all information described in Article 2 including the U.S. TIN sufficient to report on such accounts. Notwithstanding the preceding sentences in this paragraph 4, Switzerland shall require that, if there is a change in circumstances that causes the Swiss Financial Institution to have reason to know the self-certification or documentation associated with the account is unreliable or incorrect as determined consistent with Annex I of this Agreement, the Swiss Financial Institution must redetermine the status of the account in accordance with the procedures set forth in Annex I of this Agreement.

5. Notwithstanding paragraphs 1 through 4 of this Article, with respect to any information exchanged pursuant to Article 26 of the Convention under the 2013 Agreement, the Parties shall remain bound by the confidentiality and other protections provided for in Article 26 of the Convention.

In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done at Bern, in duplicate, this 27th day of June, 2024, in the English and German languages, each text being equally authentic.

FOR THE SWISS CONFEDERATION:

FOR THE UNITED STATES OF AMERICA:

ANNEX I

DUE DILIGENCE OBLIGATIONS FOR IDENTIFYING AND REPORTING ON U.S. REPORTABLE ACCOUNTS AND PAYMENTS TO CERTAIN NONPARTICIPATING FINANCIAL INSTITUTIONS

I. **General.**

A. Switzerland shall require that Reporting Swiss Financial Institutions apply the due diligence procedures contained in this Annex I to identify U.S. Reportable Accounts and accounts held by Nonparticipating Financial Institutions.

B. For purposes of this Agreement,

1. All dollar amounts are in U.S. dollars and shall be read to include the equivalent in other currencies.

2. Except as otherwise provided herein, the balance or value of an account shall be determined as of the last day of the calendar year or other appropriate reporting period.

3. Where a balance or value threshold is to be determined as of the Determination Date under this Annex I, the relevant balance or value shall be determined as of that day or the last day of the reporting period ending immediately before the Determination Date, and where a balance or value threshold is to be determined as of the last day of a calendar year under this Annex I, the relevant balance or value shall be determined as of the last day of the calendar year or other appropriate reporting period.

4. Subject to subparagraph E(1) of section II of this Annex I, an account shall be treated as a U.S. Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in this Annex I.

5. Unless otherwise provided, information with respect to a U.S. Reportable Account shall be reported annually in the calendar year following the year to which the information relates.

C. As an alternative to the procedures described in each section of this Annex I, Switzerland may permit Reporting Swiss Financial Institutions to rely on the procedures described in relevant U.S. Treasury Regulations to establish whether an account is a U.S. Reportable Account or an account held by a Nonparticipating Financial Institution. Switzerland may permit Reporting Swiss Financial Institutions to make such election separately for each section of this Annex I either with respect to all relevant Financial Accounts or, separately, with respect to any clearly identified group of such accounts (such as by line of business or the location of where the account is maintained).

II. **Preexisting Individual Accounts.** The following rules and procedures apply for purposes of identifying U.S. Reportable Accounts among Preexisting Accounts held by individuals (“Preexisting Individual Accounts”).

A. **Accounts Not Required to Be Reviewed, Identified, or Reported.** Unless the Reporting Swiss Financial Institution elects otherwise, either with respect to all Preexisting Individual Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in Switzerland provide for such an election, the following

Preexisting Individual Accounts are not required to be reviewed, identified, or reported as U.S. Reportable Accounts:

1. Subject to subparagraph E(2) of this section, a Preexisting Individual Account with a balance or value that does not exceed \$50,000 as of the Determination Date.
2. Subject to subparagraph E(2) of this section, a Preexisting Individual Account that is a Cash Value Insurance Contract or an Annuity Contract with a balance or value of \$250,000 or less as of the Determination Date.
3. A Preexisting Individual Account that is a Cash Value Insurance Contract or an Annuity Contract, provided the law or regulations of Switzerland or the United States effectively prevent the sale of such a Cash Value Insurance Contract or an Annuity Contract to U.S. residents (*e.g.*, if the relevant Financial Institution does not have the required registration under U.S. law, and the law of Switzerland requires reporting or withholding with respect to insurance products held by residents of Switzerland).
4. A Depository Account with a balance of \$50,000 or less.

B. Review Procedures for Preexisting Individual Accounts With a Balance or Value as of the Determination Date, that Exceeds \$50,000 (\$250,000 for a Cash Value Insurance Contract or Annuity Contract), But Does Not Exceed \$1,000,000 (“Lower Value Accounts”).

1. **Electronic Record Search.** The Reporting Swiss Financial Institution must review electronically searchable data maintained by the Reporting Swiss Financial Institution for any of the following U.S. indicia:
 - a) Identification of the Account Holder as a U.S. citizen or resident;
 - b) Unambiguous indication of a U.S. place of birth;
 - c) Current U.S. mailing or residence address (including a U.S. post office box);
 - d) Current U.S. telephone number;
 - e) Standing instructions to transfer funds to an account maintained in the United States;
 - f) Currently effective power of attorney or signatory authority granted to a person with a U.S. address; or
 - g) An “in-care-of” or “hold mail” address that is the *sole* address the Reporting Swiss Financial Institution has on file for the Account Holder. In the case of a Preexisting Individual Account that is a Lower Value Account, an “in-care-of” address outside the United States or “hold mail” address shall not be treated as U.S. indicia.
2. If none of the U.S. indicia listed in subparagraph B(1) of this section are discovered in the electronic search, then no further action is required until there is a change in circumstances that results in one or more U.S. indicia being associated with the account, or the account becomes a High Value Account described in paragraph D of this section.

3. If any of the U.S. indicia listed in subparagraph B(1) of this section are discovered in the electronic search, or if there is a change in circumstances that results in one or more U.S. indicia being associated with the account, then the Reporting Swiss Financial Institution must treat the account as a U.S. Reportable Account unless it elects to apply subparagraph B(4) of this section and one of the exceptions in such subparagraph applies with respect to that account.

4. Notwithstanding a finding of U.S. indicia under subparagraph B(1) of this section, a Reporting Swiss Financial Institution is not required to treat an account as a U.S. Reportable Account if:

a) Where the Account Holder information unambiguously indicates a ***U.S. place of birth***, the Reporting Swiss Financial Institution obtains, or has previously reviewed and maintains a record of:

(1) A self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes (which may be on an IRS Form W-8 or other similar agreed form);

(2) A non-U.S. passport or other government-issued identification evidencing the Account Holder's citizenship or nationality in a country other than the United States; ***and***

(3) A copy of the Account Holder's Certificate of Loss of Nationality of the United States or a reasonable explanation of:

(a) The reason the Account Holder does not have such a certificate despite relinquishing U.S. citizenship; ***or***

(b) The reason the Account Holder did not obtain U.S. citizenship at birth.

b) Where the Account Holder information contains a ***current U.S. mailing or residence address, or one or more U.S. telephone numbers that are the only telephone numbers associated with the account***, the Reporting Swiss Financial Institution obtains, or has previously reviewed and maintains a record of:

(1) A self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes (which may be on an IRS Form W-8 or other similar agreed form); ***and***

(2) Documentary evidence, as defined in paragraph D of section VI of this Annex I, establishing the Account Holder's non-U.S. status.

c) Where the Account Holder information contains ***standing instructions to transfer funds to an account maintained in the United States***, the Reporting Swiss Financial Institution obtains, or has previously reviewed and maintains a record of:

(1) A self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes (which may be on an IRS Form W-8 or other similar agreed form); ***and***

(2) Documentary evidence, as defined in paragraph D of section VI of this Annex I, establishing the Account Holder's non-U.S. status.

d) Where the Account Holder information contains *a currently effective power of attorney or signatory authority granted to a person with a U.S. address, has an "in-care-of" address or "hold mail" address that is the sole address identified for the Account Holder, or has one or more U.S. telephone numbers (if a non-U.S. telephone number is also associated with the account)*, the Reporting Swiss Financial Institution obtains, or has previously reviewed and maintains a record of:

(1) A self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes (which may be on an IRS Form W-8 or other similar agreed form); *or*

(2) Documentary evidence, as defined in paragraph D of section VI of this Annex I, establishing the Account Holder's non-U.S. status.

C. Additional Procedures Applicable to Preexisting Individual Accounts That Are Lower Value Accounts.

1. Review of Preexisting Individual Accounts that are Lower Value Accounts for U.S. indicia must be completed within two years from the Determination Date.

2. If there is a change of circumstances with respect to a Preexisting Individual Account that is a Lower Value Account that results in one or more U.S. indicia described in subparagraph B(1) of this section being associated with the account, then the Reporting Swiss Financial Institution must treat the account as a U.S. Reportable Account unless subparagraph B(4) of this section applies.

3. Except for Depository Accounts described in subparagraph A(4) of this section, any Preexisting Individual Account that has been identified as a U.S. Reportable Account under this section shall be treated as a U.S. Reportable Account in all subsequent years, unless the Account Holder ceases to be a Specified U.S. Person.

D. Enhanced Review Procedures for Preexisting Individual Accounts With a Balance or Value That Exceeds \$1,000,000 as of the Determination Date, or December 31 of the Year following the Determination Date or Any Subsequent Year ("High Value Accounts").

1. **Electronic Record Search.** The Reporting Swiss Financial Institution must review electronically searchable data maintained by the Reporting Swiss Financial Institution for any of the U.S. indicia described in subparagraph B(1) of this section.

2. **Paper Record Search.** If the Reporting Swiss Financial Institution's electronically searchable databases include fields for, and capture all of the information described in, subparagraph D(3) of this section, then no further paper record search is required. If the electronic databases do not capture all of this information, then with respect to a High Value Account, the Reporting Swiss Financial Institution must also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Swiss Financial Institution within the last five years for any of the U.S. indicia described in subparagraph B(1) of this section:

- a) The most recent documentary evidence collected with respect to the account;
- b) The most recent account opening contract or documentation;
- c) The most recent documentation obtained by the Reporting Swiss Financial Institution pursuant to AML/KYC Procedures or for other regulatory purposes;
- d) Any power of attorney or signature authority forms currently in effect; and
- e) Any standing instructions to transfer funds currently in effect.

3. **Exception Where Databases Contain Sufficient Information.** A Reporting Swiss Financial Institution is not required to perform the paper record search described in subparagraph D(2) of this section if the Reporting Swiss Financial Institution's electronically searchable information includes the following:

- a) The Account Holder's nationality or residence status;
- b) The Account Holder's residence address and mailing address currently on file with the Reporting Swiss Financial Institution;
- c) The Account Holder's telephone number(s) currently on file, if any, with the Reporting Swiss Financial Institution;
- d) Whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Swiss Financial Institution or another Financial Institution);
- e) Whether there is a current "in-care-of" address or "hold mail" address for the Account Holder; *and*
- f) Whether there is any power of attorney or signatory authority for the account.

4. **Relationship Manager Inquiry for Actual Knowledge.** In addition to the electronic and paper record searches described above, the Reporting Swiss Financial Institution must treat as a U.S. Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with such High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Specified U.S. Person.

5. **Effect of Finding U.S. Indicia.**

- a) If none of the U.S. indicia listed in subparagraph B(1) of this section are discovered in the enhanced review of High Value Accounts described above, and the account is not identified as held by a Specified U.S. Person in subparagraph D(4) of this section, then no further action is required until there is a change in circumstances that results in one or more U.S. indicia being associated with the account.
- b) If any of the U.S. indicia listed in subparagraph B(1) of this section are discovered in the enhanced review of High Value Accounts described above, or if

there is a subsequent change in circumstances that results in one or more U.S. indicia being associated with the account, then the Reporting Swiss Financial Institution must treat the account as a U.S. Reportable Account unless it elects to apply subparagraph B(4) of this section and one of the exceptions in such subparagraph applies with respect to that account.

c) Except for Depository Accounts described in subparagraph A(4) of this section, any Preexisting Individual Account that has been identified as a U.S. Reportable Account under this section shall be treated as a U.S. Reportable Account in all subsequent years, unless the Account Holder ceases to be a Specified U.S. Person.

E. Additional Procedures Applicable to High Value Accounts.

1. If a Preexisting Individual Account is a High Value Account as of the Determination Date, the Reporting Swiss Financial Institution must complete the enhanced review procedures described in paragraph D of this section with respect to such account within one year from the Determination Date.

2. If a Preexisting Individual Account is not a High Value Account as of the Determination Date, but becomes a High Value Account as of the December 31 of the year following the Determination Date or any subsequent year, the Reporting Swiss Financial Institution must complete the enhanced review procedures described in paragraph D of this section with respect to such account within six months after December 31 of the calendar year in which the account becomes a High Value Account. If based on this review such account is identified as a U.S. Reportable Account, the Reporting Swiss Financial Institution must report the required information about such account with respect to the year in which it is identified as a U.S. Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Specified U.S. Person.

3. Once a Reporting Swiss Financial Institution applies the enhanced review procedures described in paragraph D of this section to a High Value Account, the Reporting Swiss Financial Institution is not required to re-apply such procedures, other than the relationship manager inquiry described in subparagraph D(4) of this section, to the same High Value Account in any subsequent year.

4. If there is a change of circumstances with respect to a High Value Account that results in one or more U.S. indicia described in subparagraph B(1) of this section being associated with the account, then the Reporting Swiss Financial Institution must treat the account as a U.S. Reportable Account unless it elects to apply subparagraph B(4) of this section and one of the exceptions in such subparagraph applies with respect to that account.

5. A Reporting Swiss Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder has a new mailing address in the United States, the Reporting Swiss Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply subparagraph B(4) of this section, is required to obtain the appropriate documentation from the Account Holder.

F. **Preexisting Individual Accounts That Have Been Documented for Certain Other Purposes.** A Reporting Swiss Financial Institution that has previously obtained documentation from an Account Holder to establish the Account Holder's status as neither a U.S. citizen nor a U.S. resident in order to meet its obligations under a qualified intermediary, withholding foreign partnership, or withholding foreign trust agreement with the IRS, or to fulfill its obligations under chapter 61 of Title 26 of the United States Code, is not required to perform the procedures described in subparagraph B(1) of this section with respect to Lower Value Accounts or subparagraphs D(1) through D(3) of this section with respect to High Value Accounts.

III. **New Individual Accounts.** The following rules and procedures apply for purposes of identifying U.S. Reportable Accounts among Financial Accounts held by individuals and opened after the Determination Date ("New Individual Accounts").

A. **Accounts Not Required to Be Reviewed, Identified, or Reported.** Unless the Reporting Swiss Financial Institution elects otherwise, either with respect to all New Individual Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in Switzerland provide for such an election, the following New Individual Accounts are not required to be reviewed, identified, or reported as U.S. Reportable Accounts:

1. A Depository Account unless the account balance exceeds \$50,000 at the end of any calendar year or other appropriate reporting period.
2. A Cash Value Insurance Contract unless the Cash Value exceeds \$50,000 at the end of any calendar year or other appropriate reporting period.

B. **Other New Individual Accounts.** With respect to New Individual Accounts not described in paragraph A of this section, upon account opening (or within 90 days after the end of the calendar year in which the account ceases to be described in paragraph A of this section), the Reporting Swiss Financial Institution must obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Swiss Financial Institution to determine whether the Account Holder is resident in the United States for tax purposes (for this purpose, a U.S. citizen is considered to be resident in the United States for tax purposes, even if the Account Holder is also a tax resident of another jurisdiction) and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Swiss Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.

1. If the self-certification establishes that the Account Holder is resident in the United States for tax purposes, the Reporting Swiss Financial Institution must treat the account as a U.S. Reportable Account and obtain a self-certification that includes the Account Holder's U.S. TIN (which may be an IRS Form W-9 or other similar agreed form).
2. If there is a change of circumstances with respect to a New Individual Account that causes the Reporting Swiss Financial Institution to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting Swiss Financial Institution cannot rely on the original self-certification and must obtain a valid self-certification that establishes whether the Account Holder is a U.S. citizen or resident for U.S. tax purposes. If the Reporting Swiss Financial Institution is unable to obtain a valid self-certification, the Reporting Swiss Financial Institution must treat the account as a U.S. Reportable Account.

IV. **Preexisting Entity Accounts.** The following rules and procedures apply for purposes of identifying U.S. Reportable Accounts and accounts held by Nonparticipating Financial Institutions among Preexisting Accounts held by Entities (“Preexisting Entity Accounts”).

A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting Swiss Financial Institution elects otherwise, either with respect to all Preexisting Entity Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in Switzerland provide for such an election, a Preexisting Entity Account with an account balance or value that does not exceed \$250,000 as of the Determination Date, is not required to be reviewed, identified, or reported as a U.S. Reportable Account until the account balance or value exceeds \$1,000,000.

B. **Entity Accounts Subject to Review.** A Preexisting Entity Account that has an account balance or value that exceeds \$250,000 as of the Determination Date, and a Preexisting Entity Account that does not exceed \$250,000 as of the Determination Date but the account balance or value of which exceeds \$1,000,000 as of December 31 of the year following the Determination Date or any subsequent year, must be reviewed in accordance with the procedures set forth in paragraph D of this section.

C. **Entity Accounts With Respect to Which Reporting Is Required.** With respect to Preexisting Entity Accounts described in paragraph B of this section, only accounts that are held by one or more Entities that are Specified U.S. Persons, or by Passive NFFEs with one or more Controlling Persons who are U.S. citizens or residents, shall be treated as U.S. Reportable Accounts.

D. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For Preexisting Entity Accounts described in paragraph B of this section, the Reporting Swiss Financial Institution must apply the following review procedures to determine whether the account is held by one or more Specified U.S. Persons, by Passive NFFEs with one or more Controlling Persons who are U.S. citizens or residents, or by Nonparticipating Financial Institutions:

1. **Determine Whether the Entity Is a Specified U.S. Person.**

a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Account Holder is a U.S. Person. For this purpose, information indicating that the Account Holder is a U.S. Person includes a U.S. place of incorporation or organization, or a U.S. address.

b) If the information indicates that the Account Holder is a U.S. Person, the Reporting Swiss Financial Institution must treat the account as a U.S. Reportable Account unless it obtains a self-certification from the Account Holder (which may be on an IRS Form W-8 or W-9, or a similar agreed form), or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Specified U.S. Person.

2. **Determine Whether a Non-U.S. Entity Is a Financial Institution.**

a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Account Holder is a Financial Institution.

b) If the information indicates that the Account Holder is a Financial Institution, or the Reporting Swiss Financial Institution verifies the Account Holder's Global Intermediary Identification Number on the published IRS FFI list, then the account is not a U.S. Reportable Account.

3. **Determine Whether a Financial Institution Is a Nonparticipating Financial Institution.**

a) Subject to subparagraph D(3)(b) of this section, a Reporting Swiss Financial Institution may determine that the Account Holder is a Swiss Financial Institution or other Partner Jurisdiction Financial Institution if the Reporting Swiss Financial Institution reasonably determines that the Account Holder has such status on the basis of the Account Holder's Global Intermediary Identification Number on the published IRS FFI list or other information that is publicly available or in the possession of the Reporting Swiss Financial Institution, as applicable. In such case, no further review, identification, or reporting is required with respect to the account.

b) If the Account Holder is a Swiss Financial Institution or other Partner Jurisdiction Financial Institution treated by the IRS as a Nonparticipating Financial Institution, then the account is not a U.S. Reportable Account.

c) If the Account Holder is not a Swiss Financial Institution or other Partner Jurisdiction Financial Institution, then the Reporting Swiss Financial Institution must treat the Account Holder as a Nonparticipating Financial Institution, unless the Reporting Swiss Financial Institution:

(1) Obtains a self-certification (which may be on an IRS Form W-8 or similar agreed form) from the Account Holder that it is a certified deemed-compliant FFI, or an exempt beneficial owner, as those terms are defined in relevant U.S. Treasury Regulations; *or*

(2) In the case of a participating FFI or registered deemed-compliant FFI, verifies the Account Holder's Global Intermediary Identification Number on the published IRS FFI list.

4. **Determine Whether an Account Held by an NFFE Is a U.S. Reportable Account.** With respect to an Account Holder of a Preexisting Entity Account that is not identified as either a U.S. Person or a Financial Institution, the Reporting Swiss Financial Institution must identify (i) whether the Account Holder has Controlling Persons, (ii) whether the Account Holder is a Passive NFFE, and (iii) whether any of the Controlling Persons of the Account Holder is a U.S. citizen or resident. In making these determinations the Reporting Swiss Financial Institution must follow the guidance in subparagraphs D(4)(a) through D(4)(d) of this section in the order most appropriate under the circumstances.

a) For purposes of determining the Controlling Persons of an Account Holder, a Reporting Swiss Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.

b) For purposes of determining whether the Account Holder is a Passive NFFE, the Reporting Swiss Financial Institution must obtain a self-certification (which

may be on an IRS Form W-8 or W-9, or on a similar agreed form) from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFFE.

c) For purposes of determining whether a Controlling Person of a Passive NFFE is a U.S. citizen or resident for tax purposes, a Reporting Swiss Financial Institution may rely on:

(1) Information collected and maintained pursuant to AML/KYC Procedures in the case of a Preexisting Entity Account held by one or more NFFEs with an account balance or value that does not exceed \$1,000,000; *or*

(2) A self-certification (which may be on an IRS Form W-8 or W-9, or on a similar agreed form) from the Account Holder or such Controlling Person in the case of a Preexisting Entity Account held by one or more NFFEs with an account balance or value that exceeds \$1,000,000.

d) If any Controlling Person of a Passive NFFE is a U.S. citizen or resident, the account shall be treated as a U.S. Reportable Account.

E. Timing of Review and Additional Procedures Applicable to Preexisting Entity Accounts.

1. Review of Preexisting Entity Accounts with an account balance or value that exceeds \$250,000 as of the Determination Date must be completed within two years from the Determination Date.

2. Review of Preexisting Entity Accounts with an account balance or value that does not exceed \$250,000 as of the Determination Date, but exceeds \$1,000,000 as of December 31 of the year following the Determination Date or any subsequent year, must be completed within six months after the last day of the calendar year in which the account balance or value exceeds \$1,000,000.

3. If there is a change of circumstances with respect to a Preexisting Entity Account that causes the Reporting Swiss Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Swiss Financial Institution must redetermine the status of the account in accordance with the procedures set forth in paragraph D of this section.

V. New Entity Accounts. The following rules and procedures apply for purposes of identifying U.S. Reportable Accounts and accounts held by Nonparticipating Financial Institutions among Financial Accounts held by Entities and opened after the Determination Date (“New Entity Accounts”).

A. Entity Accounts Not Required to Be Reviewed, Identified or Reported. Unless the Reporting Swiss Financial Institution elects otherwise, either with respect to all New Entity Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in Switzerland provide for such election, a credit card account or a revolving credit facility treated as a New Entity Account is not required to be reviewed, identified, or reported, provided that the Reporting Swiss Financial Institution maintaining such account implements policies and procedures to prevent an account balance owed to the Account Holder that exceeds \$50,000.

B. Other New Entity Accounts. With respect to New Entity Accounts not described in paragraph A of this section, the Reporting Swiss Financial Institution must determine whether the Account Holder is: (i) a Specified U.S. Person; (ii) a Swiss Financial Institution or other Partner Jurisdiction Financial Institution; (iii) a participating FFI, a deemed-compliant FFI, or an exempt beneficial owner, as those terms are defined in relevant U.S. Treasury Regulations; or (iv) an Active NFFE or Passive NFFE.

1. Subject to subparagraph B(2) of this section, a Reporting Swiss Financial Institution may determine that the Account Holder is an Active NFFE, a Swiss Financial Institution, or other Partner Jurisdiction Financial Institution if the Reporting Swiss Financial Institution reasonably determines that the Account Holder has such status on the basis of the Account Holder's Global Intermediary Identification Number or other information that is publicly available or in the possession of the Reporting Swiss Financial Institution, as applicable.

2. If the Account Holder is a Swiss Financial Institution or other Partner Jurisdiction Financial Institution treated by the IRS as a Nonparticipating Financial Institution, then the account is not a U.S. Reportable Account.

3. In all other cases, a Reporting Swiss Financial Institution must obtain a self-certification from the Account Holder to establish the Account Holder's status. Based on the self-certification, the following rules apply:

a) If the Account Holder is *a Specified U.S. Person*, the Reporting Swiss Financial Institution must treat the account as a U.S. Reportable Account.

b) If the Account Holder is *a Passive NFFE*, the Reporting Swiss Financial Institution must identify the Controlling Persons as determined under AML/KYC Procedures, and must determine whether any such person is a U.S. citizen or resident on the basis of a self-certification from the Account Holder or such person. If any such person is a U.S. citizen or resident, the Reporting Swiss Financial Institution must treat the account as a U.S. Reportable Account.

c) If the Account Holder is: (i) a U.S. Person that is not a Specified U.S. Person; (ii) subject to subparagraph B(3)(d) of this section, a Swiss Financial Institution or other Partner Jurisdiction Financial Institution; (iii) a participating FFI, a deemed-compliant FFI, or an exempt beneficial owner, as those terms are defined in relevant U.S. Treasury Regulations; (iv) an Active NFFE; or (v) a Passive NFFE none of the Controlling Persons of which is a U.S. citizen or resident, then the account is not a U.S. Reportable Account, and no reporting is required with respect to the account.

d) If the Account Holder is a Nonparticipating Financial Institution (including a Swiss Financial Institution or other Partner Jurisdiction Financial Institution treated by the IRS as a Nonparticipating Financial Institution), then the account is not a U.S. Reportable Account.

VI. Special Rules and Definitions. The following additional rules and definitions apply in implementing the due diligence procedures described above:

A. Reliance on Self-Certifications and Documentary Evidence. A Reporting Swiss Financial Institution may not rely on a self-certification or documentary evidence if the Reporting Swiss Financial Institution knows or has reason to know that the self-certification or documentary evidence is incorrect or unreliable.

B. **Definitions.** The following definitions apply for purposes of this Annex I.

1. **AML/KYC Procedures.** “AML/KYC Procedures” means the customer due diligence procedures of a Reporting Swiss Financial Institution pursuant to the anti-money laundering or similar requirements of Switzerland to which such Reporting Swiss Financial Institution is subject.
2. **NFFE.** An “NFFE” means any Non-U.S. Entity that is not an FFI as defined in relevant U.S. Treasury Regulations or is an Entity described in subparagraph B(4)(j) of this section, and also includes any Non-U.S. Entity that is established in Switzerland or another Partner Jurisdiction and that is not a Financial Institution.
3. **Passive NFFE.** A “Passive NFFE” means any NFFE that is not (i) an Active NFFE, or (ii) a withholding foreign partnership or withholding foreign trust pursuant to relevant U.S. Treasury Regulations.
4. **Active NFFE.** An “Active NFFE” means any NFFE that meets any of the following criteria:
 - a) Less than 50 percent of the NFFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 percent of the assets held by the NFFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
 - b) The stock of the NFFE is regularly traded on an established securities market or the NFFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
 - c) The NFFE is organized in a U.S. Territory and all of the owners of the payee are bona fide residents of that U.S. Territory;
 - d) The NFFE is a government (other than the U.S. government), a political subdivision of such government (which, for the avoidance of doubt, includes a state, province, county, or municipality), or a public body performing a function of such government or a political subdivision thereof, a government of a U.S. Territory, an international organization, a non-U.S. central bank of issue, or an Entity wholly owned by one or more of the foregoing;
 - e) Substantially all of the activities of the NFFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity shall not qualify for NFFE status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
 - f) The NFFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFFE shall not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFFE;

- g) The NFFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;
 - h) The NFFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution;
 - i) The NFFE is an “excepted NFFE” as described in relevant U.S. Treasury Regulations; *or*
 - j) The NFFE meets all of the following requirements:
 - i. It is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organization, business league, chamber of commerce, labor organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;
 - ii. It is exempt from income tax in its jurisdiction of residence;
 - iii. It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - iv. The applicable laws of the NFFE’s jurisdiction of residence or the NFFE’s formation documents do not permit any income or assets of the NFFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFFE’s charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFFE has purchased; *and*
 - v. The applicable laws of the NFFE’s jurisdiction of residence or the NFFE’s formation documents require that, upon the NFFE’s liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the NFFE’s jurisdiction of residence or any political subdivision thereof.
5. **Preexisting Account.** A “Preexisting Account” means a Financial Account maintained by a Reporting Swiss Financial Institution as of the Determination Date.
6. **Determination Date.** The “Determination Date” means the date, which may be prior to entry into force of this Agreement, on which the Treasury Department determines not to apply withholding under section 1471 of the U.S. Internal Revenue Code to Swiss Financial Institutions. That date is: (a) June 30, 2014, in the case of (i) a jurisdiction that signed an agreement with the United States to implement FATCA or facilitate FATCA implementation on or before June 30, 2014, or (ii) a jurisdiction that the Treasury Department determined reached such an agreement in

substance on or before June 30, 2014, and is included on the Treasury Department list of such jurisdictions, (b) November 30, 2014, in the case of a jurisdiction that the Treasury Department determined reached such an agreement in substance on or after July 1, 2014, and on or before November 30, 2014, and is included on the Treasury Department list of such jurisdictions, or (c) the date of entry into force of such an agreement, in the case of any other jurisdiction. The Determination Date for Switzerland is June 30, 2014.

C. **Account Balance Aggregation and Currency Translation Rules.**

1. **Aggregation of Individual Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Swiss Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting Swiss Financial Institution, or by a Related Entity, but only to the extent that the Reporting Swiss Financial Institution's computerized systems link the Financial Accounts by reference to a data element such as client number or taxpayer identification number, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this paragraph 1.

2. **Aggregation of Entity Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an Entity, a Reporting Swiss Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting Swiss Financial Institution, or by a Related Entity, but only to the extent that the Reporting Swiss Financial Institution's computerized systems link the Financial Accounts by reference to a data element such as client number or taxpayer identification number, and allow account balances or values to be aggregated.

3. **Special Aggregation Rule Applicable to Relationship Managers.** For purposes of determining the aggregate balance or value of Financial Accounts held by a person to determine whether a Financial Account is a High Value Account, a Reporting Swiss Financial Institution is also required, in the case of any Financial Accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.

4. **Currency Translation Rule.** For purposes of determining the balance or value of Financial Accounts denominated in a currency other than the U.S. dollar, a Reporting Swiss Financial Institution must convert the U.S. dollar threshold amounts described in this Annex I into such currency using a published spot rate determined as of the last day of the calendar year preceding the year in which the Reporting Swiss Financial Institution is determining the balance or value.

D. **Documentary Evidence.** For purposes of this Annex I, acceptable documentary evidence includes any of the following:

1. A certificate of residence issued by an authorized government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident.

2. With respect to an individual, any valid identification issued by an authorized government body (for example, a government or agency thereof, or a municipality), that

includes the individual's name and is typically used for identification purposes.

3. With respect to an Entity, any official documentation issued by an authorized government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the jurisdiction (or U.S. Territory) in which it claims to be a resident or the jurisdiction (or U.S. Territory) in which the Entity was incorporated or organized.

4. With respect to a Financial Account maintained in a jurisdiction with anti-money laundering rules that have been approved by the IRS in connection with a QI agreement (as described in relevant U.S. Treasury Regulations), any of the documents, other than a Form W-8 or W-9, referenced in the jurisdiction's attachment to the QI agreement for identifying individuals or Entities.

5. Any financial statement, third-party credit report, bankruptcy filing, or U.S. Securities and Exchange Commission report.

E. Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract. A Reporting Swiss Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract receiving a death benefit is not a Specified U.S. Person and may treat such Financial Account as other than a U.S. Reportable Account unless the Reporting Swiss Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified U.S. Person. A Reporting Swiss Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract is a Specified U.S. Person if the information collected by the Reporting Swiss Financial Institution and associated with the beneficiary contains U.S. indicia as described in subparagraph (B)(1) of section II of this Annex I. If a Reporting Swiss Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified U.S. Person, the Reporting Swiss Financial Institution must follow the procedures in subparagraph B(3) of section II of this Annex I.

F. Reliance on Third Parties. Regardless of whether an election is made under paragraph C of section I of this Annex I, Switzerland may permit Reporting Swiss Financial Institutions to rely on due diligence procedures performed by third parties, to the extent provided in relevant U.S. Treasury Regulations.

G. Alternative Procedures for New Entity Accounts Opened after the Determination Date, and before January 1, 2015. For New Entity Accounts opened after the Determination Date, and before January 1, 2015, either with respect to all New Entity Accounts or, separately, with respect to any clearly identified group of such accounts, Switzerland may permit Reporting Swiss Financial Institutions to treat such accounts as Preexisting Entity Accounts and apply the due diligence procedures related to Preexisting Entity Accounts specified in section IV of this Annex I in lieu of the due diligence procedures specified in section V of this Annex I. In this case, the due diligence procedures of section IV of this Annex I must be applied without regard to the account balance or value threshold specified in paragraph A of section IV of this Annex I.

Annex II

The following Entities shall be treated as exempt beneficial owners or deemed-compliant FFIs, as the case may be, and the following accounts are excluded from the definition of Financial Accounts.

This Annex II may be amended by a mutual agreement entered into between the Competent Authorities of Switzerland and the United States: (1) to include additional Entities and accounts that present a low risk of being used by U.S. Persons to evade U.S. tax and that have similar characteristics to the Entities and accounts described in this Annex II as of the date of signature of this Agreement; or (2) to remove Entities and accounts that, due to changes in circumstances, no longer present a low risk of being used by U.S. Persons to evade U.S. tax. Any such addition or removal shall be effective on the date of signature of the mutual agreement by both Competent Authorities, unless otherwise provided therein. Procedures for reaching such a mutual agreement may be included in the mutual agreement or arrangement described in paragraph 5 of Article 3 of this Agreement.

- I. **Exempt Beneficial Owners other than Funds.** The following Entities shall be treated as Non-Reporting Swiss Financial Institutions and as exempt beneficial owners for purposes of sections 1471 and 1472 of the U.S. Internal Revenue Code, *other than* with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution.
 - A. **Governmental Entity.** The Government of the Swiss Confederation, cantons, and communes and wholly owned instrumentalities and agencies of any of the foregoing, including in particular any institution, body, or fund of the social security system on the federal, cantonal, or communal levels, as well as the staff savings programs of all of these Swiss governmental entities.
 - B. **International Organization.**
 1. Any partner organization of the Swiss Confederation to an international headquarters agreement;
 2. Any diplomatic mission, permanent mission or other representation to intergovernmental organizations, consular post or special mission which status, privileges and immunities are governed by the Vienna Convention on Diplomatic Relations of 1961, the Vienna Convention on Consular Relations of 1963, or the Convention on Special Missions of 1969.
 - C. **Central Bank.** The Swiss National Bank and any of its wholly owned subsidiaries.
- II. **Funds that Qualify as Exempt Beneficial Owners.** The following Entities shall be treated as Non-Reporting Swiss Financial Institutions and as exempt beneficial owners for purposes of sections 1471 and 1472 of the U.S. Internal Revenue Code.
 - A. **Retirement Funds**
 1. Any pension institution or other retirement arrangement established in Switzerland according to Articles 48-49 of the Federal Law on Occupational Old Age, Survivors' and Invalidity Pension Provision (BVG) Article 89a paragraphs 6 or 7 Swiss Civil Code (ZGB) or Article 331 paragraph 1 Swiss Code of Obligations (OR);

2. Vested benefits institutions (Article 4 Vested Benefits Act [FZG] and Article 10 Vested Benefits Ordinance [FZV]);
3. The substitute occupational pension fund (Auffangeinrichtung, Article 60 BVG);
4. The guarantee fund (Articles 56-59 BVG);
5. Institutions for recognized forms of pension provision under Article 82 BVG (pillar 3a);
6. Investment foundations (Anlagestiftungen; Articles 53g-53k BVG), if all of the participants in the investment foundation are pension or other retirement arrangements described in this paragraph II.A.

B. **Investment Entity Wholly Owned by Exempt Beneficial Owners.** An Entity that is a Swiss Financial Institution solely because it is an Investment Entity, provided that each direct holder of an Equity Interest in the Entity is an exempt beneficial owner, and each direct holder of a debt interest in such Entity is either a Depository Institution (with respect to a loan made to such Entity) or an exempt beneficial owner.

III. **Small or Limited Scope Financial Institutions that Qualify as Deemed-Compliant FFIs.** The following Financial Institutions are Non-Reporting Swiss Financial Institutions that shall be treated as deemed-compliant FFIs for purposes of section 1471 of the U.S. Internal Revenue Code.

- A. **Financial Institution with a Local Client Base.** A Financial Institution satisfying the following requirements:
1. The Financial Institution must be licensed and regulated as a financial institution under the laws of Switzerland;
 2. The Financial Institution must have no fixed place of business outside of Switzerland. For this purpose, a fixed place of business does not include a location that is not advertised to the public and from which the Financial Institution performs solely administrative support functions;
 3. The Financial Institution must not solicit customers or Account Holders outside Switzerland. For this purpose, a Financial Institution shall not be considered to have solicited customers or Account Holders outside Switzerland merely because the Financial Institution (a) operates a website, provided that the website does not specifically indicate that the Financial Institution provides Financial Accounts or services to nonresidents, and does not otherwise target or solicit U.S. customers or Account Holders, or (b) advertises in print media or on a radio or television station that is distributed or aired primarily within Switzerland but is also incidentally distributed or aired in other countries, provided that the advertisement does not specifically indicate that the Financial Institution provides Financial Accounts or services to nonresidents, and does not otherwise target or solicit U.S. customers or Account Holders;
 4. The Financial Institution must be required under the laws of Switzerland to identify resident Account Holders for purposes of either information reporting or withholding of tax with respect to Financial Accounts held by residents or for purposes of satisfying Switzerland's AML due diligence requirements;

5. At least 98 percent of the Financial Accounts by value maintained by the Financial Institution as of the last day of the preceding calendar year are held by residents (including residents that are Entities) of Switzerland, Liechtenstein, the United Kingdom, or a Member State of the European Union;
6. By the later of the Determination Date (as defined in Annex I), or the date that the Financial Institution pursuant to this paragraph A, the Financial Institution must have policies and procedures, consistent with those set forth in Annex I, to prevent the Financial Institution from providing a Financial Account to any Nonparticipating Financial Institution and to monitor whether the Financial Institution opens or maintains a Financial Account for any Specified U.S. Person who is not a resident of Switzerland (including a U.S. Person that was a resident of Switzerland when the Financial Account was opened but subsequently ceases to be a resident of Switzerland) or any Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens who are not residents of Switzerland;
7. Such policies and procedures must provide that if any Financial Account held by a Specified U.S. Person who is not a resident of Switzerland or by a Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens who are not residents of Switzerland is identified, the Financial Institution must report such Financial Account as would be required if the Financial Institution were a Reporting Swiss Financial Institution (including by following the applicable registration requirements on the IRS FATCA registration website) or close such Financial Account;
8. With respect to a Preexisting Account held by an individual who is not a resident of Switzerland or by an Entity, the Financial Institution must review those Preexisting Accounts in accordance with the procedures set forth in Annex I applicable to Preexisting Accounts to identify any U.S. Reportable Account or Financial Account held by a Nonparticipating Financial Institution, and must report such Financial Account as would be required if the Financial Institution were a Reporting Swiss Financial Institution (including by following the applicable registration requirements on the IRS FATCA registration website) or close such Financial Account;
9. Each Related Entity of the Financial Institution that is a Financial Institution must be incorporated or organized in Switzerland and, with the exception of any Related Entity that is a retirement fund described in paragraph A of section II of this Annex II, satisfy the requirements set forth in this paragraph A; and
10. The Financial Institution must not have policies or practices that discriminate against opening or maintaining Financial Accounts for individuals who are Specified U.S. Persons and residents of Switzerland.

B. **Local Bank.** A Financial Institution satisfying the following requirements:

1. The Financial Institution operates solely as (and is licensed and regulated under the laws of Switzerland as) (a) a bank or (b) a credit union or similar cooperative credit organization that is operated without profit;
2. The Financial Institution's business consists primarily of receiving deposits from and making loans to, with respect to a bank, unrelated retail customers and, with respect to a credit union or similar cooperative credit organization, members, provided that no member has a greater than five percent interest in such credit union or cooperative credit organization;

3. The Financial Institution satisfies the requirements set forth in subparagraphs A(2) and A(3) of this section, provided that, in addition to the limitations on the website described in subparagraph A(3) of this section, the website does not permit the opening of a Financial Account;
 4. The Financial Institution does not have more than \$175 million in assets on its balance sheet, and the Financial Institution and any Related Entities, taken together, do not have more than \$500 million in total assets on their consolidated or combined balance sheets; and
 5. Any Related Entity must be incorporated or organized in Switzerland, and any Related Entity that is a Financial Institution, with the exception of any Related Entity that is a retirement fund described in paragraph A of section II of this Annex II or a Financial Institution with only low-value accounts described in paragraph C of this section, must satisfy the requirements set forth in this paragraph B.
- C. **Financial Institution with Only Low-Value Accounts.** A Swiss Financial Institution satisfying the following requirements:
1. The Financial Institution is not an Investment Entity;
 2. No Financial Account maintained by the Financial Institution or any Related Entity has a balance or value in excess of \$50,000, applying the rules set forth in Annex I for account aggregation and currency translation; and
 3. The Financial Institution does not have more than \$50 million in assets on its balance sheet, and the Financial Institution and any Related Entities, taken together, do not have more than \$50 million in total assets on their consolidated or combined balance sheets.
- D. **Qualified Credit Card Issuer.** A Swiss Financial Institution satisfying the following requirements:
1. The Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
 2. By the later of the Determination Date, or the date that the Financial Institution claims treatment as a deemed-compliant FFI pursuant to this paragraph D, the Financial Institution implements policies and procedures to either prevent a customer deposit in excess of \$50,000, or to ensure that any customer deposit in excess of \$50,000, in each case applying the rules set forth in Annex I for account aggregation and currency translation, is refunded to the customer within 60 days. For this purpose, a customer deposit does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
- E. Any non-profit organization established and maintained in Switzerland for religious, charitable, educational, scientific, cultural or other public purposes that, by reason of its nature as such, is generally exempt from income taxation in Switzerland.
- F. A Swiss condominium owners' association established pursuant to Art. 712I (2) of the Swiss Civil Code.

IV. **Investment Entities that Qualify as Deemed-Compliant FFIs and Other Special Rules.**

The Financial Institutions described in paragraphs A through E of this section are Non-Reporting Swiss Financial Institutions that shall be treated as deemed-compliant FFIs for purposes of section 1471 of the U.S. Internal Revenue Code. In addition, paragraph F of this section provides special rules applicable to an Investment Entity.

A. A trust that is a Swiss Financial Institution to the extent that at least one trustee of the trust is a Reporting U.S. Financial Institution, Reporting Model 1 FFI, or Participating FFI and at least one such trustee reports all information required to be reported pursuant to this Agreement as would be required if the trust were a Reporting Swiss Financial Institution (including by following the applicable registration requirements on the IRS FATCA registration website).

B. **Sponsored Investment Entity and Controlled Foreign Corporation.** A Financial Institution described in subparagraph B(1) or B(2) of this section having a sponsoring entity that complies with the requirements of subparagraph B(3) of this section.

1. A Financial Institution is a sponsored investment entity if (a) it is an Investment Entity established in Switzerland that is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant U.S. Treasury Regulations; and (b) an Entity has agreed with the Financial Institution to act as a sponsoring entity for the Financial Institution.
2. A Financial Institution is a sponsored controlled foreign corporation if (a) the Financial Institution is a controlled foreign corporation¹ organized under the laws of Switzerland that is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant U.S. Treasury Regulations; (b) the Financial Institution is wholly owned, directly or indirectly, by a Reporting U.S. Financial Institution that agrees to act, or requires an affiliate of the Financial Institution to act, as a sponsoring entity for the Financial Institution; and (c) the Financial Institution shares a common electronic account system with the sponsoring entity that enables the sponsoring entity to identify all Account Holders and payees of the Financial Institution and to access all account and customer information maintained by the Financial Institution including, but not limited to, customer identification information, customer documentation, account balance, and all payments made to the Account Holder or payee.
3. The sponsoring entity complies with the following requirements:
 - a) The sponsoring entity is authorized to act on behalf of the Financial Institution (such as a fund manager, trustee, corporate director, or managing partner) to fulfill applicable registration requirements on the IRS FATCA registration website;
 - b) The sponsoring entity has registered as a sponsoring entity with the IRS on the IRS FATCA registration website;

¹ A “controlled foreign corporation” means any foreign corporation if more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, or the total value of the stock of such corporation, is owned, or is considered as owned, by “United States shareholders” on any day during the taxable year of such foreign corporation. The term “United States shareholder” means, with respect to any foreign corporation, a United States person who owns, or is considered as owning, 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation, or, beginning with tax years of foreign corporations beginning after December 31, 2017, and taxable years of United States shareholders with or within which such taxable years of foreign corporations end, 10 percent or more of the total value of shares of all classes of stock of such foreign corporation.

- c) If the sponsoring entity identifies any U.S. Reportable Accounts with respect to the Financial Institution, the sponsoring entity registers the Financial Institution pursuant to applicable registration requirements on the IRS FATCA registration website on or before the later of December 31, 2015 and the date that is 90 days after such a U.S. Reportable Account is first identified;
- d) The sponsoring entity agrees to perform, on behalf of the Financial Institution, all due diligence, withholding, reporting, and other requirements that the Financial Institution would have been required to perform if it were a Reporting Swiss Financial Institution;
- e) The sponsoring entity identifies the Financial Institution and includes the identifying number of the Financial Institution (obtained by following applicable registration requirements on the IRS FATCA registration website) in all reporting completed on the Financial Institution's behalf; and
- f) The sponsoring entity has not had its status as a sponsor revoked.

C. **Sponsored, Closely Held Investment Vehicle.** A Swiss Financial Institution satisfying the following requirements:

1. The Financial Institution is a Financial Institution solely because it is an Investment Entity and is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant U.S. Treasury Regulations;
2. The sponsoring entity is a Reporting U.S. Financial Institution, Reporting Model 1 FFI, or Participating FFI, is authorized to act on behalf of the Financial Institution (such as a professional manager, trustee, or managing partner), and agrees to perform, on behalf of the Financial Institution, all due diligence, withholding, reporting, and other requirements that the Financial Institution would have been required to perform if it were a Reporting Swiss Financial Institution;
3. The Financial Institution does not hold itself out as an investment vehicle for unrelated parties;
4. Twenty or fewer individuals own all of the debt interests and Equity Interests in the Financial Institution (disregarding debt interests owned by Participating FFIs and deemed-compliant FFIs and Equity Interests owned by an Entity if that Entity owns 100 percent of the Equity Interests in the Financial Institution and is itself a sponsored Financial Institution described in this paragraph C); and
5. The sponsoring entity complies with the following requirements:
 - a) The sponsoring entity has registered as a sponsoring entity with the IRS on the IRS FATCA registration website;
 - b) The sponsoring entity agrees to perform, on behalf of the Financial Institution, all due diligence, withholding, reporting, and other requirements that the Financial Institution would have been required to perform if it were a Reporting Swiss Financial Institution and retains documentation collected with respect to the Financial Institution for a period of six years;
 - c) The sponsoring entity identifies the Financial Institution in all reporting

completed on the Financial Institution's behalf; and

d) The sponsoring entity has not had its status as a sponsor revoked.

D. **Investment Advisors and Investment Managers.** An Investment Entity established in Switzerland that is a Financial Institution solely because it (1) renders investment advice to, and acts on behalf of, (2) manages portfolios for, and acts on behalf of, a customer for the purposes of investing, managing, or administering funds deposited in the name of the customer with a Financial Institution other than a Nonparticipating Financial Institution, or (3) renders investment advice to, and acts on behalf of, a customer based on investment powers in a directorship capacity for the purposes of investing, managing, or administering funds deposited in the name of the customer with a Financial Institution other than a Nonparticipating Financial Institution.

E. **Collective Investment Vehicle.** An Investment Entity established in Switzerland that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle (including debt interests in excess of \$50,000) are held by or through one or more exempt beneficial owners, Active NFFEs described in subparagraph B(4) of section VI of Annex I, U.S. Persons that are not Specified U.S. Persons, or Financial Institutions that are not Nonparticipating Financial Institutions.

F. **Special Rules.** The following rules apply to an Investment Entity:

1. With respect to interests in:

- a) an Investment Entity that is a collective investment vehicle described in paragraph E of this section,
- b) an Investment Entity established in a Partner Jurisdiction that is regulated as a collective investment vehicle, all of the interests in which (including debt interests in excess of \$50,000) are held by or through one or more exempt beneficial owners, Active NFFEs described in subparagraph B(4) of section VI of Annex I, U.S. Persons that are not Specified U.S. Persons, or Financial Institutions that are not Nonparticipating Financial Institutions, or
- c) an Investment Entity that is a qualified collective investment vehicle under relevant U.S. Treasury Regulations,

the reporting obligations of any Investment Entity that is a Swiss Financial Institution (other than a Financial Institution through which interests in the collective investment vehicle are held), shall be deemed fulfilled.

2. In the case of an Investment Entity that is a collective investment vehicle, consistent with paragraph 3 of Article 5 of this Agreement, if the information required to be reported by the collective investment vehicle pursuant to this Agreement with respect to interests in the collective investment vehicle is reported by the collective investment vehicle or another Investment Entity, the reporting obligations of any other Investment Entity that is a Swiss Financial Institution required to report with respect to the interests in the collective investment vehicle shall be deemed fulfilled with respect to such interests.
3. In accordance with applicable U.S. Treasury Regulations, a collective investment vehicle regulated under the laws of Switzerland shall not fail to qualify under

subparagraph E of this section, or otherwise as a deemed-compliant FFI, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:

- a) The collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after December 31, 2012, or, if the collective investment vehicle has issued any such shares after December 31, 2012, the collective investment vehicle redeemed all such shares prior to June 2, 2014;
- b) The collective investment vehicle (or a Reporting Swiss Financial Institution) performed the due diligence procedures set forth in Annex I and reported any information required to be reported with respect to any such shares when such shares were presented for redemption or other payment; and
- c) The collective investment vehicle or its custodial bank has redeemed or immobilized such shares prior to January 1, 2017.

V. **Accounts Excluded from Financial Accounts.** The following accounts and products are excluded from the definition of Financial Accounts and therefore shall not be treated as U.S. Reportable Accounts.

A. **Certain Retirement Accounts or Products.**

1. Retirement accounts or products held by one or more exempt beneficial owners;
2. Vested benefits insurances according to Article 10 paragraph 2 of the Federal Vested Benefits Ordinance (FZV); or
3. Recognized forms of pension arrangements, (pillar 3a) according to Article 1 paragraph 1 of the Federal Ordinance on the Tax Deductibility of Contributions to Restricted Pension Plans (BVV 3).

B. **Certain Other Tax-Favored Accounts or Products.** Accounts or products held by one or more exempt beneficial owners.

C. **Certain Term Life Insurance Contracts.** A life insurance contract maintained in Switzerland with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:

1. Periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;
2. The contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
3. The amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
4. The contract is not held by a transferee for value.

- D. **Accounts Held by an Estate.** An account maintained in Switzerland that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.
- E. **Accounts Held by Lawyers or Notaries.** A Depository Account or Custodial Account held by a lawyer or notary licensed in Switzerland, or by a firm of lawyers or notaries licensed in Switzerland that are organized in the form of a company, on behalf of one or more clients as the beneficial owners of the assets deposited, provided that
1. such an account and the assets deposited are exclusively maintained within the framework of the lawyer or notary's profession-specific activities (and not in the capacity as a financial intermediary) subject to lawyer or notary professional confidentiality under Swiss law;
 2. only the following assets are deposited in the account:
 - a) Client funds, including short-term deposit of advances on legal costs, security, fees owed under public law, as well as of payments to or from governmental authorities, counterparties, or third parties in connection with a legal matter;
 - b) Assets related to a pending partition of inheritance or execution of a will (e.g., inheritance account);
 - c) Assets related to a pending separation of property in the divorce or separation of marriage (e.g., separation of marital property account);
 - d) Security or collateral provided in connection with the sale, exchange, or lease of real or personal property, provided that the assets meet the following conditions:
 - i. The assets are funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation of one of the parties directly related to the transaction, or a similar payment, or with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - ii. The assets are used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
 - iii. The assets, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates; and
 - iv. The assets do not relate to the use of a margin or similar account established in connection with a sale or exchange of a financial asset;
 - e) Assets used to cover the cost of matters of civil and public law before ordinary courts or courts of arbitration and in execution proceedings;
 3. the assets are deposited only for the duration of the ongoing legal matters described

above to which they relate; and

4. the lawyer or notary licensed in Switzerland, or the firm of lawyers or notaries licensed in Switzerland that is organized in the form of a company, has made a written declaration that explicitly addresses each of the three foregoing requirements, and states that the lawyer or notary licensed in Switzerland, or the firm of lawyers or notaries licensed in Switzerland that is organized in the form of a company, will inform the Financial Institution of any change in circumstances.

F. **Escrow Accounts.** An account maintained in Switzerland established in connection with any of the following:

1. A court order or judgment.
2. A sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - a) The account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - b) The account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
 - c) The assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
 - d) The account is not a margin or similar account established in connection with a sale or exchange of a financial asset; and
 - e) The account is not associated with a credit card account.
3. An obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
4. An obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.

G. **Partner Jurisdiction Accounts.** An account maintained in Switzerland and excluded from the definition of Financial Account under an agreement between the United States and another Partner Jurisdiction to facilitate the implementation of FATCA, provided that such account is subject to the same requirements and oversight under the laws of such other Partner Jurisdiction as if such account were established in that Partner Jurisdiction and maintained by a Partner Jurisdiction Financial Institution in that Partner Jurisdiction.

VI. **Definitions.** The following additional definitions shall apply for purposes of this Annex II:

- A. **Reporting Model 1 FFI.** The term Reporting Model 1 FFI means a Financial Institution with respect to which a non-U.S. government or agency thereof agrees to obtain and exchange information pursuant to a Model 1 IGA, other than a Financial Institution treated as a Nonparticipating Financial Institution under the Model 1 IGA. For purposes of this definition, the term Model 1 IGA means an arrangement between the United States or the U.S. Treasury Department and a non-U.S. government or one or more agencies thereof to implement FATCA through reporting by Financial Institutions to such non-U.S. government or agency thereof, followed by automatic exchange of such reported information with the IRS.
- B. **Participating FFI.** The term Participating FFI means a Financial Institution that has agreed to comply with the requirements of an FFI Agreement, including a Financial Institution described in a Model 2 IGA that has agreed to comply with the requirements of an FFI Agreement. The term Participating FFI also includes a qualified intermediary branch of a Reporting U.S. Financial Institution, unless such branch is a Reporting Model 1 FFI. For purposes of this definition, the term FFI Agreement means an agreement between the IRS and a Financial Institution that sets forth the requirements for the Financial Institution to be treated as complying with the requirements of section 1471(b) of the U.S. Internal Revenue Code. In addition, for purposes of this definition, the term Model 2 IGA means an arrangement between the United States or the U.S. Treasury Department and a non-U.S. government or one or more agencies thereof to facilitate the implementation of FATCA through reporting by Financial Institutions directly to the IRS in accordance with the requirements of an FFI Agreement, supplemented by the exchange of information between such non-U.S. government or agency thereof and the IRS.

MEMORANDUM OF UNDERSTANDING

REGARDING THE AGREEMENT

BETWEEN

SWITZERLAND

AND

THE UNITED STATES OF AMERICA

**TO IMPROVE INTERNATIONAL TAX COMPLIANCE AND TO
IMPLEMENT FATCA**

In connection with the signing today of the Agreement between Switzerland and the United States of America to Improve International Tax Compliance and to Implement FATCA (hereinafter the “Agreement”), Switzerland and the United States wish to confirm the following understandings with respect to the Agreement:

1. The guidance published by the IRS on the IRS’s website (available at the time of the signing of this Memorandum of Understanding at <https://www.irs.gov/businesses/corporations/frequently-asked-questions-faqs-fatca-compliance-legal>) is expected to apply to the treatment of an FFI Agreement (as defined in the Agreement) upon the entry into force of the Agreement as follows:

- a) An FFI Agreement, that is in effect for a Swiss Financial Institution that is registered with the IRS on the day immediately before entry into force of the Agreement is expected not to be renewed and is therefore expected to expire on the day immediately before entry into force of the Agreement in accordance with the terms of such FFI Agreement with respect to the Swiss Financial Institution. The FFI Agreement is expected to continue to apply to any branches of the Swiss Financial Institution that are covered by the FFI Agreement and are located in another jurisdiction.
- b) A Swiss Financial Institution, whose FFI Agreement expires on the day immediately before entry into force of the Agreement as described in this paragraph is not expected to be required to submit to the IRS any outstanding certifications of compliance or final certification of compliance as otherwise required by the FFI Agreement. However, if the Swiss Financial Institution does not submit to the IRS such certifications, the Swiss Financial Institution is expected to retain in its records for six years a certification of compliance covering the period from the end of its most recent certification period (or, if the first certification period has not ended, the effective date of the FFI Agreement) to the day immediately before entry into force of the Agreement, and provide the certification to the IRS upon a written request. The certification described in the preceding sentence may be completed and retained in a Swiss Financial Institution’s records by either (i) downloading or printing the relevant certification from www.irs.gov, completing it, signing and dating the relevant certification, and saving the completed certification in the Swiss Financial Institution’s records, or (ii) completing the certification in the IRS FATCA Registration Portal and saving a screenshot of each page of the completed certification in the Swiss Financial Institution’s records. If, however, the Swiss Financial Institution submits any outstanding certifications of compliance or final certification of compliance electronically to the IRS through the IRS FATCA Registration Portal, the Swiss Financial Institution is not expected to be required to retain such certification in its records.
- c) Consistent with section 12.03(C) of the FFI Agreement, as with terminations of the FFI Agreement, the expiration of the FFI Agreement with respect to a Swiss Financial Institution does not affect any of the Swiss Financial Institution’s due diligence, withholding, information reporting, tax return filing, compliance obligations, or other obligations under the FFI Agreement arising in or with respect to a calendar year (or portion of a calendar year) for which the FFI Agreement was in effect.

2. A Swiss Financial Institution that has registered with the IRS prior to the date of entry into force of the Agreement and has not had its chapter 4 status revoked is expected to be allowed to continue to use the same Global Intermediary Identification Number (GIIN) that it obtained when it registered with the IRS, where the Swiss Financial Institution follows the following steps. Upon entry into force of the Agreement, and once the IRS modifies the chapter 4 status of a Swiss Financial Institution (other than a Swiss Financial Institution that is a branch of a Financial Institution not resident in Switzerland) on the IRS FATCA Registration Portal to “registration

incomplete” and notifies the affected Swiss Financial Institutions accordingly, the Swiss Financial Institution, in order to continue to use its GIIN, is expected to log on to the IRS FATCA Registration Portal and resubmit its registration. To ensure that the Swiss Financial Institution appears on the IRS FFI List for the month following the date of entry into force of the Agreement, the Swiss Financial Institution should resubmit its registration within 20 days of the entry into force of the Agreement. An updated FFI List is posted on the first day of each month, and only includes financial institutions and branches that are in “approved” status on the first day of the month and have been approved at least 5 business days prior to the first day of the month.

3. A Swiss Financial Institution that is a sponsoring entity is expected to follow the steps described in paragraph 2 in order for its sponsored entities to continue to use the same GIINs that they obtained when they were registered by the sponsoring entity with the IRS.

4. The entry into force of the Agreement and the resubmission of the registration by a Swiss Financial Institution that is the Lead FI (as defined in IRS Publication 5118, FATCA Online Registration User Guide) under the steps described in paragraph 2 is not expected to affect the chapter 4 status of a member (other than a member that is a Swiss Financial Institution) of an expanded affiliated group as defined in section 1471(e)(2) and the U.S. Treasury Regulations thereunder for which a Swiss Financial Institution is the Lead FI, including that all members whose statuses have not been revoked (including a member that is a Swiss Financial Institution, provided that this Swiss Financial Institution follows the steps described in paragraph 2) may continue to use the same GIINs that they obtained when they registered with the IRS.

5. In the case of a Swiss Financial Institution that is a branch of a Financial Institution not resident in Switzerland, no action needs to be taken on the IRS FATCA Registration Portal as a result of the entry into force of the Agreement in order for that Swiss Financial Institution to continue using the same GIIN it obtained when it registered with the IRS.

6. Each Swiss Financial Institution that has a change in chapter 4 status under the U.S. Internal Revenue Code as a result of the entry into force of the Agreement is expected to, within 90 days of entry into force of the Agreement, either (i) provide to each withholding agent either a new withholding certificate or oral or written confirmation (including by email) of the change in the Swiss Financial Institution’s chapter 4 status, or (ii) otherwise inform withholding agents through publicly available means of the change in the Swiss Financial Institution’s chapter 4 status.

7. A withholding agent that knows (as described in relevant U.S. Treasury Regulations) that a Swiss Financial Institution that is required to provide a GIIN to a withholding agent is no longer listed on the published IRS FFI list is not expected to be required to withhold on withholdable payments made to the Swiss Financial Institution under chapter 4 of the U.S. Internal Revenue Code until 90 days from the date it obtains such knowledge.

8. To avoid a disproportionate number of late-filed reports:

a) The Swiss Competent Authority is expected to use its best efforts to ensure that Reporting Swiss Financial Institutions transmit all reports relating to reporting periods prior to entry into force of the Agreement on or before December 31 of the year in which the Agreement enters into force, including by:

(i) directing all Reporting Swiss Financial Institutions through periodic notifications to correct, amend, void, or file new reports relating to such prior periods by no later than December 31 of the year in which the Agreement enters into force; and

(ii) putting in place effective enforcement provisions to address non-compliance with the

directive to Reporting Swiss Financial Instructions described in subparagraph (i) of this paragraph 8.

- b) The U.S. Competent Authority is expected to use its best efforts to:
- (i) notify Reporting Swiss Financial Institutions by May 31 of the year in which the Agreement enters into force of the requirement to submit corrected, amended, voided, or new reports relating to reporting periods prior to entry into force of the Agreement; and
 - (ii) pursuant to the provisions of Article 26 of the Convention, provide the Swiss Competent Authority with information as necessary to administer subparagraph (a) of this paragraph 8.

9. To notify the IRS of a late-filed report, the Swiss Competent Authority is expected to include in the AdditionalData section (6.4.9.1) on [the FATCA XML Schema] for such late-filed reports the following information:

- (i) “Y” in the field labeled “ADDITIONAL_ITEM_IND”;
- (ii) The document reference number (i.e., the DocRefID) of the Form 8966 sent under the 2013 Agreement in the field labeled “ITEM_NM”; and
- (iii) For the field labeled “ITEM_CONTENT” enter—
 - a. “M2_M1:”
 - b. The DOCUMENT_TYPE_CD (i.e., the DocTypeIndic) for the new record; and
 - c. If necessary, a semicolon followed by any additional information regarding the late-filed report.

10. Terms used in this Memorandum of Understanding that are not defined herein but that are defined in the Agreement are intended to have the meaning provided in the Agreement, including those terms that are defined under paragraph 2 of Article 1 of the Agreement.

Signed at Bern, in duplicate, this 27th day of June, 2024, in the English and German languages, both texts being equally valid.

FOR THE SWISS CONFEDERATION:

FOR THE UNITED STATES OF
AMERICA: