

COPY

1 DAVID A. HUBBERT
Deputy Assistant Attorney General
2 Tax Division, United States Department of Justice
CHRISTOPHER S. STRAUSS
3 Trial Attorney (LA Bar No. 28770)
4 ELLEN M. QUATTRUCCI
Trial Attorney (DC Bar No. 462103)
5 DENNIS R. KIHM
Trial Attorney (TX Bar No. 24066929)
6 Tax Division, Western Criminal Enforcement Section
7 United States Department of Justice
8 601 D St. NW, Room 7022
Washington, D.C. 20004
9 Telephone: (202) 514-5762
Facsimile: (202) 514-9623
10 E-mail: Christopher.S.Strauss@usdoj.gov
Ellen.M.Quattrucci@usdoj.gov

2014 DEC 22 PM 12:04
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

FILED

11 STEPHANIE YONEKURA
Acting United States Attorney
12 SANDRA R. BROWN
Assistant United States Attorney
13 Chief, Tax Division
14 300 North Los Angeles Street
Los Angeles, California 90012
15 Telephone: (213) 894-5810
16 Facsimile: (213) 894-0115
E-mail: Sandra.Brown@usdoj.gov

17 Attorneys for Plaintiff
18 UNITED STATES OF AMERICA

19 UNITED STATES DISTRICT COURT
20 FOR THE CENTRAL DISTRICT OF CALIFORNIA

21 UNITED STATES OF AMERICA,
22 Plaintiff,
23 v.

24 BANK LEUMI LE-ISRAEL B.M.,
25 THE BANK LEUMI LE-ISRAEL TRUST
COMPANY LTD.,
26 BANK LEUMI (LUXEMBOURG) S.A.,
27 LEUMI PRIVATE BANK S.A., and
28 BANK LEUMI USA,
Defendants.

No. CR 14-0731
DEFERRED PROSECUTION AGREEMENT

1 The United States Department of Justice, Tax Division,
2 Criminal Enforcement, by and through David A. Hubbert, Deputy
3 Assistant Attorney General, Tax Division, U.S. Department of
4 Justice; Christopher S. Strauss and Ellen M. Quattrucci, Trial
5 Attorneys, Tax Division, United States Department of Justice;
6 and the United States Attorney's Office for the Central District
7 of California, by and through Stephanie Yonekura, Acting United
8 States Attorney and Sandra R. Brown, Assistant United States
9 Attorney (collectively, the "Government") and the defendants
10 Bank Leumi le-Israel B.M. ("Bank Leumi-Israel"); The Bank Leumi-
11 le Israel Trust Company Ltd. (the "Bank Leumi Trust"); Bank
12 Leumi (Luxembourg) S.A. ("Bank Leumi-Luxembourg"); Leumi Private
13 Bank S.A., also referred to herein as "Bank Leumi-Switzerland";
14 and Bank Leumi USA (collectively, the "Bank Leumi Group
15 Entities"), by the Deputy Chief Executive Officer of Bank Leumi-
16 Israel and undersigned attorneys pursuant to the authority
17 granted by the Bank Leumi Group Entities' Boards of Directors in
18 the form of a Board Resolution, as described in paragraph 47,
19 attached hereto as Exhibit A, hereby enter into this Deferred
20 Prosecution Agreement (the "Agreement"). This Agreement does not
21 apply to any individual or entity other than the Bank Leumi
22 Group Entities as set forth herein.

23 THE CRIMINAL INFORMATION

24 1. The Bank Leumi Group Entities will waive indictment
25 and consent to the filing of a one-count Information (the
26 "Information") in the United States District Court for the
27 Central District of California, Western Division (the "Court")
28 charging the Bank Leumi Group Entities with unlawfully,

1 voluntarily, intentionally, and knowingly agreeing together and
2 with others both known and unknown to the United States Attorney
3 to commit the following offense against the United States: to
4 willfully aid and assist in the preparation and presentation of
5 false income tax returns and other documents to the Internal
6 Revenue Service of the Treasury Department, in violation of
7 Title 26, United States Code, Section 7206(2), all in violation
8 of 18 U.S.C. § 371. A copy of the Information is attached
9 hereto as Exhibit B.

10 ACCEPTANCE OF RESPONSIBILITY FOR VIOLATION OF LAW

11 2. The Bank Leumi Group Entities acknowledge and accept
12 that, among other things, as set forth more fully in the
13 Statement of Facts, attached hereto as Exhibit C:

14
15 The Bank Leumi Group Entities aided and assisted
16 U.S. taxpayers to file false tax returns by
17 aiding and assisting such U.S. clients to
18 maintain undeclared accounts and evade their U.S.
19 tax obligations through a variety of means. Prior
20 to April 2009, Bank Leumi-Israel, Bank Leumi-
21 Switzerland, and Bank Leumi-Luxembourg
22 (collectively the "Foreign Leumi Group
23 Entities") sent private bankers to the United
24 States on a regular basis for the purpose of
25 opening new accounts and servicing existing
26 accounts of U.S. taxpayers, some of whom the
27 bankers knew were evading their U.S. tax
28 obligations. The Foreign Leumi Group Entities,
knowing that certain U.S. taxpayers were
maintaining undeclared accounts, offered an array
of services and products that aided and assisted
the U.S. taxpayers in opening and maintaining
undisclosed accounts. These products and
services included: (1) the issuance of guarantees
and Standby Letters of Credit to collateralize
loans issued by Bank Leumi, USA; (2) the use of
offshore entities and the Bank Leumi Trust to

1 serve as nominee accountholders; (3) the use of
2 "Hold Mail" service that prevented any mail from
3 the Foreign Leumi Group Entities from coming to
4 the U.S. client in the United States; (4) the use
5 of "assumed name" and "numbered" accounts that
6 concealed the name of the U.S. account holder on
7 all external correspondence, account records, and
8 other documents; and (5) the opening and
9 maintenance of accounts for U.S. clients that
10 exited UBS and other Swiss banks after the
11 Department of Justice's investigation of UBS
12 became public.

13 Specifically:

14 (A) Beginning in 2000 and continuing until 2010,
15 the Foreign Leumi Group Entities, through
16 certain private bankers and managers within
17 their respective Private Banking Divisions,
18 actively assisted or otherwise facilitated a
19 number of U.S. taxpayers in maintaining
20 undeclared accounts at one or more of the
21 Foreign Leumi Group Entities' branches by
22 (1) advising certain clients to sell all
23 U.S. securities to evade U.S. reporting
24 requirements on earnings; and (2) referring
25 U.S. beneficial owners of accounts to
26 outside advisors to set up offshore
27 corporations to act as nominee account
28 holders, thereby concealing the U.S.
taxpayers' beneficial ownership in the
accounts.

(B) In July 2008, UBS, the largest Swiss bank,
announced that it was closing its U.S.
cross-border business. Certain Bank Leumi
executives in both Israel and Switzerland
viewed UBS's exit from the U.S. cross-border
business as an opportunity and sought to
obtain former UBS customers whose accounts
UBS had stopped servicing because the
accounts were undeclared and were used to
evade U.S. tax obligations.

(C) The Bank Leumi Group Entities marketed and
offered two types of loans to U.S. customers

1 through Bank Leumi USA: participation loans
2 and loans guaranteed by a Standby Letter of
3 Credit ("SBLC"). These types of loans allowed
4 U.S. taxpayers to enjoy the economic benefits
5 of undeclared funds held offshore without
6 directly repatriating the funds or creating a
7 paper trail that could disclose the existence
8 of the undisclosed foreign accounts to U.S.
9 authorities.

10 3. The Bank Leumi Group Entities admit, accept, and
11 acknowledge that they are responsible for the acts and omissions
12 of their officers, executives, employees, and agents, as set
13 forth in the Statement of Facts and herein.

14 4. The Bank Leumi Group Entities represent to the
15 Government that this Agreement, the Information, the Statement
16 of Facts, and all other exhibits to this Agreement were reviewed
17 by their respective Boards of Directors and any officer,
18 employee or agent deemed necessary by the Bank Leumi Group
19 Entities in order to enter this Agreement. The Bank Leumi Group
20 Entities, through their undersigned authorized representatives
21 represent that the Statement of Facts contains truthful and
22 accurate statements based upon the Bank Leumi Group Entities'
23 internal investigation, and information provided to the Bank
24 Leumi Group Entities by the Government.

25 5. The U.S. accounts as set forth more fully in
26 paragraph 2 of this Agreement and the Statement of Facts,
27 concerning the period between 2002 and 2010, are referred to
28 hereinafter as the "Relevant Accounts."

6. Pursuant to this Agreement, based upon the conduct set
forth in the Statement of Facts, the Bank Leumi Group Entities

1 agree to pay to the United States a total of Two Hundred Seventy
2 Million Dollars (\$270,000,000) ("the Resolution Amount") within 5
3 business days of the approval of this Agreement by the United
4 States District Court. The Bank Leumi Group Entities agree that
5 they shall pay \$71,769,305 in restitution regarding unpaid taxes
6 on interest, dividends, and capital gains of U.S. clients with
7 respect to the Relevant Accounts, which the parties agree
8 exceeds the gross profits related to the Relevant Accounts at
9 Bank Leumi-Israel, Bank Leumi-Luxembourg, and Bank Leumi USA.
10 The parties agree that the restitution amount shall be paid
11 directly to the Internal Revenue Service, IRS-RACS, Attn: Mail
12 Stop 6261/Restitution, 333 W. Pershing Ave., Kansas City, MO
13 64108 pursuant to payment instructions provided to the Bank
14 Leumi Group Entities. The Bank Leumi Group Entities further
15 agree to pay \$198,230,695, which consists of (1) \$157,000,000
16 for Bank Leumi-Switzerland, in lieu of restitution for all
17 Relevant Accounts at Bank Leumi-Switzerland, consistent with the
18 Program for Non-Prosecution Agreements or Non-Target Letters for
19 Swiss Banks announced on August 29, 2013, and (2) in light of
20 the Bank Leumi Group Entities' extraordinary cooperation as
21 stated in paragraphs 16 through 29, a monetary penalty of
22 \$41,230,695 for Bank Leumi-Israel, Bank Leumi-Luxembourg, and
23 Bank Leumi USA (collectively, the "Penalty Amount"). The
24 parties agree that the amount paid with respect to Bank Leumi-
25 Switzerland exceeds the gross profits of Bank Leumi Switzerland
26 related to the Relevant Accounts. The Penalty Amount shall be
27 paid directly to the United States pursuant to payment
28 instructions provided to the Bank Leumi Group Entities. The

1 parties agree that if the Bank Leumi Group Entities fulfill
2 their obligations set forth in this Agreement, the Government
3 will take no further action to collect any additional criminal
4 payment from the Bank Leumi Group Entities with respect to the
5 criminal investigation and the matters referenced in the
6 Statement of Facts and related to the Relevant Accounts.

7 7. The Bank Leumi Group Entities agree that no portion of
8 the amounts that the Bank Leumi Group Entities agree to pay to
9 the Government and/or the Internal Revenue Service pursuant to
10 the terms of this Agreement is deductible on any United States
11 federal, state, or local tax return. The Bank Leumi Group
12 Entities further agree not to challenge or dispute any part of
13 the Resolution Amount in any subsequent judicial or
14 administrative proceeding against the United States or any
15 agency thereof.

16 8. The Bank Leumi Group Entities acknowledge that the
17 payment of the Resolution Amount is a final payment and shall
18 not be refunded: (a) if the Government moves to dismiss the
19 Information pursuant to this Agreement; or (b) should the
20 Government later determine that any of the Bank Leumi Group
21 Entities has breached this Agreement and brings a prosecution
22 against any of the Bank Leumi Group Entities. Further, nothing
23 in this Agreement shall be deemed an agreement by the United
24 States that the Penalty Amount is the maximum amount that may be
25 required in the event of any such prosecution and the Government
26 shall not be precluded in any such prosecution from arguing that
27 the Court should impose a higher amount. The Government agrees,
28 however, that in the event of a breach of this Agreement and a

1 subsequent prosecution against any of the Bank Leumi Group
2 Entities, it will recommend to the Court that the Penalty Amount
3 paid by the Bank Leumi Group Entities pursuant to this Agreement
4 be credited toward any payment ordered by the Court as part of
5 any judgment.

6 PERMANENT RESTRICTIONS ON THE U.S. CROSS-BORDER BUSINESS OF
7 BANK LEUMI LUXEMBOURG AND LEUMI PRIVATE BANK

8 9. The "Bank Leumi Group" is defined herein as the Bank
9 Leumi Group Entities plus all other Bank Leumi-Israel
10 subsidiaries and affiliates of Bank Leumi-Israel worldwide.

11 10. The Government recognizes that Bank Leumi-Israel, as
12 the parent organization of the Bank Leumi Group, informed the
13 Government prior to the execution of this Agreement that it had
14 decided on its own initiative to cease all banking and
15 investment services to U.S. taxpayers through Bank Leumi-
16 Luxembourg (hereinafter "BLUX") and Leumi Private Bank
17 (hereinafter "LPB"). BLUX and LPB agree that (a) BLUX and LPB
18 shall cease to provide banking and investment services for all
19 active accounts held or beneficially owned by a U.S. taxpayer by
20 December 31, 2014; and (b) BLUX and LPB shall cease to provide
21 banking and investment services for all accounts, both active
22 and dormant, held or beneficially owned by a U.S. taxpayer by
23 the end of the Deferral Period, as defined in paragraph 31 of
24 this Agreement. The cessation of banking and investment
25 services with respect to U.S. clients described in this
26 paragraph is hereinafter referred to as the "BLUX/LPB Exit
27 Program." The completion of the BLUX/LPB Exit Program as set
28

1 forth in this paragraph is a material condition of this
2 Agreement.

3 11. Pursuant to this Agreement, the Bank Leumi Group
4 Entities agree that the Bank Leumi-Israel Deputy Chief Executive
5 Officer or an executive appointed by Bank Leumi-Israel's Board
6 of Directors shall provide to the United States Department of
7 Justice periodic reports on the BLUX/LPB Exit Program. The
8 first report shall be due on or before the two-month anniversary
9 of the date this Agreement is approved by the Court in the
10 Central District of California (the "Approval Date"), and every
11 sixty (60) days thereafter until the completion of the BLUX/LPB
12 Exit Program.

13 HEIGHTENED STANDARDS FOR FATCA COMPLIANCE

14 12. Bank Leumi-Israel, as the parent organization of the
15 Bank Leumi Group, agrees to ensure that (a) all its subsidiaries
16 and affiliates, other than Bank Leumi USA, to the extent
17 required by the Foreign Account Tax Compliance Act, 26 U.S.C. §§
18 1471-1474 ("FATCA"), have or will enter into a foreign financial
19 institution agreement ("FFI") or will register under an
20 applicable intergovernmental agreement ("IGA") for the
21 implementation of FATCA; and (b) all its subsidiaries and
22 affiliates will continue to implement and maintain an effective
23 program of internal controls with respect to compliance with
24 FATCA in its affiliates and subsidiaries (the "FATCA Compliance
25 Program"). Bank Leumi-Israel shall ensure that the FATCA
26 Compliance Program include, but not necessarily be limited to,
27 the following measures, a number of which Bank Leumi-Israel has
28 represented to the Government have already been implemented:

1 a. The appointment of a Global Head of Cross-Border
2 Activity who reports directly to the Chief Risk Officer or
3 Deputy Chief Executive Officer of Bank Leumi-Israel, and who
4 shall make periodic reports on FATCA to the Audit Committee of
5 the Bank Leumi-Israel Board of Directors;

6 b. The continued employment of a designated FATCA
7 Coordinator at Bank Leumi-Israel who reports to Bank Leumi-
8 Israel's Chief Compliance Officer;

9 c. The appointment of a FATCA Compliance Officer at
10 each other affiliate and subsidiary who shall be responsible for
11 compliance with FATCA and shall report to each subsidiary's or
12 affiliate's Chief Compliance Officer, who shall in turn report
13 directly to the Risk Management Committee of the Boards of
14 Directors of each affiliate or subsidiary. Each Board of
15 Directors shall in turn report its FATCA compliance to Bank
16 Leumi-Israel's Board of Directors;

17 d. The continued development and implementation of
18 enhanced controls to identify, prevent, detect, and correct any
19 material failures regarding the Bank Leumi Group's compliance
20 with FATCA;

21 e. The continued development and implementation of
22 periodic training of relevant personnel with respect to FATCA
23 compliance; and

24 f. The continued development and implementation of
25 policies and procedures for receiving and investigating
26 allegations of material failures of FATCA-related internal
27 controls.

28

1 13. In addition to the FATCA Compliance Program, Bank
2 Leumi-Israel shall implement a revised governance structure for
3 the compliance functions. Within this new framework, the Chief
4 Risk Officer will have functional management responsibility and
5 joint line management authority over the compliance functions
6 that advise the different business divisions, including Global
7 Private Banking. The Chief Risk Officer will also have
8 authority to identify issues of Bank Leumi Group importance, and
9 will have final authority with respect to compensation and
10 promotion matters for divisional level compliance personnel.

11 14. The Bank Leumi Group Entities agree to close any and
12 all accounts of recalcitrant account holders as defined in 26
13 U.S.C. § 1471(d)(6). The development and implementation of the
14 FATCA-related measures described in paragraphs 12 and 13 of this
15 Agreement shall include procedures to prevent any of Bank Leumi
16 Group's employees from assisting recalcitrant account holders to
17 engage in acts of further concealment of assets and income in
18 connection with closing any account or transferring any funds;
19 and Bank Leumi-Israel shall ensure that the Bank Leumi Group
20 will not open any U.S. accounts except on conditions that ensure
21 that the account will be declared to the United States and will
22 be subject to disclosure to the United States by the Bank Leumi
23 Group.

24 15. With respect to Bank Leumi USA, Bank Leumi USA agrees
25 to provide the Department of Justice periodic reports that
26 identify any loan issued by Bank Leumi USA that is
27 collateralized by a SBLC issued by any Foreign Leumi Group
28 Entity, or any foreign affiliate of the Bank Leumi Group. The

1 periodic reports shall further warrant that Bank Leumi USA is
2 fully compliant with all applicable anti-money laundering
3 regulations regarding such loans and that the relevant foreign
4 affiliate has confirmed that the related foreign account is
5 FATCA compliant. The periodic reports shall be due on the two-
6 month anniversary of the Approval Date, and every one hundred
7 eighty (180) days thereafter until the end of the Deferral
8 Period.

9 COOPERATION

10 16. The Government acknowledges that the Bank Leumi Group
11 Entities have provided substantial and extraordinary cooperation
12 concerning the Government's investigation of the Bank Leumi
13 Group Entities' cross-border business with U.S. taxpayers.
14 Among other things, beginning in December 2011, Bank Leumi-
15 Israel undertook substantial efforts through meetings with the
16 Bank of Israel, the Israeli Ministry of Finance, and the Israeli
17 Tax Authority ("ITA") to facilitate the provision of U.S.
18 account files and client data, including the identities of U.S.
19 beneficial owners, of U.S. accounts held at Bank Leumi-Israel
20 that had certain attributes, without requiring the Government to
21 identify each U.S. account holder or beneficial owner by name
22 (hereinafter referred to as "Pattern Requests"). Bank Leumi
23 met with the ITA Director General to request that he confer with
24 IRS representatives concerning the exchange of information
25 pursuant to the Convention Between the Government of the United
26 States of America and the Government of the State of Israel With
27 Respect to Taxes on Income (hereinafter the "Tax Treaty").

1 17. In August 2013, Bank Leumi-Israel informed the Israel
2 Association of Banks that it supported efforts to amend Israeli
3 law to facilitate the exchange of information with the United
4 States and would not join in a divergent view.

5 18. The Bank Leumi Group Entities conducted an extensive
6 internal investigation of the Bank Leumi Group Entities'
7 conduct, including the collection and review of millions of
8 documents. During the Government's investigation, Bank Leumi-
9 Israel timely provided over 481,000 pages of documents to the
10 Government, some of which were voluntarily provided and in
11 addition to the information sought by the Government pursuant to
12 its requests under the Tax Treaty or other formal process. Bank
13 Leumi-Israel voluntarily provided translations of produced
14 documents, conducted over 40 internal interviews, and through
15 counsel, proffered the substance of internal interviews
16 conducted by counsel with the Bank Leumi Group Entities'
17 employees and management upon the Government's request.
18 Additionally, Bank Leumi-Israel made presentations to the
19 Government regarding the results of its internal investigation.

20 19. The Bank Leumi Group Entities confirm that relevant
21 senior officers and managers of the Bank Leumi Group Entities
22 that were in place at the time the conduct set forth in the
23 Statement of Facts occurred have been replaced.

24 20. The Government acknowledges that in connection with
25 the Bank Leumi Group Entities' internal investigation, Bank
26 Leumi-Israel engaged Deloitte Transactions and Business
27 Analytics LLP ("Deloitte") as an independent forensic and
28 accounting expert to collect and analyze data regarding U.S.

1 accounts. Deloitte collected and analyzed electronic and hard
2 copy documents from four countries. Deloitte made an in-person
3 presentation to the Government supporting its data collection
4 and analysis of U.S. accounts and cooperated in providing the
5 production of additional explanatory materials as requested by
6 the Government.

7 21. Bank Leumi-Israel cooperated with U.S. investigators
8 by voluntarily and timely providing information that assisted
9 the Government in connection with requests under the Tax Treaty
10 and the Mutual Legal Assistance Treaty request to the Duchy of
11 Luxembourg, in a manner that resulted in the production of
12 additional information relevant to the Government's
13 investigation.

14 22. The Government acknowledges that Bank Leumi-Israel has
15 engaged special counsel to assist in requesting the Israeli
16 Government to look favorably upon IRS requests for information
17 and has requested that the Israeli Government agree to future
18 IRS requests for information regarding U.S. accounts. The
19 Government has been advised that Bank Leumi-Israel has recently
20 approached the Israeli Government to amend Israeli Tax and Anti-
21 Money-Laundering laws to require Israeli banks to consider the
22 tax compliance of its customers.

23 23. The Government acknowledges that in 2012, Bank Leumi-
24 Israel sent letters to its U.S. clients advising them of the
25 IRS's Offshore Voluntary Disclosure Program.

26 24. The Government acknowledges that the Foreign Leumi
27 Group Entities have provided data regarding outgoing transfers
28 during the period between June 1, 2008, and December 31, 2012,

1 which includes the value of the transfers, the number of
2 accounts engaging in transfers, and the financial institutions
3 to which such transfers were made.

4 25. The Government acknowledges that, prior to being
5 contacted by the Government concerning this investigation, Bank
6 Leumi USA began a process of conducting its own assessment of
7 SBLC loans by reviewing all customer relationships with
8 outstanding SBLC loan clients. Bank Leumi USA continued that
9 process by either confirming that the SBLC-backed loans were
10 U.S. tax-compliant or calling the loans and, where necessary,
11 terminating non-compliant customer relationships.

12 26. The Bank Leumi Group Entities acknowledge and
13 understand that the cooperation they have provided to date with
14 the criminal investigation by the Government, and its pledge of
15 continuing cooperation, are important and material factors
16 underlying the Government's decision to enter into this
17 Agreement. The Bank Leumi Group Entities agree to cooperate
18 fully with the Department of Justice, the Internal Revenue
19 Service, and any designated law enforcement agency regarding any
20 matter related to the Government's criminal investigation of the
21 Bank Leumi Group Entities' U.S. cross-border business, including
22 in connection with any criminal investigation or prosecution
23 based on information disclosed to the Government pursuant to
24 this Agreement.

25 27. The Bank Leumi Group Entities agree that their
26 continuing cooperation with the Government's investigation as
27 set forth in the preceding paragraphs shall encompass, but not
28 be limited to, the following:

1 a. Completely and truthfully disclosing all
2 information in their possession to the Government about which
3 the Government may inquire in connection with its investigation
4 of the Bank Leumi Group Entities' U.S. cross-border business;

5 b. Assembling, organizing, and providing, in a
6 responsive and prompt fashion, and upon request, expedited
7 fashion, all documents, records, information, and other evidence
8 in the Bank Leumi Group's possession, custody, or control as may
9 be requested by the Government related to its United States
10 cross-border business;

11 c. Providing, at their own expense, fair and
12 accurate translations of any foreign language documents produced
13 by the Bank Leumi Group pursuant this Agreement as may be
14 requested by the Government, and;

15 d. Providing testimony or information, including
16 testimony and information necessary to identify or establish the
17 original location, authenticity, or other basis for admission
18 into evidence of documents or physical evidence in any criminal
19 or other proceeding as requested by the Government. Such
20 cooperation shall include providing information and testimony
21 concerning the Government's investigation, including, but not
22 limited to, the conduct set forth in the Information and/or the
23 Statement of Facts.

24 28. Nothing in this Agreement shall require a Bank Leumi
25 Group Entity to waive any of the protections of the attorney-
26 client privilege, attorney work-product doctrine, or any other
27 applicable privilege unless the Bank Leumi Group Entity
28 voluntarily chooses to waive any such privilege.

1 29. The Bank Leumi Group Entities agree that their
2 obligations to cooperate under the terms set forth in this
3 Agreement will continue even after the dismissal of the
4 Information, and the Bank Leumi Group Entities will continue to
5 fulfill the cooperation obligations set forth in this Agreement
6 in connection with any investigation, criminal prosecution, or
7 civil proceeding brought by the Government arising out of the
8 conduct set forth in the Information or the Statement of Facts
9 relating in any way to the Government's investigation of the
10 Bank Leumi Group Entities' U.S. cross-border business.

11 DISCLOSURE OF CLIENT DATA

12 30. Pursuant to requests made under the Tax Treaty for
13 information regarding accounts held and/or beneficially owned by
14 U.S. clients, and consistent with orders issued by the Israeli
15 courts regarding such requests, (1) Bank Leumi-Israel has
16 provided or caused to be provided to the Internal Revenue
17 Service certain account information, including the identities of
18 U.S. account holders and beneficial owners, with respect to in
19 excess of 1,500 accounts held at Bank Leumi-Israel and Bank
20 Leumi Trust (the "Disclosed Accounts"); and (2) Bank Leumi-
21 Israel agrees that it shall collect and maintain all account
22 records regarding the Disclosed Accounts and produce all account
23 records regarding the Disclosed Accounts as may be requested by
24 the Internal Revenue Service on an expedited basis. The parties
25 agree that the production of information and records pursuant to
26 this paragraph is a material condition of this Agreement.

DEFERRAL OF PROSECUTION

1
2 31. In consideration of the Bank Leumi Group Entities'
3 entry into this Agreement and their commitment to: (a) accept
4 and acknowledge responsibility for their conduct; (b) continue
5 to cooperate with the Government as set forth above; (c) make
6 payments specified in this Agreement; (d) comply with United
7 States federal criminal laws and any guidance, directive,
8 regulation or order issued by the Board of Governors of the
9 Federal Reserve System, the Federal Deposit Insurance
10 Corporation, and the United States Department of the Treasury
11 with respect to FATCA; and (e) otherwise comply with all of the
12 terms of this Agreement, the Government agrees to recommend to
13 the Court that prosecution of any of the Bank Leumi Group
14 Entities be deferred for the period of twenty-four (24) months
15 from the Approval Date (the "Deferral Period"), subject to the
16 provisions of paragraph 39 below. The Bank Leumi Group Entities
17 shall expressly waive indictment, and hereby waive all rights to
18 a speedy trial pursuant to the Sixth Amendment to the United
19 States Constitution, Title 18, United States Code, Section 3161,
20 Federal Rule of Criminal Procedure 48(b), and any applicable
21 Local Rules of the United States District Court for the Central
22 District of California for the period during which this
23 Agreement is in effect.

24 32. The Bank Leumi Group Entities also hereby agree to
25 waive all rights, whether asserted directly or by a
26 representative, to request or receive from any department or
27 agency of the United States any records pertaining to the
28 investigation or prosecution of this case, including without

1 limitation any records that may be sought under the Freedom of
2 Information Act, Title 5, United States Code, Section 552, or
3 the Privacy Act, Title 5, United States Code, Section 552a.

4 33. The Government agrees that if the Bank Leumi Group
5 Entities are in compliance with all of their obligations under
6 this Agreement, the Government shall: (a) within thirty (30)
7 days of the expiration of Deferral Period (including any
8 extension thereof) hereunder, seek dismissal with prejudice as
9 to the Bank Leumi Group Entities of the Information filed
10 against them pursuant to paragraphs 1 and 31 above; and (b)
11 during the term of this Agreement and thereafter, refrain from
12 pursuing any additional charges against, or investigation of,
13 the Bank Leumi Group Entities arising out of, in connection
14 with, or otherwise relating to the conduct of the Bank Leumi
15 Group Entities' U.S. cross-border business as admitted to or
16 disclosed by the Bank Leumi Group Entities to the Government.

17 34. By entering into this Agreement, the United States
18 does not compromise any civil liability, including but not
19 limited to any tax liability, which the Bank Leumi Group may
20 have incurred or may incur as a result of its conduct set forth
21 in the Statement of Facts.

22 35. This Agreement does not provide any protection against
23 prosecution for any crimes except as set forth above in
24 paragraph 33(b). The Bank Leumi Group Entities and the
25 Government understand that this Agreement to defer prosecution
26 must be approved by the District Court in the Central District
27 of California, in accordance with 18 U.S.C. § 3161(h)(2).
28 Should the Court decline to approve the Agreement to defer

1 prosecution for any reason, both the Government and the Bank
2 Leumi Group Entities are released from any obligation imposed
3 upon them by this Agreement, and any exhibits hereto, which
4 shall be null and void.

5 36. It is further understood that should the Government in
6 its sole discretion determine, after the date of the execution
7 of this Agreement, that any of the Bank Leumi Group Entities:

8 (a) gives false, incomplete, or misleading information; (b)
9 violates any United States federal criminal law or fails to
10 comply with any guidance, directive, regulation, or order issued
11 by the Board of Governors of the Federal Reserve System, the
12 Federal Deposit Insurance Corporation, or the United States
13 Department of the Treasury with respect to FATCA; or (c)
14 otherwise commits a material violation of this Agreement, the
15 Bank Leumi Group Entities shall, in the Government's sole
16 discretion, thereafter be subject to prosecution for any federal
17 criminal violations of which the Government has knowledge,
18 including but not limited to a prosecution based on the conduct
19 described in the Information and the Statement of Facts; any
20 prosecution may be premised on any information provided by or on
21 behalf of the Bank Leumi Group Entities at any time.

22 37. Any prosecutions that are not time-barred by the
23 applicable statute of limitations on the date of the execution
24 of this Agreement may be commenced against any of the Bank Leumi
25 Group Entities within the applicable period governing the
26 statute of limitations. In addition, the Bank Leumi Group
27 Entities agree to toll, and exclude from any calculation of
28 time, the running of the statute of limitations during the

1 duration of this Agreement. By this Agreement, the Bank Leumi
2 Group Entities expressly intend to and hereby do waive their
3 rights in the foregoing respects, including any right to make
4 claims premised on the statute of limitations, as well as any
5 constitutional, statutory, or other claim concerning pre-
6 indictment delay. These waivers are knowing, voluntary, and in
7 express reliance of the advice of the Bank Leumi Group Entities'
8 counsel.

9 38. It is further agreed that in the event the Government,
10 in its sole discretion, determines that any of the Bank Leumi
11 Group Entities has committed a material violation of this
12 Agreement, including the Bank Leumi Group Entities' failure to
13 meet their obligations under this Agreement: (a) all statements
14 set forth in the Statement of Facts, as well as any testimony
15 given by the Bank Leumi Group Entities or by any of its then-
16 current employees before a grand jury, or otherwise, whether
17 before or after the date of this Agreement, or any leads from
18 statements or testimony, shall be admissible in evidence in any
19 and all criminal proceedings hereinafter brought by the
20 Government against any of the Bank Leumi Group Entities; and (b)
21 none of the Bank Leumi Group Entities shall assert any claim
22 under the United States Constitution, Rule 11(f) of the Federal
23 Rules of Criminal Procedure, Rule 410 of the Federal Rules of
24 Evidence, or any other federal rule, that statements made by or
25 on behalf of the Bank Leumi Group Entities before or after the
26 date of this Agreement, or any leads derived therefrom, should
27 be suppressed or otherwise excluded from evidence. By executing
28

1 this Agreement, it is the intent of the Bank Leumi Group
2 Entities to waive any and all rights in the foregoing respects.

3 39. The Bank Leumi Group Entities agree that, in the
4 event that the Government determines, in its sole discretion,
5 during the Deferral Period described in paragraph 31 above (or
6 any extension thereof) that any of the Bank Leumi Group Entities
7 have committed a material violation of this Agreement, a one-
8 year extension of the period of deferral of prosecution may be
9 imposed in the sole discretion of the Government, and, in the
10 event of continuing or additional violations, additional one-
11 year extensions as appropriate; provided, however, that in no
12 event shall the total term of the deferral of prosecution period
13 of this Agreement exceed four (4) years.

14 40. The Bank Leumi Group Entities agree that they shall
15 not, through their attorneys, agents, or employees, make any
16 statement, in litigation or otherwise, contradicting any factual
17 statement in the Statement of Facts or the Bank Leumi Group
18 Entities' representations set forth in this Agreement; provided,
19 however, that the restrictions set forth in this paragraph are
20 not intended to and shall not apply to any current or former
21 employee of any of the Bank Leumi Group Entities, or any other
22 individual or entity, in the course of any criminal, regulatory,
23 or civil case, investigation, or other proceeding, whether in
24 the United States or any other jurisdiction, as long as the
25 individual or entity is not authorized to speak on behalf of any
26 of the Bank Leumi Group Entities in such proceedings. Any
27 contradictory statement by any of the Bank Leumi Group Entities
28 shall constitute a breach of this Agreement and any of the Bank

1 Leumi Group Entities shall thereafter be subject to prosecution
2 as specified in paragraphs 36 and 37 above, or the Deferral
3 Period may be extended pursuant to paragraph 39 above.

4 41. The decision as to whether any contradictory statement
5 will be imputed to any of the Bank Leumi Group Entities for the
6 purpose of determining whether there was a breach of this
7 Agreement shall be at the sole discretion of the Government.

8 Upon the Government's reaching a determination that a
9 contradictory statement was made by any of the Bank Leumi Group
10 Entities, the Government shall promptly notify the Bank Leumi
11 Group Entities in writing of the contradictory statement, and
12 the Bank Leumi Group Entities may avoid a breach of this
13 Agreement by repudiating the statement both to the recipient of
14 the statement and to the Government within five (5) business
15 days after receipt of notice from the Government. The Bank
16 Leumi Group Entities consent to the public release by the
17 Government, in its sole discretion, of any repudiation.

18 42. The Government agrees that nothing in this Agreement
19 in any way prevents the Bank Leumi Group Entities from taking
20 good faith positions in litigation involving private parties,
21 including asserting defenses and affirmative defenses.

22 **THE GOVERNMENT'S DISCRETION**

23 43. The Bank Leumi Group Entities agree that it is within
24 the Government's sole discretion to choose, in the event of a
25 violation of this Agreement, the remedies contained in
26 paragraphs 36 and 37, or instead choose to extend the Deferral
27 Period pursuant to paragraph 39. Should the Government determine
28 that any of the Bank Leumi Group Entities have committed a

1 material violation of this Agreement, including paragraph 6, the
2 Government shall provide prompt written notice to Bank Leumi-
3 Israel addressed to its General Counsel, and to the Bank Leumi
4 Group Entities' counsel, Angela Burgess, Esq. of Davis Polk &
5 Wardwell LLP, 450 Lexington Avenue, New York, NY 10017, or to
6 any successor the Bank Leumi Group Entities may designate, of
7 the alleged material violation and provide the Bank Leumi Group
8 Entities with a three-week period from the date of receipt of
9 notice in which to make a presentation to the Government,
10 including upon request by the Bank Leumi Group Entities, the
11 Assistant Attorney General in charge of the Tax Division of the
12 Department of Justice, to demonstrate that no material violation
13 has occurred, or, to the extent applicable, that the material
14 violation should not result in the exercise of those remedies or
15 in an extension of the Deferral Period. The Bank Leumi Group
16 Entities expressly understand and agree that the exercise of
17 discretion by the Government under this Agreement is not subject
18 to review in any court or other tribunal outside of the United
19 States Department of Justice.

20 LIMITS ON THIS AGREEMENT

21 44. It is understood that this Agreement is binding on the
22 Bank Leumi Group Entities and the Government as defined above,
23 but specifically does not bind any other federal agencies, any
24 state or local law enforcement authorities, any licensing
25 authorities, or any regulatory authorities. However, if
26 requested by the Bank Leumi Group Entities or its attorneys, the
27 Government will bring to the attention of any agencies or
28 authorities, this Agreement, the cooperation of the Bank Leumi

1 Group Entities, and its compliance with its obligations under
2 this Agreement, and any remedial steps specified in or
3 implemented pursuant to this Agreement.

4 PUBLIC FILING AND MISCELLANEOUS PROVISIONS

5 45. The Bank Leumi Group Entities and the Government agree
6 that, upon filing of the Information in accordance with
7 paragraph 1 above, this Agreement, including the Statement of
8 Facts and the other exhibits, shall be filed publicly in the
9 proceedings in the United States District Court for the Central
10 District of California.

11 46. This Agreement may be executed in counterparts, each
12 of which constitutes an original and all of which taken together
13 constitute one and the same document.

14 47. The Bank Leumi Group Entities shall provide to the
15 Government a certified copy of a resolution of the Board of
16 Directors of Bank Leumi-Israel affirming that the Board of
17 Directors has authority to enter into this Agreement on behalf
18 of all of the Bank Leumi Group Entities and that each Bank Leumi
19 Group Entity Board of Directors has (1) reviewed the Information
20 and the Statement of Facts in this case; (2) reviewed this
21 Agreement; (3) consulted with legal counsel in connection with
22 this matter; (4) voted to enter into the proposed Agreement; and
23 (5) voted to authorize the Bank Leumi-Israel corporate officer
24 identified below to execute this Agreement on behalf of all of
25 the Bank Leumi Group Entities and all other documents necessary
26 to carry out the provisions of this Agreement.

27 48. Deloitte shall provide the Government with a statement
28 summarizing the quality assurance processes that were executed

1 in producing the computations provided to the Government and
2 confirming that its work was performed in accordance with the
3 American Institute of Certified Public Accountants Standards for
4 Consulting Services.

5 49. This Agreement sets forth all of the terms of the
6 Deferred Prosecution Agreement between the Bank Leumi Group
7 Entities and the Government. No modifications or additions to
8 this Agreement, in whole or in part, shall be valid unless they

9 / / / / /
10 / / / / /
11 / / / / /
12 / / / / /
13 / / / / /
14 / / / / /
15 / / / / /
16 / / / / /

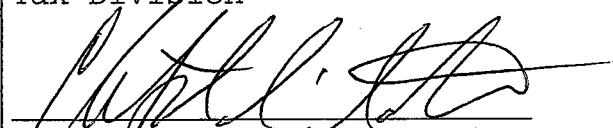
17
18
19
20
21
22
23
24
25
26
27
28

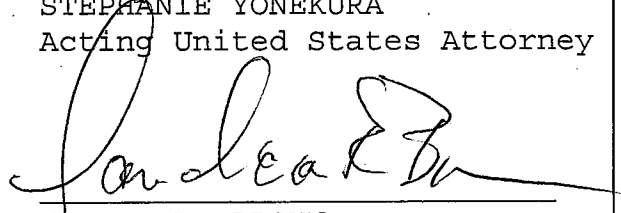
1 are set forth in writing and signed by the Government, the Bank
2 Leumi Group Entities' attorneys, and a duly authorized
3 representative of the Bank Leumi Group Entities.

4 Respectfully submitted,

5 DAVID A. HUBBERT
6 Deputy Assistant Attorney General
7 Tax Division

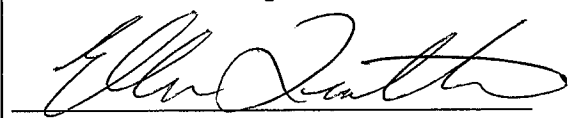
STEPHANIE YONEKURA
Acting United States Attorney

8 




9 CHRISTOPHER S. STRAUSS
10 Trial Attorney

SANDRA R. BROWN
Assistant United States
Attorney
Chief, Tax Division

11 

12 ELLEN M. QUATTRUCCI
13 Trial Attorney

14 Date: 12/22/14

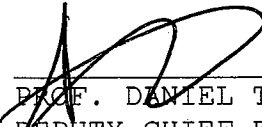
15 

16 DENNIS R. KIHM
17 Trial Attorney

18 Date: 12/22/14
19
20
21
22
23
24
25
26
27
28

1 are set forth in writing and signed by the Government, the Bank
2 Leumi Group Entities' attorneys, and a duly authorized
3 representative of the Bank Leumi Group Entities.

4
5 BANK LEUMI GROUP ENTITIES
6 Defendants

7 Date: 12/16/14 By: 
8 PROF. DANIEL TSIDDON
9 DEPUTY CHIEF EXECUTIVE OFFICER
10 BANK LEUMI LE-ISRAEL GROUP

11
12 DAVIS POLK & WARDWELL LLP

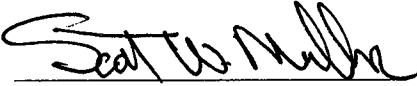
13
14 Date: 12/16/14 By: 
15 SCOTT W. MULLER, ESQ.
16 ANGELA T. BURGESS, ESQ.
17 AVI GESSER, ESQ.
18 Counsel to the Bank Leumi Group
19 Entities
20
21
22
23
24
25
26
27
28



EXHIBIT A TO DEFERRED PROSECUTION AGREEMENT

RESOLUTION OF THE BOARD OF DIRECTORS OF BANK LEUMI LE-ISRAEL B.M

At a duly held meeting held on December 8, 2014, the Board of Directors of Bank Leumi le-Israel B.M ("Leumi" or the "Company") resolved as follows:

WHEREAS, the Company, together with Bank Leumi le-Israel Trust Company Ltd., Bank Leumi (Luxembourg) S.A, Leumi Private Bank Ltd. and Bank Leumi USA (collectively, the "Leumi Group Entities") have been engaged in discussions with the United States Department of Justice, Tax Division, Western Criminal Enforcement Section and the United States Attorney's Office, Tax Division for the Central District of California (collectively, the "Office") regarding certain issues arising out of, in connection with, or otherwise relating to the conduct of the U.S. cross-border business by the Leumi Group Entities;

WHEREAS, in order to resolve such discussions, it is proposed that the Company together with other Leumi Group Entities enter into a certain deferred prosecution agreement with the Office (the "Agreement"); and

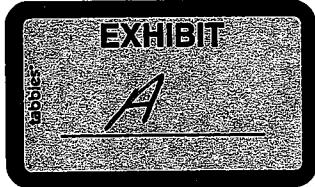
WHEREAS, the Company's outside Counsel has advised the Board of Directors of the Company's rights, possible defenses, and the consequences of entering into the Agreement;

This Board hereby RESOLVES that:

- 1. The Company (i) consents to the filing in the United States District Court for the Central District of California, Western Division (the "Court") of an Information charging the Company (together with other Leumi Group Entities), with one count of agreeing among themselves and others to willfully aid and assist in the preparation and presentation of false income tax returns and other documents to the Internal Revenue Service, in violation of Title 26, United States Code, Section 7206 (2), all in violation of 18 U.S.C. § 371 as set forth more fully in the Information attached as Exhibit B to the Agreement and reviewed by this Board of Directors, and (ii) agrees to pay, together with other Leumi Group Entities, an amount no greater than \$270 million in connection with the execution of the Agreement and to execute the ongoing obligations described therein in accordance with Israeli law;
2. The Board of Directors of the Company has reviewed the Agreement including the Information attached as Exhibit B to the Agreement and the Statement of Facts (attached as Exhibit C to the Agreement), consulted with legal counsel in connection with this matter and voted to enter into the Agreement.
3. The Deputy Chief Executive Officer of the Company is authorized on behalf of the Company to execute the Agreement substantially in such form as reviewed by this Board of Directors at this meeting with such non- material changes as the Deputy Chief Executive Officer of the Company may approve;
4. The Board takes note that the Deputy Chief Executive Officer of the Company, was also authorized by the Boards of Directors of other Leumi Group Entities to execute the Agreement on their behalf, after each board reviewed the Agreement including the Information attached as Exhibit B to the Agreement and the Statement of Facts (attached as Exhibit C to the Agreement), consulted with legal counsel in connection with this matter, voted to enter into the Agreement and to authorize the Deputy Chief Executive Officer of the Company, to execute the Agreement on behalf of the other Leumi Group Entities.
5. The Board hereby authorizes, empowers and directs the Deputy Chief Executive Officer of the Company, or his delegate and Scott W. Muller, Esq. and Angela T. Burgess, Esq., of Davis Polk & Wardwell LLP, to take, on behalf of the Company and other Leumi Group Entities, any and all actions as may be necessary or appropriate, and to approve and execute the forms, terms or provisions of any agreement or other documents as may be necessary or appropriate to carry out and effectuate the purpose and intent of the foregoing resolutions; and

יודע וקיים ונחתם בי"ט ט

080-98 01.01.21



6. All of the actions of the Deputy Chief Executive Officer of the Company, which actions would have been authorized by the foregoing resolutions except that such actions were taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved and adopted as actions on behalf of the Company.

IN WITNESS WHEREOF, the Board of Directors of the Company has executed this Resolution

Company Secretary

Adv. Yael Rudnicki
Group Secretary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

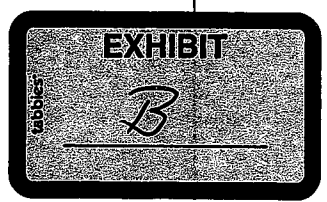
UNITED STATES OF AMERICA, Plaintiff, v. BANK LEUMI LE-ISRAEL B.M., THE BANK LEUMI LE-ISRAEL TRUST COMPANY LTD., BANK LEUMI (LUXEMBOURG) S.A., LEUMI PRIVATE BANK S.A., and BANK LEUMI USA, Defendants.	No. CR 14- <u>I N F O R M A T I O N</u> [18 U.S.C. § 371: Conspiracy]
---	---

The United States Attorney charges:

INTRODUCTORY ALLEGATIONS

At all relevant times relevant to this Information:

1. Defendant BANK LEUMI LE-ISRAEL, B.M. ("BANK LEUMI-ISRAEL") was a public company, registered with the Registrar of Companies in Israel and traded on the Tel-Aviv stock exchange. Defendant BANK LEUMI-ISRAEL was the parent company of the Leumi Group, which included defendant THE BANK LEUMI LE-ISRAEL TRUST COMPANY LTD. ("BANK LEUMI TRUST"); defendant BANK LEUMI



1 (LUXEMBOURG) S.A. ("BANK LEUMI-LUXEMBOURG"); defendant LEUMI
2 PRIVATE BANK S.A. ("LPB" and formerly "BANK LEUMI-SWITZERLAND");
3 and defendant BANK LEUMI USA.

4 2. An "undeclared account" was a financial account owned
5 by an individual subject to U.S. tax and maintained in a foreign
6 country that had not been reported by the individual account
7 owner to the U.S. government on an income tax return and a
8 Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1
9 ("FBAR").

10 3. These introductory allegations are incorporated as if
11 re-alleged in full in Count One of this Information.

12 **COUNT ONE**

13 A. THE OBJECT OF THE CONSPIRACY

14 4. From at least in or about 2000 and continuing until at
15 least in or about early 2011, defendants BANK LEUMI-ISRAEL, BANK
16 LEUMI TRUST, BANK LEUMI-LUXEMBOURG, BANK LEUMI-SWITZERLAND, BANK
17 LEUMI USA (collectively, the "Defendants") did unlawfully,
18 voluntarily, intentionally, and knowingly conspire, combine,
19 confederate, and agree together and with others both known and
20 unknown to the United States Attorney to commit the following
21 offense against the United States: to willfully aid, assist in,
22 procure, counsel, and advise the preparation and presentation of
23 false income tax returns and other documents to the Internal
24 Revenue Service of the Treasury Department (the "IRS"), in
25 violation of Title 26, United States Code, Section 7206(2).

26 B. THE MANNER AND MEANS OF THE CONSPIRACY

27 5. The object of the conspiracy was carried out, and was
28 to be carried out, in substance, as follows:

1 a. Defendants BANK LEUMI-ISRAEL, BANK LEUMI TRUST,
2 BANK LEUMI-LUXEMBOURG, and BANK LEUMI-SWITZERLAND aided,
3 assisted, and advised their U.S. clients to either sell all of
4 the U.S. securities in their accounts or advised their clients
5 to set up a nominee offshore entity which was controlled by the
6 client, all in order to avoid U.S. tax reporting requirements;

7 b. Defendants BANK LEUMI-ISRAEL and BANK LEUMI-
8 SWITZERLAND aided and assisted U.S. taxpayer-clients, who were
9 exiting an illegal U.S. cross-border business they were
10 conducting with Swiss Bank A, to open accounts at defendants
11 BANK LEUMI-ISRAEL and BANK LEUMI-SWITZERLAND, knowing that the
12 U.S. taxpayer-clients were seeking to maintain accounts that
13 were undeclared to U.S. authorities;

14 c. Defendants BANK LEUMI-ISRAEL, BANK LEUMI-
15 LUXEMBOURG, and BANK LEUMI-SWITZERLAND used account features
16 such as "Hold Mail," "Assumed Name," "Numbered Accounts," and
17 defendant BANK LEUMI TRUST established accounts for U.S. clients
18 that listed defendant BANK LEUMI TRUST as the nominee account
19 holder, all to reduce the likelihood that their clients' U.S.
20 accounts would be disclosed to or discovered by U.S.
21 authorities; and

22 d. Defendants BANK LEUMI-ISRAEL, BANK LEUMI-
23 LUXEMBOURG, BANK LEUMI-SWITZERLAND and BANK LEUMI USA agreed to
24 a plan whereby loans issued by defendant BANK LEUMI USA to U.S.
25 clients would be backed by the U.S. clients' undeclared offshore
26 assets held in accounts at defendants BANK LEUMI-ISRAEL, BANK
27 LEUMI-LUXEMBOURG, and BANK LEUMI-SWITZERLAND, in order to allow
28 the U.S. clients to enjoy the economic benefits of the funds in

1 their undeclared accounts without directly repatriating the
2 funds or creating a paper trail that could potentially disclose
3 the existence of the undeclared accounts to U.S. authorities.

4 C. OVERT ACTS

5 6. In furtherance of the conspiracy, and to accomplish
6 its object, Defendants, together with others known and unknown
7 to the United States Attorney, committed and willfully caused
8 others to commit the following overt acts, among others, in the
9 Central District of California and elsewhere:

10 CLIENT 1

11 a. In or about November 2007, in Tel Aviv, Israel,
12 Client 1, a U.S. citizen residing in Malibu, California, opened
13 an undeclared account at defendant BANK LEUMI-ISRAEL in Tel
14 Aviv, Israel.

15 b. In or about July 2008, Client 1, with assistance
16 from Banker 1, an employee of defendant BANK LEUMI-ISRAEL in Tel
17 Aviv, Israel, and Banker 2, an employee of defendant BANK LEUMI
18 USA in Los Angeles, California, opened an account at defendant
19 BANK LEUMI USA in Los Angeles, California.

20 c. In or about November 2008, Client 1, with
21 assistance from Banker 1 and Banker 2, caused defendant BANK
22 LEUMI USA in Los Angeles, California, to extend a \$7 million
23 credit facility to Client 1, collateralized by Client 1's
24 undeclared account at defendant BANK LEUMI-ISRAEL.

25 d. On or about October 21, 2009, from the Central
26 District of California, Client 1 filed with the IRS a false and
27 fraudulent U.S. Individual Income Tax Return, Form 1040, for tax
28

1 year 2008 that failed to report the undeclared account at
2 defendant BANK LEUMI-ISRAEL.

3 CLIENT 2

4 e. In or about 1997, Client 2, a U.S. citizen
5 residing in Beverly Hills, California, opened an undeclared
6 account at defendant BANK LEUMI-LUXEMBOURG.

7 f. In or about 2009, Client 2 traveled to
8 Luxembourg, and met with Banker 3, an executive employed by
9 defendant BANK LEUMI-LUXEMBOURG, and Banker 4, an employee of
10 defendant BANK LEUMI-LUXEMBOURG. At that meeting, Banker 3 and
11 Banker 4 provided Client 2 with a German cellular phone, pre-
12 programmed with the Bankers' phone numbers in Luxembourg.

13 g. In or about 2009, Banker 3 and Banker 4
14 instructed Client 2 to never call them from Client 2's personal
15 phone, but to only call them using the German cellular phone
16 they provided to Client 2.

17 h. Between in or about 2009 and in or about 2011,
18 from the Central District of California, and elsewhere, Client 2
19 called Banker 3 and Banker 4 using the German cellular phone
20 they had provided in order to discuss Client 2's undeclared
21 account at defendant BANK LEUMI-LUXEMBOURG.

22 i. On or about February 17, 2011, from the Central
23 District of California, Client 2 filed with the IRS a false and
24 fraudulent U.S. Individual Income Tax Return, Form 1040, for tax
25 year 2009 that failed to report the undeclared account and
26 related income associated with the undeclared account at
27 defendant BANK LEUMI-LUXEMBOURG.

28

1 CLIENT 3

2 j. On or about January 5, 2004, Client 3, a U.S.
3 citizen residing in Tarzana, California, sent Banker 5, an
4 employee of defendant BANK LEUMI-ISRAEL in Tel Aviv, Israel, a
5 fax asking that his name be added as a beneficial owner of two
6 undeclared accounts with in excess of \$12 million on deposit at
7 defendant BANK LEUMI-ISRAEL in Tel Aviv, Israel.

8 k. On or about April 16, 2009, from the Central
9 District of California, Client 3 filed with the IRS a false and
10 fraudulent U.S. Individual Income Tax Return, Form 1040, for tax
11 year 2008 that failed to report the undeclared account and
12 related income associated with the undeclared account at
13 defendant BANK LEUMI-ISRAEL.

14 l. On or about October 2010, Banker 6, an employee
15 of defendant BANK LEUMI USA in Beverly Hills, California, caused
16 defendant BANK LEUMI USA in Beverly Hills, California, to renew
17 a \$6.5 million credit facility extended to Client 3,
18 collateralized by Client 3's undeclared account at defendant
19 BANK LEUMI-ISRAEL.

20 CLIENT 4

21 m. In or about September 2008, Client 4, a U.S.
22 citizen residing in Hollywood, Florida, flew to Switzerland to
23 close his account at Swiss Bank A, and during that trip met with
24 Banker 7, an employee of defendant BANK LEUMI-SWITZERLAND, in
25 order to transfer his funds at Swiss Bank A to defendant BANK
26 LEUMI-SWITZERLAND.

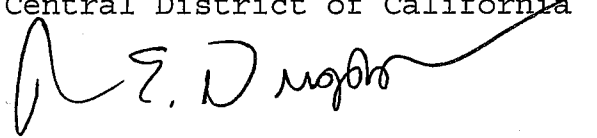
27 n. In or about September 2008, Banker 7 facilitated
28 the opening of a numbered account at defendant BANK LEUMI-

1 SWITZERLAND by directly communicating with one or more bankers
2 at Swiss Bank A.

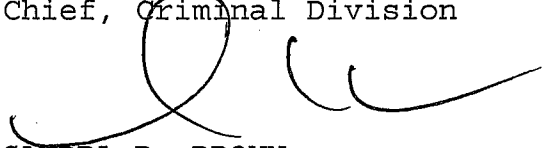
3 o. In or about September 2008, Banker 7 suggested to
4 Client 4 that Client 4 should have his mail from defendant BANK
5 LEUMI-SWITZERLAND held at the bank to help prevent Client 4's
6 account at defendant BANK LEUMI-SWITZERLAND from being disclosed
7 to the United States Government.

8 p. In or about September 2008, Banker 7 instructed
9 Client 4 not to take any bank account opening documents from
10 defendant BANK LEUMI-SWITZERLAND when Client 4 traveled back to
11 the United States.

12
13 STEPHANIE YONEKURA
14 Acting United States Attorney
15 Central District of California

16 

17 ROBERT DUGDALE
18 Assistant United States Attorney
19 Chief, Criminal Division

20 

21 SANDRA R. BROWN
22 Assistant United States Attorney
23 Chief, Tax Division

24 

25 CHRISTOPHER S. STRAUSS
26 ELLEN M. QUATTRUCCI
27 DENNIS R. KIHM
28 Trial Attorneys
U.S. Department of Justice
Tax Division

1 STATEMENT OF FACTS

2

3 ENTITIES INVOLVED IN THE OFFENSE

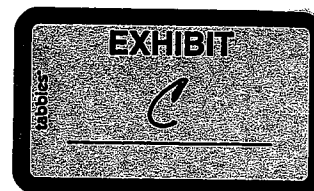
4 1. Bank Leumi le-Israel, B.M. ("Bank Leumi-Israel") is a
5 public company, registered with the Registrar of Companies in
6 Israel and traded on the Tel-Aviv stock exchange. Bank Leumi-
7 Israel is one of Israel's largest banks with over 13,000
8 employees and subsidiaries in 7 countries. Bank Leumi-Israel is
9 the parent company of the Leumi Group. As of December 31, 2013,
10 the Leumi Group had approximately \$313 billion in assets under
11 management.

12 2. The Bank Leumi le-Israel Trust Company Ltd. ("Bank
13 Leumi Trust") is a subsidiary fully owned by Bank Leumi-Israel.
14 Bank Leumi Trust was founded in 1939 and is the oldest and
15 largest of all bank trust companies in Israel. Bank Leumi Trust
16 provides comprehensive trust services including the
17 establishment of trusts for clients of Bank Leumi-Israel.

18 3. Leumi Private Bank S.A. ("Leumi Private Bank") is a
19 subsidiary of Bank Leumi-Israel. Leumi Private Bank was
20 established in January 2012 after Leumi purchased Banque Safdie
21 SA and merged it with Bank Leumi Switzerland Ltd. Bank Leumi
22 Switzerland Ltd. was founded in 1953 in Zurich and also had
23 operations in Geneva (hereinafter referred to "Bank Leumi-
24 Switzerland").

25 4. Bank Leumi (Luxembourg) S.A ("Bank Leumi-Luxembourg")
26 is a subsidiary of Bank Leumi-Israel. Bank Leumi-Luxembourg was
27 founded in 1994 to serve as the Bank Leumi Group's marketing arm

28



1 for private banking services, for wealthy clients from all over
2 the world.

3 5. Bank Leumi USA is an FDIC-insured, full-service
4 commercial bank that provides financial services to middle
5 market firms and international businesses through offices in
6 California, New York, Illinois, and Florida. Bank Leumi USA is
7 the largest subsidiary of the Leumi Group.

8 6. Bank Leumi-Israel, Bank Leumi-Switzerland, and Bank
9 Leumi-Luxembourg (collectively "Bank Leumi") provided private
10 banking, wealth management, and other related financial services
11 to high-net-worth individuals and entities around the world,
12 including citizens, resident aliens, and permanent residents of
13 the United States ("U.S. taxpayers") located in the Central
14 District of California, and elsewhere. Bank Leumi engaged the
15 services of Bank Leumi USA and Bank Leumi Trust as part of their
16 private banking and wealth management services for high-net-
17 worth clients.

18 7. Bank Leumi-Israel, Bank Leumi USA, Bank Leumi-
19 Switzerland, Bank Leumi Trust, and Bank Leumi-Luxembourg each
20 acknowledge and accept responsibility for the acts and omissions
21 of their officers, executives, managers and employees.

22
23 **U.S. INCOME TAX AND REPORTING OBLIGATIONS**

24 8. U.S. citizens, resident aliens, and legal permanent
25 residents have an obligation to report all income earned from
26 foreign bank accounts on their tax returns and to pay the taxes
27 due on that income. Since at least 1980, U.S. citizens,
28 resident aliens, and legal permanent residents had an obligation

1 to report to the Internal Revenue Service ("IRS") on the
2 Schedule B of a U.S. Individual Income Tax Return, Form 1040,
3 whether the individual had a financial interest in, or signature
4 authority over, a financial account in a foreign country in a
5 particular year by checking "Yes" or "No" in the appropriate box
6 and identifying the country where the account was maintained.

7 9. Since at least 1980, U.S. citizens, resident aliens,
8 and legal permanent residents who had a financial interest in,
9 or signature authority over, one or more financial accounts in a
10 foreign country with an aggregate value of more than \$10,000 at
11 any time during a particular year were required to file with the
12 Department of Treasury a Report of Foreign Bank and Financial
13 Accounts, Form TD F 90-22.1 (the "FBAR"). The FBAR for the
14 applicable year was due by June 30 of the following year.

15 10. An "undeclared account" was a financial account owned
16 by an individual subject to U.S. tax and maintained in a foreign
17 country that had not been reported by the individual account
18 owner to the U.S. government on an income tax return and an
19 FBAR.

20
21 **BANK LEUMI'S U.S. CROSS-BORDER BUSINESS**

22 11. From at least 2000 until at least 2010, Bank Leumi-
23 Israel, and its subsidiaries Bank Leumi USA, Bank Leumi-
24 Switzerland, Bank Leumi Trust, and Bank Leumi-Luxembourg,
25 through certain private bankers and managers in the United
26 States cross-border business, in the Central District of
27 California and elsewhere, did unlawfully, voluntarily,
28 intentionally, and knowingly agree together with others to

1 commit the following offense against the United States: to
2 willfully aid and assist in the preparation and presentation of
3 false income tax returns and other documents to the Internal
4 Revenue Service of the Treasury Department, in violation of
5 Title 26, United States Code, Section 7206(2), all in violation
6 of Title 18, United States Code, Section 371.

7 12. Bank Leumi knowingly opened and maintained undeclared
8 accounts that aided and assisted U.S. taxpayers in concealing
9 their offshore assets and income from U.S. taxing authorities.
10 Bank Leumi, through certain of its managers, private bankers and
11 employees, promised certain U.S. clients that their accounts
12 would not be disclosed to the U.S. taxing authorities.

13 13. Prior to April 2009, Bank Leumi sent private bankers
14 to the United States on a regular basis for the purpose of
15 opening new accounts and servicing existing accounts of U.S.
16 taxpayers. The private bankers would meet with U.S. taxpayers
17 in hotels, parks, and coffee shops because they were not allowed
18 to meet clients in the domestic branches of Bank Leumi USA to
19 discuss the clients' accounts and sign bank documents. These
20 private bankers traveled to the United States, most frequently
21 Los Angeles, California, New York, New York and Miami, Florida,
22 one to four times per year, to meet with several clients a day,
23 for a week or two-week period.

24 14. Certain private bankers would bring bank statements to
25 the United States for review by the U.S. taxpayers, including
26 those with "Hold Mail" service. After the records were
27 reviewed, certain private bankers or the U.S. taxpayer would
28 dispose of the bank statements to conceal the beneficial owner

1 of the undeclared account and reduce the risk of disclosure to
2 U.S. taxing authorities.

3 15. The U.S. travel was approved by relevant executives
4 and paid for by Bank Leumi. The Bank Leumi executives knew that
5 the purpose of the U.S. travel was to recruit and/or service
6 U.S. taxpayer accounts. In fact, upon return to Israel,
7 Switzerland, or Luxembourg, the private bankers produced reports
8 that summarized the new business generated from the accounts for
9 their management.

10 16. When private bankers traveled to the United States,
11 they were required to complete certain forms upon entry to the
12 United States, including Customs Declaration Form 6059B. On
13 Form 6059B, certain private bankers would falsely claim, under
14 the penalties of perjury, that the primary purpose of their trip
15 to the United States was not business. Bank Leumi managers were
16 aware of the false declarations and took no corrective action
17 until April 2009.

18 17. In many instances, Bank Leumi private bankers knew
19 that the accounts of the U.S. taxpayers they visited were not
20 disclosed to the U.S. taxing authorities. They also knew that
21 certain U.S. taxpayers they visited were evading their U.S. tax
22 obligations.

23 18. Bank Leumi-Israel, Bank Leumi-Switzerland, and Bank
24 Leumi Luxembourg, knew that certain U.S. taxpayers were
25 maintaining undeclared accounts and offered an array of services
26 and products that aided and assisted the U.S. taxpayers with
27 opening and maintaining undeclared accounts. These products and
28 services included: (1) the issuance of guarantees and Standby

1 Letters of Credit to collateralize loans issued by Bank Leumi
2 USA; (2) use of offshore entities and the Bank Leumi Trust to
3 serve as nominee accountholders; (3) use of hold mail, assumed
4 name accounts, and numbered accounts; and (4) opening and
5 maintaining accounts for U.S. taxpayers that exited UBS and
6 other Swiss banks after the Department of Justice's
7 investigation of UBS became public.

8 19. Bank Leumi, Bank Leumi USA and Bank Leumi Trust each
9 knew that the products and services each provided would result
10 in false U.S. Individual Income Tax Returns and other false
11 documents being filed with the Internal Revenue Service.

12
13 **MARKETING OF LOANS TO U.S. TAXPAYERS**
14 **WHO HELD UNDECLARED ACCOUNTS**

15 20. Bank Leumi USA, Bank Leumi-Israel, Bank Leumi-
16 Switzerland, Bank Leumi Trust, and Bank Leumi-Luxembourg,
17 through managers and private bankers, agreed to offer, market
18 and service two types of loans that assisted U.S. taxpayers with
19 concealing their assets and evading their U.S. tax obligations:
20 (1) participation loans; and (2) Standby Letter of Credit Loans
21 ("SBLC Loans").

22 21. A "participation loan" was a loan originated by Bank
23 Leumi USA wherein the foreign bank -- Bank Leumi-Israel, Bank
24 Leumi-Switzerland, or Bank Leumi-Luxembourg -- purchased 100%
25 funded participation in the loan and the U.S. client executed a
26 set-off letter securing all debts and obligations in favor of
27 the foreign bank. Bank Leumi USA and the foreign entity split
28 equally (50/50) the spread (the difference between the interest

1 rate of the loan and the interest rate on the time deposit at
2 the foreign entity).

3 22. An SBLC Loan, also known as a "back-to-back loan," was
4 a loan issued by Bank Leumi USA that was secured or
5 collateralized by funds at Bank Leumi-Israel, Bank Leumi-
6 Switzerland or Bank Leumi-Luxembourg. Bank Leumi USA received
7 interest payments on the loan and the foreign entity separately
8 collected a "guaranty fee" or "commission" for the issuance of
9 the SBLC which together usually amounted to 1% of the loan
10 amount.

11 23. From 2002 to 2010, Bank Leumi USA issued SBLC Loans
12 secured by accounts of 205 U.S. taxpayers. Bank Leumi profits
13 related to these SBLC Loans totaled approximately \$23 million
14 from 2002 to 2010.

15 24. Typically, the U.S. borrower would be required to make
16 interest-only payments and could renew the participation or SBLC
17 Loans annually. Indeed, some loans were issued in the 1990's
18 and renewed annually for a twenty-year period.

19 25. Private bankers and managers at Bank Leumi USA and
20 Bank Leumi were aware that the SBLC Loans allowed the U.S.
21 taxpayers to enjoy the economic benefits of the funds in the
22 undeclared accounts without directly repatriating the funds or
23 creating a paper trail that could potentially disclose the
24 existence of the undeclared accounts to U.S. authorities.

25 26. Indeed, when certain U.S. taxpayers wanted to withdraw
26 funds from an undeclared account or close the undeclared
27 account, Bank Leumi private bankers would offer them the
28 alternative of taking out a participation or SBLC Loan in order

1 to keep the funds on deposit. Similarly, Bank Leumi USA bankers
2 would suggest a participation or SBLC Loan to certain U.S.
3 taxpayers when the clients wanted to maintain their undeclared
4 account but retain full use and enjoyment of the funds.

5 27. In and around 2000, Bank Leumi USA began an initiative
6 to convert all participation loans to SBLC Loans. One reason
7 for the conversion from participation to SBLC Loans was to
8 remove information in Bank Leumi USA files that would disclose
9 the existence and identity of U.S. taxpayers who maintained
10 undeclared accounts at Bank Leumi. Beginning in and around
11 2000, Bank Leumi USA, through certain executives, began
12 structuring its files so that the bank's records contained no
13 reference to or identifying information about the U.S.
14 taxpayers' undeclared accounts.

15 28. In 2000, a Bank Leumi USA executive in Beverly Hills,
16 California sent a communication to a Bank Leumi USA executive in
17 New York indicating that he considered SBLC Loans cleaner than
18 participation loans. The SBLC Loan was "cleaner," in his view,
19 because it did not require Bank Leumi USA and the foreign
20 affiliate to correspond regarding the profits generated from the
21 loan or to transfer money to the foreign affiliate to compensate
22 it for participating in the loan. The information that Bank
23 Leumi USA did not want to have in its files included: (i) the
24 name of the account holder of the foreign account; (ii) the
25 account number; and (iii) the foreign branch where the account
26 was located.

27 29. In and around 2000, the same Bank Leumi USA executive
28 advised a manager at Bank Leumi-Israel that he "cleaned" his

1 files of information concerning undeclared accounts for the
2 specific purpose of concealing the U.S. taxpayers' undeclared
3 accounts and reducing the likelihood that that U.S. authorities
4 would claim that Bank Leumi USA assisted clients with hiding
5 assets.

6 30. In an effort to conceal the existence of undeclared
7 accounts and reduce the risk that beneficial owners of
8 undeclared accounts would be identified, beginning in and around
9 2000, Bank Leumi USA would not identify the person who applied
10 for the SBLC, usually the U.S. taxpayer with the undeclared
11 account, on any of the loan paperwork that remained in the
12 United States. Specifically, the SWIFT message that recorded
13 the SBLC would generically refer to the SBLC applicant as "you"
14 or "the applicant." It was not until January 2011, after an
15 internal review of SBLC Loans, that Bank Leumi USA changed this
16 policy and required all SWIFT messages to include the name of
17 the SBLC applicant in the SWIFT message.

18 31. In connection with their applications for
19 participation or SBLC Loans, U.S. taxpayers would submit
20 personal financial statements that did not disclose the
21 existence of their foreign accounts. Likewise, when Bank Leumi
22 USA private bankers prepared memoranda for review by Bank Leumi
23 USA's credit committee, the existence of the foreign account was
24 not documented. Instead, the credit documentation would
25 reference the U.S. taxpayer being a well-known customer to the
26 Leumi Group and that the loan was guaranteed by an SBLC issued
27 by a foreign affiliate.

28

1 32. On occasion, Bank Leumi USA private bankers would
2 receive and review the U.S. Individual Income Tax Returns of the
3 U.S. taxpayer as part of the loan application process.
4 Oftentimes, the tax returns in Bank Leumi USA's possession did
5 not disclose the existence of the foreign account or report the
6 income generated by the foreign account.

7 33. On August, 27, 2008, the Federal Deposit Insurance
8 Company ("FDIC") and the California Department of Financial
9 Institutions ("CDFI") issued a Cease and Desist Order concerning
10 Mizrahi Tefahot Bank Ltd. in Los Angeles, California ("Mizrahi
11 Bank"). The FDIC and CDFI ordered Mizrahi Bank not to make or
12 renew any "back-to-back" loans or any other similar extensions
13 of credit unless Mizrahi Bank reviewed and maintained copies of
14 all records concerning the collateral, including, but not
15 limited to, records documenting the owner of the foreign
16 account. Bank Leumi understood that the FDIC and CDFI found
17 that Mizrahi Bank's practices with respect to the back-to-back
18 loans did not satisfy Mizrahi Bank's Know Your Customer
19 obligations and violated certain Bank Secrecy Act and anti-money
20 laundering regulations.

21 34. From at least 2000 through January 2011, Bank Leumi
22 USA issued back-to-back loans to customers who had accounts at
23 Bank Leumi-Israel -- in their own names or in the name of Bank
24 Leumi Trust -- or at Bank Leumi-Switzerland or Bank Leumi-
25 Luxembourg without reviewing or maintaining records concerning
26 the collateral pledged by the U.S. taxpayer.

27 35. On October 3, 2008, a copy of the Mizrahi Bank Cease
28 and Desist Order was circulated to, among others, executives at

1 Bank Leumi USA. Five days later, in response to the cease and
2 desist order, on October 8, 2008, Bank Leumi USA notified Bank
3 Leumi-Luxembourg that "effective immediately," any SBLC guaranty
4 issued by Bank Leumi-Luxembourg must include the applicant's
5 full name and address.

6 36. A Bank Leumi-Luxembourg advisor argued against the
7 policy change stating that "[c]ustomers do not want their names
8 to appear on official documents, such as an SBLC" and the change
9 "will have a major impact on our business."

10 37. One reason the policy change was resisted by Bank
11 Leumi-Luxembourg, with the knowledge of Bank Leumi-Israel
12 executives, was because certain U.S. taxpayers were not
13 disclosing their accounts to U.S. taxing authorities and would
14 not want the fact that they had a foreign bank account disclosed
15 in the records of Bank Leumi USA.

16 38. After "extensive internal discussion," on January 5,
17 2009, a Bank Leumi USA executive advised a Bank Leumi-Israel
18 executive that the policy change would be rescinded, but that
19 Bank Leumi must confirm that "all KYC information is current and
20 on file" with the foreign affiliate and that "the client is in
21 good standing" with the foreign affiliate.

22 39. Bank Leumi USA, through its executives and managers,
23 continued issuing and renewing back-to-back loans without
24 reviewing or maintaining records concerning the pledged
25 collateral. The practice continued until January 20, 2011,
26 when, after an internal review of SBLC Loans, Bank Leumi USA
27 amended its policy to require that any SBLC guaranty include the
28 applicant's name.

1 40. Beginning in early 2011, before Bank Leumi was
2 notified of the investigation, Bank Leumi USA began its own
3 assessment of SBLC Loans by reviewing all customer relationships
4 with outstanding SBLC Loans to confirm whether the U.S.
5 taxpayers were tax compliant or not.

6
7 **OFFSHORE ENTITIES AND QI AGREEMENT**

8 41. Effective January 1, 2001, Bank Leumi-Israel, Bank
9 Leumi-Switzerland, and Bank Leumi-Luxembourg each entered into a
10 Qualified Intermediary Agreement ("QI Agreement") with the IRS.
11 QI Agreements provide a comprehensive framework for U.S.
12 information reporting and tax withholding for both non-U.S and
13 U.S. persons, based upon applicable U.S. withholding and
14 reporting rules. The QI Agreement is designed to ensure that
15 U.S. persons are properly paying U.S. tax with respect to U.S.
16 securities held in an account.

17 42. In and around late 2000, certain private bankers
18 advised U.S. clients that held U.S. securities in their accounts
19 that the accounts could remain undeclared (i) if they sold all
20 U.S. securities prior to January 1, 2001 and signed a waiver
21 form agreeing that they did not want U.S. securities purchased
22 in the future; or (ii) set up an offshore corporation that would
23 serve as the nominee account holder so that Bank Leumi would not
24 have to report ownership by a U.S. person.

25 43. Private bankers and managers sometimes referred U.S.
26 taxpayers to outside lawyers and consultants to set up the
27 offshore corporations in jurisdictions like the British Virgin
28 Islands, Panama, Belize and elsewhere. The use of offshore

1 corporations allowed U.S. clients to hold and transact in U.S.
2 securities without disclosing the identity of the true
3 beneficial owner or triggering withholding on certain accounts.

4 44. Private bankers and managers accepted and included in
5 Bank Leumi's account records IRS Forms W-8BEN (or substitute
6 forms) provided by the directors of the offshore companies which
7 represented under penalties of perjury that such companies were
8 the beneficial owners, for U.S. federal income tax purposes, of
9 the assets in the accounts. In certain cases, the IRS Forms W-
10 8BEN (or substitute forms) were false or misleading in that the
11 U.S. taxpayer who owned the offshore company actually directed
12 and controlled the management and disposition of assets in the
13 company accounts and/or otherwise functioned as the beneficial
14 owner of such assets in disregard of the formalities of the
15 purported corporate ownership.

16 45. Alternatively, in order to avoid disclosure to the
17 U.S. taxing authorities, private bankers would advise certain
18 U.S. taxpayers not to purchase U.S. securities, thereby avoiding
19 QI requirements altogether.

20 46. Similarly, Bank Leumi-Israel private bankers would
21 suggest that U.S. taxpayers open an account through Bank Leumi
22 Trust in order to add "an extra level of secrecy" to the
23 account. The undeclared account would be opened at Bank Leumi-
24 Israel in the name of Bank Leumi Trust. All bank statements and
25 correspondence would refer to Bank Leumi Trust as the owner of
26 the account. Bank Leumi Trust would maintain records detailing
27 the beneficial owner of the account.

28

1 47. As late as 2010, after Bank Leumi-Israel began closing
2 accounts that were opened in the name of offshore corporations,
3 it allowed certain high-net-worth clients, with the approval of
4 executives, to open accounts at Bank Leumi Trust.

5
6 **USE OF ACCOUNT FEATURES TO CONCEAL ACCOUNTS:**
7 **HOLD MAIL/ASSUMED NAME/NUMBERED ACCOUNTS**

8 48. Bank Leumi recommended U.S. taxpayers utilize certain
9 account features that would reduce the risk of U.S. taxing
10 authorities learning the identities of U.S. taxpayers who
11 maintained undeclared accounts.

12 49. One such feature was "Hold Mail" service. U.S.
13 taxpayers who opted for the "Hold Mail" service ensured that
14 every statement of account, notice or other document associated
15 with the account would not be sent to the customer's address in
16 the United States. The customer's mail would remain at the
17 branch.

18 50. During 2002 to 2010, Bank Leumi maintained
19 approximately 2450 U.S. accounts in the global private banking
20 division with "Hold Mail" service. During this period, Bank
21 Leumi charged a total of approximately \$1.5 million to U.S.
22 taxpayers for holding their mail outside the United States at
23 the foreign entities.

24 51. Bank Leumi also provided certain U.S. taxpayers with
25 "assumed name" and "numbered" accounts. While the foreign
26 affiliate kept records of the true identity of the client
27 pursuant to Know Your Customer obligations, if a U.S. taxpayer
28 selected either an "assumed name" or "numbered" account, the

1 name of the account holder would not appear on any
2 correspondence, account statements, communications or notices.
3 Until in and around 2004, Bank Leumi allowed U.S. taxpayers to
4 complete wire transfers using assumed names or numbered accounts
5 without disclosing the U.S. taxpayer's true identity or true
6 account number. In or before 2008, Bank Leumi-Israel stopped
7 offering new "assumed name" accounts and began converting
8 existing "assumed name" accounts into regular accounts.

9
10 **EFFORTS TO OBTAIN U.S. CUSTOMERS FORCED TO**
11 **EXIT UBS AND OTHER SWISS BANKS**

12 52. In early May 2008, the fact that UBS was being
13 investigated by the Department of Justice became public. UBS
14 disclosed that the corporation was being investigated for, among
15 other things, assisting U.S. taxpayers with evading their taxes.

16 53. On May 7, 2008, a newspaper article regarding the UBS
17 investigation was distributed to high-level executives within
18 Bank Leumi.

19 54. In July 2008, UBS, the largest Swiss bank, announced
20 that it was closing its U.S. cross-border banking business.

21 55. Certain Bank Leumi executives in both Israel and
22 Switzerland viewed UBS's exit from the U.S. cross-border
23 business as an opportunity and sought to obtain former UBS
24 customers whose accounts UBS had stopped servicing because the
25 accounts were undeclared and were used to evade U.S. tax
26 obligations.

27 56. In September 2008, a Bank Leumi manager sent an e-mail
28 to private bankers (including private bankers who dealt

1 exclusively with U.S. customers) noting that "[a]s was published
2 in the press and media, UBS is under investigation of US
3 authorities for AML issues. Many customers who maintain their
4 accounts in the 'UBS' Bank or in other banks in Europe feel
5 pressured from such publications" and "want to transfer their
6 accounts to other banks."

7 57. In the same e-mail, the manager acknowledged that
8 "many banks in Europe . . . are refusing to open an account for
9 these customers." Nonetheless, the manager described the UBS
10 exodus as a "golden opportunity to contact customers who you
11 know have accounts in banks in Europe" and urged the private
12 bankers to "suggest that [the customers] transfer their
13 accounts" to Bank Leumi-Israel for "understood" reasons.

14 58. In a July 2009 strategy meeting, another manager
15 referred to the UBS exodus as a "tremendous opportunity" to be
16 exploited. At the same meeting, an executive cautioned that
17 "[e]verything needs to be in the appropriate dosage - And we do
18 not want the Americans to understand that the safe haven for the
19 money from Switzerland is Israel. Everything needs to be done
20 judiciously and in accordance with legal guidelines - on a case
21 by case basis." After this strategy meeting, the executive
22 continued to approve account openings for high-net-worth U.S.
23 clients on a case-by-case basis.

24 59. In late 2008, Bank Leumi-Switzerland was introduced to
25 a Swiss Asset Manager by an executive at Bank Leumi-Israel. The
26 Swiss Asset Manager sought to refer a substantial number of
27 high-net-worth clients that had undeclared accounts at Swiss
28 banks to Bank Leumi-Switzerland. Certain Bank Leumi-Switzerland

1 executives discussed and decided to open accounts for these U.S.
2 taxpayers.

3 60. From late 2008 through 2010, the Swiss Asset Manager
4 referred a total of 66 former Swiss bank account holders to Bank
5 Leumi-Switzerland. Bank Leumi-Switzerland knew that the U.S.
6 taxpayers sought to maintain undeclared accounts. Pursuant to a
7 referral contract, Bank Leumi-Switzerland compensated the Swiss
8 Asset Manager for the referrals. Bank Leumi-Israel executives
9 were aware of the referrals.

10 61. In the UBS aftermath, Bank Leumi-Israel accepted
11 transfers from UBS and other Swiss banks for 104 U.S. clients,
12 increasing assets under management by approximately \$135
13 million. Bank Leumi-Switzerland accepted transfers and opened
14 accounts for 155 customers, increasing assets under management
15 by approximately \$263 million. Bank Leumi-Luxembourg accepted
16 transfers and opened accounts for 4 customers, increasing assets
17 under management by approximately \$3 million.

18
19 **BANK LEUMI'S INADEQUATE COMPLIANCE SYSTEMS**

20 62. Prior to the UBS investigation, Bank Leumi did not
21 develop and implement an effective system of supervisory and
22 compliance controls over private bankers with respect to tax
23 compliance to prevent and detect violations of U.S. tax laws,
24 including issuing specific policies regarding the proper
25 handling of accounts beneficially owned by U.S. persons.

26 63. Bank Leumi did not effectively monitor and control the
27 activities of certain private bankers and managers in the U.S.
28 cross-border business, and, as a result, some private bankers

1 and their managers adopted the position that compliance with
2 U.S. tax law was exclusively the concern of the U.S. taxpayers.

3 64. Bank Leumi, even after the UBS tax investigation
4 became public, did not adopt a compliance program to fully
5 address the bank's obligations with respect to U.S. tax law
6 compliance. Bank Leumi did not issue policies, directives or
7 guidance prohibiting private bankers from assisting U.S.
8 taxpayers with evading their tax obligations.

9 65. Bank Leumi took inadequate steps to educate their
10 private bankers about the proper handling of U.S taxpayers and
11 what conduct would constitute actively assisting U.S. taxpayers
12 with concealing assets and evading U.S. tax obligations. Bank
13 Leumi focused primarily on compliance with banking regulations
14 and SEC rules, but did not implement policies or directives that
15 were adequate to detect or prevent violations of U.S. tax law.

16 66. For example, on June 4, 2009 - almost a year after the
17 UBS tax investigation became public - a Bank Leumi-Israel
18 executive distributed new guidelines concerning American
19 customers to private bankers. These guidelines did not fully
20 address or remedy Bank Leumi's compliance with U.S. tax laws.

21 67. The guidelines stated: "Effective immediately, we
22 have decided not to accept any new accounts involving use of an
23 offshore private investment company [or similar structure],
24 where the sole or principal beneficial owner is a US resident,
25 and regardless of whether the account-holder or beneficial owner
26 has furnished a W-9 or whether the account includes U.S.
27 securities."

1 68. This limited guidance was not fully implemented and in
2 certain instances exceptions to the guidance were made in favor
3 of maintaining and accepting new U.S. cross-border business.

4 69. Although a significant number of U.S. customers left
5 Bank Leumi as a result of its remedial efforts, private bankers
6 and managers continued to open and service accounts of U.S.
7 taxpayers they knew to be evading U.S. tax obligations. As late
8 as 2010, Bank Leumi private bankers continued to advise U.S.
9 taxpayers that, unlike UBS, Bank Leumi would not disclose names
10 to U.S. authorities and, therefore, there was no need to close
11 the undeclared account. Even after the IRS's Offshore Voluntary
12 Disclosure Program was announced, Bank Leumi-Israel was advising
13 certain U.S. taxpayers to buy property in Israel with the funds
14 in the undeclared accounts or transfer the funds into the name
15 of an Israeli relative in order to avoid disclosure to certain
16 U.S. taxing authorities. Bank Leumi did not timely develop
17 compliance measures to identify, detect or prevent this conduct.

18
19 **THIRD PARTY REFERRALS OF U.S. CUSTOMERS TO BANK LEUMI LUXEMBOURG**

20 70. In and around 2002, a Bank Leumi USA executive in
21 Beverly Hills, California introduced Bank Leumi-Luxembourg
22 executives to a U.S. tax return preparer, David Kalai. David
23 Kalai, the principal owner of United Revenue Service, Inc.
24 ("URS"), sought the assistance of Bank Leumi-Luxembourg to open
25 undeclared accounts for his tax preparation clients.

26 71. Bank Leumi-Luxembourg, through its executives,
27 negotiated a draft referral agreement with David Kalai for the

1 purpose of providing compensation to him for referring U.S.
2 taxpayers to Bank Leumi-Luxembourg to open accounts.

3 72. David Kalai and his son Nadav Kalai were both referral
4 agents of Bank Leumi-Luxembourg.

5 73. David Kalai, Nadav Kalai, and others employed at URS
6 arranged for a Bank Leumi-Luxembourg private banker to meet U.S.
7 taxpayers in California, and elsewhere, to open their undeclared
8 accounts. During the account opening process, the private
9 banker advised U.S. taxpayers that the accounts would not be
10 disclosed to the U.S. taxing authorities.

11 74. Other times, David Kalai would arrange for the U.S.
12 taxpayer to complete the account opening forms to open the
13 account at Bank Leumi-Luxembourg at the Beverly Hills Branch of
14 Bank Leumi USA.

15 75. David Kalai, and others at URS, referred at least 23
16 customers to Bank Leumi-Luxembourg.

17
18
19
20
21
22
23
24
25
26
27
28